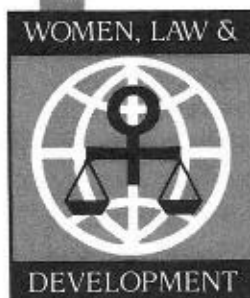


WOMEN, LAW AND DEVELOPMENT IN AFRICA

WILDAF: ORIGINS AND ISSUES



SERIES ON WOMEN, LAW, AND DEVELOPMENT:
ISSUES AND STRATEGIES FOR CHANGE

NUMBER 4 — AFRICA

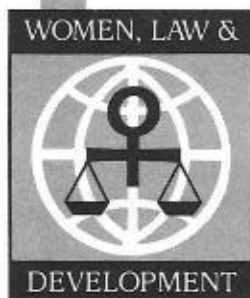
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WOMEN, LAW AND DEVELOPMENT IN AFRICA

WILDAF: ORIGINS AND ISSUES



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CONTENTS

Preface	vii
PART I-BACKGROUND	
Introduction to WLD	1
WLD Conference Keynote Address	13
PART II-COUNTRY STATUS REPORTS	
Ghana	21
Nigeria	25
Côte d'Ivoire	29
Senegal	34
Kenya	37
Uganda	50
Sudan	60
Tanzania	63
Zambia	66
Zimbabwe	75
Botswana	79
Swaziland	86
Mozambique	95
Lesotho	98
Mauritius	103
PART III-LAW: A TOOL FOR SOCIAL CHANGE	
Fostering Rights Awareness and Action	
Butegwa: Creating Grassroots Legal Awareness in Uganda	109
Kuenyehia: Legal Services and Education in Ghana	117
Tsanga: Community Legal Educators in Zimbabwe	127

Organizing for Law Reform

Matembe: Women Participate in Constitutional Reform in Uganda	143
Longwe: Women's Struggle for Equality in Zambia	151
Oyajobi: Women and Law Reform in Nigeria	167

Issues of Social and Economic Inequality

Tenga: Women's Access to and Control of Land in Tanzania	181
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Combatting Violence Against Women

Stewart: Educating to Change Attitudes in Zimbabwe	200
Badri: Female Circumcision: Attitudes and Practices in Sudan	217

PART IV-INTERNATIONAL EXPERIENCES

Dairiam: The Asia Pacific Forum on Women, Law, and Development	237
Dasso: Peru Mujer: Education and Legal Services	244
Campbell: The National Women's Law Center, USA	248

PART V-THE WLD AFRICA CONFERENCE DOCUMENTS

Resolutions	259
WiLDAF: A Regional Network for Africa	264
Directory of Participants	269

Preface

The *Women, Law, and Development Series on Issues and Strategies* documents the dialogue and the actions taken by women in the Third World toward achieving *de jure* and *de facto* equality. This book, *Women, Law, and Development in Africa*, is the fourth in the series. It celebrates the development of WiLDAF, a regional network dedicated to furthering women's rights in Africa and shares the proceedings from the African Regional Women, Law, and Development Conference which took place in Harare, Zimbabwe between February 28 and March 3, 1990.

The regional conference, which brought together women from some sixteen countries in Africa to share experiences, compare approaches and plan for future collaboration, was the culmination of a year-long project of analysis, strategy development and organization involving groups and individuals throughout Africa dedicated to making the law more accessible to women. With the collaboration of OEF International, the Women, Law and Development (WLD) Africa Project included country-level workshops, planning meetings and, finally, the conference which culminated in the formal establishment of WiLDAF.

Since the WLD-Africa project was launched in January 1989, legal rights have become central to the growing demand for social justice throughout Africa. While racial equality has been a long time struggle in South Africa, actions for justice and human rights are emerging and reemerging throughout the continent. As the contents of this book

demonstrate, women leaders and women's rights initiatives in Africa are making a significant, while sometimes invisible, contribution to this important cause.

WLD-Africa was shaped by and relied upon the experience and commitment of individuals dedicated to changing women's role in African society. It was guided by their concern that women *be empowered* to participate and benefit from development and social change. The project served to galvanize and reinforce these goals and led to concrete and substantial outcomes.

They are

1. A clearer understanding about women's legal constraints in Africa, particularly the social, economic and cultural factors which influence the law and its application to women, and the legal mechanisms which obstruct or facilitate women's participation.
2. Identification of priorities and appropriate action-strategies for:
 - increasing public awareness about women's legal condition, legal procedures that affect women and women's rights and duties as citizens;
 - changing discriminatory laws, practices and attitudes;
 - assuring access to justice for those women who are denied legal resources for economic and political reasons;
 - increasing grassroots women's participation and self-advocacy skills; and
 - increasing the capabilities of women's organizations and agencies to represent and advocate the legitimate interest of women to appropriate bodies.
3. Deepening the dialogue across disciplines between lawyers, academics, social workers, community development workers, etc. in order to forge more comprehensive responses to the needs of women—legal, social, political and economic—in the context of development.

The most important outcome of this effort is the establishment of WILDAF, an independent African organization, set up to continue to build and strengthen the impact of women's rights efforts. As the cause of human rights grows, it will reinforce and benefit from the legal organizing and legal education that WILDAF activists will be carrying out in their communities. It will also be a challenge to women's rights advocates to insist that gender equality be a fundamental part of the fight for justice and human rights. The contents of this book demonstrate the

capabilities and commitment of those who will meet that challenge. They are but a few of the women and men working for more just and equitable societies throughout Africa.

This report, therefore, represents the experience, understanding and vision of Africans committed to improving women's position and participation in their societies. It provides a glimpse of the problems that African women face, the way they have chosen to confront them and the formidable cultural, social and political challenges and obstacles they face in this process.

Part I offers readers some background on the WiLDAF initiative. The introductory chapter places WiLDAF's emergence in the context of the 1985 Nairobi Forum and describes the organizing activities which preceded the regional conference and laid the foundation for the development of WiLDAF. It also describes the structure of the conference and its outcomes. This is followed by the conference keynote address presented by the Honorable Enoch Dumbutshena, Chief Justice of the Supreme Court of Zimbabwe.

Part II covers status reports from each of the sixteen countries represented on the most critical legal problems of women and local and national level initiatives for confronting them.

Part III consists of ten papers which explore the key themes of the conference: Challenges in Fostering Rights Awareness and Action among Grassroots Women; Organizing around Legal and Policy Reform; Women's Access to and Control of Economic Resources; and Violence toward Women.

Part IV presents insights gained from similar work in Asia, Latin America and the United States.

Part V includes the key conference documents: the WiLDAF resolutions, decisions regarding the establishment of the network, a list of the conference participants and the names of the WiLDAF Steering Committee.

We would like to offer special thanks to the Ford Foundation for providing WLD critical initial support and for putting faith in the potential of WLD Africa. The support of the Rockefeller Foundation and the Carnegie Corporation of New York, and the Joyce Mertz-Gilmore Foundation was also pivotal to the work of the last year and a half. The country level workshops and the Regional Conference were also possible due to the generous backing of the Oak Foundation, the Swedish International Development Authority (SIDA), the Norwegian Agency for

International Development (NORAD), the Canadian International Development Agency (CIDA), and the U.S. Agency for International Development (USAID).

Finally, we would like to thank the WLD Planning Committee and the individual country coordinators for their tireless voluntary efforts to organize national level workshops and other activities and to do so with commitment and enthusiasm. While recognizing that this book represents only the beginning of an important dialogue, we also express our hope that it will support and reaffirm the pioneering activists and leaders who have committed themselves to improving women's status in Africa and provide stimulus to the cause of justice for women and men throughout Africa.

Margaret Schuler
OEF/WLD Director
Washington, D.C

Lisa VeneKlasen
OEF/WLD Africa Coordinator
Harare, Zimbabwe

July, 1990

PART I

WOMEN, LAW, AND DEVELOPMENT IN AFRICA

BACKGROUND AND CONTEXT:

WLD Africa Project

WILDAF

WLD Africa Regional Conference

Introduction: Origins of WiLDAF

Background

WiLDAF (Women in Law and Development in Africa) is part of a network of women's organizations throughout Asia, Africa, and Latin America engaged in women's rights' struggles. WiLDAF had its earliest beginnings at the Nairobi women's conference in 1985. In July of that year, hundreds of women participated in the five-day Third World Forum on Women, Law, and Development. The WLD Forum came about in recognition of existing strategies that use the law to improve the legal situation of women in the Third World and the urgency of making those efforts more effective. The WLD Forum addressed the need to clarify the role of law and to identify in practical terms how the law could serve as an instrument for raising women's legal and, therefore, social, economic and political status. It served as a vehicle for surfacing and making available to women's groups successful action strategies and programmatic approaches to overcoming legal obstacles facing Third World women.

The WLD Forum was designed as a mechanism for systematizing understandings about how the law—formal and customary—affects women and their development and how strategies that can improve women's legal status can enhance their participation in development. In understanding these relationships, the WLD Forum contributed to the articulation of effective action-oriented strategies utilizing both the law and innovative methodologies to improve the situation of women. Finally, by focusing world attention on the role which law plays in determining women's participation in development, the Forum proposed to awaken interest through support and solidarity with those Third World efforts.

Organizing and Implementing the Forum

The WLD Forum project began in 1983 when women's rights workers in Asia, Africa, and Latin America were contacted by OEF International to find out if they would be interested in networking and participating in the proposed WLD Forum. During this phase, some seventy-five women's organizations from the Third World working in the field of women, law, and development were identified. This group formed the core network from which the Forum planners and key presenters were drawn. Two women each from Asia, Africa, and Latin America served as Regional Liaisons and formed the WLD Planning Committee. Interested organizations prepared papers analyzing their experiences and the approaches they were using to improve the legal status of women. Using a framework provided to systematize their analysis and draw on their own expertise, fifty of the organizations which prepared program case studies or papers on various topics made presentations at the Forum. Ultimately, over sixty of the core group of organizations had representatives in attendance at the Forum and participated in WLD Forum activities. In addition, numerous other interested women from around the world actively participated. Approximately 500 women attended the WLD workshops daily.

Substantive discussion was structured around four major themes: 1) State, Law and Development; 2) Custom and Customary Law; 3) Violence and Exploitation; and, 4) Strategies for Collective Action. These themes were further divided into fourteen sub-topics, such as constitutional issues, family, land, labor law, religion, human rights, rape, and domestic violence. These discussions occurred in fourteen different workshops and five plenary sessions over a five-day period.

The participants identified strategies currently being used and articulated the critical issues still needing attention. Following the discussions around each major theme and sub-topic, a report was prepared, presented to the assembly at a plenary session, and discussed by all in attendance. Modifications were made as a result of these discussions and a final consensus report was compiled. Case studies of the report and recommendations were published by OEF in 1986. *Empowerment and the Law: Strategies of Third World Women*, (ed., Margaret Schuler) provides a benchmark for assessing the range of issues and strategies being used to expand and defend women's rights throughout the world at that point in time.

The Forum participants discovered that women throughout the Third World wage similar struggles for their rights. They clearly saw that combining efforts is a critical step toward overcoming obstacles

which face women everywhere. The WLD Forum, they agreed, should mature as a vehicle for continued dialogue and collective action at the international and regional levels. They recommended several proposals which eventually became the blueprint for future WLD action.

The first recommendation was to implement regional conferences as a means to bring together women's organizations to exchange information, share strategies addressing women's rights issues, and develop mechanisms to coordinate research and action at the regional level.

The second recommendation focused on the importance of consciousness-raising among women about their situation and proposed the promotion of "Know Your Legal Rights" campaigns throughout the world. The goal of these campaigns would be to empower women to understand the use of law as a tool for effecting social change. It was seen that to be empowering, such campaigns would demystify and popularize the law by using mass media and other strategies to make it more accessible to the women and, in the process, contribute to the development of an "alternative law" which would maximize women's rights. It would draw from the language, reality, and experiences of the vast majority of Third World peoples, whose interests historically have been ignored.

A third recommendation was to establish an Emergency Committee of Third World Women for voicing concern about and mobilizing world opinion against any violations of the civil, legal, and human rights of women in Asia, Africa, and Latin America. This was seen as an immediate need, while the final recommendation, to which it was linked, was viewed as a longer-term project: that of establishing an independent, NGO advocacy body—or "International Commission on Women's Rights," as it was called.

The commission's function would be to link the networks of women's organizations throughout Asia, Africa, and Latin America to share information and experiences about women's struggles for their rights in various parts of the Third World. It would also formulate draft legislation on specific issues concerning women at regional and international levels. Specifically, the group expressed an urgent need to draft a uniform code on family relations which would articulate and protect fundamental rights for women vis-a-vis their position in the family. As a third function, the International Commission would conduct research in areas of special concern to women in Asia, Africa, and Latin America. Finally, it would coordinate strategies of common concern, represent women's rights interests and become a presence in international fora.

Creating an International Agenda

The WLD Planning Committee met immediately after the Forum to concretely discuss how this emerging "WLD" program should proceed. Future steps, the Committee agreed, would build upon the groundwork laid by the Forum and its preparatory process. Most importantly, it would promote the development of the networks of Third World women involved in action-oriented programs to promote and improve the legal situation of women. These networks were seen as vital for implementing the Forum recommendations and other future WLD activities. The Planning Committee felt that in this way, the Third World Forum on Women, Law, and Development would be institutionalized at the international and regional levels. The establishment and consolidation of regional WLD networks would give institutional continuity to the work and interest that was stimulated by the initial Forum process and program. The leadership, organization, and direction provided by these forums would be needed to concretely fulfill the goals and objectives of the program as articulated by the participants. Subsequently, as a result of the initial regional efforts, an appropriate mechanism for the International Commission would be established.

Regional Consolidation

Since the participants in the Nairobi WLD Forum already set an international agenda in general terms, the primary follow-up tasks became those of concretizing the agenda in each region and establishing the most appropriate way to implement its components, including the international campaign, the regional centers, the "emergency committee," and the "international commission." The first of the regional networks to be established was the Asia Pacific Forum on Women, Law and Development (APWLD). Since 1987, it has carried out a program of technical assistance and issue-oriented networking from its regional center in Kuala Lumpur, Malaysia. Similarly, the Latin American Committee for the Defense of Women's Rights (CLADEM) was formed. It is based in Lima, Peru.

Women in Law and Development in Africa

The WLD-Africa Project and the establishment of WiLDAF represents the final step in the process of building regional organizations toward interregional and global networking. After an initial consultation period by OEF/WLD staff, the WLD-Africa project was launched with a plan-

ning meeting in Harare, Zimbabwe, April 1-3, 1989. Thirteen women's rights advocates from Botswana, Zimbabwe, Zambia, Tanzania, Kenya, Uganda, Sudan, Ghana, and Nigeria shared and analyzed experiences and issues. They reaffirmed the recommendations from the WLD Forum in Nairobi in 1985, and committed themselves to building a regional network which would "promote strategies that link law and development to empower women."

They discovered congruity on the issues they were each concerned about and the ways they had sought to address them. The most critical issues they identified related to women's role in the family, including maintenance, custody, divorce and inheritance as major problems for women. They also highlighted economic rights such as property ownership, and access to land and credit as well as a range of problems relating to formal and informal employment: unequal wages and benefits for female employees and lack of protection for market vendors and domestic workers were a few that were discussed. Finally, while not publicly unacknowledged, the problem of violence against women, especially rape and domestic violence, was common. (See Chart on pages 6 and 7.)

There were also many similarities between legal programs, law reform and legal aid being the most prevalent approaches to improving women's rights. They shared a concern that these efforts, especially law reform, had had little practical impact on the daily lives of women, and recognized a need for massive legal rights education. Some groups had initiated legal education programs out of a frustration with servicing women's legal needs one-on-one. However, the questions of how to empower women to exercise their rights remained. They were interested in learning from one another's successes and failures at making law a tool for organizing and educating women.

This initial assessment guided the WLD Project to:

1. contribute to the understanding and analysis of the most critical legal issues facing women in the region;
2. refine and develop the most effective means (strategies and programs) for educating and organizing women to exercise their rights;
3. clarify the kinds of legal and organizational processes that lead to empowerment;
4. establish links at the national and regional levels to expand the influence of individual local programs.

A detailed plan for the project was developed jointly by the planning group and OEF/WLD staff at that meeting. Proposing to build the WLD Africa network from the ground up, they decided that first,

COMMON LEGAL PROBLEM AREAS FOR WOMEN IN AFRICA

	Problem Area	Content
FAMILY	Marriage	Inadequate definition
	Divorce	
	Division of Property	Favors men
	Custody of Children	Favors men
	Maintenance	Set too low
	Inheritance	Inadequate and inappropriate
PROPERTY	Land Access	Discriminates against women
	Use rights Communal land	
	Credit	Discriminates against women
EMPLOYMENT	Formal sector	Inadequate laws
	Informal sector	No laws
	Benefits	Maternity benefits work against women.
	Social Security	
VIOLENCE	Rape	Not criminal offenses
	Domestic Violence	

Structure	Culture
Requirement and procedure to register confusing, cumbersome	Women donot know about rights in marriage.
Judicial discretion by male judges favors men.	Prevalent attitude that men should have property.
Enforcement officers discriminate against women.	Traditionally fathers get the children.
Rarely enforced	Women reluctant to contest or take ex-husband to court.
Inadequate & inappropriate; language confusing; courts unsympathetic.	Traditional belief that women do not own land.
Administrative procedures oppressive to women.	Women do not know about laws protecting them.
Police harass; scapegoat women.	
Unsympathetic police, courts. Do not want to interfere in family matters.	Seen as a "private" or "family" matter.

workshops should be held at the country-level to assess current issues and progress and strengthen strategies. These would be followed by a regional conference during which decisions about future networking would be made. The participants at the planning meeting agreed to serve as Country Coordinators whose task would be to collaborate with the WLD-Africa Coordinator for OEF International in the design and implementation of the workshops and serve as the WLD-Africa Planning Committee.

Country Meetings and Workshops

Between April and February of 1989, OEF/WLD worked closely with the Country Coordinators and other women's rights advocates in each country to design and implement workshops involving a range of women's groups in Uganda, Ghana, Nigeria, Zimbabwe, Botswana, Tanzania, Zambia and Kenya. The workshops lasted 2-4 days and were designed to expand the skills of organizers and advocates to analyze the nature of legal problems and develop more effective responses.

All the workshops had a similar design and included six major components: 1) identification of the most critical legal problems facing women; 2) analysis of how the legal system influences those problems; 3) assessment of existing women's programs; 4) non-formal education methods for fostering legal awareness and action at the community level; 5) building a comprehensive strategy for mobilization to influence public or official opinion; and, 6) strengthening collaboration between lawyers and other professionals such as community development workers, academics, etc. and among NGOs and governmental institutions involved in women and the law.

The workshops were highly participatory, conducted through a combination of brief presentations and small group activities in which participants applied or practiced the skills presented. The WLD conceptual framework was used to analyze how the legal system (encompassing the content, structure and culture of the law) contributes to women's problems or their solution. The same methods for engaging adults in understanding and exercising their rights were introduced and participants tried theater, role plays, and posters as a new way of providing legal education. Since participatory methods are not commonly used at workshops and seminars for professionals or project directors, workshop participants were excited at their potential for generating discussion and making the law relevant to grassroots women. These activities also reaffirmed the need for collaboration between lawyers and others involved in community development.

The workshops led to the development of new strategies and the establishment of country level WLD networks or committees to coordinate their implementation. They also reaffirmed the need for regional networking to reinforce local efforts. At a meeting on December 13th and 14th, the WLD Africa Planning Committee developed a proposal for the establishment of a network, and planned the regional conference where the network proposal would be discussed and approved.

The WLD-Africa Regional Conference: "Networking for Empowerment in Africa" February 26 - March 3, 1990.

The site visits, planning, and country workshops laid the groundwork for the regional conference in two important ways: 1) by clarifying the needs and obstacles of women's legal rights programs; and 2) by facilitating a systematic analysis of the most critical problems facing women. The dialogue and strategy-building initiated by the workshops stimulated the participants' interest in learning from the programmatic experiences of women in other African countries. They also gave individuals from varied backgrounds, disciplines and contexts a common framework for exchange and networking. The regional conference provided the forum for consolidating this process and building consensus on the regional level.

The conference was designed to be a vehicle for the network to

1. develop direct links and connections among African women working to improve women's socio-legal situation;
2. learn from a variety of different country and group experiences in developing and implementing legal strategies;
3. develop common approaches and actions for improving African women's socio-legal status;
4. decide about future action at the regional level.

Four conference themes were selected: "Fostering Rights Awareness and Action among Grassroots Women," "Organizing around Legal and Policy Reform," "Access to and Control of Economic Resources," and "Violence toward Women." The Planning Committee set the participant number at sixty five delegates to allow for full participation and productive decision-making. Each country selected their representatives; delegations ranged from two to six people depending on the level of activity in a given country. In addition, members of the Asian and Latin American networks and U.S. advocates were invited to participate and share their experiences. Numerous observers from Zimbabwe, including the donor community, also participated.

On February 26th, participants representing sixteen countries came together in Harare, Zimbabwe for a week of discussion, comparative analysis of issues and strategies and decision-making regarding future directions. The conference was opened with the supportive and thoughtful words of the Honorable Sally Mugabe, Zimbabwe's First Lady, and by the Honorable Enoch Dumbutshena, Chief Justice of the Supreme Court, who provided his wise, insightful observations and visions for the future of women's rights in Africa.

A rich debate was generated by this important meeting of women leaders from around Africa. Country status reports and theme papers provided the basis for discussion. The conference resolutions are the product of the small group discussions following the presentations. Small group recommendations were consolidated for presentation to the assembly: these were approved by the full assembly after debate and appropriate modification. It should be noted that the affirmations contained in the resolutions responded to a clear consensus among all the participants, although there was more debate on issues which reflected the differences in the political situations of the countries represented. One example of this was the debate on whether to use the term "advocates" or "activists" for women's rights.

The final day and a half of the conference was dedicated to regional networking. Because each delegation had discussed the proposal for the establishment of the network locally prior to the conference, discussion was brief and approval unanimous. The debate over the venue of the regional secretariat and the number of countries to be represented on the Steering Committee of the new organization was more contentious. It was agreed that all of the countries at the conference would have a representative on the Committee and Harare was chosen by a narrow margin to be the location of the regional office. It was also decided that a comprehensive organizing project would be carried out in Francophone Africa to provide that sub-region the same opportunity for analysis and strategizing. Once completed, a sub-regional office would be established in Abidjan, Côte d'Ivoire.

After the conference concluded, the new Steering Committee refined the plan of action for the development of WiLDAF and set its programmatic priorities as: 1) providing training similar to that provided by the workshops; 2) setting up an information exchange system; and 3) creating an emergency response network to mobilize around serious violations of women's rights. Membership will remain flexible, open to individuals of any profession or groups involved in women and law. The Steering Committee will meet twice in the first year and once a year thereafter to review and refine the regional program. A

five-member Task Force was elected to expedite decision-making in the first year. The task force was charged with the development of a funding proposal and initial administrative and legal issues relegated to the network.

The task force met again in May 1990 to refine the regional program and develop a fundraising strategy. The regional secretariat will be established and staffed by the end of 1990. This will provide WILDAF the institutional base it will need to fulfill its purpose of fostering continued discussion and action for women's rights in Africa .

Keynote Address

*The Honorable Enoch Dumbutshena
Chief Justice of the Supreme Court of Zimbabwe*

Introduction

I would like to begin by thanking the Women, Law, and Development Program of OEF International for asking me to speak at this historic gathering of individuals who have committed themselves to the just cause of legal rights and development for women in Africa. Through my years of service to Zimbabwe's legal system and through my involvement with the Legal Resources Foundation here in Zimbabwe, I am familiar with the challenges and difficulties this cause poses for Africans.

As I face this room full of people from all corners of Africa, I am struck once again by the crucial role that women have played in the development of the nations of this continent. The fact that a network of women has taken shape to strengthen and expand that role also strikes me. The more our legal systems acknowledge and support this role, the better they will contribute to the development of our nations. Africa stands to benefit tremendously. Just as women have stood beside men in previous struggles for justice, so here too, men are standing beside women. Just as those previous struggles were not men's struggles, so this struggle is not a women's struggle but a common struggle for the betterment of all.

I understand that this meeting embodies the cumulative efforts of hundreds of people committed to human rights in Africa, Latin America and Asia. This conference is the product of a continuing dialogue between Africans involved in women's rights. This began in 1983 in preparation for the Third World Forum on Women, Law, and Development at the NGO Forum marking the end of the Decade for Women in Nairobi in 1985. The establishment of regional networks to continue interchange and collaboration in Asia, Africa and Latin America was one of several recommendations from the Forum. Thus we have with us today guests from both Asia and Latin America to share their experiences and learn from ours. You are welcome to this conference, to this country and to this continent.

Since January 1989, the Women, Law, and Development Program has worked with NGOs and governmental bodies to make law accessible and beneficial to all women, and to improve collaboration for this important cause. In April 1989, WLD-Africa held its first planning meeting. Less than a year later, we are witnessing the commitment and skill of Africans dedicated to the principles of equality.

Over the past year, lawyers, social scientists, community development workers and others have participated in and shaped a regional initiative under the WLD-Africa Project. They have worked to identify priorities and construct practical solutions that involve women at all levels in a process of understanding, exercising and demanding their rights. Their efforts have included law reform, legal education and legal aid. Most importantly, they are committed to empowering women to use the law and the legal system for the benefit of their children, their communities and themselves. That we are here today proves the strength and importance of this commitment and this aspiration. For me, it vividly illustrates a simple truth: for law to serve the development needs of African nations, there must be collaboration between lawyers and non-lawyers, professionals and rural community leaders, women and men, and there also must be governmental and non-governmental involvement. False gaps created by our professions must be bridged in order to address our common need for justice in our society.

All Men Are Equal But Some Are More Equal Than Others

Africans are familiar with legal systems that discriminate against an entire race or class of people by systematically excluding them from resources and benefits enjoyed by the favored race or class. The South African legal system is such a system. Yet, in independent Africa, other systems that fail to address this problem also exist.

In Zimbabwe, the only discriminatory statute against women is Section 15 of the Deeds Registries Act. The Act requires a married woman executing any deed or document in the Deeds Registry to be helped by her husband. While men would probably say that this is an act of love, women would not agree. Although I understand on good authority that the section will soon be repealed, this will not be the end of discrimination against women. The end will come with a change of attitudes and traditions.

In 1982, the Zimbabwe Parliament enacted the Legal Age of Majority Act which introduced equality between men and women in many ways. African women, who hitherto were minors from birth to death, became majors at the age of 18 and acquired contractual rights. Yet, because many women are ignorant of their rights under the Act, their parents and men still treat them as minors and they readily acquiesce. Therefore, this law has had little practical impact on the lives of many women. Furthermore, many Zimbabweans' antipathy toward the law inhibits women from exercising these rights.

It is fair to say Zimbabwe has addressed all women's legal concerns. There is a fair distribution of assets after the dissolution of a marriage and maintenance awards are, in my view, just and equitable. Husbands or wives who have been ordered to pay maintenance do so while awaiting the hearing of their appeals. In pursuing just legal systems that enhance our nations' paths to development, you have identified the following themes for this conference: (1) Fostering rights awareness and action among all women; (2) Organizing around legal and policy reform; (3) Access and control of economic resources; and, (4) Violence against women. I will briefly focus on two of these themes.

Fostering Rights Awareness and Action

It has long been a cause of concern in Zimbabwe and in other African countries that legal reforms for women have had little impact on women's lives, especially rural women's lives. This is often because pervasive cultural attitudes, and legal and administrative structures continue to be inadequate and unresponsive to women's concerns. Often the greatest obstacles to women's equality and justice is the fact that women do not know their rights. Many women in African rural areas are unaware or misinformed about laws that could benefit them. Men view these laws as western impositions that threaten tradition.

Finding new ways for women to become aware of and defend their rights is the goal to which this forum is dedicated. As individuals involved in raising awareness and legal education, you will look at how the law can be introduced to grassroots men and women so that they may use it to solve problems and minimize the conflicts between law and tradition. I am confident that you will draw from your many experiences to identify effective strategies and approaches that will help women to develop peacefully and justly. As a trustee of the Legal Resources Foundation, which shares and practices this commitment to legal education through its paralegal scheme, I understand that in order for you to

communicate these approaches, you, the educators, will have to learn new skills to abandon your formal legal and academic training for others that minimize the barriers between you and those who need the information.

Violence Toward Women

Another conference theme is violence. Violence toward women is a global challenge. It is endemic throughout Africa and wears many faces. Domestic violence, rape, sexual harassment and female circumcision are but a few. They embody the disrespect and powerlessness that permeate women's lives. They are also examples of problems where mere changes in the law have little or no effect on practices. This problem is a legal challenge that must be met by all of us in pursuit of human rights.

You also will explore ways to use law reform in order to mobilize women and men, to strengthen their leadership skills for more effective participation and to educate the public about the need for equality and justice. Delegates also will examine policies of "structural adjustment" imposed on African nations by the International Monetary Fund. Structural adjustment has reduced resources and opportunities for many sectors, especially women. This has had a measurable impact on women especially concerning education and employment. For example, increases in school fees force parents to decide which of their children has the opportunity to learn. Because they will eventually be married off, girls are often not considered a priority. Women lawyers in Ghana, many of who are present here, have taken on this enormous challenge by collaborating with the government in a program to mitigate the impact of structural adjustment and by educating and organizing women to challenge these inequities. I congratulate them.

The Link Between Law and Development

Although I have touched on the relationship between law and development briefly, I would like to conclude with some further thoughts. For those of us in the Third World, the word "development" is among the most often used and misused terms in our daily language. While it is our greatest aspiration, it is not a word that we in the legal profession use much and certainly not in conjunction with the law. Nevertheless, I would like to offer an illustration of the link between law and development of which women in Africa provide perhaps the clearest example.

If development means increasing access and productive use of resources to the benefit of an entire nation, then it is clear to me that as long as custom, behavior and legislation deny women access to resources, and undervalue their roles, no amount of development aid, funding or technical assistance will ever achieve the elusive goal of development. The question we must ask ourselves is, "If the laws, implicitly and explicitly, maintain over 50% of the population in a perpetual state of underdevelopment, can we ever claim that we are a developing nation?" I think not. Africa must release women from the burdens imposed on them by custom and tradition. Africa must free women so that they can enter into competition with men in every field of human endeavour. Women have great potential for development.

The communal lands in Zimbabwe are filled with women who, unassisted by men, have improved the economics of those barren lands but yet remain oppressed. To free them, let us first free the minds of men from oppression imposed on them by our customs and traditions. Once men are liberated from believing that they are inherently superior to women, we shall also release women's energies for the good of our continent. Women can then join men on an equal footing in the planning and execution of our development needs.

It is not only the law that will lead to development. It is what we do. Let me leave you with two great thoughts enunciated by two distinguished judges:

Justice Learned Hand said in *Spirit of Liberty*:

I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes; believe me, they are false hopes. Liberty lies in the hearts of men and women; when it dies there is no constitution, no law, no court that can save it; no constitution, no law, no court, can even do much to help it.

Yet Justice Marshall said in an article in the *Harvard Law Review*:

What is striking is the role legal principles have played throughout American history in determining the condition of Negroes. They were enslaved by law, emancipated by law, disenfranchised and segregated by law; and finally, they have begun to win equality by law. Along the way, new constitutional principles have emerged to meet the challenges of a changing society. The progress has been dramatic, and it will continue. "We the People" no longer enslave, but the credit

does not belong to the framers. It belongs to those who refused to acquiesce in outdated notions of "liberty" and "equality," and who strived to better them.

Let us accept the challenge of improving the daily conditions of life for all members of the world community and join in eager anticipation of the improved world that we will share.

PART II

COUNTRY STATUS REPORTS

Ghana Nigeria Côte d'Ivoire Senegal

Kenya Uganda Sudan Tanzania

Zambia Zimbabwe Swaziland Botswana

Mozambique Lesotho Mauritius

WEST AFRICAN REGION

GHANA

Even though Ghanaian women technically have the same rights as men in all spheres of life, in reality there are many barriers that hinder women from exercising these rights. Economic, social, traditional, cultural and legal barriers have traditionally hindered Ghanaian women from realizing their full development potential. In the following paragraphs, we will identify these problems, how they are being alleviated and by whom.

Economic Barriers

Ghanaian women are one of the few groups of women world-wide who have true economic independence. In our traditional societies, women have always been trade or farm workers while always having full control of her earnings. For years, trading in food crops and other imported goods has been done by women. Gradually more women are entering the industrial field as well as the import and export business.

Despite the progress made, many women still operate on the fringes of the economy. Even though they are a very important part of the productive sector of the economy, their economic efforts are not fully rewarded. The lack of organizational and marketing skills and knowledge about benefits in operating bank accounts may explain much of this.

As part of its Economic Recovery Program (ERP), the Ghanaian government has initiated the Program of Action to Mitigate Social Cost of Adjustment (PAMSCAD). The program is aimed at giving the rural population loans to improve their business and also providing social amenities. A percentage of PAMSCAD funds has been set aside for women who can apply for as little as 20,000 cedes or as much as five

million cedes. When women organize in groups or co-operatives, they are more likely to get bigger loans and other support services such as inputs and an organized and guaranteed market for produce.

In addition to the government's program, other non-governmental organizations (NGOs) involved in developmental aid have also established programs to alleviate women's problems. Some of these agencies include World Vision International, the Canadian-funded Christian Council of Ghana Northern Region Rural Integrated Programs and GLOBAL 2000, an international agency fostering agricultural ventures. The National Council of Women and Development, the governmental agency responsible for women's affairs and the 31st December Women's Movement, a para-governmental women's organization that mobilizes women throughout the country, are engaged in productive ventures to help their members.

Social Barriers

As one travels throughout the rural and urban areas of the country, it is not uncommon to find women going about their various activities with their babies strapped to their backs. As our society moves farther from the communal setting of earlier decades, women are finding it increasingly difficult to obtain child-care for their younger children who do not attend school. Child day care centers are needed to free mothers so that they may concentrate on their daily activities. In addition to the government day care centers in the urban district and regional capitals, organizations like the 31st December Women's Movement are building day care centers in towns and villages where its branches are located to provide care for children while the Movement's members work.

The lack of clean water is another problem that the Ghanaian rural community faces. In most rural areas, women must walk long distances during the dry season to fetch water which is inevitably unwholesome for household needs. The government and other NGOs, such as World Vision International and GLOBAL 2000, are supplying boreholes in villages to provide clean water throughout the year. These boreholes help women and also prevent water-borne diseases such as guinea worm.

Illiteracy is another problem. Even though free compulsory primary education for all Ghanaians exists, the drop-out rate for girls is higher than for boys because of pregnancies and traditional beliefs that girls do not need as much education as boys. In response to the United Nations Declaration of Literacy for all by the year 2000, the Ghana government has intensified its literacy programs aimed at making all

Ghanaians functionally literate by the end of the decade and has appropriated funds for this purpose in this year's budgetary allocations. During the late 1940s and 50s, the Department of Social Welfare and Community Development implemented a mass education program in which urban and rural adults were taught to read and write the vernacular. This program may need to be re-instituted. The National Council on Women and Development, the 31st December Movement, FIDA, Zonta and other women's organizations have also joined in the fight against illiteracy.

Legal Barriers

Ignorance of the law is not only a women's problem. Because women have traditionally been oppressed in most societies, ignorance of their basic rights and obligations places them at more of a disadvantage than men. For example, women's ignorance of basic tax laws means that women traders pay more taxes than necessary. Since legal literacy fosters rights awareness among women which in turn improves the overall status of women, FIDA Ghana, the only legal NGO, has developed programs to provide different kinds of legal services to women. These programs include:

Legal Representation and Counselling Through the establishment of the FIDA Legal Aid Center in 1985, women who would not be able to afford legal services are now able to secure legal representation.

Legal Literacy Legal illiteracy hinders women from improving their status. FIDA Ghana has mounted legal literacy campaigns throughout the country to educate women about the laws and their rights. Through the use of seminars, fora, lectures and counselling, FIDA aims to reach the public in general and women in particular. These seminars and lectures are held in churches, lecture-halls, market places, meeting places and wherever women can be found. The seminars are conducted in languages that are easily understood by the audience.

Law Reform Laws that need reform are identified through the legal literacy campaigns. In conjunction with the National Council on Women and Development and other women's groups, FIDA Ghana has been active in law reform through lobbying for the enactment or repeal of laws which are inimical to improving the status of women.

Future Prospects

The Ghanaian government and NGOs involved in developmental aid have already developed programs for women. We hope that these programs will be vigorously pursued and implemented. If development is defined as social change and not primarily as increasing the per capita gross national product (GNP) of the country, then the law must be used to aid development. The law is effective in operating and controlling institutions, therefore, it must be used to create development institutions.

Although most Ghanaian women work in traditional occupations such as farming and trading, their employment options must be expanded. Ghanaian women must be encouraged to enter non-traditional fields, and farmers must learn to improve their productivity through modern farming methods. The law can be used to eradicate discriminatory traditional and cultural practices and involve women in the development process. While no laws in Ghana explicitly discriminate against women, laws are needed to foster an awareness of the opportunities that are available to benefit women, the economy and the nation.

Presented by Dorcas Coker-Appiah

NIGERIA

In Nigeria, women constitute almost 60% of the entire population and play an active role in the economic development of the country. The agriculture-based economy remains the foundation of livelihood, and women do most of the work. These women's activities have been under pressure for a long time. They have had to put up a "stiff fight" against falling into abject poverty as their need for income increases. Although they keep a foothold in the household economy, women are still being forced to take the "rear seat" even when decisions affecting them are being made. Their situation is exacerbated by male dominance, gender discrimination, unfair laws and unequal household responsibilities.

Problem areas

The following issues have been identified by those working towards the development of women through law.

Women and the Law In addition to the content of the law itself, enforcement of the law is discriminatory. Under the Nigerian legal system, a woman's relationship to her family is governed by the Marriage Act and customary law; in reality, most women's lives are governed by customary laws and practices which subordinate women. For example, in separation or divorce cases, women must introduce moral appeals to receive child support, despite the fact that the Act gives both parents child custody rights. Women generally are not concerned with legal proprietary rights or equitable entitlement to matrimonial property while married despite their substantial contribution towards the construction of the home. Problems arise, however, when the man leaves, disposes of the property without considering the women's input or dies.

Violence against women—including sexual assault, harassment, and spousal abuse battery—are common phenomena in Nigerian society. The law is basically discriminatory and victimizes women. For example, indecent assault on a male is a felony offense punishable by three years

in jail while the same crime on a female is a misdemeanor, the notion being that the harm suffered by the woman is not as grievous as that suffered by the man. Tax laws are enforced without any consideration for single mothers or women who care for dependent parents or relatives.

Women, Employment and the Economy Most of the women in Nigeria are forced to become self-employed or do wamework to survive, due to the refusal of most employers to hire them for better paying jobs. Employers use the excuse that women take off too much time to build their homes and care for their children. Some complain about the demand by women for maternity rights, maternity leave and allowances. Self-employed women have little access to services and few opportunities to become more productive. Even the earning power of those in paid employment is below the minimum standard set by international labor law.

Women contribute to both domestic food security and the national economic viability, yet patriarchal family and social structures deny them property rights, limit their access to and control over the proceeds of their labor, and limit their decision-making. When you consider the economic disabilities coupled with ignorance of how to help themselves, it is not surprising that Nigerian women have remained in a subservient position. Currently, however, the status of women is improving as a result of efforts by NGOs to pressure the government, influence its policies towards women, and provide both formal and informal educational opportunities for women.

Responses

Solving these issues and problems facing the Nigerian woman has become a priority for many involved in development activities. A number of non-governmental organizations are now playing an active role in calling for the repeal of obnoxious laws and practices while others are engaging themselves in empowerment programs.

FIDA has for a long time been organizing and sponsoring successful public enlightenment programs. They worked hard to create awareness for women regarding their rights under tax laws and provided free legal services and advice to those who found themselves caught in the web. For their 25th anniversary, they organized a symposium on the theme "Sexual Harassment." As a result of their pressures, the federal government organized a workshop on the effect of sexual harassment on women and children; the long-term effect of this is that a Committee on

Women and Children is to be set up by the government soon. Other NGOs involved with women's activities such as the NCWS, also joined in pressuring the government into taking a keen interest in issues affecting women. Recently, the foundation stone of a Centre for Women's Development was laid while a National Commission for Women is to be inaugurated.

The Better Life for Rural Women Program initiated by the wife of the President, Mrs. Maryam Babangida, has gone a long way to enlighten women in rural areas and assist them to harness their existing resources for maximum economic output. Through the program, credit facilities are being extended to rural women farmers, producers of crafts, traders and manufacturers to boost their productivity and increase their profit margins. A People's Bank has been established to provide credit facilities to both men and women. The program has also assisted the women to organize themselves into creditworthy cooperative societies which are now competing effectively with the men's groups.

As part of its own contribution to the development of women in Nigeria, the NAUW has recently established market-based family planning and legal services clinics for market women. Under this program, free counselling is to be made available to the women on health and legal issues affecting them.

A Committee on Legal Services in Rural Areas has been set up to coordinate the effective dissemination of information on the law, its effects on people in a society and to train paralegal workers who are residents in the rural areas to assist their communities in gaining access to necessary legal assistance and remedies when the need arises. A large number of women are expected to participate in these programs.

Other governmental initiatives are being carried out through agencies such as MAMSER, DFFRI and NDE; these efforts, although not directly concerned with women's issues, have recognized the peculiar problems women face in the society and are making efforts to address those issues.

WLD has so far been done by FIDA because women's societies in Nigeria normally refer legal issues to FIDA; however, since the WLD programs are more interdisciplinary in nature, it has been proposed that a more independent WLD group consisting of representatives of FIDA, other women's groups and interested individuals be set up to coordinate WLD programs in Nigeria.

However, one major problem which we envisage will be the breaking of cultural barriers which poses a great difficulty in all initiatives.

Plans For The Future

- Establish enlightenment programs on the law and economic development;
- Provide formal and informal education in health and family planning, leadership, and participation in governmental activities;
- Build resources for economic viability;
- Research into cultural attitudes and perception of the law;
- Develop human resources through training programs;
- Coordinate women's groups and carry out activities for effective evaluation of their success.

Presented by Tokunbo Ige

COTE D'IVOIRE

The status traditional Ivoirian societies had reserved for women was far from satisfactory. Indeed, not only did these societies give the group priority over the individual, they also gave men much higher status than women. These societies were governed by the principles of the community and masculinity.

Traditional principles were challenged as the result on the one hand, of the intervention of colonization and the ensuing establishment of the individualist and egalitarian spirit, and, on the other hand, of Côte d'Ivoire's independence, with the goals of economic and social development. The Ivoirian Legislature challenged traditional principles by passing a number of laws governing both family and economic affairs for Ivoirians, especially women.

Have these laws, which are described as "revolutionary," liberated women from the influence of the group and given them equality with men? Observation of social reality will tell us whether or not these laws are actually enforced and will enable us to review the different actions that have been taken to improve the situation of women.

The existence of abundant legislation

The National Assembly passed several laws concerning women in 1964 and then in 1983; some pertain to family law, some to economic law and some to political law. The break from the past is cleanest in the area of family law. This is true not only concerning marriage, but also concerning succession in the different marriage systems.

The law of 1964 covering marriage is revolutionary not only because it abolished institutions that were very important in traditional societies, but also because it made marriage an issue to be decided by the future husband and wife alone. The sole purpose of abolishing dowry and polygamy was to liberate women. To liberate women from the sovereignty of the group, first of all. For we must bear in mind that dowry was paid to the prospective bride's family, and that these families

were demanding larger and larger dowries, which young people were not in a position to pay. At the present time, the payment or acceptance of dowry is punishable by fines and imprisonment. Young girls thus can marry without the payment of a dowry.

The 1964 law also served to liberate women from men. Indeed, polygamy was banned to give women back their dignity. For both men and women, a second marriage cannot be entered into until the first has been dissolved. However, as might be expected, the establishment of monogamy brought on the development of the system of "mistresses," i.e., adulterous extramarital arrangements leading to the birth of adulterine children. The Ivoirian Legislature solved the problem of adulterine children by granting them the same rights as legitimate children born in wedlock. However, in order for these children to enjoy this status, their filiation must be legally established. And the law requires the consent of the wife to establish filiation, which is a way compensating for the wrong committed by the husband.

By abolishing the dowry and polygamy, the Ivoirian Legislature has made marriage the business of the husband and wife. The future husband and wife alone are the ones who consent to their union; parental intervention is eliminated. The law does not even give parents the right to oppose. Marriage must be performed by a Vital Statistics Officer. If the purpose of this requirement is to give the Government control over such an important institution as marriage, the fact remains that it has left a large portion of the population on the outside of the law. Indeed, the majority of the population still settles for common law marriage today. Once the marriage has taken place, the man is head of the family, and certain privileges are reserved for him. In this case, the legislature succumbed to the principle of male dominance. The search for equality between husband and wife should lead to the elimination of such a provision (Article 58).

With the exception of Article 58, the other provisions of the law on marriage are fairly favorable to women. Is this the case with patrimonial family law? Equality between men and women was the goal in the area of patrimonial family law, as evidenced by the laws covering the property of the husband and wife during the marriage (matrimonial systems) as well as those governing property when the marriage is dissolved.

Two laws have come into play in the field of matrimonial systems, the second aiming to improve the position of the woman. Under the Law of 1964, the woman was treated as a minor. There was only one system: communal estate comprising only property acquired after marriage. The husband and wife had no choice. This system was very inequitable, because it gave the woman no rights at all. The husband was "Lord and

Master." He administered not only his own and the couple's joint property, but the woman's own property as well. He alone could dispose of joint property. This situation seemed to be unfair to women and they sought ways to circumvent the law, principally by living under separation of estate. The legislature sought to correct this injustice by means of a reform.

Indeed, the Law of August 2, 1983, not only established greater equality between husband and wife, but also introduced a degree of liberty of conventions. This law established the separation of estate system in addition to the communal estate system. The establishment of this system is in accordance with tradition, but also takes into account the evolution of Ivoirian society, because many women are involved in professional activities separate from those of their husbands.

The system of communal estate, comprised only of property acquired after marriage, was updated to give women much higher status, granting them the right to manage their own property and to administer the property they acquire through their earnings and salaries (separate estates of husband and wife.) A woman has the right to open a bank account without her husband's consent, etc. These are provisions that make women equal to men and which women welcomed with satisfaction.

However, what rights to this property do women have under the law if the marriage should be dissolved? When the marriage is dissolved, the law regulates what happens to the property. If the marriage ends in divorce, Ivoirian law only permits divorce by fault. The communal estate will be divided in half, with the wife receiving half of the property and debts, and the husband, the other half. If the husband and wife were married under separation of estate, there is nothing to divide up; each takes back his or her own property. Thus, future husbands and wives must be informed of the advantages and disadvantages of each of the two systems. If the marriage ends as the result of the death of the husband or wife, the survivor is the substantial heir of the estate of his or her deceased spouse, which means that the law, contrary to custom, recognizes the title to inheritance between husband and wife.

However, the surviving spouse is only the substantial heir if the deceased spouse had no children, brothers or sisters. Because this is Africa, where childless households are rare and brothers and sisters are abundant, the surviving spouse is almost never the substantial heir. This situation is unacceptable, especially if the couple was married under the separation of estate system. Consequently, the legislature must set up either a right to life use, or a claim to a living allowance for the benefit

of the survivor, levied against the estate. In addition to family law, the Ivoirian Legislature has established laws governing areas as varied as economics and politics.

On the economic level, at times we note measures that discriminate against women, and at times we note a certain degree of equality. Concerning access to land, a woman may apply to the administration to be assigned a plot of land on which she may grow food or cash crops, just as a man may. Women are free to exercise commercial professions, although the commercial code allows husbands the right to oppose the venture. In practice, many women engage in business and support their families.

The labor code contains provisions that protect women, as well as those that sanctify their equality with men. On the subject of protective measures, it must be noted that it is illegal for women to work at night. Women benefit from maternity leave and cannot be dismissed during this period.

Concerning egalitarian provisions, we will only take note of equal salaries for equal diplomas. The principle whereby the same salary should be paid for the same diploma is accepted in Ivoirian law. However, in practice, women are paid less than men because of the tax system. Married women are taxed as if they were single with no children; their husbands are the ones who benefit from considerable tax credits that take into account his wife and the number of children.

On the political level, the Ivoirian Constitution has no provisions that prevent women from entering politics. However, in practice, there are very few women in important positions in the political hierarchy. The number of women representatives and mayors is far below average. And, in a government of twenty nine members, there are only two women.

Application of the provisions developed by the Ivoirian Legislature

We must observe that most of these laws are not yet being enforced; their impact has been limited, especially in rural areas. Why aren't these laws effective? First, they are not effective because they differ from customs. There is traditional resistance to modern laws. Secondly, they are not effective because the people do not understand them. These laws are written in French, and the majority of the population is illiterate. Under these circumstances, what can be done to correct this situation?

Solutions

The people must be informed about the law. For this purpose, the Legal Committee of the Association des Femmes Ivoiriennes [Ivoirian Womens' Association] has undertaken the task of educating the population about the law. The Committee has begun a program of radio broadcasts every Saturday at 9:00 a.m. The announcer, a woman, begins with a survey in the street; a jurist gives a report on the law in every broadcast. To date, these shows have covered family law. The Committee has also taken the initiative to organize conferences. Women are very interested in these conferences, which are well-attended. The Association des Femmes Juristes [Association of Women Jurists] provides free consultations in Abidjan neighborhoods and even in the provinces.

On the economic level, the Ministry for the Promotion of Women, convinced that a woman's financial independence is a requisite for her liberation, is taking certain actions. It encourages women to join forces and form cooperative groups to promote income-earning activities which will give them access to credit and greater productivity. It also supports training for women CEOs in management techniques, provided by the Centre Ivoirien de Gestion des Entreprises [Ivoirian Business Administration Center].

Finally, on the social level, associations are involved in mother and child health. This is the concern of the Association pour le Bien Etre Familial [Association for the Well-being of the Family], which teaches women how to space their pregnancies in order to reduce mother and child mortality.

On the whole, the Ivoirian authorities know that women must make their contribution to the building of the nation. However, we note the existence of provisions here and there that prevent women from playing this role to the fullest extent. Reforms on these different issues are needed to allow Ivoirian women to exercise their full role within a developing country.

Presented by Jacqueline Oble-Lohoues

SENEGAL

The Dakar Conference

The first Women, Law, and Development West Africa workshop was held in November 1989. Fourteen participants attended from Senegal and the Ivory Coast. Among the participants were sociologists, economists, jurists and grassroots activists. The objective of the meeting was to introduce WLD and evaluate the possibility of extending activities into Francophone Africa, while at the same time developing a Pan-African network. The meeting had four objectives:

- to share WLD's program history;
- to identify the most critical legal problems facing West African women;
- to identify potential strategies to address these problems; and
- to investigate the possibilities of collaboration between groups within Senegal, the region and the continent.

The program was organized into workshops and full group sessions as a method of facilitating exchanges and addressing all the objectives. The WLD conceptual framework was used to identify the most arduous problems facing women, women's needs, and effective methods to improve the lives of women. The discussions revolved around the problems of family violence and the economy. The judicial problem of women in Senegal was the basis for discussion on legal content, structure, and cultural environment.

Association of Young Lawyers, Senegal The mission of this organization is to visit prisons and tribunals in all the regions of Senegal. Apart from the juridical questions prompted by the tours, the questions regarding the family code have been the most problematic. This organization argues that the law is misconstrued by the population. The laws are written in French and are now inaccessible to the majority of the people in rural areas. The Association of Young Lawyers is financed by a Ford Foundation grant for their program to continue to spread information and sensitize people to the law.

CONGAD/RADI RADI serves as a network for regional paralegal information. As a service, RADI records the inadequacies of the laws and through its educational program attempts to close the gap between those who understand the law and those who are ignorant of it. They believe people must participate in making laws and must have a better understanding of their rights and needs for qualitative change.

Thirty volunteer paralegals have been put in contact with lawmakers and serve as liaisons to explain the laws to the people in their own language in the regions of Tambacounda, Saint Louis and Ziguinchor. A law clinic will be opened to assist all those who are in need of legal aid.

Ministry of Social Development A training of trainers first began in the Longa region to give monitors of the Rural Family Economy Program enough knowledge to publicize the family code. These rural educators have the job of creating and sustaining effective development and respect for the rights of women and children.

Since 1989, the Ministry of Social Development has directed an information campaign about rural women for organizers working in rural areas. Rural women have been regrouped into 3,500 units of female promotion in order to better use and exploit Law 84-37, the Code of Civil and Commercial Obligation, relating to the grouping of economic interest (GIE). GIE provides a solid legal framework and the possibility to improve civil and commercial activities. It calls on banks and other organizations to finance diverse economic activities in order to allow women to gain access and control of financial and material assets.

University of Dakar In response to the rural need for information about the law, law texts have been translated and simplified with the help of USAID. The translations have already been done for Thies and Tambacounda and will soon be finished for Ziguinchor.

Yewwu Yewwi This organization conducts a program for citizens on the impact of laws, particularly the family code. Yewwu Yewwi works with other women's groups and often publishes the results in their magazine.

Results of Analysis and Future Actions

Unanimous interest was expressed by the participants in the continuity of developing collaborative actions on regional, country and continent-wide levels. The strengths and weaknesses of various networks was

discussed; for example, formal or informal, structured or flexible, and rotating or permanent leadership. In order to assure a constructive plan of action, the participants have created the Initiative Committee. The Committee is responsible for:

- documenting the experiences in Senegal;
- identifying public resources;
- preparing the way for a permanent organization; and
- taking necessary steps to facilitate an exchange of experiences.

Four people were chosen for the committee:

Fathou Ndiaye - CONGAD/RADI

Maty Diaw - Ministry of Social Development

Fatoumata Sow - APAD/Yewwu Yewwi

Seny Diagne - Young Lawyers Association

The participants from Francophone Africa began planning for the regional conference to be held in February 1990. The importance of representation of French speaking countries was discussed. The participants of the Dakar conference decided to send representation to the planning conference to be held in Nairobi, Kenya in December of 1989. It was anticipated that decisions would be made there concerning future criteria for the participation of French speakers in general, not only for the February conference. The participants will give their ideas about WLD involvement in Francophone Africa to the Initiative Committee.

Presented by Seny Diagne

EASTERN AFRICA REGION

KENYA

The last two decades have witnessed the Kenyan government's growing interest in women's activities, especially in the agricultural sector which constitutes the backbone of the Kenyan economy. Women's roles in both cash crop and subsistence production are linked with the country's economic development. The current development plan for 1989 to 1993 points out that, "Women have always occupied a central role in African economies being the main agricultural producers and the suppliers of welfare services at the household and community levels."

The plan acknowledges the role of colonialism in eroding women's economic and social status. In an attempt to rectify this, the Kenyan government, "...has been working towards the restoration of women to their active role, not only in the development of the economy but also in the ownership and control of wealth arising from economic production..."

The United Nations Decade for Women (1975-1985) increased national and international concern about women's role in economic development. This concern generated activities geared towards improving the position of women by providing services—water, health, family planning, credit, and agricultural support—to women. Notably missing from this list of priority areas, however, is the area of women and law, even though the law facilitates access to credit, employment, and property. This minimal recognition of the importance of law has continued despite U.N. urging for legislative change to eliminate discrimination and provide equal opportunities for all. Many U.N. members, including Kenya, are signatories to the Convention on the Elimination of all Forms of Discrimination against Women.

Historically, women have been victims of discrimination and subjugation by society's laws and attitudes. Laws reflect both the negative and positive values of society. For example, when a society regards

women as being equal to men, its laws will reflect this. Conversely, when men are perceived to be superior, laws also can be used to deny women their rights.

Economic, political and social change largely influence the social relations and the status of persons in a society. As a result of these changes, the state must formulate laws to regulate behaviors and relationships arising from this process. The potential danger is that the values of those in power may be reinforced through laws that are repressive to weak and disadvantaged groups.

Although the law has various functions in this context, two functions will be outlined. The law can serve as an obstacle to the realization of certain goals (repressive function) or as a tool of socio-transformation for the benefit of the disadvantaged (liberating function). Under the law's repressive function, disadvantaged groups continue to suffer many injustices. Under its liberating function, law may be used to alleviate the problems of the disadvantaged. In the latter function, the disadvantaged can use law as a tool to further and enhance their advancement.

Women, Law and Development

Women have been systematically omitted from full economic participation in the development process. This has to a large extent been facilitated by both statutory and customary law and by societal values regarding women's role in economic development. Women's position in the family has greatly contributed to her secondary position in society.

As indicated earlier, law can be used as an instrument to facilitate access to services and to improve the legal status of women by delegitimizing injustices. However, this process can only be effective if provisions of the law are complied with and enforced.

The task of women, law, and development is not easy; neither is it impossible. The task requires: 1) identifying legal constraints that prevent women from fully participating in development; 2) identifying potential areas within the laws to improve the role of women; and 3) developing and adopting strategies to fill or eliminate any injustices in the law. If laws are to have a positive effect, strategies should be geared towards creating a legal awareness for all.

Key Issues Affecting Women and the Law in Kenya

Economic status, family matters and violence against women are the three key issues facing Kenyan women. Each problem and an applicable law are outlined below.

Economic Status

Employment Women's work has traditionally been in the areas of agriculture, basket-making, domestic work or pottery. The introduction of a cash economy during the colonial era promoted women's work outside the home for financial gain. This move was largely motivated by the colonial government's failure to recognize the contribution of women's traditional work to economic development.

Women began to participate in both the formal and informal sectors. The formal sector was recognized as "western" women's positions, such as domestic servants, nurses, teachers or secretaries. The informal sector was recognized as "African" women's work. Although many educated women have now ventured into non-traditional employment, the distinction between the formal and informal sectors remains. The demarcation of women's employment is especially important because their economic status influences their involvement in economic development.

The formal sector, characterized by salaried or wage employment, is officially recognized and economically measured by the government. However, women working in this sector face many problems including denial of equal medical and housing benefits, difficulty receiving maternity leave and sexual harassment on the job.

A number of income-generating activities—vegetable vending, agricultural work, selling handicrafts, hawking—characterize the informal sector. Many informal sector workers do not have adequate access to banks, credit institutions, and legal services or an adequate infrastructure to carry on a profitable business. When conducted in urban areas, informal sector business is subject to city council zoning and licensing laws. Hawkers usually prefer to operate without licenses so that their area of operation is not limited. Women in the informal sector need services to educate them about basic business and money management, as well as access to financial institutions where they can obtain loans without collateral.

Property Ownership and Credit Most of those actively engaged in land-related activities, such as farming and livestock keeping, are women. Despite this fact, most women do not own land either singly or jointly with their husbands. There are many reasons for this. One reason is that traditionally women have never owned land. Although single women could use their father's land, they could not own it. During the land adjudication and registration of the 1950s, women's rights to use land were still not recognized and land was registered under the husband's name. Land registration functioned to vest the exclusive title to the land on the registered owner. Although the law now empowers women to own land that can be exclusively registered under their names, women are still unable to secure a loan to purchase land or other property. This prevents many women from owning land. Moreover, women must still fight against traditional beliefs that women cannot own any property.

The law can be used as a tool in facilitating women's active economic role. Employment and property ownership laws in Kenya do not discriminate against women. Rather, the implementation of these laws and other factors—such as the lack of credit, the need for a change of societal attitudes and the lack of an adequate infrastructure—inhibit the effectiveness of the laws.

Family Matters

The general status of women is largely determined by the status she holds within the family. Kenyan women lack decision-making rights within the family in the areas of money, property, custody of children, maintenance, inheritance, age of marriage and reproduction. The four systems of family laws: Customary Law, Statutory Law, Hindu Law, and Islamic Law further complicate these problems. Each of these systems has its own view on the role of women in the family. Women governed by a system other than statutory law are accorded a secondary position in family decisions such as the number of children, their education, and upbringing. Societal attitudes also determine and influence women's roles.

The four systems of family laws must be codified into a uniform law that provides equal rights for all members of the family. If this law is enacted, the public will have to be educated and sensitized about its importance.

Violence against Women Violence against women includes sexual harassment on the job, rape, wife-beating, and female circumcision. Societal beliefs usually influence wife-beating and female circumcision. Wife-beating is permitted as a way of chastising the wife. Although the government has condemned female circumcision, some tribes still practice it. It is necessary to have more active campaigns to inform the public on the ills of female circumcision.

Although rape has been criminalized by the Penal Code (Cap. 63), stiffer sentences for rapists and psychological treatment for rape victims are required. When sexual harassment on the job occurs, women must be able to report the incidence without being punished.

Although the law provides remedies for violence against women, it fails in application. Many institutions that receive complaints of violence from women, are insensitive to their problems. Women need a safe haven where they can stay temporarily after being beaten or raped.

Lack of Legal Awareness There is a general lack of legal awareness throughout Kenya. The older generations are well versed in customary law but not statutory law. However, the younger generations are versed in neither. The multiplicity of family laws and lack of access to legal services are also problems.

Women's Rights Initiatives in Kenya

In general, before legal reform or legal literacy programs can be instituted, more in-depth research is needed to determine the concrete problems facing Kenyan women. The research should be participatory and involve women in researching, analyzing and solving their own problems. There are, however, a few organizations already involved in women's issues and the law in Kenya.

Women's Bureau The Women's Bureau (WB), in conjunction with the Public Law Institute (PLI) and the Women's Rights Awareness Project (WRAP), began its legal program in 1985. The first project was a public awareness campaign on violence against women concentrated in Nairobi. The project used a poster to generate debate, however, the groups realized that it is difficult to communicate such a sensitive topic through a public medium, and the campaign had limited success. The organizers realized they needed to research the issue of violence before an effective public education campaign could be launched. Some of this research has since been completed.

In 1987, these institutions held a seminar in Mombasa on "Women, Law, and Development" as the culmination of two years of WRAP. Several papers were presented to stimulate discussion around developing specific legal programs for women. Three task forces were established under the auspices of WB and PLI: Violence Against Women; Community Based Legal Education Program; and, Law Reform and Lobbying. By mid-1989, the task forces had developed proposals. In January 1990, WB and PLI launched a one-year project to focus on general legal education and on violence against women. The project's activities include legal rights education workshops targeted to different levels (including training the police on violence against women) and comprehensive community legal education programs in the communities of Vihiga, Kitui, Lamu and Kawangware. The WB and PLI plan to develop simple educational materials and pamphlets on "Violence Against Women" for these projects.

Public Law Institute In addition to its other activities, PLI offers limited free legal services and legal information to the public. PLI recently published a booklet on the constitution and a book titled *Women and the Law in Kenya*.

The Women's Bureau in the Ministry of Culture and Social Services and PLI have initiated a project on legal literacy in the Kibwezi and Kiambu districts to create legal awareness through seminars organized for leaders of women's groups. Before the seminars, project coordinators conducted a three-day survey in selected areas to determine the legal needs of women. The District Social Development Officers in the selected areas arranged meetings for five well-established and registered women's groups. Project personnel then visited the women and gave them a chance to voice their legal problems. The survey found that the most common legal problems among the women were 1) property rights; 2) issues related to the sale of land and the existence of the Land Control Board; 3) marriage laws; 4) succession laws; 5) children's rights; and, 6) general civil and criminal procedures.

After the survey, the coordinator organized a workshop for project personnel to train them in research and communications skills. The next phase of the project will be implementation of the seminars. Each area will have three seminars within the year. Phase 3 will involve writing and producing simplified legal materials. Finally, an evaluation of the project will be conducted.

Legal Advice Center (Kituo Cha Sheria) The Legal Advice Center provides free legal services to individuals, the majority of whom are women, who cannot afford the services of a lawyer. The Center aims to foster awareness and educate clients about the law by involving them in their cases. For example, clients aid in investigating or obtaining certain information needed for their case from various agencies, the police and the courts. The Center also encourages class action suits in cases such as tenant and landlord grievances or licensing. Joint filing promotes organization among people similarly affected by a problem. The Center also works with NGOs, church-based organizations and others requesting information about law and plans to develop simple legal education materials in the future. The Center is currently working on a paralegal training project to make the law more accessible to women.

Women's Legal Education Task Force In August 1989, the funding agency OXFAM, in conjunction with OXFAM Rural Project Partners, an agency involved in small scale development efforts, held a workshop on "Women, Law, and Development." The discussions revealed an interest in the women's legal rights and provided a forum for the partners to raise common legal concerns and become more familiar with the law. The workshop recommended that simple legal materials be developed in collaboration with women's groups. The WLE task force was established after this workshop and is currently conducting field research on women's legal problems. The research involves women's discussion of their own problems and how best to solve them. Legal materials will be prepared from the findings and be disseminated to the target groups. The task force is composed of representatives from OXFAM Project Partners and it is headed by a consultant.

Women's Resource Center of Kangemi The Women's Resource Center was established in May 1989 with the goal of developing support systems to respond to the needs of women in Kangemi. The Center relies on one full-time and three part-time staff members and is still in the process of defining its priorities and activities. It has conducted a community survey to gain some insight into women's concerns and interests. Legal information and services have been selected as one of the needs of local women. The Center is currently building a resource library for local use and trying to identify resource people to provide technical services on advice to women. However, it is having difficulty finding sympathetic women lawyers for legal services. They will eventually need to develop simple materials on the law. A major challenge to the Center is responding to the specific needs of refugee women living in Kangemi.

Diocese of Eldoret Women in the Diocese are well organized and involved in a variety of community activities and periodically sponsor training and discussion workshops to assist women. Many women have become interested in legal rights and requested a workshop to provide information on legal rights for men and women. In response, the Diocese organized a women's rights awareness workshop and has been monitoring specific cases to gain more understanding of the problems women face. The Diocese is in the process of designing a follow-up workshop to examine cultural attitudes of men and women about the law and needs simple materials about the law for their program.

FIDA Kenya FIDA, an international body of women lawyers, has a Kenyan Chapter, which was established in 1983. FIDA (K) held a law conference in 1987 which participants from throughout Africa attended. FIDA (K) is currently working on a book entitled *Women and Law in Kenya* that will be soon be released. The book will examine women's constitutional rights, family law, succession and women's economic status.

Oxford University Press (OUP) The OUP has initiated a "Know the Law" series, where lawyers from the University of Nairobi, the private sector, government and the judiciary are commissioned to write books on the law. The target group is the general public and the books are written in simple English. The authors are requested to consider issues pertaining to women when writing their books. The current series includes land law and disputes; child custody and maintenance; fundamental rights and protection; rights of an arrested person; and employees' rights. Books on matrimonial property rights, cooperative law, family law, succession, and insurance law will soon be published.

AAWORD The African Association for Women's Research and Development (AAWORD), is a regional organization based in Dakar, Senegal. In the ten years since it was founded, it has researched many topics of concern to women, held several workshops and published a monthly magazine. In a recent conference, a debate surfaced over whether the organization should continue focusing on research or start promoting action. The Kenya chapter of AAWORD has been formally established under the YWCA. In November, AAWORD held a conference on gender issues and development, where papers on women and the law were presented.

Faculty of Law

Since its inception in 1970, the faculty did not have a course on gender and the law in its curriculum. The gross under-representation of women in the law faculty may be one explanation for this phenomena. In 1987, the faculty had only expatriate women teachers who served for brief periods. Another reason for the initial lack of gender issues in legal training was that these issues had only recently emerged as priority legal issues. At a faculty seminar on the Review of the Law Curriculum held in May 1989, the courses "Women in the Legal Process" and "Children and the Law" were included in the law curriculum for the first time. Their inclusion, particularly the "Women in the Legal Process," ensued after protracted debates.

Both courses will be offered during the final year of the four-year LLB program. Because the courses are optional, further efforts are necessary to popularize them and create teaching materials to ensure that many students take them.

Since the "Women in the Legal Process" course is more directly linked to women, law, and development, we mention its course content below. We hope that others who have not as yet introduced such a course could borrow it from us. The course will focus on gender issues in the law; development of feminist jurisprudence; constitutional aspects of sex discrimination; legal regulation of the reproductive process; legal constraints facing women in socio-economic development; and international legal instruments governing the status of women.

Other faculty involvement in issues of gender and the law is promoted by personal research. The faculty's increasing interest in WLD activities is seen by its acceptance to host the first WLD meeting for Kenya in September 1989. The faculty also intends to begin a legal aid clinic, which one day a week will be open only to women.

Institute of African Studies (IAS) NORAD has sponsored a five-year research program by the IAS of the University of Nairobi on women and development issues. Sub-topics handled by individual principal researchers such as "Women and the Law" fall under this broad umbrella. The program will cover about 10-15 districts in Kenya. The districts of Kakamega, Siaya, and Laikipia have already been covered. The "Women and the Law" sub-topic was only covered in Laikipia. Although the project initially did not have any lawyers, it now has two. IAS is in the process of analyzing the Laikipia data by computer. We have suggested that "Women and Leadership" should be handled by a lawyer so that constitutional, governance and organizational questions could be studied.

The questionnaire "Women and the Law" covers the following areas: women and money; marriage property and divorce; violence against women; women and reproduction; women and work, including sexual harassment; and access to legal services.

The IAS project will collect a great amount of data on women and the law at the grassroot levels and help considerably to design future research, programs and strategies.

Kenya Women Finance Trust The KWFT was established as part of Women's World Banking. Currently, the Trust advises women in small business on business management. The Trust also guarantees loans for women who need them but have no security. The KWFT assists many women who work in the informal sector and earn less than 2000 Kenyan shillings per month.

Kenya Law Reform Commission The Law Reform Commission was established by the Law Reform Commission Act (Cap. 3, Laws of Kenya) and came into force on 21 November 1982. Since its inception, it has proposed changes to Kenyan legislation that have led to concrete enactments. The Commission also conducts and participates in studies that contribute to debate on law reform.

Recently, the Commission considered the problem of children accompanying mothers to jail, an issue of great concern to children's rights advocates in Kenya. The law provides that a child may accompany its mother to prison and remain there until the age of four or until arrangements for proper outside care are made, whichever is earlier. Preliminary surveys of female criminality have established a link between crime and child abuse. Abuse may occur when the single mother abandons her child to go to jail or exposes the child to the prison environment.

The Commission's recommendations include amending the Prisons Act (Cap. 90, Laws of Kenya) to reduce the period within which a child can be with a mother in prison from four years to three or until arrangements for its care outside prison, whichever is earlier. The amendment would also provide for the creation of special mother and baby units within prisons. The ideal position envisaged by the current National Development Plan is special accommodation for errant mothers and their children outside prison. It is hoped that this will soon become a reality particularly in view of trends to make the community more responsible for crime prevention and rehabilitation. We hope that these suggested penal policy reforms that will ensure that female petty of-

fenders, especially unwed mothers or heads of households are punished outside prisons to avoid unnecessary suffering by the children and family.

The Commission is represented in a Task Force on Children in Difficult Circumstances which plans to examine the consequences of imprisonment of parents, especially single parents. Its present input is part of an integrated approach to deal with the problem of female criminality and child abuse. The Rehabilitation Center established in June 1987 serves as a half-way house for former women prisoners and their children and is expected to spread to other provinces. The Center will be discussed later in this report. The Commission has also conducted a preliminary study on matrimonial property and plans to examine judicial trends in matters involving ownership of matrimonial property particularly during tension points such as separation, divorce and after a spouse's death. It has received many requests for reform of many areas of law including law relating to violence, marriage, age, dowry and property.

The reform exercise is difficult in view of the Law Reform Commission's limited resources and the task it faces. The Commission rarely receives requests from women's groups. It is important that women and particularly NGOs play a more aggressive role in suggesting reforms and ensuring that their proposals clearly outline women's legal problems.

Riziki Women Former Prisoners Rehabilitation Center This center located in Kibera, Kianda Nairobi, was established in June, 1987 as a result of research carried out by a Maryknoll sister, Perla Laurel, and six members of an Ecumenical Task Force. When the Task Force disbanded, Sister Laurel was joined by another Maryknoll sister, Jacqui Dorr, and a Kenyan women lawyer. The Center was formed after obtaining membership in the Kenya Prisoners Aid Association and welcomed the first small group of women ex-prisoners on June 8th.

The needs of women ex-prisoners upon their release from prison were identified as economic and social, i.e., the need for self-acceptance and acceptance by the community. It is significant to note that Kenyan crime statistics for 1975-1985 showed that 75% of all women admitted to prison had been involved in marginal economic activity such as hawking or selling illicit brew, all non-violent offenses. This information, as stated by the Commissioner of Prisons, shows that the Kenyan woman prisoner is "young, a rural/urban migrant with little or average educa-

tion, engaged in marginal trade and likely to have children who are more or less fully dependent on her." The Center was established with the objectives of:

1. encouraging self-reliance among women through small income-generating activities and the use of group discussions and education to break the dependency cycle;
2. helping the women rediscover their own self-worth through counselling, assistance by social workers, weekly discussions, shared leadership programs, etc.;
3. offering enrichment and educational opportunities through seminars on family planning, law, health education, dealing with violence, etc.;
4. networking with other groups for mutual support and sharing resources;
5. raising the society's awareness on the plight of ex-prisoners; and
6. providing legal advice.

One long-term objective involved replacing the expatriate staff. This was recently achieved through the taking over of the project by the African Network for the Prevention of Child Abuse and Neglect (ANPPCAN). The project provides hope for many women ex-prisoners. Plans currently exist to expand the program to other locations in Nairobi and throughout Kenya. This will facilitate a better understanding of female criminality in Kenya and pave the way for solutions to problem's causes.

Major Problems Facing WLD Activities

1. The lack of coordination among NGOs usually leads to duplication of efforts.
2. Because most of the work is in the formative or research stage, little action has been taken. Country-wide surveys are needed to supplement the few areas where research has been conducted.
3. Policy makers do not adequately recognize the legal impediments that women face.
4. Most women groups are not registered under any law. This becomes problematic in terms of their capacity to borrow funds, sue or be sued etc.
5. Because women form the majority of the illiterate persons in Kenya, legal literacy efforts are very difficult.

6. Social, economic, cultural, religious and age differences among groups makes a uniform approach to legal awareness and legal literacy impossible. It is necessary that each community have a unique approach to its needs, attitudes and exposure to the law.
7. Society's attitude is usually suspect toward the empowerment of women through legal awareness because it is believed that women want to take over being heads of households.

Future Plans and Action

1. Establishing legal literacy projects. This includes training paralegals to implement the programs. The training will also include adult literacy.
2. Publishing legal education materials for the projects.
3. Completing collaboration on legal literacy projects to enable those carrying out the projects to assist each other and exchange ideas and experiences. In order for institutions or agencies to implement this, regular meetings are needed to enable project coordinators to exchange ideas. Ideally, the institution or agency would be responsible for paralegal training.
4. Establishing a legal aid clinic for women where free legal services are administered.
5. Lobbying for change.

Presented by Janet W. Kabeberi-Macharia

UGANDA

WLD Uganda activities are designed to promote the use of law and its institutions by women working in development. These include assisting women in exercising rights in areas that already exist in the statutes but are not enforced in Ugandan society such as access to credit facilities and legal services. Many NGO's are now involved in carrying out these activities.

Problem Areas

Succession

Under the Judicature Act, customs which are not repugnant to natural justice have the force of law in Uganda. Customary law is most often applied to matters of succession and inheritance to property. Under most of these laws, the widow is treated as the property of the deceased to be inherited as the wife of a male relative. If the widow refuses, she may be forced to return to her home. The deceased's home is usually given to the heir, who evicts the widow from the house. The rest of the deceased's property is usually shared among the male relatives. It is unheard of in some areas for a women to inherit land or cows, both major economic resources in Uganda. There is a fear that she may remarry and the land or cows will go to another clan. Thus, when a woman's husband dies, she is deprived of all her deceased husband's property.

Other laws govern succession to property and inheritance. They are the Succession Act; the Succession on Amendment Decree; the Administrator General's Act of 1964/Administrator General's Amendment Act of 1967; and the Administration of Estates (small estates and small provisions) Decree of 1972.

Under these laws, a woman succeeds to property either in a will or under the intestacy laws. When the husband makes a will, his wife is entitled only to what is provided for in the will. The law also authorizes

a family to challenge a man's will in court if a man makes a will that does not provide for his immediate family. The court may decide to give the woman a lump sum equivalent of what she would get if her husband died intestate. If the deceased's property is income-generating, the court may rule that the wife share the income generated from the estate. If a man dies without leaving a will, the woman is given priority to apply for letters of administration. When the property is divided, the widow has a right to occupy the matrimonial home until she remarries or dies.

One of the major problems encountered by women is that although they may benefit from their husband's will, very few people make wills. Either because they are illiterate or because they think it is an omen. Ignorance is another problem. If a man makes a will and does not provide for the wife, many women are not aware that they have a right to challenge the will. Also, most of the women do not know that they have priority to apply for a grant of letters of administration, if their husband has died without leaving a will. However, in many cases where a will has been made or a woman has received a grant of letters of administration, customary practices may ignore a woman's right to succession.

For example, in one case, the deceased made a will and left his property to his wife to keep in trust for his six children. During the funeral rites, the clan chairman announced that the deceased's will would be ignored because the deceased had not distributed his property according to custom. That is, he had not appointed someone to inherit his wife and it was unheard of for a man to leave all his property to his spouse.

The woman's right to her husband's home after his death is only operational after her death or remarriage; otherwise, it goes to the heir. As for other property, women may inherit 15% of the husband's property, but even this percentage is difficult to decide.

Because most administrators do not know their role, they may assume full ownership of the deceased's property thereby depriving the widow of any of her rightful entitlements. The multiplicity of laws also confuses many to the disadvantage of women.

Customary Marriages – Polygamy

The English dictionary defines polygamy as a custom of having more than one wife at a time. Polygamy is practiced among many communities in Uganda, including those who are married under the Marriage Act. Society perceives these marriages as normal. This custom is practiced for varied reasons. Sometimes a man may take a second wife because the first one is not producing children. Uganda depends mostly

on a subsistence economy and paid labor is very expensive. Men in the rural areas will take more than one wife to have more free labor. For others, a second wife is a status symbol.

Under the Customary Marriages Decree of 1972, the law states specifically that customary marriages are potentially polygamous. Although the law sanctions polygamy, it is a problem. It reduces the woman's status and creates insecurity in the woman and home that impedes any meaningful development in the home. If a man with many wives dies intestate, all his widows, regardless of the number, share 15% of his estate. Often men may send away their first wives once they get younger ones. Since these older wives have worked on the husband's land all their lives, they may be too old to start new lives and may be financially insecure.

Custody and Guardianship of Children

Customarily, when parties separate or divorce or a man dies, the children, regardless of their ages, must remain with the man or his family, although the law is not very clear in cases of separation or divorce. Decisions are usually based on the common law welfare principle. In some cases, mothers have custody for children of up to the age of seven. After the age of seven the father takes over custody. In guardianship cases, the deceased male's family is given custody rights.

Women who want custody of their children are in a precarious position because while common law may protect them, it is not binding in Ugandan Courts. Since most women are economically dependent on their husbands, even if they are given custody they may not have the means to care for the children. Most women, therefore, abandon the idea of fighting for their rights. Another handicap the woman faces is that even if she gets an order for custody, she may find it difficult to enforce the order as most of enforcement personnel are male, and they tend to sympathize with the men.

Maintenance

Although customarily a man is obligated to care for his wife and children, it is the woman who has traditionally done this. The woman must grow food both for consumption and sale and provide the water and fuel. Her produce is sold to provide necessities like salt, soap and clothing as well as the education of her children.

Under customary law, when the woman divorces or separates from her husband, she is entitled to nothing and her husband has no duty to support her. Moreover, whatever she has acquired or contributed to acquiring is taken by the man.

Under statutory law, she has a right to pledge his credit, and, under the Divorce Act, has a right to apply for alimony. If awarded, the man has a duty to pay the alimony. However, most women do not know they have a right to pledge the man's credit, and hiring a lawyer is very expensive. Enforcing alimony is difficult and, when paid, may be meaningless because the court will only consider the man's official income even though he may derive almost 97% of his income from unreported enterprises.

Matrimonial Property Jointly Acquired During Marriage

Under customary law, when a woman marries she passes from her father's control to her husband's; after payment of a dowry, the woman goes to her husband empty-handed and whatever she gets becomes the man's property. For example, when a woman grows cotton, the land belongs to the man and whatever money she gets from the cotton belongs to the man. In case of divorce or separation, she may not leave with anything. In case of Ernest Kabuye, the woman was employed and when she got married, her husband allowed her to construct a house on land registered in his name. Before he died, he gave away this piece of land together with the house to his second wife.

Under the law, a woman has a right to acquire property. In cases of separation or divorce, she may, under the Divorce Act apply for a protection order for her property. But as with other legal issues, many women don't know that they can still acquire property in their own right when married. They are influenced by religious attitudes which say that when women and men marry, they become one and so whatever property they get belongs to the husband and wife. Some women avoid acquiring property on their own because they fear their husbands' wrath. Culturally, people believe that all of the property in the home belongs to the man. Because of their insecurities regarding property, women will not invest or acquire property of their own during marriage.

Violence Against Women

Domestic Violence Historically, women were under the control and authority of their husbands. Like the father, the husband was given a legal and a moral right to manage and control her behavior. If he beat

her, it was deemed to be his right and a fair means of achieving acceptable behavior from his wife. When a man would beat his wife, the family and neighbors would be involved and if they found the "reason" for the beating to be "sound," it would be sanctioned. Some of the women who were beaten even believed that if their husbands' did not beat them, they did not love them. The beating was tolerated to a certain point; if it became too much, the woman could return to her home. Excessive beating was grounds for separation or divorce.

Our social structures have changed. The family and neighbors no longer play big roles in the family and in the urban areas, some people may not even know their neighbors. This change in the social structure has magnified the problem as the matter is now restricted to the family. It is not rare to read about incidents of women beaten to death in the local newspapers.

In Uganda, assault and battery are crimes under the Penal Code, and if a wife is beaten, she could report it to the appropriate authorities so that her husband would be arrested, charged and prosecuted.

One major problem is that in addition to being battered and assaulted, women fear reporting their husbands to the proper authorities. Often they will face further violence and loss of maintenance from their husbands as punishment. Even when they report the matter to the police or Resistance Councils, most of these bodies are staffed by men who are unsympathetic to her problem and are likely to dismiss it as a domestic matter.

Sexual Harassment Many women in Uganda are sexually harassed in their jobs. In order to get a job, keep it or get a promotion, women may be forced to give in to the sexual demands of their managers or bosses. These demands, combined with the increased threat of AIDS, may force her to abandon or not take the job.

There are no laws to protect women from sexual harassment. Because trade unions and welfare officers are usually ineffective against sexual harassment, and may be the ones perpetuating these injustices, women remain silent out of fear of losing their jobs.

Access to Economic Resources

Contribution to development is impossible without access to economic resources and women in Uganda have limited access to these resources. Although land and cows are great economic resources in Uganda, it is unusual for a woman to inherit land or cows under most customs.

Today women only have access to land if it is willed to them or they get it as their share when a father dies. But as mentioned earlier, getting the land has its own complications. Although many women are now employed in good paying jobs and can buy land on their own, only a limited number of them do so.

Bank loans are possible, but even though there are many banks operating in Uganda, women's accessibility to them is very limited. Most of the banks are in urban areas and the majority of the women who live in the rural areas may find it too difficult for them to approach a bank for a loan. There is also a tendency among the rural population to fear the risk posed by getting a loan from a bank.

Moreover, many of the banking institutions require security, usually land or title, before lending money. The land or title usually belongs to the husband and he may be unwilling to allow her to utilize his title deed as security. Banks often consider women to be a credit risk. Often a woman's loan application will be rejected because she is a woman, regardless of whether she has the necessary security. In some cases banking institutions prefer to lend money to women who have formed cooperative societies. However, this becomes complicated because only very little sums of money can be advanced, as in the case of the Women's Finance Credit and Finance Trust. The Trust usually lends limited amounts of money, such as 300,000/-Ug. Shillings, for very specific purposes, e.g., agriculture.

There are also cultural inhibitions. For example, because some men believe that women who acquire more money become "big headed," many women will not apply for loans for fear of this label.

Rural women, who constitute the majority of women in Uganda, spend the majority of their days engaged in the daily routine of tilling the land, gathering food, fuel and water and at the same time caring for children. By the end of the day, she is so overworked there is no time to engage in any income-generating activities.

Women lack managerial skills, and like the general population most of them are uneducated. If money is lent to a woman, she may not be able to manage it and is likely to give it to her husband to manage. However, he may use it himself or mix it with the family finances.

Legal Illiteracy

Very few people in Uganda are educated or even literate. These numbers decrease further when legal literacy is discussed. Legal literacy is mainly restricted to those in the legal profession. Apart from customs, all laws are in statute books and very few people have access to them.

Moreover, they are written in English, or language that is too technical and most people find it difficult to understand. Legal illiteracy is therefore very rampant.

Responses

Legal Aid

In March 1988, FIDA Uganda opened a legal aid clinic. The clinic assists indigenous Ugandans, particularly women and children who have limited access to legal services because of lack of finances. The clinic has handled over 600 cases, of which 40% were affiliation, 30% succession, 20% marriage problems and 10% business and economic problems. The clinic operates like other law firms but charges only a minimal fee of \$1.00 to assist in the general running of the clinic. If the client cannot afford this, the fee is dispensed altogether. The clinic offers free legal advice, counselling, party reconciliation and, when absolutely necessary, resorts to court action.

The Ministry of Women in Development, National Council of Women and ACFODE have legal departments that sometimes offer legal advice. When court action is necessary, they refer cases to FIDA or other government departments which handle such cases. The Office of the Administrator General for example, administers estates of the deceased.

Legal Literacy

ACFODE, FIDA, NCW, the Ministry of Women's Development and the Women's Desk in the National Resistance Movement Secretariat, a political wing of the government, all have various programs to advise and educate women on their legal rights. The NCW and Women's Secretariat have organized seminars and workshops and rely on members of FIDA and ACFODE to implement the actual programs. The Ministry of Women in Development has also implemented programs for legal education. However, they tend to heavily emphasize the constitutional consultation process.

Uganda is in the process of formulating a new constitution. The general consensus is that women should contribute to making the new constitution. The Ministry of Women in Development in conjunction with NGOs has established a program to ensure that Ugandan women know what is at stake and contribute as much as possible. The Ministry has trained and is still training women to go to the villages to teach the rural women about the constitutional process. A manual has been

produced to guide the trainees on technical matters. A play on the constitution has also been written and is being presented in both local and national theaters.

FIDA and ACFODE have legal education programs conducted through radio and television discussions, talks, seminars, workshops and conferences. Their literacy programs are present from the urban areas to the grassroots level and involve educational institutions. FIDA uses mobile clinics in its rural visits. In addition to disseminating information, legal literacy programs are a forum for getting ideas and information from women. Those ideas are documented and used as a basis for law reform and the planning of future activities.

The Ministry of Women in Development, FIDA and ACFODE also write articles for local newspapers. ACFODE even has a women's corner in the government-owned newspaper "New Vision". In an effort to make the law more accessible to the local population, FIDA has translated some of the laws into local languages.

FIDA, ACFODE and the Ministry of Women in Development all have programs to collect information about different laws and, where necessary, recommend reforms to the appropriate authority, the Ministry of Justice. A draft bill on the reform of family laws is currently pending.

The NCW has started a program of assisting women inmates by studying their living conditions and other problems and making recommendations to the proper authorities. During the recent visit to Luzira, Uganda's main prison, even male inmates asked to be visited.

Access to Economic Resources

No laws now exist to assist women to gain access to credit facilities. Many achievements in this area have been made through individual efforts, but some organizations are now making efforts to assist women.

The NCW received funds to provide loans to both individuals and women's cooperative societies without the security requirements. The six-month loans are mainly for buying and marketing local produce and have an interest rate of 10%.

The Uganda Women's Credit and Finance Trusts gives loans to women but only in the cooperative societies and for agricultural purposes.

The Ministry of Women in Development has a division of Project Planning and Implementation and is responsible for supervising the implementation of projects. Women's groups have received funds either in cash or material forms, i.e., grinding mills, oil milling machines and seeds. The Ministry is starting a revolving credit fund under the credit

support system for women's produce activities. The fund's objective is to increase the income-generating capacity of the women in small scale agricultural industries, distribution systems and other enterprises.

The government has also been helpful. The government-owned Uganda Commercial Bank operates a scheme called the Rural Farmers Credit Scheme that advances money primarily to women for agricultural purposes.

Challenges and Problems

Although the efforts being made are commendable, there is a lack of coordination between the different NGOs and the government. This often results in duplication of work and wasting of funds. Some of the government departments do not appreciate the changes which the women are trying to make. They view the women's work suspiciously and, instead of assisting, they become obstacles. The police who are reluctant to help with battered women are one example because they sympathize with the men.

Money-lending institutions are sometimes insensitive to women's needs and discourage them as exemplified by their reluctance to lend women money. Under the Uganda Commercial Bank's R.F.S., some women have been turned away because they were not accompanied by their husbands or failed to produce evidence of their husband's consent.

Cultural attitudes and customary practices greatly hinder the work being done by our organizations. The problem is magnified because both men and women are affected. These attitudes and practices are part of their life and most people are opposed to changes.

Finally, there is sometimes a breakdown in the government machinery. Because of economics and the high cost of living, some officers may be tempted to take bribes and not assist the women.

Future Plans of Action

Legal education programs must be intensified and extended not only to women, but to men also. Although there are many activities going on, they are uncoordinated. The Ministry of Women in Development is planning to hold a meeting in March 1990 for all NGOs working with women's issues. The meeting is aimed at finding strategies for coordinating the activities of the different NGOs. The Ministry is currently in the

process of training officers to document information concerning NGO activities and gather suggestions that will enable them to better plan their work.

Legal aid is a great service but at the moment it is very limited. There is only one office for the whole country although it is supplemented by sporadic mobile clinics. FIDA plans to open more clinics upcountry in the future.

A step forward has already been made in that there is compulsory representation of women in Parliament from every District. But this does not guarantee that discriminatory laws will not continue to be enacted, since women remain a minority. There is, consequently, a need to encourage more women to run for the general seats in Parliament and to sensitize male Parliamentarians regarding women's issues and solutions.

Money-lending institutions should also be made aware of the importance of assisting women and the great contribution they are making towards development.

Presented by Florence Butegwa

SUDAN

Sudanese women started to campaign for their rights during the 1940s. At that time very few women were educated. The women's movement was concerned with more schools for girls and with the struggle against the Anglo-Egyptian colonization.

Until 1960, there was only one high school for girls located in the city of Omdumen. In 1960, another school was added. Five more schools were opened by 1963. The number of educated women increased, and this helped feed the women's union and other women's offices at political parties. In 1965, a woman was elected as a member of parliament for the first time.

Sudan has been victim to a series of military governments. In its thirty three years of independence, only eleven were years of democracy. Democratic life suffered greatly. Unions, associations and women's groups and organizations have been subject to dissolution and property confiscation.

Eager to bring everything under control, the current government is trying to either attract or arrest women who are involved with the political parties and trade unions that have been more inclined to fight for women's rights. To win the support of women, the military governments would throw a bone to the women, by adding a few schools and forming women's unions. Of course they usually appointed certain women to leadership positions. These unions proved to be isolated and found it hard to deal with any problems, because they had to agree with what the government prescribed.

When the idea of a group of women working in the field of law and development was introduced in 1988, women in different areas were enthusiastic about joining. It was thought of as an independent arena where women could deal with their problems without being attached to a political party or even to the women's union that came back to life after the popular uprisal in 1986 that ended the military government which had ruled Sudan for sixteen years.

The Women's Law and Development group, WLD, made contact with women in Sudan in 1987. Dr. Balghis Badin, of the University of Khartoum, contacted different women in the legal and other professions to form a group to work in the field of law and development.

Preparations were underway for a workshop entitled, "Women and Elections" when a military coup took place on the 30th of June, 1989. This group quickly dissolved any association, trade union, group or rally formed for any purpose. It became apparent that any fight for constitutional rights could be dangerous or even fatal. Scores of trade unionists were jailed, including women. The government has obviously taken a path that has branded it as Islamic fundamentalist. This has been denied by the government.

WLD groups in Sudan continued their work on a very narrow scale. The emergency rules that made assemblies illegal are still in effect. A workshop or a rally requires a permit and to be able to apply for a permit, the group must have some legal status. Therefore, WLD decided to register as a non-profit society. An application was made, but has not been approved. The Sudanese group has remained in contact with WLD, and is able to be represented at this conference by five members.

To win women to its side, and to refute the argument that this government is a fundamentalist one, a women's conference was called for by the current ruling military government. The members of the conference were appointed by a ministerial order. The conference was not open to all women and ended up by recommending the formation of a women's body. Apparently no elections will take place. An executive committee will be appointed by decree.

WLD Sudan is doing its best to stay free of the government's intervention. Close supervision by officials seems to be inevitable, but the real challenge will be to stay as an independent body that is not subject to any external organization nor to any financial or planning interference. WLD intends to resist the dismissal or replacement of any of its members. Funds will not be asked for except when the WLD executive committee is fairly certain that the funds will not be appropriated by a government body.

The focus now is on helping grassroots women survive the tough and difficult times posed by the political and economic situation. Women in the informal sector should as soon as possible be shown how to deal with a public order court. Women who sell tea or coffee or food are often taken to those courts, which are known to try to accuse without giving her or for that matter, him, a chance to see or call a lawyer. Displaced women who live in shanty towns around the capital city are facing new types of violence that were not prevalent in the past, such as

rape. Educated women who hold jobs are losing their jobs without explanation. New employment opportunities are not as available to women as they used to be.

To deal with such urgent matters and other women's issues, WLD Sudan intends to start a campaign to protect women in the informal sector from being flogged and fined for minor violations of the law, such as illegal possession of sugar.

There are already voices that call for limiting the number of women admitted to universities, which means that a qualified female would have to give up her chance for a college education to a less qualified male or maybe an unqualified male, as the entrance criteria would no longer be qualifications, but gender. Since there is no constitution now, the validity of such steps, if taken, will be challenged by WLD on the basis of international law.

Future Plans of Action

WLD Sudan intends to:

1. Do an extensive program on legal literacy;
2. Initiate legal proceedings, meet with administrators and commence lobbying efforts to influence the government and its policies;
3. Train paralegals to disseminate information and prepare statistics on different areas concerning women;
4. Lobby for equal rights;
5. Lobby for detained women and call for their release; and,
6. Address issues of violence through the collection of information and the utilization of other country's experiences in combating the problem of violence.

To be able to do all or any of the above, WLD intends to widen its membership to include women from different professional areas and form groups that will specialize in different fields to lead the work of WLD in all areas.

As soon as WLD obtains its legal status as a registered society it will be entitled to seek the necessary permission to hold its workshops or training program and raise funds. Passing the security check is the vital part; membership will be checked by the Security Bureau which will either grant or deny authorization for registration. We will keep (WLD/AF) posted of all progress of WLD Sudan.

Presented by Asma Mohamed Haleem

TANZANIA

Key Issues/Problem Areas

The most critical problems facing women in Tanzania are those related to marriage and the family law, e.g., divorce and division of matrimonial property thereafter, wife beating, inequality of married couples, polygamy, and inheritance for daughters and wives.

These problems include unequal access to land, credit, property ownership, employment benefits, major-decision making bodies, child custody and the law which governs it, the Marriage Act, No. 5/71 and affiliation ordinance. Due to lack of education, sexual harassment and cultural attitudes which believe women to be inferior to men, women's opportunities both inside and outside of the home are severely limited. There is a lack of solidarity, communication and support among professional/educated and grassroots women. Finally, structural obstacles such as the burden of family survival preclude progress by women.

The largest and most acute problem, however, is that of inheritance and the law governing it—the law of succession. The multiplicity of laws governing inheritance are confusing and sometimes contradictory. The myriad of laws that regulate inheritance include the Customary Law Declaration Act; the Probate and Administration Ordinance; the Indian Succession Act; Mohamedan Law; and, the Constitution of Tanzania.

Although these laws may apply to different groups of women, all women are oppressed when any of these laws are used.

To eradicate these discriminatory laws one uniform law must be instituted, instead of several, that will amend existing laws by inserting specific provisions to protect widows; permit land ownership by women; and change the general perception that men are the head of the family.

Responses

Tanzania has many organizations and institutions that are involved in women's issues. While most of these organizations are based in Dar es Salaam, there are several others operating in the regions.

- The Legal Aid Scheme for Women offers free legal services to women who cannot afford to pay for them. Its activities include counselling, court representations, publishing of pamphlets, legal rights education and the drafting of legal documents. The Scheme also plans to organize legal aid camps outside Dar es Salaam.
- The Women's Research and Documentation Project (WRDP) is a multi-disciplinary group which conducts research and seminars on gender issues and documents its findings. It also educates women through its newsletter "Mwenzangu".
- The Union of Women of Tanzania (UWT) is a political women's national organization that mobilizes women, leads women's issues in the Government and the Party, and coordinates all women's matters and promotes women's welfare.
- Tanzania Medea Women's Association (TAMWA) publishes quarterly journals in English for international news and in Swahili for local news educating women on their legal rights. It also conducts seminars and workshops.
- Institute of Development Studies (IDS), is a women's study group that assists other women through organizing workshops, conferences and study tours. They also conduct research.
- The WLD Tanzania Project was recently formed. It analyzes the law and identifies problems with the law and its application and proposes reform. The project also designs programs to educate and heighten women's legal awareness. Currently, however, women's legal rights and general situation are inferior to those of men due to various factors.

During the WLD workshop held in Dar es Salaam from the 28th to 30th of January 1990, the participants identified a major problem facing women in Tanzania as disinheritance and the laws governing it. The solution to this problem is a fair right to inheritance for women. The group decided to elect a steering committee to deal with this issue. The steering committee shall operate under the auspices of WLD Tanzania and will lobby for uniformity of inheritance laws and the elimination of discriminatory provisions in the law.

The Major Difficulties and Challenges

The major challenges facing the WLD Tanzania project are strong traditional and cultural beliefs regarding the roles and rights of women. Due to their cultural upbringing, women accept the attitude that all property belongs to men and also accept their culturally-assigned positions as women.

As this project is just starting in Tanzania, we are not in a position to discuss much about the exact problems facing WLD. We do not even know what shape it is going to take. It is very early for us to comment on this.

Future Plans of Action

1. Identify women's problems that need to be tackled and their priorities.
2. Coordinate the activities of various groups involved in women's issues.
3. Establish liaisons and cooperate with other national NGO's through TANGO.
4. Maintain liaison and constant contact with other organizations outside the country engaged in similar activities including WLD itself.
5. Look for funding and sponsorship for the different projects and activities of WLD Tanzania.
6. Strengthen and promote local programs which make the law more accessible and beneficial to all women.
7. Enhance the impact of women by fostering links on the national and regional levels.

Presented by Nakazael Lukio Tenga

SOUTHERN AFRICA

ZAMBIA

Since the United Nations Decade for Women, women the world over have become more and more aware of their situation. Zambia is no exception. To date, Zambia has many non-governmental organizations, twenty-five of which are coordinated by an umbrella body known as the Non-Governmental Organizations Coordinating Committee (NGOCC). Among other issues, they are concerned with women's legal rights initiatives and legal education and consciousness raising for women at all levels, including the grassroots. Through the NGOCC, links are being forged for collaboration between NGOs, the government and the party. This paper will examine some of the strategies that have been used to attain these objectives.

Key Issues/Problem Areas Facing Women

To depict the situation of women relative to that of men, summarized below are some of the key issues/problems relating to women and law. These were narrated at NGO meetings. All names, apart from those taken from newspaper clippings, are not the true names of the parties.

Women in Rural Development

Case 1: Villagers in Chief Pefye's area were doing very well growing sufficient food for themselves to last them the whole year. They did so well that their agricultural extension officer decided to ask for additional assistance, especially with regard to appropriate technology, to help them grow more food and have surplus to sell to others in the district or beyond who were not doing as well. The extension officer succeeded in bringing experts to help the villagers, but much to the amazement of the women, who grew more food than the men, they were

not invited to meetings where new methods and implements of farming were introduced and discussed. In fact, they discovered that even the "tech and tools" were designed for menfolk, and not themselves. They continued to use the hoe, and misapplied the newly introduced fertilizers and insecticides. Instead of increased food production, they fared badly and now refuse to use the new technology. They also say that the men are able to get loans from banks, but the banks refuse to give them loans unless their husbands sign somewhere on the application forms or unless they have collateral about which their husbands have no objection. They want to know why this is so.

Women in Zambia are now aware that they are the main producers of the food we eat and that they ought to claim the economic benefits. But they do not, even though they do most of the work. They till the land, usually with a hoe or ox-drawn carts, yet when the food has been sold, their husbands claim the money without even thinking about them. Society thinks this is right, because a wife, along with the land she tills, belongs to the man.

Is it surprising then, that when a woman wants to own land in her own right, the authorities, who are usually men, always prefer to sell it to men? There is nothing in the statute books which says a woman cannot own land, yet this practice continues. As if this were not enough, where a woman does succeed in owning her own lands, lending institutions demand the written consent of the husband on credit applications.

Women in Employment

Case 2: Mrs. Langa is employed by a large private organization that employs the largest workforce outside the Zambian Government. After 24 years of service and hard work, she is promoted to the position of Executive Director, and as such, she holds one of the top ten positions in the organization and is the only woman. She discovers that she receives the lowest salary, and also does not get as many perks as her male counterparts, three of whom graduated from the university several years after her. In fact, one of the conditions of service reads:

"All Chief Executives and staff in scale qualify for a free social tour with family to a game park for not more than seven days every year... Transport, full board, and lodging shall be borne by the Company at National Hotels....Married women employees, excluding their husbands and children, also qualify for this facility."

She tries to no avail to have this discriminating statement removed and, in the process, antagonizes her colleagues and now fears that if she continues to pressure the company, she might lose her job. She wants to know if there is another way to handle this problem.

Discrimination is found in the contract of employment documents (Terms and Conditions of Service) and in the statutes (the Employment Acts, the Constitution) as well as in attitudes and practices. The case of Mrs. Langa is typical. A woman is usually paid less than her male counterpart of similar background. She does not have the same chance for promotion, and hence her male counterpart rises faster to positions of influence and responsibility. She is, however, lucky that she has risen because her friends in other institutions are still in lower or middle management.

Mrs. Langa does not get the housing allowances and training opportunities and holiday benefits that her male counterparts get. Her income tax is high, and her net pay is lower than all her colleagues.

The Constitution, the most fundamental law of the land, does not make it easy to challenge this kind of discrimination, for in Article 25 (3) it omits the word "sex" in the list of attributes upon which it is unlawful to discriminate against a person.

Article 25 (3) reads..."In this article the expression 'discriminatory' means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, place or origin, political opinions, color or creed, whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to other persons."

Intestate Succession

Case 3: MaWanga had been nursing her sick husband ShiWanga for about 15 months. At first their relatives came from all over Zambia to visit him and help with money for food and other things. But then they got tired and stopped coming. Travelling alone with her husband, MaWanga tried all the big hospitals in the country and sometimes they went to African doctors, but ShiWanga's condition worsened. He died. All the relatives and many others came to the funeral. He was buried on the fourth day.

On return from the burial, MaWanga found that some relatives who had not gone to the cemetery had packed some of the household goods to take away, including the leftover bags of mealie meal from neighbors' donations. Others had removed roofing materials from the

house ShiWanga had built but failed to complete due to his illness. She was asked to get ready so that first thing the following morning, she could be escorted to the employers, the bank, and the provident fund to collect the money. When she asked what was going to happen to her and her school-going children, she was politely referred to her own relatives. ShiWanga's relatives would be through with her as soon as she was purified.

Until six months ago, every Zambian married woman dreaded the day she would be widowed because, among other things, she was not traditionally considered an heir to the estate when her husband died. She was classified as a beneficiary. The matrilineal and patrilineal customs of inheritance of eight out of the 72 tribes of Zambia showed the following pattern:

Among the Bemba (Northern and Luapula Provinces), the estate devolved on nephews, nieces, sisters, and brothers; Bisa (Northern Province), on the parents, uncles, brothers, and sisters; Chishinga (Luapula Province), on the brother or nephew or grandson; Kaonde (North Western Province), on the brother or grandson or niece or nephew; Lozi (Western Province), on sons and daughters; Ngoni (Eastern Province), on a son or father or sister or brother; Nsenga (Eastern Province), on a brother or nephew or grandson of the deceased; Tonga (Southern Province), on automatic inheritance by any probable heir; selection was done by the *Mukowa* (group of maternal kinsmen) but preference was given to brothers and nephews of the deceased man.

Since August 1989, there are now laws which govern the distribution of property upon the death of a spouse. These are the Intestate Succession Act No. 5 of 1989 and the Wills and Administration of Testate Estates Act No. 6 of 1989. The former Act (No. 5) was passed after twenty years of research, study, and public debate on the unification of the customs of 72 tribes and codification into a law of common application. The later Act (No. 6) was passed to replace the received (British) Wills Act 1893 with a simplified version of making a will. The 1893 Act still applies to wills made before the new act.

The Intestate Succession Act distributes the estate of the deceased spouse as follows:

- a) Twenty percent (20%) of the estate shall devolve upon the surviving spouse, except when there is more than one surviving widow. In this case, twenty percent of the estate shall be distributed among the wives proportional to the duration of their marriages to the deceased. Other factors may be taken into account when justice so requires, such as the widow's contribution to the deceased's property;

- b) Fifty percent (50%) of the estate shall devolve upon the children in such proportions as are commensurate with a child's age, educational needs, or both;
- c) Twenty percent (20%) of the estate shall devolve upon the parents of the deceased;
- d) Ten percent (10%) of the estate shall devolve upon the dependents in equal shares.

In the case of a minor, the mother, father, or guardian shall hold his share of the estate in trust until he ceases to be a minor. Thus, women in Zambia have successfully changed the law to improve their situation. A 20% inheritance, while an improvement over previous practices, does not take into account the visible and invisible work contributed by women to the wealth of the family. How did the Zambian women achieve this, and why do they claim this success story? The answer is found in the next sub-topic below.

Suffice it to say for now, the concept of the family in Zambia is no longer defined as a man and his relatives, but as a man, his wife, and children along with their dependents.

Marital Problems and Domestic Violence

Case 4: Mary and Dick Kalulu were married in 1971 and they have eight children together. Mary is a nurse and Dick is a general manager of a big enterprise. A year ago, Mary was chased from the matrimonial home with two of the youngest children aged four and six. She managed to get a room in the nurses hostel for herself and her two children. Recently Dick found out that the other children have been visiting their mother and that they talk in whispers whenever they miss her. He has now sent away four of the children to their mother and threatened to do the same to the others should they visit their mother or should he himself or their new "mother" hear them talk favorably about her.

Mary comes to the counselling service to ask for advice, as she cannot get a bigger house from her employers. She also wants to know whether the law can compel Dick to maintain her and the children, and what action she can take against him other than divorce. She says that she has been told that statutory provision under affiliation and maintenance orders entitles her to only K12 (50 U.S. cents) per child per month.

Case 5: In another situation, Loveness, a young lady, was married to Bobo and they had only one little child. Bobo was discharged from the military service under the option to do so before seven years. He had been in service for three years.

Bobo always found reason to beat up his wife. Every time he found her away from home—be it at the market, visiting her mother in the neighborhood, or even next door chatting with a friend—he beat her up. She gave up her job as an administrative officer because he suspected her of having an affair in town and subjected her to a lot of harassment.

Recently, he came home late and drunk and beat up Loveness so badly that she had to be hospitalized. He was angered by her delay in opening the door for him and serving him food which was cold. Her neighbor went to inform the mother about the beating and hospitalization. When she was discharged from the hospital (after three days) her parents, uncle, and sister went to Bobo's house to talk about the beatings and take away their daughter for some time. He was very upset to see them and ordered them out of the house before they even had the opportunity to discuss the problem. As soon as they were gone he beat her up again.

One day, in the early hours of the morning Bobo came home, quarrelsome as usual, and demanded hot food. Loveness put a pot of cooking oil on the stove and when it was almost boiling, she carried it to the bedroom and poured it all on her husband who was lying down on the bed. He died from burns a few days later. Loveness was charged with murder and has now been convicted and sentenced to life imprisonment.

Many of our women today still do not want it known that they are victims of family violence. As girls grow up, they are told never to let outsiders know about domestic problems, especially the beatings. Police do not help either. Because of their attitude, a couple is usually compelled to live together until a death occurs. So far, three women in Zambia, two of them in the 1970s, have killed their husbands in life or death situations. These deaths could have been prevented.

Responses

National Level

Zambia has ratified the United Nations Convention on Elimination of all Forms of Discrimination Against Women (CEDAW). Therefore, we have an obligation to take measures—legislative, administrative, or otherwise—which are in line with the spirit of the convention.

The Non-Governmental Organizations Coordinating Committee has taken the initiative to identify laws which discriminate or which have provisions that discriminate against women. As a coordinating commit-

tee, it has worked in conjunction with some of its affiliates and a list has now been submitted for consideration to the government through the UNIP Women's Affairs Committee of the Central Committee.

The Women's Affairs and the NGOCC have worked out a plan of action which mandates both the construction of shelters, in the shortest time possible, to supplement the few organizations that provide shelter for battered women and the carrying out of research into issues affecting women, such as purification. The obstacles to date are money and building sites for the shelters.

For the first time, women were accorded a chapter in the Fourth National Development Plan (1988-92), the five-year national plan, to increase their participation in national development. The chapter also allows NGOs to participate along with government, although there are no guidelines to enable women to take full advantage of the opportunity.

NGO Level

Counselling Services The NGOCC and a few affiliates have established counseling services and legal services to help women who have social, legal, or other problems through advice on such matters. For now, these services are available only in Lusaka. The legal services would appear to duplicate the work of the Legal Aid Department. However, a woman with problems appears to have more confidence telling her story to another woman, who is probably more sympathetic than a man.

Documentation Center There have been two documentation centers planned but only one is currently operational, also in Lusaka. The center has a collection of books and literature on women and/or by women. Readers can borrow them for a limited time at a nominal fee. The facility is particularly beneficial to researchers as they have all the materials centralized in one place.

Educational Campaign Zambia can draw on its experience with reform of the law of intestate succession. Zambians have been very fortunate to use the law successfully to change our situation under the inheritance law. The women of Zambia claim success. From 1985, they began to wonder what had happened to the Wills and Inheritance Bill as it was first known.

The situation facing a woman upon the death of her husband was destitute, as she were stripped of all belongings and forced to either join the husband's relative who had "inherited" her or return to her family home where her relatives would look after her and the children. In either case, the family's life style was radically altered.

A series of conferences and seminars took place, culminating in the second Women's Rights Conference at Mindolo sponsored by the Zambia Association for Research and Development. Women's organizations became active pressure groups and made presentations to government officials about the bill.

From 1987 to 1989 when the law was enacted, NGOs embarked on an extensive educational campaign of seminars and talks throughout the country, using local languages. In Lusaka, there were panel discussions, talks at schools, markets, welfare halls and NGO and church meetings. Theater was used in these settings and a play was staged to show the plight of the widow. The Inheritance Bill was translated into seven vernacular languages. At the time of the 1988 Parliamentary elections, women—the majority of Zambian voters—were mobilized to lobby for support declaring they would vote only for those who were in favor of the bill. Support increased, notably from the head of state, who promised to see to it that the bill would become law. By early 1989, the Intestate Succession Act was passed and it came into force in August 1989.

What is To Be Done: WLD Zambia

WLD Zambia plans to:

- 1) use some of the methods that were employed with the Inheritance Law to educate people at all levels, sensitize women about their situation, and educate both men and women about legal rights and protection;
- 2) train trainers to carry out the educational campaign using popular education theory and techniques suited for the adult learner;
- 3) ensure consolidation of all laws that affect women, e.g., domestic violence, even though provisions may be contained in other statutes such as the Penal Code where assault is generally treated;
- 4) establish legal clinics and counselling services and produce literature in local languages;
- 5) pressure for action that will give women more power such as counting women's invisible work such as housekeeping, child-bearing and rearing so it is included in Gross National Product

(GNP); and establishing a female quota in all establishments to ensure an equal share of responsibility and distribution of power and resources.

- 6) research both attitudes and understanding of the link with the law, with the goal of developing strategies for change;
- 7) cooperate and network with other institutions and organizations at the national and regional level, particularly those of women's rights activists, to learn from one other and avoid duplication of efforts;
- 8) create a fund that can be drawn upon to facilitate the projects and actions herein contained;
- 9) hold the first WLD Zambia workshop on legal strategies, for which guidelines for participants have already been sent out; and,
- 10) in sum, do everything possible to speed up the implementation of CEDAW.

Presented by Lillian Mushota

ZIMBABWE

Key Issues/ Problem Areas

The Women, Law, and Development Zimbabwe Workshop was held in Kadoma from October 25th-27th 1989. The issues selected and prioritized as key for Zimbabwean women were access to land, inheritance, maintenance, and violence against women.

Access to Land

Women do not have the right to land in resettlement areas, community areas, and communal titles. Land has always been a crucial issue in Zimbabwe. Women were originally denied title by the colonial government and subsequent land policies have made no effort to restore land rights to women. This problem is exacerbated by murky legal provisions which generally surround the question of title to land.

The conference participants decided upon a two-pronged research strategy. The strategy first proposes a community case study component and second, a legal research component. Participants realized that the actual causes of the problem were unclear and, thus, this particular approach would be appropriate. The participants agreed that effective strategies are based on a clear understanding of the causes of a problem, both legal and social. The Legal Projects Centre is currently researching the various factors involved and a community book project is using community case studies to examine suicides by women in cotton-growing areas. It is estimated that by June 1990, the participants will have a clearer sense of what problems remain and be able to strategize on solutions.

Inheritance

Married women cannot directly inherit property from their husbands without a will, which usually does not exist. The goal is to change the legal system to allow women and children to inherit directly from their husbands whether there is a will or not. A strategy was decided upon and activities planned around the strategy.

A favorable bill on succession was recently produced by government, but was quietly laid to rest in an unmarked grave. It is necessary to resuscitate discussion on the Succession Bill. A substantial amount of information has already been collected on the topic and is available from the law department. Using this information several recommendations were made:

1. A workshop should be organized in conjunction with the Department of Women's Affairs. Participants should represent both non-governmental organizations and government.

2. A standing committee should be appointed to network with various organizations. The committee should contact the Women's League via the provincial meetings about mobilization of women around the issues of inheritance. Prior to elections, the standing committee should contact the Parliamentary committee and suggest a meeting between NGOs and the parliamentary committee.

3. During the provincial meetings, a meeting should be held to mobilize women. The goal was to have compiled information in time for the International Women's Meeting which was held in March 1990.

Maintenance

Women have problems securing support payments from former spouses/boyfriends for themselves and their children. Maintenance laws themselves are equitable but there is no social-security if the man is unemployed.

Once again, it was agreed by the conference participants that research was needed to highlight the specific problems with this issue. The Women's Law in Southern Africa project is currently engaged in this research and once the specific problems have been isolated, will start working in those areas.

Violence against Women

Two specific legal problems were isolated. The first is that there is no legal "middle road"; women can essentially jail their husbands, or do nothing. Interdicts in the High Court must be accompanied by a certificate of urgency signed by a legal practitioner, placing them well beyond the price range of the average Zimbabwean. In the Magistrate's Court, the alternative is an order "binding the husband over to keep the peace." Although a binding order is an emergency measure, it takes three weeks from the beating before a set-down date is obtained. Legal protection

exists, but in fact it does not accomplish its goal. The content of the law needs to be revised to give the "Binding Over" a presumption of urgency regardless of when the report is made.

A letter was written to the Magistrate's Court in Harare in connection with a particular case that was handled by the Musasa Project, requesting that the whole procedure surrounding binding over orders be rationalized and streamlined and that cases for binding over orders be given an automatic priority. The Magistrate's Court responded that this could create possible abuse of the court, but that a particular clerk would be appointed to ensure that if the situation were indeed serious, the necessary immediate action would be taken. There is some chance of speeding up the process in Harare, but no rationalizing of the system as a whole. This rationalization remains a goal.

Responses

Several recommendations were made by the workshop participants:

1. Research Research should be done on the effects of jailing abusive husbands and mandating the reporting of abuse. Once this research is complete, it will be used as the basis for a request that a government commission be appointed to look into the issue. Moreover, research should be done on underlying attitudes that allow assault to continue. The WLSA project is in the process of doing this research.

To influence the structure of the law it is necessary to compile statistics on violence against women. The Ministry of Women's Affairs should approach the Ministry of Health and the Ministry of Local Government so that statistics can be compiled on the frequency of abuse reports and other related statistics. These statistics should then be used to stop the legitimization of wife-beating, and to show both government and aid agencies that it is a development issue.

2. Training Magistrates and prosecutors need to be trained on the issue of violence against women. The police, party members, and UIDCO personnel should also be trained in this issue. Training material should be developed for police, doctors, and other personnel. Videos and plays should be developed as a public education tool.

The Legal Projects Centre will organize training sessions for Magistrates; the Musasa Project which is involved in ongoing training with the police, will expand this to other target groups and is working on developing materials.

3. Emergency Shelter The police should allow women to stay overnight at police stations when they report assaults. In addition, bus warrants should be provided for women reporting abuse so that they can get to a place of safety. The police have been approached on these issues and we await their response.

4. Counselling To influence the culture of the law, men's support should be gained on these issues and trained to facilitate groups of men who batter their wives or girlfriends. The Musasa Project has literature on training groups of men who batter and will begin this shortly.

Presented by Joyce Kazembe

BOTSWANA

Background

In October 1983, the Women's Affairs Unit in the Ministry of Labor and Home Affairs organized a national conference on "Women in Botswana—Strategies for Change." The major objectives of the conference were to identify the general needs and problems of women in Botswana, to formulate strategies for addressing those needs and problems, and to work towards the enhancement of the status of women in all spheres. Wide-ranging recommendations were made in this regard. From 1983–1986, the Women's Affairs Unit and the Women's Development Planning and Advisory committee held various workshops, seminars, and public meetings in both the urban and rural areas, with the specific aim of identifying problems faced by women as perceived by the women themselves. The same gatherings also made attempts to identify laws that were discriminatory to women.

In July 1987, in consultation with the Women's Affairs Unit, the Emang Basadi Women's Association held a seminar on "Women and the Law in Botswana" whose major objectives were to assess the legal status of women in Botswana and to educate women on the implications of the various laws. Government and cultural policies and various laws were examined, and recommendations for remedial action were formulated. It was on the basis of this seminar that Emang Basadi Women's Association, the Women's Affairs Unit, and WLD Program in Africa organized a three-day workshop in December 1989 to receive the recommendations from the 1987 seminar and formulate action-oriented strategies to improve the legal status of women and promote legal literacy among women.

The other objectives of the seminar were:

- To identify and analyze the most critical problems facing Botswanan women in relation to the content, structure, and culture of the law.
- To develop comprehensive strategies to engage women and public sectors in confronting legal problems and making the legal system more responsive to women.

- To build links for greater collaboration between lawyers and non-lawyers, community workers and professionals, as well as between non-governmental organizations and government programs which focus on women's rights.

Key Issues/Problem Areas

In reviewing the numerous recommendations and resolutions of the 1987 seminar, the workshop highlighted the following as critical and priority areas that called for immediate action:

- The Affiliation Proceedings Act
- Property rights of women married in or out of community of property
- The Citizenship Act
- Domestic violence (marital rape, abuse of children and battered women)
- Maternity provisions under the Employment Act
- Teenage pregnancies (governing regulations)
- Abortion
- Polygamy

In examining the above, the workshop looked at the role and operation of the law in permitting the social, political, and economic subordination of women and their consequent disadvantaged position in the development process. It was recognized that the law regulates and legitimizes this inferior socio-economic position of women both formally by legislation and informally by condoning prejudicial social practices and attitudes and is maintained through one or a combination of the following:

- Laws and policies that are unjust or discriminatory, limiting the rights of women (the content of the law);
- Arbitrary or prejudicial application towards women, even where the law itself is not so prejudicial (structures of the law—courts, police, enforcement and administrative agencies);
- Conscious acceptance of detrimental laws or women's lack of understanding or awareness about their own legal status and the intent and effect of the laws (culture of the law).

The categorization of law into "public" and "private" is another factor that conditions society's perception of women's rights as falling within the private sphere. Whereas laws that are considered to be within

the "public" sphere have been subject to reform, family and personal laws considered to be within the private sphere have been static and remain oppressive.

In identifying critical areas in relation to the legal status of women, the workshop identified the problems on the basis of the three components already mentioned—substantive, structural, or cultural.

Citizenship Act and The Affiliation Proceedings Act

Content The maximum amount that a woman can claim for maintenance of a child is P40, which is too low. The twelve months within which a woman must lodge a complaint was found too short and prohibitive in view of the woman's period of confinement and the usual family consultations that are conducted before the family/woman resorts to legal action.

The customary law practice that limits maintenance to a first child only is baseless and unnecessarily restrictive. There is confusion regarding the relationship between customary law and common law. The confusion arises from the action taken by the parents which are within the ambit of customary law. Parents are entitled to sue for seduction and are usually awarded a number of cattle as compensation. This, however, is separate from a claim for child support by the woman and the one does not replace the other.

Structure Maintenance orders are not properly enforced despite adequate statutory enforcement provisions such as garnishee and civil imprisonment. Unlike other court documents, maintenance orders are accorded inferior status by enforcement agencies.

The steps required for legal recourse are unnecessarily circuitous. For example, it should not be considered necessary to lodge an initial complaint with the District Commissioner, who cannot make enforceable orders.

Culture There is a lack of moral commitment by fathers and a reluctance to pay child support. Women have no confidence in the system and are reluctant to lodge claims. Enforcement agencies are reluctant to enforce orders.

In addition to the above, the seminar discussed the plight of the married women whose husbands simply relinquish the responsibility to support the wife and children. Provisions exist under the Deserted Wives and Children's Act but similar problems arise under "structure" and "culture" components.

Property Rights of Women Married in Community of Property

Content Sole administration of joint estate by the husband is unfair. Property rights generally favor men by reducing women married in community of property to minor status which requires spousal consent for all contractual transactions.

Structure No institutionalized pre-marital counselling exists to prepare women to make informed choices about the property regime most suited to their circumstances. Agencies which determine the division of matrimonial property often favor men.

Women who opt for marriage out of property are not informed of the implication of the marital power that the husband possesses. They are not informed of the advantage of excluding marital power in this property regime.

Citizenship Act

Content This Act discriminates against Botswanan women married to non-Botswanan men in the following ways: Botswanan women married to non-Botswanan men do not have the capacity to pass their Botswanan citizenship to their legitimate children by descent; and women do not have capacity to influence their husband's acquisition of Botswanan citizenship by registration. Botswanan men married to non-Botswanan women have the capacity to influence their wives' acquisition of Botswana citizenship.

Culture Women are not aware of the implications of the citizenship provision until confronted by a problem. Traditional attitudes and beliefs that the father is the dominant parent who determines all aspects of family life including nationality are prevalent.

Responses to these Problems

The Women's Affairs Unit and the Women's Development Planning and Advisory Committee took action to promote legal literacy although this did not become a national effort. Since 1987, Emang Basadi had made efforts to promote legal literacy through workshop and seminars. Pamphlets entitled "The Woman's Guide to the Law", have been translated into Sebwana and been compiled and distributed as widely as possible.

Women's organizations made various attempts to secure an amendment to discriminatory laws through presentations to the Law Reform Committee in 1987-1988. The Law Reform Committee is a parliamentary committee which is appointed once every five years and is entrusted with the duty of reviewing laws passed by Parliament and making recommendations for amendments to Parliament.

Major Difficulties facing WLD Work in Botswana

1. Political power is in the hands of men and the basic tenets of WLD challenge male supremacy;
2. Lawmakers lack the will, political and otherwise, to institute changes. Women, who form a large percentage of the electorate, either lack the will to promote change or are unaware of the voting power they wield, which is needed to turn events in our favor;
3. The Law Reform Committee is a parliamentary committee and membership can only be drawn from parliamentarians, the majority of whom are elderly and out-of-touch with modern day development trends. The nature of the Law Reform Committee, a parliamentary committee, excludes able members of the public. The Committee cannot even co-opt outside members. There are only two female parliamentarians in Botswana and the odds weigh heavily against the voice of women on the committee.
4. Women's organizations lack the organizational structure to undertake the tasks of full-time mobilization of women. With the exception of the YWCA, women's organizations lack the resources to establish permanent secretariats.
5. Enlightened and educated women are either too complacent or indifferent to injustices against women. Many of them remain indifferent, even when they could influence positive change within their ministries or corporations and with their husbands.
6. Most rural women are, at best, semi-literate and are therefore unaware of modern day developments and would resist change. They also harbor respect for the male authority and voice and would resist proposed changes on such laws as the Marriage Act and the Citizenship Act.
7. Rural women have been socialized into acceptance of strict traditions and customs. Any intervention that leads to their questioning of those traditions and customs would give rise to feelings of conflict, with a possibility of rejection or indifference to those interventions.

Future Plans and Strategies

A Coordinating Committee comprised of representatives from the Women's Affairs Unit, Botswana Christian Council, Christian Women Fellowship, Women and Law in Southern Africa Research Project (Botswana group), BCW, YWCA, and Emang Basadi was elected. The main task of the Committee is to prepare a plan of action based on concrete strategies, for the empowerment of women and the promotion of legal literacy among women.

The Coordinating Committee has selected the Affiliation Proceedings Act and the Citizenship Act as their starting point. This was based on the desirability of setting realistic and achievable goals. The Committee has set the following plan of action based on the WLD conceptual framework. In the interests of time, the strategy is represented in general rather than specific terms.

1. Lobby parliamentarians to effect change to the membership of the Law Reform Committee to draw membership from a wide spectrum of interests, as do other Presidential Commissions. Other objectives in this regard are to sensitize parliamentarians to women's issues and to the reality of the voting power of women. The Committee intends to hold meetings with individual members of parliament as well as with groups of parliamentarians.
2. A meeting with the Attorney General has been planned to request a response to specific points on the law.
3. A wide spectrum of non-governmental organizations will be mobilized to promote legal literacy. The list includes church groups, the Botswana Christian Council, the Rotary Club (which now admits women as members), and the Lions Club, among others. It is recognized that some of these groups wield substantial influence. The logic follows that it may be easier to win the support of a politician through his church or social group rather than through more formal channels.
4. Workshops and seminars are planned for the rural areas using existing networks of women's organizations and other non-governmental organizations. The aim is to train leaders/trainers who, because of their special position, are more in touch and are sensitive to the aspirations of women at the grassroots level.
5. Women's organizations are to be encouraged to seek financial assistance to set up permanent secretariats that will strengthen the organizational network of each organization.

6. The Attorney General is requested to address women on the relationship between the Constitution and the Citizenship Act. We have received reliable information to the effect that the Citizenship Act contravenes the basic tenets of the Constitution and will not be able to withstand scrutiny by a court of law.
7. Churches, through the Botswana Christian Council and other church groups, are to be mobilized to speak out about this aspect of people's lives and should become involved in cases of injustice to women. Again, it is to be noted that women form a significant percentage of the church-going public.
8. Further attempts to demystify and simplify the law are to be made through seminars, workshops, pamphlets, and the media.
9. The committee is to draw up a budget for this work and is considering which donor agencies to approach, once the detailed plan of action has been completed.
10. A continuing analysis of the laws is to be undertaken, with the aim of identifying specific problems of those laws in terms of content, structure, and culture.

Presented by Lebohong Letsie-Taole

SWAZILAND

The kingdom of Swaziland has a land area of about 17,000 square miles with a population of about 680,000 as of August 1986. More than 90% of the population are Swazis. The country operates under a dual legal system as do most African countries. The existing laws are Roman Dutch common law and statute, and Swazi law and custom. As a result of this duality of laws, Swazis are governed by these two sets of laws. Conflicting situations between the laws are inevitable. The non-Swazi population is governed by common law operating with statute, as Swazi law and custom can only be applied to Swazis citizens, by Swazi courts. General courts are not empowered to apply Swazi law and custom except in the case of the High Court and Court of Appeals hearing an appeal of a case originating from the Swazi Court hierarchy. Swaziland has only one tribe and one local language. Culture and tradition still play a significant role in the people's way of life, especially concerning family matters. Hence, since independence in 1968, culture and tradition are promoted by the government and the people.

Problems Facing Swazi Women

Basically, the problems faced by Swazi women can be summarized as economic, social, and legal.

Economic

Swazi women have far less than their male counterparts. This is due to various socio-legal problems facing women in Swaziland. The percentage of females in formal employment is far lower than males. Primarily because of illiteracy and low education, women in formal employment hold jobs with low esteem which generate low income. Since education is not free in Swaziland, lack of education is more prevalent among women. Parents must educate their children with their own means and when economic means are limited, more parents prefer

to educate boys than girls. Sometimes, even when the means are available, parents simply refuse to educate girls on the belief that it is a waste of money. Girls, they believe, will be married off or become pregnant and thus, drop out of school. Girls that do attend school do not get as much time to attend to their school work at home; girls are expected to assist in housekeeping. Girls also do not get as much encouragement as boys to achieve academically or professionally. As a result, Swazi women tend not to have the necessary qualifications for well-paid jobs, especially those involving decision-making and, thus, cannot compete with men for jobs.

Lack of Protective Employment Legislation Another factor that inhibits increased participation by women in employment, is the lack of protective legislation. Women constitute most informal-sector workers and the legislation requires women to comply with various legal provisions which, for reasons beyond their control, they cannot do. For example, although vegetable and fruit vendors, almost all of whom are women, are required to sell their fruits and vegetables in a market place, they have problems such as a lack of stalls in the market or a lack of capital to pay a deposit for the stall.

Formal Employment and the Law The Employment Act provides that there shall be no discrimination on the grounds of sex. The burden of proving discrimination is on the employee. The problem facing women is the difficulty in proving discrimination on the basis of sex. There are many reasons that an employer can fabricate to support his action. In addition, most employees are reluctant to sue their employers for fear of being dismissed from the job, hence the employer is not bound by the decision of the Industrial Court to reinstate an employee if he had dismissed him/her.

Equal Pay for Equal Work The Employment Act also provides that there shall be equal pay for equal work. If pay includes employer-provided benefits, then a majority of employers are not complying with this provision. A number of employers, particularly in the private sector, do not give certain benefits such as housing to married women. They even mention this fact in newspaper advertisements for jobs. A certain company's rules on housing loan rules provides that "housing loans will be granted to all clerical members of staff who have completed five years of service.....The scheme is not available to married female staff members whose husbands are entitled to housing loan facilities from their employers or have other concessionary rate loans."

Maternity Leave The employment act provides that every female who has been in continuous employment with the same employer for a period of 12 months or more, shall be entitled to not less than 12 weeks maternity leave. The act does not mandate such leave be with payment, therefore, it is at the discretion of the employer to either pay or not, depending on the provisions of the employment contract. So far, the government pays civil servants and teachers full pay for the 12 weeks. The private sector varies between no pay, 8 weeks with full pay, or 12 weeks with half pay. The government discriminates against unmarried teachers in that they are only entitled to maternity leave with pay for the first pregnancy. A good piece of legislation, this Act defeats its own purpose by not providing pay. How many Swazi women can afford to go on 12 weeks maternity leave without pay with the rate of inflation so high, an additional child to care for and feed, and maybe with a husband or father who fails to maintain the child.

Tax Law Under the Income Tax Order, there are three categories of tax-payers: married persons (married men), single persons (single men and women), and married women (referring to all married women, irrespective of the type of marriage she contracted).

Married men are taxed the least, and married women are taxed the most. At the end of the income tax year, all persons liable to pay taxes fill out an income tax return, except for married women. Married woman's income is deemed to be that of her husband. Despite the fact that most women support their families, the husband receives refunds for children and wives. Although applications (with a statement of reasons) for separate assessments can be made, women are unaware of this provision and others which seek to protect them.

Social and Legal Problems

Women in Swaziland face problems which can be categorized as social, cultural, and legal in the sphere of family law. Family law is the only sphere in which developed legal principles can be found from both legal systems operating in the country. Conflict between these two laws is inevitable because they both apply to the same people namely, the Swazis. I will briefly discuss the critical problems under family law.

Marriage Marriage in Swaziland is governed by the Marriage Act No. 471/1964. This Act governs marriage by civil rites with common law consequences. Customary marriages are legal and are governed by Swazi law and custom. The Marriage Act also protects the monogamy of

civil marriages by making bigamy an offense. However, the act expressly permits "dual marriages," where a couple may decide to have both marriage ceremonies.

Where both parties to a civil marriage are African/Swazi, the consequences following their marriage, as far as the husband's marital power and the proprietary rights are concerned, will be governed by Swazi law and custom. If prior to the solemnization of their marriage, the parties agree that the marriage shall be governed by common law, they can inform the marriage officer who should endorse this fact on a marriage register. This provision has caused many heartaches to couples, particularly to women, because most of them claim they were not informed by the marriage officer of these provisions. Although their marriages are governed by Swazi law and custom, they had always believed that the consequences flowing from their civil marriages would be common law. If Swazi law governs the marriage then the marital power of the husband is more extensive than under common law. Swazi laws and customs offer few proprietary rights for women. Moreover, because these are oral laws, the provisions are usually uncertain.

Dual Marriages As mentioned above, the law permits dual marriages and many couples contract such marriages for various reasons including social, peer, or cultural pressures. Many women claim to have contracted the customary marriage because either their parents or in-laws did not recognize them as married after having contracted only a civil marriage. Although these types of marriages may cause conflicts regarding spousal rights, the legislature has never mandated which law should be applied in cases of conflict. Although common law is supposed to supersede customary law in cases of conflict, the social practice is different from the legal one. For example, if a couple contracted a dual marriage and then one member sued for divorce, the magistrate dissolving the marriage would rule that for all intents and purposes the two are no longer husband and wife. However, in practice, he would only be dissolving the civil marriage since there is no divorce under customary law. Under customary law, the woman will still be regarded as a wife to the man she divorced. Even if she is allowed to live with another man, she will still be called to the former husband's home to perform certain customary rituals.

Consequences Following a Civil Rites Marriage

Marital Power The husband's power in a civil rites marriage can only be circumvented by marrying out of community of property excluding the husband's marital power. Very few Swazi couples contract this type of marriage because it is viewed as western and may be impractical. Swazis refer to this type of marriage as "your spoon, my pot." All other marriages are in community of property with the husband's marital power. In brief, this marital power refers to the husband's right to represent his wife in civil matters. The wife has no legal standing and no contractual capacity and the husband automatically becomes the administrator of the joint estate. Many women and children have suffered irreparable injury under husbands and fathers who abuse the marital power to donate and sell the assets of the joint estate. This is the case even where the wife is the only one working and contributing to the estate.

Domicile Upon marrying, a wife must assume her husband's domicile and loses the right to acquire her own.

Customary Marriages Many Swazi women are forcefully married when they spend the night at their boyfriend's parent's home. This forceful marrying is legally recognized by custom, but is problematic because no divorce exists under this custom. Sometimes, such marriages are done against the will of the husband to be. The parents and other members of the family simply decide that the son will marry his girlfriend when she comes to spend a night with their son.

Maintenance Despite the existence of various laws on this issue, maintenance is one of the most serious problems among Swazi women. Maintenance in Swaziland is governed by common law, Swazi law, customary law, and the Maintenance Act No. 35/1970. The Maintenance Act, which is meant to protect anyone who has a right to be maintained by another person, provides a free and supposedly quick way of solving maintenance disputes in Swaziland.

Social welfare officers are responsible for assisting individuals with maintenance problems. These officers are situated at seven regional welfare offices throughout the country. The Act also introduces general courts that become maintenance courts when they hear maintenance disputes.

Complainants report their problems to the social welfare officer who then calls both the complaining party and the party against whom the complaint is made for an interview to hear both sides and to discuss the matter. If no concrete agreement is made or if the party against whom the complaint is made does not respond to the call, the complainant may make a statement on oath to the officer who then institutes an inquiry in a court within the jurisdiction of the person to be maintained. Once a court issues a maintenance order, it is an offense not to comply with it. This act sounds good but women still suffer maintenance problems. Institutional delays, reluctance on the part of those responsible for enforcing orders, and personnel shortages hinder the smooth implementation of the Act.

Another problem is culture, which most men plead when called upon to maintain their children. For example, men refuse magistrate's orders to maintain their "illegitimate" children who do not live with them. According to the Swazi custom, custody and maintenance go together. Thus, an "illegitimate" child, according to custom, belongs to the mother's father or guardian and it is the father or guardian who should maintain the child. The father and his family have a right to "buy" the child by payment to the father or guardian of the child's mother of one beast if the child is a boy and two beasts if she is a girl. Thereafter, the father and his family must maintain the child and have the custody over the child. The payment is fixed, irrespective of the child's age. Many women are reluctant to sue for maintenance on behalf of their children for fear that the father may decide to buy the child or children and then dump them with his parents in the rural areas without providing for their necessities. This Swazi position conflicts with a common law right of custody in which a woman has custody over her "illegitimate" offspring. In the case of *Dlamini v. Thuala*, the High Court held that the custom of "buying" children should, by the Swaziland Order in Council of 1903, not be recognized, the custom being *contra-bonos mores*. This again shows that women are ignorant of laws that seek to protect them, and act on what they think is the legal position when it is merely a common practice.

Succession The area of succession is another issue which poses problems for Swazi women and their minor children. Succession in Swaziland is governed by the Intestate Succession Act No. 3/1953, and the Wills Act No. 12/1955. The Wills Act outlines the procedures of making a valid will and who is entitled to making a will. Women are allowed to make wills, but most do not because of traditional beliefs that men own property and only they can pass ownership of it. Swazi men

also rarely execute wills. Some men believe that the will's benefactors, particularly if the wife is included, will kill them to benefit from the will. Others believe in traditional laws that allow the family to decide who becomes the heir. Women can never inherit from their husbands or fathers. Traditionally, women have only been able to inherit through their sons.

The problems for a woman when her husband or father dies leaving a will in her favor are quite similar to those when he had left no will. The wife's in-laws take the property and share it among themselves, leaving the widow and her children destitute. By the time the widow discovers that her husband left a will, it is usually too late for certain belongings to be recovered either by her attorney or the Master of the High Court, the one responsible for the administration of all estates. Even when the widow knew of the existence of a will from the beginning, there is a period of private mourning of a month after the husband's burial. During this period, she is not allowed to leave her bedroom and wears her mourning attire inside out. Thus, these traditional rules curtail the woman's movement.

Intestate Succession The Intestate Succession Act provides the surviving spouse, whether married in community of property or out of community of property, with a child's share in the deceased spouse's estate where the deceased has surviving descendants. When the deceased leaves no descendants, parents, brothers or sisters, the surviving spouse becomes the sole intestate heir. When the marriage is in community of property, the surviving spouse gets half of the estate by virtue of marriage in community and then whatever she or he is entitled to from the deceased spouse's estate.

Again, despite the existence of this legislation, in-laws grab and abuse the property to the detriment of the widow and her children, when she has to mourn in the privacy of her bedroom. This property grabbing continues even when the widow has finished her private mourning because traditionally, a widow is restricted from doing many things, the worst of which would be instituting legal action against her in-laws. A few families still practice widow inheritance "kungena" but the widow must consent to it. In those instances where she consents to such, the widespread practice is for the "new" husband to demand rights from the widow without performing any corresponding duties. For example, he claims all of the property of the deceased brother, death benefits, conjugal rights, but will not maintain the widow and her children.

Property

Swazi Nation land and Title Deed Land are two types of land holdings for private use. *Swazi Nation land* belongs to the entire Swazi Nation and is held in trust for the Nation by the king. It is alienated through chiefs through a traditional custom known as "Kukhouta." This land can only be alienated to married Swazi males and in exceptional cases, to unmarried Swazi males but not to females. Women have access to land only through their husbands or fathers. Women have a right of land usage, but not of ownership. They cannot inherit land if a man dies leaving a wife and daughters. In such cases, a relative's son, no matter how distant, would be called upon to inherit the land. When a husband dies before getting land for his wife, the wife can acquire land through her son no matter how young, but not through a daughter, no matter how old she is.

Title Deed Land is land that women can buy and have title to. Women married in community of property are prohibited by the Deed's Registry Act from registering property in their names unless such property, bond or real rights are by law or by bequest or donation, excluded from the community. The majority of couples married by civil rites are married in community of property and therefore are not allowed to register property in their own names.

Women married out of community of property without their husband's marital power, may execute deed register property in their names without their husband's assistance. Women married according to Swazi law and custom are allowed to register property in their names since there is no exclusion of women by the act. However, those married out of community of property without the husband's marital power, are sent away when they try to contract on their own and register such property without their husband's consent. The attitude from those in administration is "how can a married woman act without the consent of her husband?" They don't seem to understand, or if they do, are out of community of property and excluding the husband's marital power.

Efforts Made to Solve Women's Problems in Swaziland

The government is trying to solve women's problems through various projects by different ministries. For example, the Ministry of Agriculture, through rural motivators teaches grassroots women handicrafts, provides some inputs, and finds a market for the women's produce. Various NGOs have different projects which seek to assist women. Most

of the projects are income-generating projects. In addition to its income-generating projects, the Council of Swaziland Churches runs a legal aid clinic that provides legal education and legal services. The Family Life Association of Swaziland, in addition to other services, offers counseling on family spacing and issues various contraceptives through its clinics. SINAN, a breast feeding campaign group, offers information on breast feeding, child rearing, and spacing. Lutsango Lwaka Ngwane is a National Women's Group with various programs such as income-generating projects.

Ministry of Justice Recently, the Ministry of Justice in conjunction with the Family Life Association of Swaziland held a seminar and invited all Swazi women to participate. The aim of the seminar was to review the Marriage Act with the goal of sending the women's resolutions to the Law Reform Commission. The symposium was held between the 9th and 12th of January 1990, and although attendance was poor, those present engaged in thorough deliberations and resolutions. Since the resolutions have not yet been sent out to the participants, they are not available for distribution.

Tax Law Income tax has been reduced over the past three years and this benefits women greatly. Tax legislation will be amended beginning July 1990. This issue was tabled in parliament as of the writing of this report; therefore, the implications of this legislation for women are still unclear. However, since the new legislation seeks to reduce and abolish the differences in tax by marital status, it will most likely be a change for the better.

Maintenance The goal of the research on maintenance laws by the Women and Laws in Southern Africa project will be to find answers to the various questions on maintenance. The research results will be utilized to inform organizations that assist women about women's needs and to request governments with relevant data to change laws when necessary.

Presented by Mary-Joyce Doo Aphane

References:

- Marriage Act No. 47/1964
- Maintenance Act No. 35/1970
- The Deeds Registry Act No. 37/1968
- Intestate Succession Act No. 3/1953
- Wills Act No. 12/1955

MOZAMBIQUE

Since the armed struggle, the Frelimo Government has become more concerned with women's development issues. The war, which displaced approximately 3 million people, prevents an awareness of the problems that specifically affect women. For example, females comprise 85% of the illiterate and are more likely to lack skills necessary for employment.

Because the war has had such a devastating impact on social organization, we have not yet had an opportunity to research and assess its future implications for Mozambican society and family life. And although grassroots, governmental, non-governmental (NGO), and religious organizations have implemented women, law, and development projects, these efforts must be coordinated to prevent duplication.

Activities

Last year the Women's Studies Nucleus (NEM) was created in the Center of African Studies at Eduardo Mondlane University to highlight and coordinate the efforts of women working in development. The Nucleus is comprised of an economically and socially diverse interdisciplinary research team. Although the lack of skilled persons and existing research makes development efforts rather difficult, its goals are attainable.

The Nucleus is involved in the Women and Law in Southern Africa Research Project and maintains contact with organizations that work on women's issues. Some of these organizations include: the Mozambican Women's Organization (OMM); the Association for the Development of the Mozambican Family (AMODEFA); jurists from the Ministry of Justice and Labor; the Ministry of Health; the Ministry of Education; the Ministry of Agriculture; the National Directorate of Rural Development; the National Directorate of Statistics; the faculty and departments of the Eduardo Mondlane University; NGOs; and agencies of the United Nations. The Nucleus is currently compiling an annotated bibliography

and establishing a bibliographical fund on women and development in Mozambique. The data bank is expected to be completed between 1991 and 1995.

Created during the 1983 armed struggle, the Mozambican Woman's Organization (OMM) is staunchly supported by grassroots women. Until recently, OMM worked on politically mobilizing women. However, the lack of skilled people now makes it difficult to address all of women's problems. In 1984, an OMM conference analyzed the social status of Mozambican women for the first time. One of the conference's greatest achievements was the opportunity for women from Tovuma to Maputo to discuss their roles within society.

OMM recently established small-scale projects in the areas of household economics, legal education, community health, mother and child health, family planning, and AIDS prevention. The projects are taught in short training and refresher courses. Trainers and activists from every province attend the projects. When they return to their provinces, they organize small community groups to discuss what they have learned in the training courses.

A study on the cultural patterns influencing the status of women and families is currently being prepared for the OMM conference to be held later this year. The study is being conducted in the provinces of Nampula, Inhambane, Maputo, and Maputo City. In addition to its work with the Women's Studies Nucleus, last year OMM created an advisory committee with experts from the Ministry of Justice; the Ministry of Education; the Ministry of Health; INDE; Sese Education Project of UNFPA; and Radio Mozambique.

Recognizing the importance of research and legislation, the Ministry of Justice created the Department of Research and Legislation (DIL) in 1986. DIL has identified the Family Law Project and the Traditional Law Project as its priority research areas. DIL has published legal education brochures on the topics of marriage, children's rights, the constitution, and author's rights. The Ministry of Justice is involved with the "Women and Law in Southern Africa Research Project" in conjunction with DIL and other jurists.

Created in May 1989, the Mozambican Association for the Development of the Family (AMODEFA) is an NGO that is associated with the International Federation for Family Planning. AMODEFA aims to stabilize the family by promoting development through economic and social education. This education encourages cohesive and responsible relationships between families and society. AMODEFA is currently recruiting staff and defining future projects.

The Project on the Legal Situation of Women in Mozambique is part of the Regional Women and Law in Southern Africa Research Project which also involves Botswana, Lesotho, Swaziland, Zambia, and Zimbabwe. In addition to studying the law and traditional rules, the Mozambican Project analyzes judicial decisions and case studies regarding the impact of maintenance laws on women in Maputo City, Maputo Province, Nampula Province, and Manica Province. NEM is presently compiling and assessing these projects to make them available to organizations that work with women's development issues.

Presented by Isabel Casimiro

LESOTHO

Problems Affecting Basotho Women

Many problems affecting women are related to our marital legal regime and are exacerbated by uncertainties arising from conflicts between customary law and the received law (common law) which operate side by side in Lesotho. Some of the problems will be outlined below, but this will not be an exhaustive discussion of all the many problems affecting women.

Problems of an Economic Nature

There are discriminatory laws regarding the right to acquire title to real property, the right to administer the property, and the right to inherit such property. The law deprives women of the necessary contractual capacity to enter into transactions without the consent of their husbands, unless they are unmarried or married and party to an antenuptial contract excluding the husband's marital power. A woman married in community of property does not have direct access to credit, may not be employed without the husband's consent, and may not purchase title to real property. A woman who is married in community of property may not have registrable title to land while the husband is alive and the marriage subsists. The property must be registered in the husband's name unless it was acquired before marriage and excluded from community, or unless it is acquired by bequest.

The right to administer property in the sense of being able to mortgage or dispose of it, is vested in the husband. If one considers that about 140,000 Basotho men work in the Republic of South Africa, and many women are *de facto* heads of their households, it is fair to say that the law lags behind in recognizing this fact.

Inheritance is an area that is riddled with uncertainties arising from conflicts between customary law and common law. Under customary law, the male heir inherits the property but the wife or woman has the right of use. Under common law, the married woman is entitled to half

the share of the common estate if they were married in community of property, but she may inherit the husband's share if he makes a will to that effect.

The problem however, is that the Administration of Estates Proclamation allows freedom of testation only to those Africans who have been shown to have abandoned the African way of life and adopted the European mode of life. The test applied to determine who has abandoned the African mode of life and adopted the European style is called the "mode of life test" in which the master of the High Court considers things such as whether the testator wears European clothes, has savings accounts etc. This test is unsatisfactory, and not clear in application as there is another notion of an 'improved Basotho man' which recognizes that a man may improve his life style without abandoning Basotho custom.

Many people are married under both customary law and common law and therefore the question constantly arises as to which of the two applies on this aspect of marriage. The implication of these laws is that women do not inherit under customary law although married women may enjoy rights of usufruct. But if common law applies, a woman married in community of property may inherit half of the estate plus the husband's share by will, if he passes the mode of life test.

In regard to women's involvement in decision-making and/or representation in public affairs, Lesotho has a situation whereby law has lagged behind social development by failing to recognize the significant role which women play in development.

In Lesotho, there is a high percentage of women in primary (56%) and secondary (59%) schools as well as the university (47%). Also, on the average, women have a significantly better educational attainment than men. A significant percentage of these educated women find their way into middle and high positions in employment; there are women in important positions but not in the most powerful such as ministers with portfolios. It is therefore surprising that women are under-represented in important and key decision-making positions.

The Role of Labor Laws

The under-representation of women is not due to discriminatory labor laws but societal attitudes. Certain inadequacies in the law fail to recognize the special needs of women and have contributed to the under-representation of women. For example, the Employment Act of

1967 provides for the right to maternity leave, but it is silent on the question of pay during such leave. It is suggested that in Lesotho, the problem lies more with attitudes than law in this regard.

The Role and Effect of the Migrant Labor System

As mentioned above, about 140,000 men work in the Republic of South Africa and most of those left behind are women. According to the 1986 population census, there are slightly more women (51%) than men (49%). The following conclusions can be drawn from these statistics.

1. Men earn more cash in migrant labor than women and the national statistics indicate that there are more men than women in paid employment.
2. Many women left behind are employed as domestic workers (34%) with very little income or relatively low income.
3. The dependence of women on men is deepened by this situation, compounded by the fact that they have limited rights of property ownership.

Maintenance

The problem of maintenance has been identified as one of the most urgent and it is being addressed by the Women's Law in Southern Africa Project, which is researching maintenance laws and related issues such as enforcement.

Problems Affecting the Family Stability

Domestic violence is very common but there is little information, and research is needed. Violence against women, rape in particular, is very common, and not dealt with satisfactorily. There is need for a closer look at our laws, police proceedings, and practices, as well as the role and attitudes of judicial officers.

There are other problems that threaten the stability of the family such as the migrant labor system which forces men to be away from home for prolonged periods of time. At times, these men meet women in urban areas and forget about their own wives and children at home. They do

not only stop supporting them, but also fail to name them as beneficiaries of mine compensation schemes in the event that they sustain injuries and die in the mines.

Problem of Awareness

Another problem is that of awareness, including legal rights awareness and social justice.

How are the Problems being Dealt With

The Federation of Lesotho Women Lawyers has embarked on a Rights Awareness Program using a small publication and the media, holding workshops, and establishing a legal aid clinic which will charge nominal rates for services. The purpose of this Legal Aid Clinic is to improve women's access to legal service. The Street Law project carried out under the Matsieng Development Trust is also a nation-wide grassroots legal awareness/literacy program.

The Federation of Lesotho Women Lawyers has also embarked on the self-awareness program whereby the members of the organization are educating themselves through workshops (although only one has been successfully carried out), research, and other projects. It is in this regard that the WLD program and network plays an important role and where it can continue to lend further support. This is particularly important considering that the Federation of Lesotho Women Lawyers is only two years old and thus, only taking off.

Women are organized in many groups, ranging from small burial groups in which they are the main participants, to cooperative groups and pressure groups. One example is the National Council of Women, in which women are given practical skills such as tailoring or catering, so as to remove women from the traditional dependence on men and elevate their social position. Although it has never taken off, Women's Banking was intended to avoid the problem of contractual capacity regarding women's access to credit. Lastly, there is a Ministry of Women and Youth Affairs but the Minister has restricted powers compared to the other important ministries, and this must be changed.

There are many other organizations. After independence, the previous government placed women in voluntary groups under the Ministry of Rural Development. It is the intention of the Federation of Women Lawyers to work with these groups and collaborate where necessary. These other organizations recognize ours as an important pressure group

and they invite the women lawyers to participate in their meetings. FIDA Lesotho is new, and one of the first activities is to interest more lawyers to join and participate. The current political climate in Lesotho makes reform difficult. There is no constitution entrenching women's rights by reference to which reform can be suggested. There is no operative legislature nor law reform commission, through which women may pressure for change. Under such circumstances, it is difficult to identify potential targets for lobbying and lobby effectively.

The cultural context is also problematic in that there may be deeply rooted cultural attitudes that make legal literacy programs and approaching people at all levels complex.

Presented by Sasha Monyamane

INDIAN OCEAN REGION

MAURITIUS

Mauritius is an Indian Ocean Island which was colonized by the French and the British. It has now been an independent state for 22 years. It is a member of the United Nations, the OAU, and the Non-Aligned Movement. It is multi-religious, multi-racial and its legal system is hybrid. Women's rights are referenced by the old French Civil Code (Napoleonic Code). Special reference should also be made to religious marriages in the case of Hindus, who form the majority, and Muslims, who are a minority group.

Prior to 1974, there was very little awareness of women's rights. Some pieces of legislation were rather avant garde; for example, couples could choose a system of separation of goods at marriage or even draw up a marriage contract before a notary, regarding the property rights of each future spouse. In such cases, a woman could administer her own property and dispose of it freely. That situation generally applied to rich bourgeois families and most couples chose the community of goods which made the husband an omnipotent head of household, with rights over children, property, and wife. Married women were minors and could neither choose a job freely nor receive their salary, a passport, or a bank account nor initiate court proceedings without prior authorization of the husband, not even to sue him for alimony.

The 1970s saw a big change, in that women began to organize and lobby for amendments. The movement cut across party adherence, class, and race. It coincided with the rallying of workers' forces, including trade unions of women workers, as well as the creation of a new party and new political forces. Amendments well beyond the expectations of most women were supported by both the government and opposition. These amendments radically changed the lives of women overnight. All notions of paternalism disappeared and gave way to more modern concepts of equal sharing of power in marriage. Indeed, women ob-

tained the right to custody of small children under five which could only be challenged in exceptional cases. They also won the right to administer all their personal revenue from their jobs, even if they had married under the system of community of good. Other changes were brought to give her a better choice of identity regarding name, domicile, and other areas.

Apart from giving married women greater human rights these amendments had a positive psychological effect on Mauritian women. They began gaining more confidence in themselves. It took another full decade to educate the masses on the effect of these newly acquired rights and how to use them positively and not against men. Government and local authorities have women's centers which provide a legal source. Poor women also have access to legal aid.

Divorce laws also changed. Procedures became less cumbersome and reasons for divorce more consonant with modern realities. Religious marriages have now been abolished. The situation is still unsatisfactory for Muslim women who marry under the Muslim Personal Law and who now have no legal protection whatsoever.

These years also witnessed the massive employment of women in the free industrial zone, the result being manifold. Employment, entailing greater social interaction as in most industrialized countries, made employed women more confident, skilled, and salaried. Along with these advantages, however, came labor problems, transport problems, and a scarcity of day care centers. Overall, the new workers had a growing political consciousness, and, if organized, majority electoral power. Despite this well-known fact, labor laws in the free zone are still exceptionally discriminatory and hard on women who form the great army of low-paid workers. The Mauritian government, which was one of the first to set up a Women's Ministry attached to the Ministry of Justice, recently proposed coupling that Ministry with that of Labor, a move which could have proved fruitful had it contributed to change in favor of women. Unfortunately, this was not the case.

The employment sector still poses the challenge of achieving equal pay and equal rights as workers as well as equal rights for purposes of taxation and pension. These last two issues have recently been highlighted and are now of interest to professional women who are recognizing the practices as discriminatory. Now, professional women have begun to organize.

Violence against Women

Like elsewhere, there are more battered women than anybody can really guess. Domestic violence still remains behind bedroom doors. Those cases that do come out are still looked upon as "normal". The Penal Code does not provide any special protection. Police refuse to interfere. Of course, it is grounds for divorce if it can be proved.

As for sexual offenses, the age of consent for girls is still 12. There is great outcry against this now, even by men in the context of child abuse. Rape is still difficult to prove. Rapists are often seen as star prisoners in jail. This month a battered women's center was established by a group of women in one of the major towns. We are not sure, however, whether this is a solution in such a small and closed society as ours. Perhaps temporary shelters have a role, but they must be coupled with educational programs to prevent violence rather than solve problems, especially in cases of domestic violence.

There is generally a great thirst for greater legal rights for women. Few Mauritian women know that the first sexist case brought before the Human Rights Committee in Geneva was one against Mauritius. But they realize that there had been an issue regarding immigration and deportation of foreign husbands. And as more and more Mauritians marry foreigners, they still feel handicapped. The nationality laws favor men, and women who marry foreigners are still encouraged to go to their husband's country. Pure administrative pressure is quite powerful when citizens do not know their legal rights.

This is the year of literacy, and Mauritius is emphasizing literacy for women and legal literacy. Indeed, there are plans for such a project with our neighbors from the Indian Ocean—Seychelles, Madagascar, and Reunion Islands—to begin with.

Finally, we are seeking support to establish a caucus in that region which we have baptized *Femmes Ocean Indien'*, FOI—FOI also means FAITH.

Presented by Shirin Aumeeruddy-Cziffra

PART III

LAW: A TOOL FOR SOCIAL CHANGE

Fostering Rights Awareness and Action

Organizing for Law Reform

Strategies for Economic Equality

Combatting Violence against Women

1

**Fostering Rights
Awareness and Action**

Butegwa: Uganda

Kuenyehia: Ghana

Tsanga: Zimbabwe

Challenges of Creating Legal Awareness among Grassroots Women in Uganda

*Florence Butegwa
Kampala, Uganda*

This paper is designed to share some experiences in legal education among women and to draw some lessons therefrom. It seeks to convey a message as to the magnitude of the challenge facing programs for creating awareness among women in Uganda and elsewhere in Africa.

Case Study 1

A colleague and myself had spent some time talking to an audience of mainly women about the law relating to women's rights (or their absence) in property accumulated by a couple during marriage. Emphasis was placed on the woman's position upon divorce or separation and upon intestate death of her husband.

The unsatisfactory nature of the law was pointed out, and the women were urged not to rely entirely on the husband's income, and/or property even if they contribute to his ability to accumulate it.¹ Instead, they were advised to strive to achieve some measure of economic independence.

At this juncture, one lady, call her Jane, approximately 50 years old, stood up and asked the following question: "Do you mean to tell us that the Christian church lies?" We were quite taken aback and asked her to elaborate. She said that she had been married in church and that its teachings state explicitly that, upon marriage, man and woman become one. Thus, whatever the man has will become the wife's and vice versa, or, in other words, the property becomes theirs jointly. She and many others believe in and trust the church. They consequently work on their husbands' land with no fear.

If such Christian women earn money or inherit property in their own right, they turn it over to the husband because he is the head of the family. Jane concluded by reiterating her question: Did we mean that the church misled them into an unfair or disadvantageous situation?

Case Study 2

Susan is quite enlightened as far as her legal status and rights are concerned. During her marriage, she worked hard, both on the family property (which she rightly regards as her husband's) and on some personal ventures out of which she managed to accumulate a sizeable income. She eventually bought two developed plots of land in a local township. Both properties were registered in Susan's name after which she rented them out. Susan's husband was not happy about her successes. He started battering her even in public, bringing prostitutes and concubines to the matrimonial home where Susan lived with her children, and threatening to kill her.

After some time, Susan decided that enough was enough. She left the matrimonial home and petitioned for divorce. She got a decree for judicial separation pending the hearing of her petition. This infuriated her husband so much that he, together with some hired thugs, went and evicted the tenants from Susan's property. He installed his mistress in one and some of his family in the other.

Susan obtained eviction orders from the court. Unfortunately, these have not been executed. The local police and RC² have, for some strange reasons, including death threats, bribes, and witchcraft, all attributed to Susan's husband, failed, refused or neglected to execute the court order. In the meantime, the threats against her life have continued, but the police have not taken her complaints seriously. Her own friends and relatives are now advising her to give up her property in order to save her life. The files relating to the properties appear to have mysteriously disappeared from the land registry.

Case Study 3

At one legal education meeting, the law regarding ownership of property was explained. Many participants were very interested in property rights during marriage and on the death of the husband. After hearing the explanation of the law, many women participants wanted advice on

how they should start building economic security since they had nothing apart from their husband's land. They had the will but lacked the means to effectively exercise this newly acknowledged legal right.

Some men at the meeting wondered how any money or other property earned by a married woman could rightfully be hers. They professed a conviction that all her time and service belonged to the husband and could only be engaged for his benefit. Further clarification on the law in this respect³ earned a retort from a male participant to the effect that "if the law wants to govern the home, let it marry the woman."

These are just three isolated experiences of one person involved in legal education of the masses, especially women, but they are a prototype. In most cases, the legal educator will get the definite impression that her audience, and the other women who may not have attended a particular session, are wholly or basically ignorant of both the law and their position, rights and obligations therein. What many of the women know, or think they know, as their "legal status" is some hazy picture composed of some religious, cultural, political and economic patchwork. There is general confusion regarding the whole concept of national law as opposed to all these other regulations drummed into the women and men right from childhood by parents, religious leaders and the entire socio-economic environment.

Unfortunately, there are no statistics to confirm or deny this perceived lack of awareness of the law by women in Uganda or to determine various factors to which this lack of awareness correlates. It is not specifically known, for instance, whether urban women are more aware of their rights than are rural grassroots women or whether formal education has any substantial influence in the level of awareness at the grassroots level.

In a study conducted by this speaker in Kenya on legal awareness among women, it was found that almost 60% of all respondents were not aware of the fact that a married woman has a legal right to own property. Almost 50% thought that a man had a legal right to discipline his wife. There was a high rate of ignorance of the law and the position of the woman therein. The geographic (rural or urban) environment and level of education were not found to have any significant effect on the level of awareness.⁴ This implies that the lack of awareness of legal rights was a general problem among women regardless of where they resided or

their level of education. Similar studies may prove useful in Uganda, especially in designing legal education strategies and programs for various women's audiences.

Despite the dearth of statistical data, it has been generally and reasonably assumed in Uganda that women are not aware of their legal rights, and programs to rectify the anomaly have been initiated with FIDA⁵, ACFODE⁶, and a few other non-governmental organizations. The present government has been and still is very supportive and encouraging in this respect.⁷ Government structures such as the district administrators, some magistrates, Resistance Councils at different levels and chiefs are willing to mobilize women to participate in these programs.

Unfortunately, even at this early stage of legal education, serious obstacles exist that prevent women from exercising their legal rights once they are aware of them. These obstacles can be grouped into four categories. In the first category, economic-based obstacles hinder the effective exercise of women's legal rights. The third legal education experience narrated at the beginning of this paper would fall into this category. Some women now know that they have a legal right to own property of all kinds. Not only do they know it, they also appreciate the fact that under the current law regarding the sharing of "family property" on divorce, legal separation or death, individual proprietorship is the best way of ensuring their children's and their own survival. However, most married women have nothing by way of capital, property or earnings with which to start. Lack of real property means that they cannot get access to loans from commercial banks. Even in the case of the rural credit scheme of the Uganda Commercial Bank that was partially designed to benefit rural women, some branch managers will not consider granting a loan to a married woman without her husband's consent.⁸

In many communities of Uganda, daughters and wives do not inherit land. Where there is need for choice, they are given fewer opportunities for education and career training. It is assumed that girls will be looked after by either their parents, brothers or husbands. This culture has contributed much to the aforementioned economic-based obstacles. This poverty of women and economic dependence on men forces some women to lead a subservient life and suffer many injustices and degradation in marriage. To them, marriage means survival; the high cost of that survival seems to be women's predestination.

Lack of economic independence also means that women often find the law inaccessible to them. They lack the technical knowledge to successfully litigate on their own behalf and lack the finances to engage

the services of a lawyer. The FIDA Legal Aid Clinic⁹ is trying to assist women in this respect, but it is currently too handicapped by inadequate staff-power and resources to render effective service to all deserving women nationwide.

The second category of obstacles is culturally based. There appears to be a common misconception in many cultures of Uganda that an economically independent woman is a dangerous species of female to whom to be married. Many men, especially in the rural communities, believe that such a woman will not make a good wife, meaning that she will not be submissive enough to take the degradation meted out to those who lack viable alternatives.

Because economic independence in a married woman is seen by such men as bad news for the male ego, in those families, there is an almost tangible aversion to a woman owning property, engaging in business or earning an income, unless she hands it over to the husband. For instance, women grow, pick and dry cotton or coffee, but when the husband does the marketing she does not have a right to the proceeds. The husband may buy a dress for her, if he so chooses, or may buy land which he will register in his own name. Many women have accepted or have been influenced by this kind of culture. They feel they are in the wrong if they try to acquire property or engage in business. Others try to do it in secrecy through agents, a practice that has resulted in the commission of many unreported frauds against married women.

The third category of obstacles is religion-based. We have already seen one of the aspects of a religion-based obstacle in Experience No.1 where teachings fail to distinguish between the law and a conscious voluntary abidance with religious dogma and regulations. Another example is to be found in the teachings against divorce which rendered moot, in the minds of many, the right to seek a remedy for matrimonial offenses.

The fourth category includes all those miscellaneous obstacles which may be attributed to Uganda's past years of political instability and economic decay. Rampant corruption, the breakdown of law and order and the apparent ease with which people's lives could be threatened or taken away with no or little chance of a successful prosecution have all contributed to create a multitude of obstacles that hinder the exercise of legal rights. Susan, in the second experience, gives us a glimpse of the kind of obstacles involved here that spread to almost all sectors of public life.

What lessons do we learn from the three experiences narrated above? The first lesson is the confirmation of what we have already assumed, namely, that there is a widespread lack of awareness among

women of their legal rights. The second is that the challenges facing legal educators must be brought into sharper focus if their efforts are to be successful. The educator must realize that she is introducing new concepts of gender status and rights amidst pre-existing concepts that may already be contradictory in their regulatory systems. She is introducing a new value system which is not apparently compatible or even reconcilable with the existing value system.

Finding a strategy, an approach and the proper language which effectively conveys the message without ridiculing or offending the targeted population and the community in which they live is not easy. For example, how should issues be approached when the national law is at variance with religious regulations and values?

The second challenge is portrayed by reference to our experience with Susan. As a legal educator, how do you reconcile your message with what your audiences see in practice? For instance, you tell them of a right to a legal remedy once they can prove certain wrongs, yet they know that in practice the system is subject to many distortions. Official files may disappear; officials may be corrupted, threatened or even killed; and the wronged party herself may be subject to harassment, threats or even murder.

Is the legal educator's role limited to communication of the law and the rights and obligations therein, or should the educator also play some role in the removal of obstacles to the exercise of such rights? If the activist role is chosen, how does one go about it in the socio-economic environment prevailing in Uganda? For instance, if the women cannot exercise their right to own property because they lack the economic capital, shouldn't the legal educator be equipped with the necessary advice for her audience? Otherwise the message is illusory and rhetorical. If one talks of a legal right to seek redress in a court of law, and the obstacle facing women is their lack of technical know-how or the finances to engage a lawyer, shouldn't the educator be able to refer them to FIDA's legal aid clinic or similar institutions?

We hope that the kind of challenges alluded to in this paper are clear. WLD fora ought to address themselves to this important aspect of legal education. We must ask ourselves if we are interested in popular legal awareness *per se* or as a means to individual and community development.

Law reform is the last challenge. As legal educators, we point out to our audience those aspects of the law which are prejudicial, unfair or inadequate toward women. There are other aspects of life on which the

current law is so silent that there is a vacuum. Do legal educators have a role in pushing for law reform? What should that role be and are we prepared for that challenge?

In conclusion, we wish to reiterate the general lack of legal awareness among women and their consequent inability to use the law in self and community development. The task of creating legal awareness is challenging. In addition to disseminating laws, it must also provide avenues for effectively utilizing the law when the status quo is detrimental to women's effective participation in development. This is a challenge facing many legal education programs in the Third World. It is necessary for all groups working with women, law, and development programs in the Third World to compare notes and experiences, share moral, material and intellectual support and cooperate with each other.

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NOTES

¹Because family land is usually registered in the husband's name, any improvements to it, including houses built through mutual effort, remain part of the husband's land.

²Resistance Committees. These are local authorities at different levels (village, subcounty, county and district) of the Ugandan society whose members are elected by the populace. They are currently *de facto* enforcement agents of court orders.

³The Married Woman's Property Act 1882 (England) applies to Uganda (see *I v I* (1971) E.A., 278, *Uganda v Jenina Kyanda* (1977) H.C.B. 111(U). Accordingly, a married woman can own property in her own right.

⁴This study has been published in *Canadian Woman Study*, 96 (1986).

⁵The Uganda Women Lawyers Association (or FIDA - UGANDA).

⁶Action for Development.

⁷The Ministry of Women in Development has been created to spearhead the participation of women in development. The government's political mobilizing organ, the National Resistance Movement, also has a women's desk at its secretariat.

⁸The rural farmer's credit scheme is an innovative program under which the Uganda Commercial Bank hoped to avail security-free loans and inputs to rural farmers, including women. Unfortunately, the program has had little impact in many areas due to inadequate funds, rampant corruption and general inefficiency in the bank.

⁹FIDA-UGANDA operates a legal aid clinic in which free legal services are extended to women and children who are unable to afford the services of a private legal practitioner. These services include court representation, when necessary.

Legal Services and Education to Grassroots Women in Ghana

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The Context of Women in Ghana

Of the many problems that face Ghanaian women and which, therefore, hamper their progress in development, illiteracy is one of the most prevalent. Our society is characterized by widespread poverty and unequal distribution of wealth and income. Women and children comprise the bulk of the population at the receiving end of poverty and inequalities in the distribution of wealth and services. Because of their illiteracy, women are unable to avail themselves of laws and services which are meant to improve their lot. They are unable to compete in the market for the allocation of goods and services. This is so in spite of the fact that women bear a large burden in the economy by being the producers of food and services. They farm at the subsistence level, using primitive methods which are energy-sapping. They have little help in their day-to-day life as they keep their homes and children as well as play a role in the production of the agricultural raw materials needed to keep the economy moving. State-administered programs ostensibly benefiting all or favoring the less fortunate often end up serving the more affluent.

In addition to the economic constraints facing women, they are also subjected to a myriad of social injustices. The social structures of most African societies, including Ghana, relegate women to a secondary role. One writer has observed:

Perhaps the real basis for the inequality of the sexes in Africa could be traced essentially to the traditional division of labor. The exigencies of the subsistence economy coupled with the nearly total dependence on the inconsistencies of nature tended to dictate certain clearly defined roles.¹

Whatever the reasons, the social and cultural conditions in our country have succeeded in retarding the progress of women and all efforts to integrate women into development will fail unless these attitudes are dealt with.

So much has been written on the social conditions that hamper the progress of women in Africa that we do not intend to dwell on them here. Our purpose in the ensuing paragraphs is to consider what role law can play in educating grassroots women so that they will be able to challenge the system which hampers their progress in development. In considering legal services and education to grassroots women, we must not lose sight of the fact that lawyers primarily belong to the privileged class and as such are not readily accepted by the grassroots. Thus the paper will examine the challenges that the lawyer faces in attempting to bring legal services and education to grassroots women and also the obstacles that confront her.

The reference to grassroots women in this paper will cover both the urban poor and the rural poor as well as those women in the urban centers who are on the fringes of the economy, i.e., those who are supposedly employed on wages or salaries but whose financial situation is such that they are virtually on the poverty line. These women, who are mostly illiterate, lead a life of drudgery because even when the legal system provides them with facilities and services they are unable to utilize them since they lack the knowledge. Programs which sometimes are designed to benefit them fail to do so because of the way they are administered or because the legal system erects barriers to their effective implementation.

Grassroots women are often not conscious of their rights nor prepared to struggle to make them effective. This requires a level of consciousness and organization which most of them have yet to reach. It is obvious, however, that it is only when these women are generally conscious of their rights as well as their obligations so that they are able to challenge the system that they will be in a position to enhance their status within the society.

Law as a Tool for Empowerment

How then can law be used to aid these women? Legal aid and services can take many forms. The poor in society make little use of private lawyers because the costs are usually prohibitive. The poor do not understand the procedures involved in the legal system and lawyers rarely bother to explain them. Since legal services are normally sold on

the market, privately furnished legal services are as unattainable for the poor as any other costly good. Furthermore, the legal profession protects itself by legislation which provides that any legal service must be performed by licensed lawyers and the profession limits access to graduates from certified law schools. It is thus obvious that quite apart from the cost of private legal services to the poor, the legal profession is in a class not likely to endear itself to them. The poor are bound to be suspicious of such a profession.

If law is to become relevant to grassroots women in our society and help their integration into the process of development, then lawyers have to adopt strategies which are designed to overcome the suspicion of these women and to gain their confidence. Legal services and education in this context therefore, will be defined to go beyond the approach of traditional legal aid. This is because traditional legal aid models take the form of legal aid clinics sponsored by either state or private institutions where staff handle clients on an individual basis. They work strictly on a case-by-case basis and do not engage in public or class action cases. It has been observed that "sometimes the state uses such legal services to pacify the lower classes but not allow them to significantly better their situation."²

To bring about the development of the rural and urban poor by a process of empowerment, what is needed is developmental legal aid or legal aid which results in creating legal resources for the poor and the disadvantaged sections of people. It seeks to use law to redistribute power and change social structures. Thus law becomes a resource for the poor.

Legal services for this purpose include non-lawyers and the activities go beyond traditional legal aid. It includes community legal education, paralegal training, representation in court as well as before administrative and legislative bodies, and law reform. Problem identification, one of the most important components of this new approach goes beyond strictly legal concerns and covers social, economic and political issues.

In order to render effective service to the grassroots women it is necessary to identify their problems. It is easy for lawyers engaged in legal issues affecting women to perceive the problems of the poor from their own standpoint. Experience has shown that it is only when problem identification takes the form of dialogue with the target group that effective strategies can be designed to combat these problems. Given the natural suspicion that exist in the minds of grassroots women in relation to lawyers, the greatest challenge that faces lawyers rendering legal services is that of overcoming this suspicion and gaining the confidence

of the women so as to be able to engage in dialogue which will lead to the identification of the real problems that they face. Because their problems may not be entirely legal but rather expressed in terms of their socio-cultural, economic context, it is necessary to adopt a many sided approach to these problems. It must be noted, however, that before any lawyer can effectively help to identify the problems of grassroots women, she must be familiar with women's legal issues within the particular community in which she operates.

In Ghana, the content of the law is non-discriminatory and seems to cover all persons equally. But some laws, though neutral on their face, may adversely affect women because of women's economic or social circumstances. An example can be seen in the provision of credit facilities in Ghana. The rules seem neutral at first glance yet because of the economic conditions of most women, they are unable to obtain access to credit, for they are unable to provide the necessary collateral. Most grassroots women neither operate bank accounts nor own property. Hence they cannot ever gain access to conventional credit in the absence of special facilities designed specifically to meet their needs. Again some laws may be discriminatory because they fail to take account of the specialized functions of women in society. An example is found in the laws on rape which do not require trials to be conducted in camera to protect the victim from public humiliation and psychological distress.

Laws which treat women fairly and equally may sometimes be misapplied in practice or ignored, especially if customary norms run contrary to those laws. A current example in Ghana are the Intestate Succession laws designed to protect widows/widowers and children which run contrary to customary laws and practices and are, therefore, ignored for the most part.

Most importantly, laws may be ineffective in practice because they have not been communicated to the people. Women in particular suffer from such lack of knowledge. Because of their socio-economic circumstances, they have little or no access to information or institutions which can help them enforce their rights. Because of the high rate of illiteracy among such women they are unable to read any available material on their legal rights. Even where they know their rights, little things like lack of bus fare from the village or town to obtain free help may prevent them obtaining much needed assistance.

It is imperative that legal services designed to help grassroots women start determining the real needs of these women as opposed to their perceived needs. This, as has already been noted elsewhere in this paper, has to be the result of constant dialogue with the grassroots women during which they are given the opportunity to freely express

their views. To this end, there are available various ways in which communication between grassroots women and lawyers offering legal service can take place. Legal service is defined to include client counselling on an individual as well as collective basis, representation in court as well as before administrative and legislative bodies, and general programs aimed at informing grassroots women of their rights and obligations which will eventually empower them in the sense of making them aware of the inequalities in the system so that they might challenge these inequalities for the better. Dialogue here means going to these women wherever they are and fitting the educational program into whatever they are doing. If their confidence is to be gained, then the best way would be to meet them on their own ground and speak to them in a language understood by them. This, of course, is a marked departure from the *modus operandi* of the legal fraternity. Lawyers are not known to peddle their ware at the market place but rather sit in their sophisticated offices waiting for clients to come to them. This kind of service poses a challenge to lawyers involved in legal issues affecting women; their ability to meet this challenge and gain the confidence of the grassroots women will go a long way in forging a partnership between themselves and grassroots women to better challenge the system and empower women. It is our belief that any lawyer concerned with women's legal issues must be able to remove herself from the strictly legal scenario and move into the terrain of the grassroots women and try to look at things from their point of view in order to be able to assess their needs and develop strategies that directly respond to these needs.

What kind of strategies could be adopted in dealing with the issue of law as a means of empowerment? Direct legal services in the form of legal representation are necessary because this kind of service will undoubtedly meet the immediate needs of some of the urban and rural poor. It is a short term solution to some of the problems facing women. The availability of this kind of service is always of help to the women who know their rights but who would otherwise not attempt to seek help because they lack the financial resources to engage competent legal assistance.

Fostering Rights Awareness

This service cannot, however, be a solution to all the problems facing women in Africa. A massive educational campaign to educate women on the content of the law as well as the structures that exist for the implementation of these laws must be coupled with the availability of fee

free legal services to women. Equipping them with this knowledge and thereby de-mystifying the law will go a long way in raising the consciousness of women. Creating this kind of awareness is always the first step towards empowerment. In order to achieve optimum results, different kinds of approaches will have to be adopted. In all cases, the presentation and the content of the information being disseminated will have to be tailored to fit the audience after the best channel of communication has been identified.

Where organizations or groups exist at the grassroots level, it is better to work hand-in-hand with such groups, strengthening them and equipping them to provide a continuous educational program, thus maximizing the multiplying effect. The programs must also direct women to places where they can go for help in individual or collective cases.

Engaging in this kind of educational program will also help bring to light the effectiveness or limits of existing legal norms and structures and will unearth new areas that need to be tackled through law reform. In the process of education, it is necessary to identify and train people within the community to help continue the educational process and to serve as liaisons between the grassroots and lawyers, especially in the rural areas where the majority of women can be found. The idea of training communicators or paralegals to help in the educational process is not without problems. The legal fraternity is for the most part suspicious of paralegals because they see them as usurpers of their jobs and although there is the possibility of a few overly enthusiastic or over-ambitious paralegals passing themselves off as lawyers, this danger is small compared with the positive effect that the use of such personnel could have in the continuing education process in fostering rights awareness among grassroots women.

Paralegals are seen here as operating on two levels. They will be equipped with basic legal information with which they will be able to give first aid help within the local communities in which they operate. This, of course, presupposes that such paralegals would have been given some basic training by lawyers engaged in rights awareness programs. For such persons to be effective, they must be acceptable to the local communities and, therefore, care must be exercised in using people selected by the communities themselves. The paralegal will also serve as liaison between the grassroots and lawyers so that continuous dialogue exists and the educational process becomes integrated into the lives of the various communities. Used as part of a legal literacy campaign, paralegals could help in achieving optimum effect since they are part of the community and, hopefully, they will not suffer the disabilities of

lawyers. The challenge to lawyers here is whether they will be able to forge the kind relationship with the paralegals which will give optimum benefit to grassroots women.

In a situation such as that found in Ghana and other countries where the problems of women do not stem from the content of the law, but rather from its application and the administration, rights awareness programs have to have a special focus on how to sensitize the whole society to legal issues affecting women. Unless the society is sensitized on women's issues, fostering rights awareness among grassroots women will have only a limited effect. This is so because in order to achieve the goal of making the target group stand up for its rights and challenge the system, it must be possible for the system to respond.

The response of administrative and adjudicating bodies will be that much quicker and relevant if they are aware of the demands and needs, special or otherwise, of the grassroots women. Needless to say, as more women get into policy-making positions, it is hoped that they will bring to bear on policies their special experiences and needs which will reflect on the needs of women in general and the grassroots in particular.

The consistent and adequate incorporation of women's needs and interests into decision-making processes requires the existence of clear perspectives on women's issues. This would result only when the society in general and policy-makers in particular are sensitive to gender issues.

A further challenge which faces lawyers in fostering rights awareness among grassroots women is their ability to work effectively with other disciplines and professions in achieving the goals. A multi-dimensional and disciplinary approach to the problem of rights awareness stands the best chance of success. The type of program envisaged by this paper calls for innovative legal services which will have different strategies and modes of action tailored to fit particular situations. In addition to educating and fostering awareness, they may follow a preventive strategy, pursuing courses of action before specific conflict arises. After the particular needs of the groups have been ascertained and the gaps in the law, if any, are identified, such strategies should go beyond the counselling, negotiation and litigation involved in individual claims and include lobbying and law reform activities.

The task facing any rights awareness program is a formidable one. As lawyers, we tend to see the problems of others in a purely legal sense capable of being neatly compartmentalized, but the problems of grassroots women cannot be seen in that light and are often not even expressed in terms of law at all. Because of the very nature of the problems that face these women, lawyers engaged in fostering rights

awareness among them are challenged to adopt new approaches that are a marked departure from what they are used to. They are also called upon to join hands with others so as to be able to address the issues effectively. It is only when programs on rights awareness are approached in such a realistic manner that they stand a chance of success. This is borne out by experience.

It is also admissible that actions and programs aimed at fostering rights awareness among grassroots women be done in conjunction with economic programs that ensure the self-reliance or self-sufficiency of these women. Rights awareness cannot be fostered among women who are starving. When they are in economically viable positions, their self esteem is such as they will be open to programs aimed at raising their consciousness as to their rights and increasing their basic legal knowledge.

Perhaps the single biggest obstacle or constraint facing any lawyer or group of lawyers in fostering rights awareness among grassroots women is financial. Suffice it to say that even though finances are crucial, where there is will, commitment and determination on the part of the group, a way can always be found. It is perhaps worthy to note that money should never be used as an excuse for failing to start. The experience of many countries, including Ghana, with this kind of enterprise has been to start on a very small scale and, within the limits of the resources available, make the best of the situation. Because of the many problems that such programs face, the effects are very slow in surfacing but, with perseverance, they do yield results. As the results become evident, there is normally a positive supportive response from society.

Conclusions

To conclude, any program aimed at fostering right awareness among grassroots women will have to be carefully thought out and administered. Because of the very nature of the problems that such programs seek to redress, they are long-term as opposed to short-term projects. It requires commitment and perseverance because results are slow in coming. Above all, problems have to be identified and responses fashioned in a close working relationship with the grassroots women themselves. As they become more conscious and aware of their rights they must be allowed to work out solutions themselves. This is necessary if development is understood as a process of creating conditions in which people can enjoy, exercise and utilize all their human rights, whether

economic, social, cultural, civil or political. We have tried to advocate a process which makes legal resources available to the urban and rural poor. Legal resources here means more than legal services or aid. It means the knowledge and skills which help people to understand law and use it effectively in order to collectively perceive, articulate, demand and protect their interests. It means more than the ability of people to know the laws and regulations and pursue their claims in the courts. Traditional legal aid provides redress to legal problems of the poor by creating access to courts, an approach which does not ensure self-reliance, participation and development. It does not question the rightness of the social order and social structures. Our approach seeks to use law to redistribute power and change social structures.

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NOTES:

¹ Eze, *Human Rights in Africa: Some Selected Problems*, p. 142.

² Thome, J.R, "New Models for Legal Services in Latin America," *Human Rights Quarterly*.

Community Legal Educators in Zimbabwe

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Introduction

Nestled in the heart of Southern Africa, Zimbabwe has a population of approximately ten million people, three-quarters of whom are in rural areas and have very little access to legal resources. Zimbabwe's lawyers, however, are to be found mostly in the large cities and small towns. The State's contribution towards alleviating the inevitable problems brought about by this state of imbalance are minimal and are aimed at assisting the individual to seek a remedy for an immediate problem rather than at the equally important aspect of empowering society to shape and use the law. The State pays a modest tariff to lawyers in practice who take on both criminal and civil cases for poor people. Even then, assistance in both categories is often narrowed to specific types of cases. In criminal cases persons charged with murder and risking the death penalty are accorded legal assistance and in civil matters aid is often narrowed to matrimonial cases. The Ministry of Justice also operates a Legal Aid Section which assists the public in drafting the necessary legal documents for their cases. The Section, however, operates on a skeleton staff due to limited funding. The State also assists by giving grants-in-aid to a few non-governmental organizations which give advice to the public.

It is this existence of apparently unmet legal needs that led to an international workshop on legal aid at the University of Zimbabwe in 1984 and subsequently to the establishment of the Legal Resources Foundation, a charitable and educational Trust registered in 1984. One of the primary objectives in setting up the Foundation was to try and tackle the issue of legal services for rural dwellers.¹ A method or model had to be devised to map out the legal needs of the population. The starting point was the fact that there were no lawyers in rural areas. The model adopted had then to try and fill in this gap. It was decided by the Legal Resources Foundation trustees² that the Foundation would operate through Projects Centers. The first was established in Harare in

April 1985 and the second in Bulawayo³ in 1987. It was also decided that the issue of unmet legal needs would be best dealt with by undertaking a pilot paralegal scheme.

The paralegal scheme was designed in essence to serve as an action research project, whereby the provision of "legal assistance" would be used as a tool to outline the structure and character of the needs of the people as well as providing guidelines on how best the project could be improved and implemented on a larger scale.

The paralegal scheme was to operate by training suitable persons to identify those problems in their communities which have a legal remedy as well as those outside the legal sphere and equipping them to refer aggrieved persons to agencies which were able to address those problems effectively. The project was to be gender-neutral in its approach, since both men and women suffer the problem of lack of access to lawyers. In the context of this paper, the term "gender-neutral" is used as meaning that the project was aimed at assisting both men and women as opposed to being gender-specific.

The Paralegal Phase

Armed with the above model for tackling the problem, Seke Rural Area, about twenty-five kilometers southeast of Harare and bordering on Chitungwiza, a town with an estimated population of over 350,000 was chosen for the pilot scheme. The estimated population of Seke Rural Area is over 31,000. Fourteen people, thirteen women and one man, were chosen for the initial project. The people were selected from non-governmental organizations already operating in the area including the Association of Women's Clubs (AWC), Zimbabwe Women's Bureau (ZWB) and the Adult Literacy Organization of Zimbabwe (ALOZ). Due to limited funds, it was considered necessary to use people already in the field. A more poignant reason was the fact that it seemed logical to make use of already existing resources and people who were known in their communities. Networking seemed appropriate. The paralegals received a one-week training workshop concentrating on a manual that they would use. The manual contained information on the legal system, specific legal and non-legal problems and the structure through which people encountering these issues can seek remedies. The topics in the manual included:

- The Paralegal Worker
- The Paralegal Manual
- Zimbabwe's Law

- Zimbabwe's Court
- Government Ministries and Departments
- Non-Governmental Organizations
- Civil and Criminal Trials
- Assistance Agencies
- Marriage
- Lobola (Bride-payment)
- Divorce
- Unmarried Mothers
- Property
- Delicts
- Registration of Births and Deaths
- Estates

A public relations campaign was undertaken to introduce the paralegal workers and their new role in their communities. It was explained to the people that if they had a problem which they felt was legal then they should go to the nearest paralegal worker in their community. The paralegal worker would then assist by giving the necessary advice about where to take that problem using the manual. Their role as referral agents seemed appropriate given the variety of reasons for the inaccessibility of legal remedies. The reasons may vary from a lack of awareness that a problem were one for which the legal system provided a remedy, to the aggrieved person not knowing how to go about getting the remedy. It may be that the aggrieved person cannot afford to pursue his or her legal remedy or that the person has a legal problem for which a non-legal remedy, of which he has no knowledge, exists. The referral agencies to which the paralegals were to refer people were identified as:

- The Citizens Advice Bureau
- The Legal Aid Clinic⁴
- The Catholic Commission for Justice and Peace
- The Ombudsman
- The Department of Social Welfare
- The Primary Courts/General Law Courts
- The Consumer Council
- The Police

The paralegals were to be assisted by a lawyer from the Harare Legal Projects Center in handling those cases which they could not easily refer. To assist in monitoring the scheme, especially in indicating the nature of problems besetting the community, the paralegals were given forms which were to be filled in for each case handled, specifically stating the nature of the case and where the person had been referred. The form

also included information on the sex of the individual. It was clear from the conception of the project that it would have to be evaluated at some stage. When the scheme had been operational for sixteen months, an evaluation was carried out commencing in November 1987. The evaluation team was made up of four people⁵. The starting point for evaluating the scheme was the information contained in the forms sent in by the paralegals on a monthly basis. At that time the paralegals had dealt with 237 cases. One hundred of these were sampled for evaluation process.

Twenty-six of the cases sampled were of males and the remaining seventy-four were female. The evaluation team prepared a report of their findings and recommendations⁶. The ages of those selected for interviews for evaluation purposes ranged as follows:

- 3 Less than 20 years
- 14 21 - 30 years
- 26 31 - 40 years
- 20 41 - 50 years
- 37 50 years and over

From the one hundred forms, the problems which had been brought to the paralegals were categorized as follows:

- 62 Social welfare cases (destitutes)
- 22 Maintenance, deserted wives, custody
- 5 Obtaining birth certificates
- 4 Bad debts
- 3 Workers/road accident compensation
- 2 Seduction damages
- 1 Income tax
- 1 Wanting to see a lawyer

From a gender-specific viewpoint, it was interesting to note how females out-numbered males by three-to-one. Even in the remaining 137 cases which were not used for evaluation purposes females outnumbered males.

Looking at the project as a whole, family-related and social welfare assistance cases were very common and prevalent among low income people. It was also interesting to note that some of the social welfare cases could actually have been categorized as maintenance cases. Typical cases involved women who had "illegitimate" children and were unable to care for them. In some instances, the mother had married another man who was not willing to assume financial responsibility for a child who was not his. From a research point of view, a poignant observation was how people do not necessarily think in legal terms. The women involved obviously did not consider seeking a legal solution but saw the responsibility as falling on the state. In other words, they sought to find a

solution from bodies other than the courts. The learning experience from this was that perhaps people did not know about maintenance laws and needed to be made aware that such laws exist. Educational efforts should be targeted at both men and women—the former so that they can realize their social obligation and the latter so that they know how to exercise their rights. Considering that the project was open to both men and women, it was notable that although both need access to the law, women appeared to have a greater need to use law.

Another point which was emphasized or brought out by the scheme as a whole was the fact that unsolved legal problems do exist in rural areas and powerlessness and helplessness in such matters is widespread. The evaluation team⁷ noted that some of the people interviewed had despaired of finding any type of help for their problem until they heard of the paralegal scheme. "We would have sat and done nothing," was the response from 79% of the people interviewed when asked what they would have done about the problem if they had not consulted the paralegal. An elderly female interviewed put it thus: "The paralegals' work is of great benefit to people. It is above all other services because it deals with personal problems that are very delicate and sensitive."

Although the paralegals had been dealing with individual cases, the evaluators saw fit to include questions on "perceptions of social change and its effects" in order to gauge whether people had sufficient knowledge of these to use the law. The evaluation report⁸ states that of the hundred people interviewed, seventy knew the correct legal age of majority, fourteen gave an incorrect answer and sixteen answered that they did not know what it was. Asked if they could claim maintenance for "illegitimate" children or if they had custody after divorce, sixty-one said yes, twenty-eight said no and eleven did not know. Fewer correct answers were given to the question on division of property. Only eighteen people could specifically name areas in which laws had been introduced or amended since Independence. These included:

- 7 Maintenance
- 5 Legal age of majority
- 4 Workplace equality
- 1 Succession
- 1 Seduction damages

The evaluators were of the view that although the paralegal scheme had been useful in equipping people to take action by referring them to the right agency, its usefulness had been hampered by the fact that some of the referral agencies were unwilling and unable to carry out their responsibilities fully, thus putting the paralegals in a bad light. From

talking to people, it was also obvious to the evaluation team that there was a great deal of adverse reaction to the new laws, especially where they "equalized or safeguarded" the rights of women.

Pointing out that the legislative changes introduced since independence had been rapid and far reaching, they noted the absence of educational campaigns to educate the public about the meaning and implications of the new laws. They also brought forth the point that the new laws are often blamed for social conflict rather than seen as dealing with it.

Having looked at the cases handled by the paralegals and having spoken to the people about their view of social changes, the evaluation team put their findings in a nutshell:⁹

"Over and above informing individual consultants on legal and other remedies relating to their own cases, the scheme has been largely unable to achieve its second objective of educating community members about their legal rights. Yet the scheme can never, in our view, hope to provide a meaningful service to individuals unless it focuses attention more directly on this latter objective.

"For the foregoing reasons we conclude that change of emphasis is required with respect to the role of the paralegals and to the scheme as a whole. In a situation where the community as a whole is clearly in need of further education about the process and implications of various issues, we believe that the present case work approach is premature. It does not reflect the most effective means by which the community may, at this time, be assisted to pursue legal rights, nor does it provide a meaningful working function for the paralegals themselves..."

They recommended use of simple materials presenting the basic facts in legal issues and information on how to pursue legal rights.

In a nutshell the first attempt at educating the public about the law had taken the form of instilling an awareness in people through paralegals about where to take legal issues. The scheme had been useful in that it helped to outline the problems inherent in a non-urban area like Seke. It had also revealed a great deal about society's interaction with administrative agencies. The problems of bureaucracy were clearly defined.

Above all, providing a concrete, though limited, service gave the Legal Resources Foundation material to evaluate and build upon. It was much easier to learn through having done something wrong and then using the result to correct those mistakes. For instance, the fact that the paralegal scheme showed the difficulties people encounter when they try to use agencies when administering the law brought forth the realiza-

tion that educational campaigns should not only be aimed at the people but at administrative agencies as well. We have realized that people do not always think in terms of the law and will often go to agencies other than legal ones to seek remedies. As a result, in one province¹⁰ we have trained social welfare officers to be able to recognize legal problems brought to them and to inform the appropriate bodies. The project also highlighted the fact that a gender-neutral approach will often come up against a gender-specific reality. In other words, although the project was designed to assist both men and women, it was quite apparent that women were in greater need of the law than men and also that a lot of the problems encountered related more to women's lives.

Perhaps most important is the fact that the paralegal scheme coupled with the evaluation team brought out the need for legal literacy programs.

Legal Literacy Phase

Armed with the suggestions brought out by the evaluation team, the Legal Resources Foundation through its Projects Centers began to work out the best ways to launch a legal awareness program at the grassroots level. Discussions ensued with various organizations whom it was felt could provide personnel to be trained in legal literacy. As it had always been the objective of the Foundation to produce legal education materials, the production of pamphlets was underway even while the paralegal scheme was ongoing.

The ability to read and write English and one of the local languages was prerequisite for training services. Once again those organizations with employees operating at the grassroots level were approached. In addition to the Zimbabwe Women's Bureau, the Association of Women's Clubs, and the Adult Literacy Organization of Zimbabwe, the then Ministry of Community & Cooperative Development & Women's Affairs was approached. A new structure was worked out by the Legal Resources Foundation to tackle the problem of inaccessibility of legal information. It was decided that at the base of the structure would be people trained as Advice Volunteers, followed in the hierarchy by Advice Centers manned by Paralegals. The work of the Advice Volunteers would be to carry out legal literacy work using pamphlets and also to refer individuals to Advice Centers. The work of the Paralegals operating from an Advice Center, would be to handle individual cases to the best of their ability in accordance with their training. It was felt that individual cases should not be forgotten. At the top of the structure

would be the Projects Centers with the test case committees. Any important test cases and public interest cases coming through the Advice Centers would be brought before the test case committee and taken up for litigation through the Project Centers.

The Trustees of the Legal Resources Foundation also decided that the scheme should now be expanded at a provincial level. In Harare, Mashonaland East Province was chosen, and in Bulawayo it was decided that Matabeleland North Province would be the starting point. The focus in both cases would be mainly on rural areas. This paper will focus on the happenings in Mashonaland East Province and the scheme as run by the Harare Legal Projects Center.

Armed with the above model, the already mentioned organizations were approached to provide personnel for training. Fortunately, all the organizations approached were forthcoming and agreed that their employees should receive this training in legal literacy dissemination. It was also agreed that as they were already working on various projects with the community, they would simply add in the legal literacy component as part of their daily work.

For instance, if a field worker or ward community coordinator¹¹ were working with an agricultural group or a sewing cooperative for that day, he or she would include legal education in the program. Therefore, throughout 1989, thirty-nine people received training as Advice Volunteers in three separate groups. The starting point was the training of Advice Volunteers to disseminate legal information; the establishment of Advice Centers followed later. The training workshops for the Advice Volunteers were each of a week's duration. The Legal Resources Foundation through its Publications Unit had published pamphlets on the Legal Age of Majority Act, marriage and the law, violence against women, and, in cooperation with the Catholic Commission for Justice and Peace, on the legal system of Zimbabwe. The training workshops focussed on disseminating information contained in these pamphlets. It was agreed with the Advice Volunteers that monitoring of the scheme would be through personal visits by the project lawyer as well as through "Return Forms" to be filled in by each Advice Volunteer and sent to the Legal Projects Center in Harare regularly. It was agreed that the "Meeting Report Form" would be filled each time a group or gathering was addressed and given pamphlets. A monthly form, assessing all the groups or gatherings would also be filled in and sent to the office at the end of every month. The questions on the forms canvassed people's views about the contents of the pamphlets, the law in question and what other topics they would like to be dealt with. Quarterly training workshops were also devised to deal collectively with any problems

which the Advice Volunteers may be encountering in their work. Of the thirty-nine Advice Volunteers, seven are men and the rest women. Although most of the topics covered by the pamphlets were gender-specific, it was emphasized that the Advice Volunteers should be gender-neutral in carrying out their work, meaning that they should address both men and women on the topics. This was due to the realization that it is no use equipping one section of the population to use their rights without going at the root cause of the problem.

The Feedback

The legal literacy scheme through Advice Volunteers provided valuable learning experiences for the Legal Project Centers. The greatest experience has been with people's reception of the Legal Age of Majority Act pamphlet. Without exception, all the Advice Volunteers have reported a negative reception to this piece of legislation; the negative reception has also been verified by the project lawyer in her monitoring visits. When an Advice Volunteer is visited for monitoring purposes, he or she is asked to gather groups whom he or she has addressed or given pamphlets. Those present at these gatherings are invited to ask any questions which they may have about the pamphlets. Invariably, the majority of the questions have centered on the Legal Age of Majority Act pamphlet. An immediate question is why this hostile reception? Prior to the passage of this Act, all African women were perpetual minors and needed the assistance of a guardian to undertake any legal act.

The Legal Age of Majority, which now makes everyone a major at eighteen, has also been interpreted broadly by the courts, often interfering with the very fabric of customary law. Without going into details, a father whose daughter has been seduced¹² can no longer claim seduction damages if she is eighteen years or over. In essence, the fact that a person is a major also means that that person can enter into any contract, including the contract of marriage, without parental consent. The right to behave in this manner or to claim one's own damages is virtually unheard of under customary law. All these legal implications have been put into the pamphlet on the Legal Age of Majority Act for general consumption by the public. The very first lesson we have learned is that law can, and often does, run ahead of the thinking of people in society. In the writer's opinion, never has a piece of legislation been attacked so vehemently by the public. Another important lesson is that the way material is presented is crucial. The necessity to tailor material to suit the audience has never been greatly emphasized. An empowering perspec-

tive as opposed to a purely legalistic approach is vital. People rarely, if ever, think about law in a vacuum. The cold reception which the Legal Age of Majority pamphlet has received has indeed brought out the point that if law does not fit in with people's daily lives, then they will reject it. When presented with the law, it would appear that the people's immediate reaction is to examine how it relates to their lives. Admittedly the approach in the pamphlets has hitherto been to take the law as it is in the books, language-level edit, print and distribute. The result has been disastrous.

The experience has been a sensitizing one! To illustrate a simple point, very few people in the rural areas respond affirmatively when asked if they know about the Legal Age of Majority Act or law. The truth of the matter is that they are being perfectly honest. The language is alien—the words totally unfamiliar. On the other hand, if asked whether they have heard about the law which says that a father cannot claim seduction damages, they immediately react with hostility. One will have used language which they understand perfectly. And yet, it had never occurred to us to translate the phrase "Legal Age of Majority".

Another significant point which should not be overlooked is the fact that although the legal literacy campaign is gender-neutral in its approach, a lot of the people who have been addressed by the Advice Volunteers have been women. It is these very women who are purportedly liberated by the Act who have so vehemently attacked its implications. Under the heading in the pamphlet "What it means to be a major" some of the following points are outlined.

- You can, without the help of a guardian, sue and claim compensation from a person who behaves unlawfully or harms you or your property.
- If you are a woman 18 years or older and you have been seduced, your father cannot claim seduction damages because he no longer has any legal control or authority over you...
- You can sell or deal with property which you yourself own as you wish, even if you are a married woman.
- If you are a woman, you can use your own money to buy property without the permission of your husband or father.
- You may marry without the permission of your former guardians.

From monitoring visits, people's reactions to reading these phrases have included the following:

- To marry without parental consent is to invite bad luck upon oneself. If a woman does this, and later dies, her parents will not bury her.
- This law must apply to non-Africans only.
- A law should not tamper with traditional life. We want to be left alone to live as we are used to.

Another problem is understanding the meaning of being a "major." While the law says that a person who is eighteen is a major, many eighteen-year-olds are still in school. What happens if a girl who is eighteen becomes pregnant from an eighteen year old boy who is also still at school? Who is now expected to pay the seduction damages since under customary law the father would have paid for his son? Women in rural areas are unfamiliar with court practice and cannot sue for their own damages in magistrates courts.

Typical of the attitudes of rural people is that eighteen is too early an age to confer majority status because they are still children and misbehave—or would misbehave if they read about this Act and, therefore, the pamphlets should be torn up. How can the pamphlet say that women should buy property without their husband's consent? People are meant to do things in partnership. The people question how it is possible, if laws are made after grass-roots consultation, that laws with negative repercussions on customary law are enacted.

Another negative outcome of the Legal Age of Majority Act appears to be an acceleration of the problem of baby dumping. Young girls no longer have at their disposal the solution offered by customary law, that is, the claim of seduction damages by their fathers on their behalf. The realization that the father cannot do anything about it and the trauma of the court system leaves many young women feeling they have no option but to dump babies.

These are some of the people's reactions. The problems that they state are not what was envisaged by the law or indeed by the pamphlet.

When the law states that one can marry without parental consent, it does not mean that one should not consult one's parents. The concept of empowerment would indeed have been better understood if it had been illustrated by an example which the community could relate to. Even the example of buying property could have attracted no hostility if a story had been narrated of a situation when and how a woman can buy her own property. The people have shown that they want the unknown to fit in with the known. The Legal Age of Majority pamphlet appears to have been drafted from the premise that people would accept the unknown and change their lives to suit the new law.

The experience with the Legal Age of Majority pamphlet has also been important in view of the fact that over five thousand pamphlets were printed, and since in some areas people were threatening to burn or hide the pamphlets, a decision has been made that in future a lot of ground work will be done before publishing pamphlets which affect people's social lives. All future pamphlets will be written from a popular sociological perspective.

The scheme has also enabled us to appreciate that the written word alone is not sufficient as a means of communication, especially at the grassroots level. In rural areas people are known for their ability to express their ideas and knowledge through songs and drama. The project lawyer attended a workshop¹³ on participatory methods in adult education and went on to try these with a group of Advice Volunteers at one of the quarterly training workshops. The results have been amazing. Some of the Advice Volunteers have really blossomed in their activities by utilizing these new methods, mostly short dramas and songs summarizing the law in a given area. The realization has been that the law, like any other field, can be taught in lots of different ways apart from the written word. One can even go as far as saying that these new methods have proved to be more effective as people are able to do their own script and indicate themselves where and how they perceive the law as fitting in. Using drama or posters or songs enables people to take the social situation, as opposed to the law, as their point of departure.

Another very crucial point which has come out especially from monitoring visits is that women want men to participate in legal literacy gatherings. From one area to another in the province, the indications have been clear that it is of no use educating the women alone. The *Violence Against Women Is Against the Law* pamphlet is an excellent example. Women, who are almost invariably the ones who attend the monitoring gatherings have themselves suggested that these visits and discussion should be held on a Sunday when the men are available. They have emphasized that it is important to change and educate the mentality of the wrong-doer. They have said that it is important for men to realize that beating up women is wrong. It is of no use for a woman to know her rights if her partner does not. While a topic may be gender-specific, as is the case with some of the pamphlets, the approach in creating legal awareness should certainly include both genders. Another suggestion which has come from the women is that children should receive legal education. The example of the Legal Age of Majority Act pamphlet has always been used in advocating this trend.

The women feel that children need to be taught about the true implications of the act incorporating cultural beliefs so as to do away with any misconceptions that they might have about what the law allows them to do. On another note, the women have made the interesting observation that due to the passage of time and entrenched customary behavior, they are unable to make use of some of the privileges afforded them by new legislation. One woman gave the example of someone who has been married for fifteen years and who has always allowed her husband to bank the money for the matrimonial household in his name. For such a woman, it would be very difficult to start telling her husband that she would like to open an account in her own name. The feeling expressed by most women at the grassroots level is that the new legislation is really not for them but for their children. The Legal Resources Foundation, through its Project Centers does have a Schools Legal Education Program working in conjunction with the University of Zimbabwe's Law Faculty as well as the Musasa Project.¹⁴

Work on establishing Advice Centers in Mashonaland East is underway, but this has been hampered by the realization that they can only have a meaningful effect if they are manned by salaried employees. Funding is promising, and 1990 should witness the establishment of several centers to complement the work of the Advice Volunteers. However, one Advice Center run jointly with the Law Society of Zimbabwe is currently operating in Harare.

It came into operation in October 1989. Legal practitioners operate on a roster basis giving advice to people on what action they can take to seek legal remedies. This Center has not been operational for a sufficiently long enough time to analyze the data being received from a research perspective.

This paper has concentrated on the activities of the Harare Legal Projects Center as the writer is more conversant with the activities of this Center and is able to adopt any analytical approach because of daily contact with the project. Suffice it to mention that the Bulawayo Legal Projects Center was established in 1987 and operates one urban and three suburban Advice Centers staffed by paralegals. They obviously have a lot of experience with Advice Centers and the Harare Center will clearly learn from them, especially after the proposed evaluation in July 1990 of both the Advice Centers in Bulawayo and the Legal Literacy project in Mashonaland East. The legal literacy project in Matabeleland North Province only just started operating with the training of ten Advice Volunteers in early November 1989.

From the foregoing it is evident how we have utilized different strategies to map out some of the legal needs of the population as well as develop effective educational techniques. Starting with a project designed to assist the grassroots people to seek remedies from the correct agencies, we were able to use the experiences gathered to move more concretely on to a legal literacy program, after recognizing the latent weakness of the individual approach which leaves large sections of the society ignorant of the law and social changes. What is important is that our lessons have been learned through taking action, and new ways and methods are being explored and used because of the experiences we have gained from the project

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¹Other activities carried out by the Legal Resources Foundation include a Schools Legal Education Program, the education of members of newly established co-operatives about laws affecting them, the servicing of the legal profession through library services and the publication of books, and the carrying out of training programs for those involved in assistance to the public.

²The Foundation's fourteen trustees include the Chief Justice of Zimbabwe, a law professor, a judge, lawyers, social scientists and educators.

³Harare is Zimbabwe's capital and Bulawayo the second largest city.

⁴The Legal Aid Clinic used to be operated by law students from the University of Zimbabwe in their final year but ceased operating at the end of 1988. Legal practitioners, co-operating with the Harare Legal Projects Centre, now operate an Advice Centre on a volunteer and roster basis at the Citizen's Advice Bureau.

⁵Ms. Frances Chinemana, a sociologist headed the team and was assisted by Ms. Sylvia Kuimba, an adult educator; and Abgail Masawi, a law graduate; and Ms. Mebie Mupandanyama, a Family Planning Educator and Distributor who had worked many years with rural women.

⁶"Evaluation of the Pilot Paralegals Scheme, Seke Rural District, Zimbabwe," prepared for the Harare Legal Projects Centre by Frances Chinemana, March 1988.

⁷Ibid. p.25.

⁸Ibid. p.22.

⁹Ibid. p.43.

¹⁰Mashonaland East Province.

¹¹Non-governmental organizations employ field workers while the Ministry of Community & Co-operative Development employs ward community coordinators.

¹²Under customary law, a woman who falls pregnant before marriage is regarded as having been seduced or led astray, and the man responsible is required to pay damages in cash to the woman's father.

¹³Women, Law, and Development Workshop, Kadoma Ranch Motel, Zimbabwe, October 1989

¹⁴The Musasa Project is a non-governmental organization which assists victims of violence against women.

2

Organizing for Law Reform

Matembe: Uganda

Longwe: Zambia

Oyajobi: Nigeria

Ugandan Women's Participation in the Constitutional Reform Process

*Miria Matembe
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Introduction

Four years ago, Uganda, a country with over twenty years of turmoil, violence and negation of rule of law returned to normalcy under the leadership of the National Resistance Movement Government. Since its independence in 1962, Uganda has had dictators, each of whom has left the country more crippled than before. It has witnessed opportunists serving their interests at the expense of the common good of society, and the citizens have suffered torture and extreme violations of human rights.

In 1986, the National Resistance Movement, which had waged a protracted people's war for five years in the bush, captured the instruments of power and fundamentally changed the country. The Movement also established several democratic institutions such as the Resistance Councils and Committees (RCs) which the citizens now manage and control. The establishment of the Uganda Constitutional Commission to draft a new national constitution for the country is one of the most important accomplishments of the National Resistance Movement Government.¹ The Commission is mandated to study and review the existing constitution and make proposals for enacting a national constitution that will:²

1. Establish a free and democratic system of government to guarantee the fundamental rights and freedom of the Ugandan people;
2. Develop a system of government that ensures people's participation in the governing of their country; and
3. Create viable political institutions to ensure consensus and orderly succession of government.

Why A New Constitution?

The reasons for a new Ugandan constitution are enumerated in the statute's preamble as follows:

1. The history of the country has been characterized by political and constitutional instability.
2. Since independence, Uganda has had a series of constitutions and constitutional instruments which have failed to take account of or satisfy national aspirations.
3. In the past, Ugandans have been afforded very little or no opportunity to actively participate in the promulgation of their national constitution.

The National Resistance Government recognizes the need to involve the people of Uganda in determining and promulgating a national constitution that will guarantee peace, national unity, democracy and national progress.

How Have Grassroots Women Been Involved In The Constitutional Reform Process?

Before answering this question, I will address how the earlier Uganda Constitution affected or involved women. Because many Ugandans were politically unaware of the implications of independence, few of them were involved in the creation of the independence constitution at Lancaster House, London. Instead, some of the elite and kings went to London to purportedly discuss the national constitution. No women participated in the making of the constitution because none were thought to be "qualified" enough to go to London. The manner in which the 1967 constitution was introduced, debated and approved also did not involve many citizens in general, let alone women.

Because women did not participate in promulgating any of these constitutions, their interests were not specifically addressed. The 1962 Constitution that made Uganda a federal state was abrogated by President Obote and replaced by a transitional one of 1966. In 1967, the present constitution was made and is subject to a substantial number of amendments. Under article 20, this constitution does not outlaw discrimination because of gender.³ Because the last section of this provision also permits the making of discriminatory family laws and customary practices that discriminate and oppress women, the failure to prohibit gender discrimination could not have been an oversight.⁴

Although the new constitution is intended to be just, fair and democratic, it is not. It will only be so when it is based on the consensus of the Ugandan women who constitute 53% of the population of about 17 million. Unless the Ugandans are involved in establishing a constitution, it is impossible to talk about a constitution that guarantees peace, democracy and national progress. The National Resistance Movement Government is committed to promoting and integrating Ugandan women in developing the country. The movement ensures women's involvement in the constitutional reform process in the following ways:

1. The Commission has two women lawyers whose primary responsibilities include safeguarding women's interests.
2. With DANIDA sponsorship, it has created the Ministry of Women in Development to run the Constitution Consultation Project.
3. The Ministry of Women in Development, a women's NGO, is researching women and the constitution in conjunction with Action For Development (ACFODE).
4. RCs established from the grassroots level to the district level are mandated to have a position of secretary for women who will be responsible for organizing and mobilizing women at the grassroots and national level.
5. Since the formation of the National Resistance Council, women's NGOs have been reactivated and now organize and operate under the National Council of Women.

The first task of the Commission is to inform citizens about the topics that need to be addressed when making a constitution. Because citizens must be educated about these issues before they can give their opinions on it, the Commission has been travelling throughout the country to educate people about the process. Women have been actively involved in this process through topics such as the role, rights and status of women in nation-building. This topic is designed to educate women about their rights and how they need to be guarded by the national constitution.

The commission educates district leaders so that they will in turn educate others. As expected, however, the turn out of women at educational seminars is very small. There are several reasons for this:

1. Invitations to the seminars unintentionally but inevitably exclude women. Those invited to attend seminars include members of RC 3 (there is only one woman out of 9 sub-county members); the primarily male members of RC 5; male religious leaders; and school principals, who are also usually male. Therefore, out of 500 people attending these seminars, only 2 to 10 percent of the participants are women.

After noting the poor attendance of women at the first seminars, I convinced the Commission to specifically invite women leaders in each district and to allow both invited and uninvited women to attend the seminars. By the end of the seminars, many women were participating. The Commission has now organized seminars that will be specifically conducted for women's NGOs.

2. Women have not been sufficiently mobilized to change their attitudes about their lives. Many women believe that political matters like the constitution are a man's job and that they belong at home working rather than participating in political activities. I believe that women have learned enough from the seminars to enable them to educate the grassroots women. Thus, when the Commission comes to get their opinion, the grassroots women will be able to contribute to the content of the constitution. The appointment of two feminist women commissioners has also greatly helped this process.

Ministry of Women in Development

To supplement the work of the Commission, the Ministry of Women in Development has embarked on an education exercise aimed at preparing and equipping women with the necessary information to enable them to give their views to the Commission. This exercise is intended to train trainers. So far, all 34 of the women's representatives in the national Resistance Council (Parliament) and all of the secretaries for women in the RC5 have been educated about the constitutional reform process.

Regional seminars for two women from each district have also been conducted. The Ministry has appointed and educated a media contact group and charged it with the responsibility of spreading the information on the constitutional reform process throughout the country. This project is headed by a coordinator and has a trainer. It operates under a management committee composed of the chairpersons of ACFODE, FIDA, and the Permanent Secretary of the Ministry of Women in Development. The work done under this project is tremendous. A training manual on women and the constitution and some pamphlets on women and the law have been written in a simplified style and translated in local languages for the grassroots women. The manual explains what a constitution is and lists the issues that women should address to safeguard their interests under the new constitution.

The Resistance Councils and Committees (RCs)

RCs are institutions within the political system of the National Resistance Movement that have created a forum for women at the grassroots and national levels where women's development issues can be discussed. The secretaries for women's affairs function as leaders for the women at the village (zones), parish, sub-county, county and district levels. They organize meetings of women at each level to discuss and exchange ideas on all issues of women in development. A woman representative at the National RC is responsible for mobilizing women and acting on the behalf of women in the Parliament. The RCs involve women from both the grassroots and NGOs in the constitutional reform process. Women are advised to discuss the issues they would like to see incorporated in the constitution and write memos to the Uganda Constitutional Commission. The district women representatives are busily mobilizing women at all levels of the RCs and NGOs in preparation for contributing their ideas to the Commission.

Women's Non-Governmental Organizations' Participation

Since the establishment of the National Resistance Movement Government, women's NGOs have been reactivated and many new ones have been formed. These organizations are interested in the constitutional reform process. While some are being educated about the process, others like ACFODE and FIDA are educating women about the process. These organizations have been asked to band together to write a memorandum to the Commission about what they would like to see in the new constitution. At the request of some NGOs such as the Mothers Union, YWCA and Uganda Muslim Women, the Commission has already conducted several seminars to address the memorandum. A series of radio and TV programs on women and the constitution have also been broadcast by the two women constitutional commissioners.

Research on Women and the Constitution by ACFODE

ACFODE and the Ministry of Women in Development under the sponsorship of DANIDA have implemented a constitutional consultation research project in the districts of Mbarara and Kampala. Rural women are being researched in the Mbarara district, while the Kampala research is focusing on slum areas, women traders and women profes-

sionals. The aim of this research is to get baseline data that will assist the Ministry of Women in Development in determining how women, especially those at the grassroots level, can best be involved in the constitutional reform process. This research will soon be completed and submitted to the Ministry of Women in Development with a report on the findings and recommendations.

ACFODE believes that in order for women, especially grassroots women, to participate effectively in this process, their understanding of their and the nation's socio-economic and political affairs must first be determined. We hope that the report will be useful in helping the Ministry determine the appropriate methods for mobilizing these women. We also hope that a copy of this report will be submitted to the Constitutional Commission, since both the Commission and the Ministry collaborate and supplement each other's work.

Collection of Ideas

The most important task of the Constitutional Commission is to gather ideas from the people. This will be done at the sub-county level later this year at which the time the Ugandan women will be prepared to give their opinion on the contents of the new national constitution.

Conclusions

I would like to conclude by saying that Ugandan women are fortunate that the constitutional reform is occurring after the International Women's Conference to mark the end of the U.N. Women's Decade held in Nairobi in 1985. This conference was an eye opener and catalyst to the women of Uganda. This, coupled with the National Resistance Movement Government, whose leadership is totally committed to the liberation of women in this country, has helped Ugandan women become conscious of their role and rights. Mobilizing women is not an easy task, especially when they are oppressed by customs and cultural practices, ignorance, economic dependence and religion. Because women have been considered inferior for so long, many are resigned to their way of life and have accepted the status quo. It is very disappointing when we, in ACFODE go to the countryside to mobilize women who are not interested in the process. Because we know that the struggle is big and patience and determination are needed to win, we must never give up hope. The struggle to liberate ourselves has started and must continue. The constitutional reform process has greatly influenced consciousness-raising among women and challenged women to be involved in making

raising among women and challenged women to be involved in making the constitution. It is also gratifying that many women in the Constituent Assembly will discuss and vote on the new national constitution. We hope that the new Ugandan constitution will incorporate and guarantee the rights of all women in our country.

The Honorable Miria K. Matembe is a member of Parliament and President of ACFODE, Action for Development, an organization which has programs in health, income-generation, education and leadership training for rural and urban women.

NOTES

¹The Uganda Constitutional Commission, Statute 5 (1988.)

²Section 4 of the Uganda Constitutional Commission Statute of 1988.

³Article 20 of the Uganda Constitution (1967) prohibits making discriminatory laws on the grounds of race, religion, or tribe, but does not mention sex.

⁴This includes the Marriage Act, the Divorce Act and all the customary laws and practices of marriage and inheritance.

Appendix: Suggestions Submitted by Ugandan Women for the New Constitution

(Provided by Teresa Kakooza)

General recommendations:

1. The President of the Republic of Uganda must be a mature person, at least forty years old, must be legally married and should be elected by a majority of the people. He/she should remain in office for only five years but may be re-elected for one further term in office.
2. Kiswahili should be adopted as the National language of Uganda so as to foster unity among various tribes.

3. People entering the armed forces should have an education of at least ordinary level, should be recommended by their local chiefs and should be taught to respect civilians.
4. Local authorities should be given power to collect and retain 75% of the revenue for local development, but all public funds must be accounted for.
5. Armed forces should remain in barracks and special measures must be put on all disciplined forces to ensure that they do not torture civilians.
6. Bad presidents must be removed by a vote of No Confidence by Parliament.

Specific recommendations on the rights of women:

1. Dowry should be abolished because it promotes slavery of women and acts as a source of insecurity since some tribes practice cattle rustling to acquire cattle for the payment of bride price.
2. Women should have the right to exercise democracy in the home.
3. Women should have the right to decide on the number of children to bear.
4. Women married or unmarried should have the right to get a passport without seeking the clearance of a third party.
5. All marriages should be properly registered and should be contracted between one man and one woman.
6. Women should have the right to an education.
7. Prostitution must be declared a crime.
8. No discriminatory laws on the grounds of sex should be made.
9. Women should have a right to property to which they have contributed.
10. Women should have the right to inherit land and cattle from their parents or husbands.

Lessons from the Struggle to Give Women Equality under the Law

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Introduction

This paper looks back at the long twenty year process of changing the law on inheritance in Zambia and will highlight lessons that are relevant to the struggle to give women equality under the law, and equal treatment in society.¹

The paper is divided into two parts. The first part is on law reform and gives an account of the problem of widows being stripped of all their property by relatives of the deceased husband as well as the twenty-year process of introducing a unified statutory law of inheritance aimed at overcoming this problem. The second part is concerned with lessons and issues. It looks back at the twenty-year process and tries to briefly identify both the successes and difficulties of the experience in order to apply more effective strategies in the future.

The main emphasis is to tell the story of the reform process in such a way that the reader can recognize the difficulties and obstacles, and see how reform may have been better organized and pursued. I hope that the lessons and issues which are based on my experiences will form a starting point for workshop discussions.

Thus the preliminary list of lessons and issues does not arise from any systematic analysis of the reform process, nor from any critique of the efforts of the various parties trying to promote reform. It is a purely narrative account of the law reform process and is likely to raise some critical questions in the reader's mind: Why the process took so long? Why was there so much faith in law reform as a means of changing the practice of property grabbing? Are the supportive efforts of activists not rather isolated and sporadic?

Also, we can try to draw lesson from the positive aspects of the story recounted here: the strategies of the activist in keeping the reform process alive and prodding it towards passage; and the advantage of having a law on inheritance which is unified and clear, as a basis for continued activism to protect widows.

The lessons which arise from this story are of continuing interest because the problem of property-grabbing is a problem throughout Southern Africa, because this is a problem which deserves a coordinated effort from activist women throughout the region, and perhaps above all because we can expect that lessons learned in addressing this problem will have relevance and applicability in addressing the many similar problems arising from discrimination against women in social practices, in the administration of justice, and within the law itself.

Law Reform: The Need for a Change in the Law

Before discussing the process of changing the law on succession in Zambia, I will briefly summarize the inadequacies which led to the movement for reform. By the 1960's it had become common practice for a widow, immediately after the burial of her deceased husband, to be stripped of all her property by her husband's relatives, leaving herself and her children destitute. This stripping of property included the removal even of household chattels and in the case of the husband having owned the house in which the family was living, the widow's eviction, so that the house could be possessed by the husband's relatives.

This practice arose from the development and corruption of a traditional practice under customary law, which varies from tribe to tribe, but which has the common element that property is inherited by the husband's relatives rather the widow. In the more prevalent matrilineal systems of Zambia, the property is inherited by the husband's uncles or nephews on his mother's side of the family. In patrilineal systems, property is inherited by the deceased husband's brothers or nephews. It is important to note that both matrilineal and patrilineal systems are patriarchal because property always passes into the hands of men.²

However, the modern practices of stripping the widow is a corruption of traditional practice where heirs would be responsible for the continued welfare of the widow and her children. The widow and her children were often inherited by a male who would take the widow as a wife or additional wife. As noted by the Law Development Commission's Working Paper of 1976:

Unfortunately, under present conditions the heir frequently only enforces his right to properties and to acquire the estate of the deceased for himself and is not concerned with the collateral duty of looking after the wife and minor children³

In modern Zambia, this practice often means sudden misfortune for the widow and children of a prosperous father, as they move from prosperity to poverty. The practice also provides an opportunity for poor rural relatives to descend upon the house of rich urban relatives in order to distribute among themselves the wealth that they feel is rightfully theirs. The widow would not be protected by having married under statutory law because the Marriage Act does not provide for inheritance or ownership of property and therefore permit the division of property according to customary law.⁴ Nor is the widow likely to be protected by the husband's written will because leaving a will is very uncommon in Zambia and is not respected under customary law. A will is likely to mean in practice that the widow has an entitlement under statutory law to property which has already been distributed and is irretrievable.⁵

The summary of the problem situation has been presented very briefly in order to focus on the process of solving it. The time chart below provides a summary of the sequence of the events leading to the passage of the Intestate Succession Act of March, 1989.

Changing The Law on Inheritance

November 1970 The Mindolo Ecumenical Foundation organized the First Women's Rights Conference, with about fifty delegates from church and other non-governmental organizations, as well as the Party. The focus of this conference was women's rights within marriage. A series of papers were presented outlining the current rights of women under statutory and customary law in marriage, divorce and inheritance.

The conference concluded with resolutions calling for the unification of customary and statutory law in marriage, divorce and inheritance, and "monogamy in marriage as the ultimate goal of the legislation." The law on inheritance should "take into account the quality and duration of the marriage" and "communal property should be left to the widow."

Although the focus of the conference was on the position of women in marriage, the resolutions concluded by suggesting some steps for the improvement of women's status in the wider society "in view of Zambia's ratification of the UN Declaration on the Elimination of Discrimination Against Women" of 1967.

1976 In response to continuing public concern about the treatment of widows, the government asked the Law Development Commission to investigate the problem and make any necessary recommendations for law reform. The Commission began with the 1976 publication of a "Working Paper on Customary Law of Succession" which summarized the problem as currently understood and concluded with a list of thirteen questions to be discussed when considering reform. The paper took the position that "some change in the law is overdue."

1982 The Commission published its report, which consisted of: (1) their findings on the present state of customary law of inheritance; (2) public opinion on the need for change; and (3) the Commission's proposals for change in the form of a draft bill on Wills and Inheritance.

The Commission's findings were the result of a considerable research effort which consisted of bibliographic research; investigations into customary law; developments in local court cases and panel discussions held in all the provinces of Zambia. The main recommendation was that, for intestate succession, the division of the estate should be 25% to the widow or widower, 50% to the children of the deceased and 25% to the other dependents.⁶

March 22 - 24, 1985 Despite the Commission's recommendations, no bill had been put before parliament by the time of the Second Women's Rights Conference of March, 1985. The conference was organized by Mindolo Ecumenical Foundation and Zambia Association for Research and Development (ZARD). Again, this was a conference of women from church and other NGOs and the Party. It was also a larger conference, with 135 delegates and a much better representation from rural areas than at the 1970 conference.

In contrast to the earlier Women's Right Conference, the focus was much less on the right of widows, mainly because this conference attempted to look at the situation of women in all aspects of social and economic life. Eighteen papers were presented. The papers on "Women and Family" and "Legalized Discrimination Against Women" both served to remind the conference of the continuing plight of widows.

The broader scope and more radical mood of the second conference are evident in the 64 comprehensive recommendations, which began with the demand that the government should ratify the 1979 *UN Convention on the Elimination of All Forms of Discrimination Against Women*, and that the Constitution should be amended to include a clause protecting

women from sexual discrimination. One of the conference papers noted that if Zambia were to ratify the UN Convention, then "most of the laws of Zambia, including the Constitution, would have to be revised."⁷

Nonetheless, the concerns of the earlier conference were not overlooked in the recommendations; No. 5 urges the Attorney General to "expedite the codification of the law relating to marriage and divorce with the view of ultimately legislating for monogamous marriage, and table before Parliament the Bill on Inheritance and Succession without delay." (Emphasis added).

June 12, 1985 The Zambian government ratified the UN Convention on the Elimination of All Forms of Discrimination Against Women.

February, 1987 Notwithstanding the efforts of the Task Force set up by the 1985 Women's Rights Conference, 1987 arrived without any move by the government to present a draft bill on inheritance to Parliament. In February, 1987, representatives of Zambia's Non-Governmental Organizations Coordinating Committee (NGOCC) called on the Attorney General and the Minister of Legal Affairs to question him on the position of the bill, and to when it would be tabled before Parliament.

March 8, 1987 A public discussion on 'What Has Happened to the Inheritance Bill?' was held at Mulungushi Hall, Lusaka. The event was organized by ZARD, with a four-person panel to lead the discussion. The Minister of Legal Affairs and Attorney General, who had been invited some time earlier, was one of the panelists. The other three panelists, who spoke before the Minister, recounted the history and importance of the bill, its relation to the UN Convention, and their discomfort at the delay of five years since the Law Development Commission had made recommendations. The Minister replied that the government had in fact been very busily preparing the draft bill during the intervening five years, and that "maybe next week the bill will be published."⁸

March 24, 1987 A Draft bill on Wills and Inheritance was tabled before Parliament. The draft closely followed the draft proposed by the Law Development Commission five years earlier. The Bill was concerned not only with the (more important) intestate succession, but also with making and administering wills. In intestate succession, the widow or widower would receive 20% of the estate, not 25% as recommended by the Commission, with 50% for the children and 30% for other dependents.

However, the Minister of Legal Affairs and Attorney General introduced the Second Reading by asking for the Bill to be deferred to a future and unspecified date, in view of the request from members that they be given time to consult with their constituents.

There is evidence that what had actually happened was that many members had approached the Minister informally before the Second Reading to voice their objections to the Bill. The Minister knew that it would be unwise to proceed. Although the Bill was formally deferred for members to be given more time, it became evident as time went by that it had in fact been withdrawn for redrafting.

June to December 1987 The NGOCC carried out education campaigns in four rural provinces to popularize the Bill among members of the general public, with the hope that popular support would influence members of Parliament to support the Bill when it was retabled.

February 24 - 27, 1988 ZARD organized an Opinion Poll among 440 citizens in Lusaka to find out the level of public support for the (withdrawn) Wills and Inheritance Bill. The results showed a surprising 96% support for the Bill, with 25% of these considering that the Bill should be strengthened to give a better entitlement to the widow.

March 6, 1988 The Opinion Poll was a prelude to a panel discussion organized by ZARD on March 6th under the heading "Changing the Law to Protect the Widow." This panel discussion was open to the public and was attended by 132 people. On the panel was the Minister of Legal Affairs and Attorney General, who was invited to explain the present position of the Bill. Also on the panel were two widows who narrated their ordeal when all of their possessions were stripped from them after their husbands had died, despite all efforts at legal protection. There was also a verbal report of the ZARD Opinion Poll, summarizing the findings and pointing to the implications for members of parliament who have an obligation to reflect the views of their constituents.⁹

In his speech the Minister disputed the title given to the discussion because "the plight of widows should not be overdramatized." Instead he thought the title should be "Changing the Law to Protect Spouses, Orphaned Children and Other Weak Persons in Society."¹⁰ But in the general discussion that followed, several participants emphasized the importance of stressing the widow's plight, because as one participant pointed out "it was women and not men who were tortured and deprived

of everything."¹¹ The Minister concluded his remarks by saying that a redrafted Bill would be retabled before Parliament during the next session.

September 1988 The NGOCC published its results from a continuation of the earlier ZARD Opinion Poll, but here carried out (May-July) among a sample of citizens in other towns, including urban centers in the provinces. Although the results show that support was not as high in these other towns, 87% of the people still supported the Bill; 13% indicated that widows and their children should have a higher entitlement than proposed in the Bill.¹²

October 1988 By the time the country elected a new Parliament, in October, 1988, the redrafted Bill still had not been published or retabled, as had been promised.

December 11, 1988 One of the widows who had recounted her ordeal at the earlier public panel discussion now repeated her performance at a church service to launch "The Ecumenical Decade of Churches in Solidarity with Women" at the Cathedral of the Holy Cross in Lusaka. The service was attended by the President and top government officials. In the President's address to the congregation, which followed the widow's account of her experiences, the President announced that "the long-awaited Wills and Inheritance Bill designed to protect widows from undo suffering would be enacted into law by March."¹³

March 1989 The government tabled the redrafted Bill before Parliament in the form of two Bills: The Wills and Administration of Estates Bill and the Intestate Succession Bill. The former merely provided for the easier writing and administration of wills. Relevant here is the Intestate Succession Bill which followed the 1987 draft for intestate success in providing the same fixed percentages in the division of spouse's estate (still 20% for the widow or widower), but nonetheless provided better entitlements for the widow. The redrafted bill now proposed that the widow or child would have automatic entitlement to the house in which they were living if this belonged to the deceased and all property up to the value of K30,000. Property above this amount would be divided according to the fixed percentages: 20% to the widow, 50% to the children, 20% to parents and 10% for other relatives.¹⁴

April 7, 1989 The Intestate Succession Act was passed by Parliament after minor amendments at the committee stage, but after lengthy debate during the Second Reading. The debate shows continuing backbench reservations which focus on some of the weaknesses of the Bill: the difficulty of ensuring justice with a system of fixed percentages; the invasion of statutory law to regulate behavior within marriages contracted under customary law; failure to confine the Bill to marriages contracted under the Marriage Act; the role of the Bill in breaking down the traditional rights and obligations under the extended family system; and the prospect that changing the law would not drastically alter the practice of property grabbing.

In the face of considerable male chauvinist banter, supporters of the Bill made strong points such as: 1) the Bill was based on research findings; 2) the economic contribution of women towards the value of the husband's property was significant; and 3) the need to treat women as equals with men. One appointed Member of Parliament, also a ZARD member, tabled the Opinion Poll findings before Parliament and also quoted from the report of the March 1988 panel discussion for evidence that even poor rural widows were the victims of property grabbing.¹⁵

January 11, 1990 Justice Florence Mumba gave voice to the general concern that the problem of property grabbing, despite the reform of the law, was continuing much as before:

"Investigator General Justice Florence Mumba has said lack of knowledge of the provisions under the Acts of the recently passed Law of Succession or even their existence have rendered the Acts ineffective. ...Justice Mumba warned that where the beneficiaries were ignorant of their rights or where apathy or fear existed, the cry against property grabbing by relatives of the deceased would continue to go unheeded."¹⁶

And so it is, that after twenty years, this story seems to have come full circle.

Lessons and Issues

This part of the Paper looks back at the previous story of changing the law on inheritance in order to focus on the main lessons and issues which arise from this two-fold struggle: 1) the struggle to change the law—which succeeded; and 2) the struggle to prevent property grabbing—which continues.

Before identifying the main lessons and issues, the obstacles to the reform process will be identified. Under each heading, there is a list of the main points. In some cases, these points seem to have arisen naturally from the aforementioned story of law reform. On other points, however, the author has been informed and influenced by her own experiences as an activist for promoting the reform process and mobilizing support for the reform of the law.

Problems in Framing a Reformed Law on Inheritance

The following six problems are identified because none of these problems was adequately addressed when drafting the reformed law. They are problems that remain with us, and that we presume contribute to the difficulty of using the reformed law to end the practice of property grabbing.

1. The need to fully understand the actual problems of widows: why the husband's relatives behave as they do, and why a widow cannot obtain the protection to which she is due under existing laws. This suggests that reform must be based on a broad sociological understanding, and cannot be based purely on legal research.

2. The difficulty in framing a law which unifies the different patterns of inheritance in different tribal customs; especially the difficulty in unifying matrilineal and patrilineal systems.

3. The difficulty of framing a law which unifies nuclear and extended family systems of inheritance, when the difference between these systems arises from very different concepts of rights, obligations and property which divide modern Western from traditional African cultures.

4. The prospect that, in overcoming either of problems 2 and 3 above, a middle way or compromise law will be rejected as unacceptable by both sides.

5. The problem that a 'fixed percentage' entitlement for a widow cannot ensure justice, since justice must entail considering many factors such as the length of marriage and the extent of the wife's economic contribution.

6. The law has to take into account four different grounds for a widow's entitlement:

- The widow's (and children's) right to continued welfare;
- The widow's rights as a dependant of the husband, insofar as she was a dependant of the husband;

- The widow's right to a share in household property and estate by virtue of her economic contribution, including the value of her work in housekeeping, child-bearing and child rearing;
- A woman's right to equal treatment with men, under the law.

Obstacles to the Reform Process

The list below attempts to identify obstacles to the process of carrying a reform through the various stages, from identifying the problem to putting a reformed law on the statute book. Partly the problems are ones of procedure and institutional inertia, but mainly they are the problems of trying to drum up political support in an area of conflicting interests and ideological confusion. They include:

1. The length of time needed for purely situational research, in order to fully understand the problem, and see whether, or how, the problem can be addressed by legal reform.

2. The length of time needed for a Commission of Inquiry to carry out investigations and make recommendations. After a commission has reported its findings, there is then the problem of finding out what has happened to the recommendations.

3. The difficulty of getting a woman's support for the reform of the law on inheritance because of her mixed feelings and divided interests: support if she thinks of her own possible losses as a widow, opposition if she thinks of her own possible gains. She stands to gain, for instance, if a brother dies under the matrilineal system. If her husband's brother dies, her husband benefits under a patrilineal system.

4. The difficulty of getting a man's support for the reform of the law because of his mixed feelings and divided interests: support if he thinks of his own possible death and the future of his widow, opposition if he thinks that his wife's right to household property would give her too much status within the household; Opposition if he thinks of his possible gains, for instance, on the death of a brother (under a patrilineal system) or on the death of his sister's son (matrilineal).

5. The difficulty of getting government support because of contradictions within official policy: support arising from the general policy position on equality for women, or authoritative claims that women are (or ought to be) equal under the law, as well as the ratification of UN Conventions on women's rights; opposition because of the long-standing party and government policy to support and maintain traditional culture and customs.

6. The difficulty in getting support from members of parliament. To the extent that these tend to be bourgeois males, they may be expected to have mixed feelings and conflicting interests: support of the law reform arising from their support for a more nuclear family system, and for a system where they can pass on their wealth to their sons, via a widow if necessary; opposition to a change in the law which would give a woman more status or equality in the home, or which might set a precedent for women's increased equality under the law.

By contrast, members of parliament from the traditional elite may be expected to unreservedly support the customary law of inheritance, especially where this is the system under which they themselves have accumulated wealth and property.

7. The difficulty of mounting a campaign to mobilize support for a reform of the law, especially if the women's wing of the ruling party is inert or resistant to women's issues.

8. Within the small minority of women who achieve high positions in the government or the bureaucracy there is often an unwillingness to take a position on women's issues, or to show solidarity with women's activists.

9. The unwillingness of most women, even amongst the educated elite, to support equal rights for women, or to participate in any feminist movement.

10. Even among activist women, there is often an unwillingness to allow their own experiences of injustice and humiliation to be cited as evidence, or be used as case studies to further the struggle for equal rights for women.

Lessons from the Reform of the Law on Inheritance

Having risked depression with a long list of problems and obstacles, we can now look for the lessons that we might learn from the reform process. We must also look for positive elements, and how we can learn to improve them next time.

1. The reform of the law was a very slow process, and the main role of activism can be defined as "keeping the process moving."

2. The reform of the law does not in itself change social practice. There is now need for considerable work and activism to try to use the law to protect widows. In this work, the reformed law should be an asset. Since a widow's position under the law is now clear, it should be much easier than before to get the assistance and protection of the Administrator General.

3. Protecting the widow does not end with the reform of the law. On the contrary, the activism of the reform process should be seen as only a prelude to the more difficult phase of using the law to protect widows.

4. There is an important place for activist research. This form of research goes beyond the "research and development" model of investigating a problem and making recommendations for change. Activist research was used as an instrument by activists to keep the reform process alive, and especially to dig up evidence that would embarrass the opponents of reform. The research shows ideological commitment and focus.

5. Ordinary women and NGO's may have to mount their own research investigations, especially where professional researchers and established research institutions do not want to get involved in political issues, and are perhaps more interested in professional advancement rather than political involvement.

6. The case studies on the widow's plight demonstrate the effectiveness of publicity and the dramatic impact of exposing immorality and injustice. The simple mechanism of the public presentation of the widows' narratives served to expose feelings of public guilt and responsibility—what had been commonly seen as a DOMESTIC aberration was successfully elevated to a matter of PUBLIC concern.

7. There was a need for broader research into the problem of property grabbing: first to understand why widows could not get protection under existing laws; and second to see the problem as one of women's rights, which therefore, entails a need to change the law to give women equal rights in marriage, and equal rights under the law.

8. Although the law on inheritance has been reformed in women's favor, the reform falls short of giving women equality under the law.¹⁷

9. The Law Development Commission and the Minister addressed the widow's plight as a welfare issue; much of the activist pressure was concerned with revealing the issue of equal rights.

10. Where a government claims, to believe in equal rights for women, then there is the real prospect for pushing for legal reform by exposing the gap between principle and practice.

Issues Arising from Reflection on the Reform Process

In looking back at the process of reforming the law on inheritance in Zambia, many issues spring to mind. The list of issues below are those which came to the author's mind, to which the reader may like to add, and which may find a place in workshop discussion.

1. Was the law reform an important or useful way of addressing the original problem of property grabbing? Should the focus, from the start, have been on law enforcement and administration, and education on existing laws which gave some protection to the widow?

2. Should there have been an initial focus on women reasserting their rights under customary law?

3. Does a unification of customary and statutory law on inheritance now imply that women should press for a unification of customary and statutory law on marriage? Should, as the 1970 Women's Rights Conference recommended, "monogamous marriage be the ultimate goal of legislation"?

4. What are the prospects, within a southern African one-party state, for organizing around a single political issue such as "Equal Rights for Widows"?

5. Should regional cooperation and networking between activist women focus on the theme "Equal Rights for Widows"?

6. How can activists encourage the "women's wings" of a ruling political party to take a positive interest in women's issues and women's rights?

7. Should the Marriage Act and the Intestate Succession Act stipulate that, in the event of a marriage ending in divorce or death, there is a presumption in law that the household property and estate belong equally to the partners in the marriage unless there is documentary evidence to the contrary?

8. What are the priorities for action to enforce the new law on inheritance? An educational campaign? Test cases brought to court? Direct action at funerals?

9. Should the campaign for widow's rights focus more on encouraging the writing of wills and ensuring the proper administration of wills?

10. Should women support a "half-way" reform of the law which improves the position of women relative to men, but falls short of providing equality under the law?

Conclusion

The efforts of NGOs seem to have been important in keeping the reform process alive—by educational campaigns, public discussion panels and opinion pools. In looking back at these efforts, which were rather sporadic and not part of a coordinated campaign, we can see that there are elements which reveal the potential for better planned and more effective efforts in the future.

This potential is revealed in various important aspects: the pursuance of the continuing process of reform and the efforts to "prod" the reform when there was lack of progress; the use of simple research methods to dig up evidence that would support the reform and embarrass the political opposition; the use of case studies and narrative presentation for dramatic impact.

In all this we see something very different from the more usual process of investigating a situation and making recommendations for reform. Instead we see here an effort to pursue a set of recommendations until they are put into effect. We can see that there could be no simple pre-planned methods, for the activism was often tactical in reaction to the latest turn of events.

We see, too, the advantage of organizing around a particular issue where there is already hope for change or where there is some official and popular support. But we also see that there was not a centralized or coordinated organization to pursue the issue. This perhaps is more necessary now that we have come to the more difficult phase of collective action to make the new law effective in practice.

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NOTES

¹This narrative account of the law reform process is excerpted from the author's forthcoming paper with Roy Clarke on "Research Strategies for Promoting Law Reform." This paper does attempt a critical analysis, but addresses the research component which contributed to the reform process.

²Chapter II and Appendix A of the 1982 *Report on the Law of Succession* provide a good overview of the different patterns of succession under customary law in Zambia.

³Law Development Commission's 1976 *Working Paper on Customary Law of Succession*, p. 1.

⁴Himonga *et al*, 1988, note the traditional situation where "women whether married under customary law or under the Marriage Act, have no right to inherit their husband's property. This applies even to property of the husband acquired during the marriage with the wife's contribution." (p.42). This actually contradicts the principles governing a wife's right to maintenance when divorced if she was married under the

Marriage Act (Himonga *et al*, pp 26-27.) In divorce, a wife has the right to maintenance both as a dependant and by virtue of the economic value of her contribution to the marriage, including the value of domestic work.

⁵Customary law recognized the right of a person to leave property by oral will, but "the distribution may be altered and the property distributed in a manner which the elders think right in the circumstances" (*Working Paper* of the Law Development Commission, p.5.)

⁶These percentages provide the formula for the distribution of all property left by the deceased, except when alternative formulae are provided or where some or all of these categories of dependents do not exist. There is also provision for a dependant to appeal to a court if the dependant's portion is unreasonably small having regard to his degree of dependence on the deceased. It should also be noted that the phrase "widow or widower" gives a spurious impression of gender equality which exists merely at the level of phraseology, since there is a presumption in practice, and probably in law, that the estate belongs to the husband except where a wife can produce documentary evidence to the contrary. For further discussion of this point, see the paper by Longwe and Clarke, "Research Strategies for Promoting Legal Reform."

⁷Sara Longwe on "Legalized Discrimination Against Women in Zambia," at p.50 of the Conference Proceedings.

⁸As reported at p. 10 of the ZARD Report on the 1987 Panel Discussion.

⁹*Ibid.*, P.2.

¹⁰ZARD Report on the 1988 Panel Discussion, p.1.

¹¹*Ibid.*, p.12.

¹²NGOCC Report on the (second) Opinion Poll, p.3.

¹³The quotation is from the report in the *Times of Zambia* of 12th December, 1988. It is reported speech, and presumably not a verbatim account of the actual words used.

¹⁴As with the previous draft, there are alternative formulae in the event of a particular categories of dependant who considers his or her share too small.

¹⁵This summary account is based on the authors' reading of Daily Parliamentary Debates for the 4th, 5th and 6th April, 1989.

¹⁶As reported in the *Times of Zambia* of 12 January 1990. Justice Mumba was addressing a one-day seminar organized by the Women's Rights Committee of the Law Association of Zambia.

¹⁷For a further discussion of what might be entailed in giving women equal rights in a reformed law on inheritance, see the discussion on "The Lack of Research on Women's Rights" in the forthcoming paper by Longwe and Clarke on "Research Strategies for Promoting Law Reform."

REFERENCES

This list of references is confined to works where full publication details may be helpful. It does not include other works mentioned in the paper, such as draft bills, where sufficient bibliographic detail has already been provided.

- Himonga, C N, K A Turner and C B Beyani, *An Outline Of The Legal Status Of Women In Zambia*, paper presented at the Workshop on Women's Law, Harare, Zimbabwe, 21-16 August, 1988.
- Law Development Commission, *Working Paper On Customary Law Of Succession*. Lusaka: Government Printer, 1976.
- Longwe, Sara Hlupekile and Roy Clarke, forthcoming, *Research Strategies For Promoting Law Reform: lessons From Changing The Law On Inheritance In Zambia*, paper due to be presented at Workshop on Research Methodology organized by the Women and Law in Southern Africa Research Project, 12-16 March, 1990.
- Mindolo Ecumenical Foundation, *Women's Rights In Zambia: Report Of A Consultation, November 20-24, 1970*. Kitwe: Mindolo Ecumenical Foundation, 1970.
- Non-Governmental Organizations Coordinating Committee (NGOCC), *Public Opinion On The Wills And Inheritance Bill: Report of an Opinion Poll conducted May - July, 1988*. Lusaka: NGOCC, 1988.
- Zambia Association for Research and Development (ZARD), *Women's Rights In Zambia: Proceedings Of The Second National Women's Rights Conference, 22 - 24 March, 1985*. Lusaka: ZARD, 1988.
- ZARD, *What Has Happened To The Inheritance Bill? Report Of A Panel Discussion Held On 8 March, 1987*. Lusaka: ZARD, 1987.
- ZARD, *Public Opinion On The Wills And Inheritance Bill: Report Of An Opinion Poll Conducted In Selected Residential Areas Of Lusaka, 24 - 27 February, 1988*. Lusaka: ZARD, 1988.
- ZARD, *Changing The Law To Protect Widows: Report Of A Panel Discussion Held On 6th March, 1988*. Lusaka: ZARD, 1988.

Women and Law Reform in Nigeria

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Introduction

The role of law in the establishment and sustenance of socio-political structures in modern societies, such as ours, cannot be over-emphasized. Both formal and informal laws have been used in the regulation of access to economic and social resources (e.g. land, jobs, credit, political power, etc.) with result that groups with reduced access are soon marginalized.¹

No doubt, the consequent effect of marginalization is the subordination of the marginalized group. Hence, all groups in society have learned to concentrate a great deal of their socio-political activities around legal formulations and reformulations aimed towards the benefit of themselves. (Sometimes, it is disregarded that this is to the detriment of others).

It is the concentration of these socio-political activities that can be described as organizing. Organizing in this instance, as for any other purpose, aims at pressuring for certain interests. Undoubtedly, interests vary, whether for individuals or for groups. Often the various ways in which interests are affected determine how those concerned will organize for action. To this extent, we can recognize three types of organizations for the betterment of women in Nigeria.

First are groups of individuals motivated to pursue personal causes, usually political or economic. Often, these individuals are able to attract followers and the personal cause may grow to become a general cause.² Actually this type of organization in its latter stage becomes classifiable as a cause.

Second, women organize themselves in groups for the purpose of that group's benefit or the purpose of the general class benefit. Examples of this type of organization abound in the multiplied number of women's co-operatives, professional associations, religious organizations, and charitable organizations.

Third, women generally organize themselves as a "class." This type of organization in itself can be of two kinds, formal and informal. The formal kind is exemplified in the formation of the National Council of Women's Societies in Nigeria.³ This is an umbrella body for women's organizations. Each affiliated society or group can initiate its own program but should support the Council in its overall projects.

A second variation of this type of organization is very atypical. It is the spontaneous coming-together of women as one without any micro groupings. Its atypical nature is based on the inherent difficulty which faces any attempt at uniting all members of a class especially where membership in that class is not voluntarily determined. Probably the closest example of this type of formation is the women's organization which resulted in the Aba riots of the earlier part of this century. The riots have been described as the campaign of women generally, motivated hardly by any individual or groups. As is characteristic of this kind of organization, the campaigns were spontaneous reactions and often violent.⁴

Nonetheless, others may argue that groupings did, in fact, exist by recognizing the framework of the then-existing kinship or trading associations of women as supplying the pulses of solidarity.

Women Organizing for Legal and Policy Formulations and Reformulations

In this paper, we shall be adopting a broad use of the word "Law". This is to include not only the substantive and procedural contents of laws but also policies related thereto. Policies reflect governmental attitudes, goals and strategies for the reinforcement of laws.

Much of organizing around legal reforms today is the initiative of elite women.⁵ The institutions of law and politics have become largely westernized, a situation which in itself is elitist given our local society. Hence, activities in relation to these institutions have been wrested from the hands of grassroots members of the society in general. This is despite the fact that they make up about 80% of the total national population. Grassroots membership of the total women's population stands at about 95%.

Apart from the fact that the modern legal system has acquired extensive technicalities and has remained largely incomprehensible, it is possible to argue also that grassroots women, though cognizant of their subordinancy to their male counterparts, hardly understand this to be

the consequence of socio-economic and legal marginalization.⁶ Hence it has been difficult to draw them into organizing around and for legal reforms.

The role of law as an instrument of social transformation cannot be over-emphasized. By its prescriptive, injunctive character, it can be used to prescribe and compel the enhanced status of women. Deriving therefrom, women can mobilize themselves to enter into the full awareness of such enhanced status.

Women and Legal Problems: An Overview

It is a fact that in Nigeria, as in many other countries of the world, the juridical equality of men and women is now a constitutionally enshrined precept to which every other law and norm of the land should be subject.⁷ But reality informs us otherwise. The non-subordination to this principle is evidenced by the continued existence of laws and policies whose letter and spirit contradict the Constitution. Also, there is flagrant failure to enforce the laws even where these meet the constitutional test. Worse still, the complexities of the legal structure continue to put justice out of the reach of women.⁸

It can rightly be said of the areas of fundamental, civil and political rights⁹ education, and professional training, that Nigerian women have enjoyed equality with men, at least theoretically. Where women have failed to utilize opportunities available, it has been as a result of ignorance or indifference and apathy.

In Nigeria, two streams of law co-exist. These can be described as formal and informal laws or general and customary laws (the latter being localized laws). By formal laws we mean that such have undergone the formal processes for legislation. Informal laws have not necessarily been enacted at any point in time but are rules of accepted usage, whose usage has spread over such a long period of time that, in effect, it has a binding force of law over people to whom it relates. A culture of sex-discrimination, original to us as well as introduced through the influence of British culture is reflected in some of these informal and formal laws. For instance, in the area of Criminal Law, there are a number of offenses, especially sexual offenses, couched in sex-specific language which are supposedly "designed" to protect the female victim by a patriarchal society. But the enforcement of such laws more often than not discriminates unfavorably against women.

Administrative and executive actions abound which violate civil rights guarantees by discriminating along sex/gender lines.¹⁰ The police are noted for the practice of rejecting a female who applies to stand as

surety for a bail applicant. The Passport Office of the Ministry of Internal Affairs requests a letter of consent from a spouse before issuing a passport to an applying married woman without any policy or practice of demanding the same in respect to a married male's application.¹¹ Tax computation practices continue to discriminate against women by granting automatic relief to males whereas women are only allowed relief after an application and many prolonged efforts at persuading the office of the Inland Revenue that they are in fact responsible for the maintenance of their children.

Though labor laws appear to be equally protective, the largest percentage of women in the work force are employed in areas not covered by such laws.¹² Adherence to legislation is evident only in public sector employment; female employees of the private sector are often at the mercy of their employers. A high level of legal ignorance as well as the social¹³ and economic costs of litigation all work against the constitutional and other legal guarantees affording real protection.

Discrimination against women is most evident in areas where customary laws are still very active, e.g., family relations.¹⁴ It would appear that even the elite women remain largely subject to customary law in this area and it is often immaterial that parties have not contracted their marriage under customary law, nor lived necessarily according to rules of customary law. The unfavorable principles and practices observed with regard to parental rights, widowhood, dissolution of marriage, marital property rights, other property rights, inheritance rights, etc., continue to work against the interests of women.

Organizing Around Legal and Policy Reform: Strategies

With the inadequacies of the socio-legal system described above, it becomes obvious that women must concert and direct their efforts at effecting legal change. It is these appropriately fashioned and aimed efforts that are termed "strategies".

The problems experienced by women which relate to law can be categorized under four headings and it is under these headings that we will make recommendations about strategies for eliminating the problems. Furthermore, in the course of the discussion we will highlight how women in Nigeria have worked with some of the strategies, the extent of their successes, and proposals for future effectiveness.

We have highlighted earlier how the content of laws continue to discriminate against women. The activities of Nigerian women in this respect are commendable. Although all women's groups have denounced the discriminating trends in our laws, the umbrella body of

the NCWS has made use of the International Federation of Women Lawyers (FIDA) as its main vocal group in the area of law (and policy) reform. In 1978, FIDA sent a 24-woman delegation to the then Head of State, General Obasanjo to submit opinion on the need to include express provision in their proposed constitution for the sex-equality of males and females. Also there was the strongly worded condemnation of the non-inclusion of women on the Constitution Drafting Committee.¹⁵ And it is a tribute to Nigerian women that the Babangida administration in setting up the Constitution Review Committee about ten years later recognized the right of women to due representation in the framing of laws which guide their lives as well as their capacity to contribute constructively to processes of development in society.¹⁶

In the determination of national policy on population, it must be noted that the government invited the representation of women's organizations through the inclusion of FIDA representatives. Any policy on population is a policy affecting women for they, being the child-bearers, keep the gateway to population issues. It is encouraging that women have been allowed an input.

The denunciations of the police practice of discriminating against women as sureties have at least succeeded in provoking a public condemnation of such practice by the policy chief, the former Inspector-General of Police, Alhaji Gambo. He reiterated that such practice is unconstitutional and illegal.

Regarding tax relief, women can hope to obtain relief when they are able to persuade the Tax Office that they, and not their husbands, have expended some of their income on their children (provided their husbands have not already obtained said relief). This, though a far cry from the aspirations of women for egalitarianism, is still commendable and remains a laudable achievement in light of the previous position.

Nonetheless, it must be said that much remains to be done by women in pursuit of changing the content of laws. A great deal of the work is left to academics and the government.¹⁷ When a precise goal is identified, every possible opportunity must be pursued to achieve the desired end. It is suggested that women present responsible authorities with extensively documented research findings on relevant subjects. Recommendations and precisely formulated proposals for new laws should be included. Specificity regarding the desired remedy will help avoid the half-way-house solutions often proposed by the government. The collation and documentation of facts relating to a subject should not be the exclusive preserve of academics.

As long as customary laws prevail regarding women and their affairs, especially in family relations, there will continue to be conflict between the actual and legal status of women. The situation will not be improved until those traditional mores and customs "which are of no visible benefit either to the institution itself (marriage, and in this case the family generally) or to the contributions of women" are jettisoned. To this end, extensive field research will be necessary to identify inimical traditions and other related facts. In 1979-80 the Federal Ministry of Social Development commissioned a study tour of Nigeria for the identification of various practices inhibiting the enhancement of women's status. It is unfortunate that ten years later, most of these practices continue. Government lip-service to juridical equality must not be applauded. The government must be pressured to address itself to the disharmony between these laws and the Constitution. And who better to stand in the forefront than women themselves? Women must appreciate that the government is largely male-dominated and cannot be as committed to the removal of this disharmony. Where detrimental practices have been identified, precise legislation should be sought to remedy them in the manner prescribed above.

Undoubtedly, progress will be made only where legislative reform goes hand in hand with a program of education. Nonetheless, the impact of law as an instrument for social learning should not be underestimated. Its prescriptive and injunctive character can compel a process of re-socialization in order to escape its sanction.

Education for Legal Reform

Laws do not come about in a vacuum. They more often are re-statements of customarily accepted rules of prescription and prohibition. Even where they are not, the effective life of any law depends on its acceptance by the people to whom it relates. Hence, it can be said that there exist under-currents of traditions, beliefs, prejudices, stereotypes and archetypes. It is these that are more difficult to change than the laws themselves. Were it not so, the establishment of equality would have been a relatively easy matter and the promulgation of a decree or law would have been enough to change the whole course of things.

Women's groups must be ready to embark on programs which aim at cultural re-orientation. It appears that women's organizations have contributed most in the area of organizing around legal reform. For instance, it is a cardinal objective of the NCWS to promote welfare, economic and social progress for women by emphasizing education and training. However such programs of re-orientation and education must

not address only one sex. It needs to be appreciated that differing strategies should be employed for each gender. Their attitudinal stances are derived from different bases. Traditionally, the male society has engaged itself in describing the female society, and it may be said of women that they have been mere imbibers of this "knowledge" about themselves.

Hence, for men, the programs should aim at over-coming previously held notions and the erroneous logic behind them. These notions have been described as more mythical than scientific. It is to this end that various programs are aimed at enhancing women's capacity to appropriately manage the socio-economic resources at their disposal. The success of this effort will help justify the mobilization for equitable access of women to socio-economic resources. Difficult as this task may be, it is a necessary prerequisite for the success of other strategies to improve the lot of women.

For women, programs should be designed to disengage them from unfavorable customary rules. A demystification of women's and men's roles and status will help women combat the fear of being stigmatized as "culturally-destructive." A discriminative culture or one inimical to progress has no justifiable claim to loyalty from women's organizations, nor from programs such as multi-purpose centers, handicraft centers, adult-literacy programs for women, workshops aimed at particular issues, etc. The Better Life for Rural Women Program has served to augment these efforts substantially.¹⁸ In the north, particularly in Kano State, the inaccessibility of some rural women, e.g., because of the "purdah" culture, has been overcome by the use of itinerant female instructors who teach these women in their homes. In fact, the education of women in purdah has been described as a "vogue."

The Family Law Center Scheme, which was developed by a group of women, has as the second part of its action program the education of the public.¹⁹ Because of its focus on the family, it aims at encouraging women to exercise their rights without neglecting their responsibilities. The scheme reaches a wide public by use of radio, television broadcasting, and press articles as well as the center's publications.

Education About the Legal System

Legal illiteracy is a paramount difficulty encountered in organizing around legal reform. As we stated earlier, formal laws are so shrouded in technicalities and legalese that they are generally incomprehensible to the grassroots people. In any case, the body of formal laws (with the exception of criminal law) hardly concern their daily activities, which are

more governed by rules of customary practice. Legal education strategies should be designed to de-mystify the law as well as the whole legal system. The contents of laws should be popularized by arranging for their translation into vernacular languages and wide dissemination. For example, the Family Law Center publishes booklets on legal rights in the four main languages of Nigeria and these are distributed freely to clients and others through the various women's voluntary organizations.

Media programs should be organized for the discussion of women and related legal problems. Posters, pamphlets and handbooks can be used to show women how legal policy is formulated, how it affects them and how they can influence the process of formulation for their own benefit.

Women's groups should mobilize around issues. FIDA has employed this strategy in its drive against drug abuse. Where there are on-going campaigns regarding particular issues, there should be organized public awareness programs by the use of slide shows, discussion groups, and sponsored publications in newspapers and other news media. All these activities facilitate organization around legal reform in that they increase popular support of the demand for change.

The effort of the Family Law Center Scheme to provide training for lawyers interested in family law is a commendable tool in the attempt to attack the problem of legal literacy. Volunteers from the Nigerian Law School are introduced to family law under the supervision and guidance of experts with the hope of grooming a crop of graduates interested in the field.²⁰

The goal of the scheme to extend its services to other parts of the Federation is yet to be fully realized, although it is worthy to note that a center has been fully established in Ilorin. In Cross Rivers States, a similar project has taken off under the auspices of the State Ministry of Justice. It has been reported by the NCWS that the Center's enlightenment program has found its way into some remote rural areas. Encouraging as this may be, it is yet unsatisfactory. For there to be meaningful results, rural areas must be reached as part of a strategized goal and not a chance happening. To this end, there are plans to establish Centers in Kano and Plateau States.

Similarly, it is recommended that the introduction of women's studies be encouraged. The government and women's organizations should sponsor their introduction in institutions of higher learning. A history of women and the law will popularize queries about the veracity of widely accepted notions of sex roles in society. It is laudable that in October 1989, the Center for Women's Development was launched in

Abuja with government support. The Center does not presently purport to be a center of learning, but, research and learning about women is encouraged under its programs.

The use of paralegals has found much success in some other societies.²¹

These are persons with basic legal training who can serve as community organizers and mobilizers for legal reforms as well as legal extension workers. As community-based workers they can serve as counselors to women on legal matters and can do much to diffuse the antithetical notions about the traditional lawyer-client relationship. To a large extent, the services of an Advisory Center are provided by the Family Law Center, but there are yet problems related to availability of services. It may be more effective to link up these quasi-judicial structures with the judicial system to help entertain matters of domestic nature.

The superior courts should be extended to the rural areas to facilitate recourse to them without unnecessary expense. It has been suggested in this respect that family law courts linked with the judicial system would help facilitate justice.²² The present supervisory role of the courts is elusive as the structures remain inconducive to women's social integration.

Legal Aid

A law is no law if its enforcement is unattainable by those it is designed to protect. In Nigeria, the cost of obtaining justice is not only socially high but economically unattainable for grassroots women. Unfortunately, they in fact make up the greatest percentage of the female population. Presently, legal aid does not exist for other than criminal matters.²³

Women should organize to provide legal assistance to their sisters in struggle for true emancipation. At present, there is no such scheme designed by the umbrella body or any of the various women's groups. Furthermore, the litigation of test cases (e.g., in areas of sexual harassment, police refusal of women sureties, etc.) should be pursued. A judicial declaration with accompanying penalties imposed will serve not only to dissuade infractions, but would reiterate governmental commitment to the protection of both males and females in society.

We must also struggle to pass social welfare legislation which facilitates getting justice and avoids the tedious and expensive legal procedures. For example, in Botswana, the Deserted Wives' and

Children's Protection Act has been passed whereunder it is possible for women to secure financial support from their husbands without incurring court charges.

Conclusion

When all is said and done, the struggle for women's emancipation is a struggle of women. The role of law as an exercise of political power is well realized. In order for women to successfully organize for overall legal change, it is necessary to address the issue of the nature of the organization needed to carry out the struggle. The experience of subordination as women is only experienced by women and it is only those who share in the experience who can be committed and effectively mobilize against it.

Hence, although most African governments including that of Nigeria have now established machineries and focal points for the advancement of women and their integration into their local and wider communities, women organizing for themselves as non-governmental bodies should not cease. One such governmental-stimulated focal point is the Better Life for Rural Women Program, which is the brain-child of the First Lady, Mrs. Maryann Babangida. The program is designed to mobilize rural women to participate effectively in the development of the society by motivating them to discover themselves and harness socio-economic resources at their disposal.

The program was initially greeted with mixed feelings although it can now be said (two years later) that it has gone a long way to improve the level of awareness of rural women. The program is organized at both national and state levels and is meant to be tailored to suit the needs and aspirations of the local society.

The program has received a great deal of support from the government and has provided it with a focal point to address the development of women. It must be warned, however, that the degree of government involvement, especially through funding, exposes the program to the danger of being tailored to government aspirations only.²⁴ But with the warning born in mind, women must go on and work with the government to bring to reality the goals of our struggle.

In organizing, elite women alone should not constitute the force. The organization can only succeed if there is mass support and active participation of all women. Educated and skilled women have ONLY the duty to teach others so they can participate. The relationship should be that of comrades, not one of patrons and clients. It is unfortunate

though that the latter position has bedeviled most attempts at organizing women for their betterment. We must remember that the female population is largely made up of grassroots women—over 90%.

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NOTES

¹See below for a discussion of what constitutes formal and informal laws.

²Examples are those of Madam Tinubu of Lagos and Efunsetan Aniwura, the Iyalode of Ibadan. These women, who in the earlier part of the century wielded considerable political and economic power, organized followers who were not necessarily women to pursue their own political and economic interests.

³The National Council of Women Societies in Nigeria was formed in 1959, the result of a merger of three voluntary women's associations into a federation of non-political women's organizations that assist women in the realization of their responsibilities to the community.

⁴Although activities involving certain individuals triggered off the wars, it cannot be said that any of these individuals played any significant role in organizing the women. Women appointed as representatives were so appointed not for any spirited leadership but for their capabilities as able spokeswomen. See "Nigerian Women Mobilized—Women's Political Activity in Southern Nigeria, 1900 - 1965" by MBA, E.N. (1982), particularly pp. 81-82. It is possible that the spontaneity of the reactions to tax imposition by the women account for the violent nature of most of their activities.

⁵Examples can be given of the International Federation of Women Lawyers (FIDA) Nigeria, Women in Business, Society of Women Accountants in Nigeria, Nigeria Association of University of Women, Zonta International, Inner Wheel Club, Soroptimist International.

⁶See keynote address by the First Lady at the meeting held on Monday 11th December, 1989.

⁷Section 39 of the 1979 Constitution of the Federal Republic of Nigeria guarantees the right to freedom from discrimination along sexual lines as well.

⁸"The Abuja Declaration on Participatory Development - The Role of Women in Africa in the 1990's" recognized that the legal structures of most African countries discourage women's integration in development. Action plans suggested to tackle the problem have been embodied in this discussion.

⁹It would appear that the struggles of the western counterparts of Nigerian women for civil and political rights were also struggles for Nigerian women. The effect of colonization was that when female equality and franchise were recognized for British women, the same automatically were extended to the whole of the Commonwealth. By the time of independence, the country could learn ably from the experiences of others and it very well DID learn.

¹⁰E.g., Rape, sexual assaults, abduction, prostitution, etc. For a discussion of the inadequacies of the procedural and substantive contents of the Criminal Law, see paper titled "Better Protection for Women and Children under the Law" presented by this writer at the National Conference on Better Protection for Women and Children held at Owerri, Imo State in October, 1989.

¹¹For an overview, see general paper on "Better Protection for Women and Children under the Law", *Supra*.

¹²Labor laws do not extend to labor expended in the micro-enterprises of petty trading, weaving, etc., 70% of which are run by women. Nor do they cover domestic and household chores of which women do almost 100% for almost 100% of their waking moments.

¹³That the lives of women are dominated by traditions in the developing nations is undisputed—see Abuja Declaration. See also publication by OEF International of the program on Women, Law and Development, "Empowerment and the Law: Strategies of Third World Women" (1986). ed. Schuler, M. The fear of being labelled culturally destructive still looms undesirably over women.

¹⁴See article on "Family Law Project in Nigeria" by Akande and Kuye in "Empowerment and the Law: Strategies of Third World Women".

¹⁵There was no female member of the Constitution Drafting Committee, headed by Chief F.R.A. Williams.

¹⁶Professor Jadesola Akande, then of the Nigerian Institute of Advanced Legal Studies, was a female member of the Constitution Review Committee set up to review the 1979 Constitution.

¹⁷The National Conference on Women was organized by the Federal Ministry of Justice, although it must be said that government involvement was brought about by the much of furor raised by women's organizations.

¹⁸See below for a discussion of the program on Better Life for Rural Women.

¹⁹The Family Law Center was established in 1984 in Lagos under the auspices of the Nigerian Institute of Advanced Legal Studies.

²⁰The Pilot Legal Center project was initiated under a group of women who constituted the initial planning committee.

²¹The Center, though headed by a man, Dr. Akinola Aguda, functioned with women supervisors—Professor Mrs. J. Akande, P. Kuye, M. Otukoya.

²²Students register at the Law School to undertake a one-year course of practical training in legal practice.

²³In Botswana and Peru, there have been successful experiments. See *Empowerment and the Law: Strategies of Third World Women*.

²⁴Abuja Declaration, *Supra*. In this respect the laudable achievement of women at getting the government to contribute to the funding of Center for Women Development at Abuja should be highlighted.

3

**Issues of Social and
Economic Inequality**

Tenga: Tanzania

Women's Access to and Control of Land in Tanzania

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Introduction

This paper seeks to concretize issues related to women's empowerment through the medium of a study of economic resources. The specific category of economic resources chosen here is landed property. In Tanzania, predominant forms of landed property are those related to formal documentary titles and those related to usufructuary or customary titles. It is in this area more than anywhere else that the woman in Tanzania may perceive her social powerlessness. The law reinforces and reflects this state of affairs sometimes in direct ways, as is the case with customary land tenure, and sometimes indirectly, as is the case with formal statutory tenures.

Through this study it is made clear that the dominance of patriarchal relations pushes the woman to a subservient position through various social structures, the law included. It is also submitted that there are open possibilities of turning this state of powerlessness towards a process of empowerment.

The first step undertaken is to lay bare the essential features of the land law in Tanzania. A short sketch of the Land Ordinance, Cap. 113, is given and basic tenure, that is, the right of occupancy, is discussed as manifested in Granted Rights and Deemed Rights. The position of women with regard to access and control of these rights is given and the problems which women encounter are elaborated. Since the elaboration made in the first part is of a general nature, a second section is necessary wherein these problems are concretized.

In part three, the paper deals with the situation of women in urban *vis-a-vis* rural areas. To understand their problems, the medium of two pieces of legislation is used. In urban settings the most valuable proprietary commodity is housing. Under Tanzanian law, the Rent Restriction Act of 1984 is the most ambitious housing legislation that affects the relationship between landlords and tenants. Disputes and

regulatory mechanisms that arise from this legislation clearly point out issues related to access and control of property. Due to time constraints, a brief study of cases in the leading Housing Tribunal is made enabling one to propose some tentative or working propositions towards the nature of the problems and their solutions. For the rural setting, the most valuable proprietary item is access to and control of farm land. The most ambitious social transformation of rural areas has been undertaken in Tanzania through the rubric of socialist "villagisation." Pathetically enough, customary land laws had been left intact. Since 1975, however, legislative attempts have been made that, in the final analysis, could transform customary titles to formal grants of rights of occupancy. The process has its possibilities and dangers for women. A short critique of two pieces of relevant legislation is given and the expected consequences therefrom are elaborated. The two laws are the *Villages and Ujamaa Villages (Designation and Registration) Act, 1975* and the *Local Governments (District Authorities) Act, 1982*.

In the conclusion the paper tries to give a summary of the main issues and points arising from the discussion. It lays emphasis on concerted efforts towards legislative reform, actions taken to raise awareness of women on property rights and their social status, and what can be done.

Land Tenure in Tanzania

Land in Tanzania is public and, as such, it is public property.¹ The state has dominant title over the land, a tradition with roots from the German Imperial Decree 1895, which declared all land as Crown Land in the then German East Africa. The British adopted the term Public Land, instead of Crown Land, in the Land Ordinance, Cap.113, of 1923. In the colonial periods, it was the Governor who was the custodian of Public Land and today it is the President.²

The system of land tenure tailored by colonial regimes was one which gave absolute control over allocation, use and disposition to the state. Individual rights were only valid subject to the approval or consent of the Governor. Consequently, individuals or communities could only hold usufructuary rights over the land. The Land Ordinance defines these rights as the "right to use and occupation." Ownership of land (in itself) is largely unknown. The freehold system of land tenure which existed in a truncated form from the German times was abolished in 1963.³

The land titles which can be held by any person in Tanzania are of two types: The Granted Right of Occupancy and the Deemed Right of Occupancy. The Granted Right of Occupancy is a direct grant from state authorities either by the President or by specified officials.⁴ Here usually the grant is a term ranging from one to ninety-nine years and a certificate of occupancy, subject to conditions, will usually be issued.⁵ There are four types of Granted Right of Occupancy: Agricultural, Pastoral, Mixed Agricultural and Pastoral Rights, and Rights of Occupancy for building purposes (residential, business, industrial services etc.).

Land use is regulated through conditions imposed in the certificate of occupancy.⁶ Where conditions are not followed, the Grant might be subject to revocation.⁷ Disposition of the Right of Occupancy is subject to Presidential consent.⁸ Consent is largely granted where appropriate developments have been done on the land, which means that dispositions *inter vivos* and intestate can be made as ordinarily accepted in the common law system.

The second type of a Right of Occupancy is the Deemed Right of Occupancy. This is the most common type of land holding in Tanzania. The indigenous population (termed as "Natives" in the colonial times) holds land under this tenure. The Land Ordinance⁹ assumed that Natives and native communities holding land before the commencement of the ordinance under native law and custom held that land under a deemed consent or grant by the state and as such they had a Right of Occupancy. Consequently, all customary land tenures are included and covered under this category.

Tanzania has about 120 ethnic groups with as many customs and laws. Their systems of land ownership, use and disposition are equally differentiated. The only distinction so far made is between land ownership norms of patriarchal agricultural groups *vis-a-vis* those of matriarchal agricultural groups.¹⁰ Pastoral ethnic groups occupy their own position. Land allocation in all these groups depends first on membership. Once membership is ascertained, it is possible to get a direct grant or in other cases a sale, lease, gift, etc. can be arranged.¹¹ Use is dependent on customary practice and so is disposition (both *inter vivos* and intestate).¹²

The position of women in relation to Landed Property is sociologically pre-determined. The control of property in Tanzania's indigenous community has been historically and largely the domain of men. The Bantu, who compose about 80% of the indigenous population, are largely patrilineal; only 20% are matrilineal. The rest, i.e., Nilo Hamitics—Masai, Datog, etc.—the Cushitic, i.e., Mbulu, Iraqw; and the Khoisan, Sandawe and other hunters and gatherers compose of 20% of the in-

digenuous communities and all of them are patrilineal¹³ (they recognize kinship through the father line.) Consequently, only about 10% of the total population is matrilineal and trace their kinship through the mother line.)

The tracing of kinship through the father's line also defines proprietary interests of the males within the kinship group. It automatically excludes females in the holding of property. A study of the Customary Declaration (Order 4) of 1964 clearly indicates this.¹⁴ There are certain residual interest which may be acquired by women, yet these are marginal.

The Position Of Women In Landed Property

The system of land ownership—allocation, use and grant as outlined above—clearly appears to be gender neutral. Consequently, theoretically speaking, no woman in Tanzania is excluded from the ownership of Granted Rights of Occupancy. Yet here is where the socio-economic setup which generally excludes women from control and ownership of property, specifically bars women from ownership of landed property. Rights of Occupancy were largely granted to settler farmers and urban dwellers since colonial times. History indicates that those who moved as migrant farm laborers were in most cases men, and so too were those moved to the urban centers. These areas were regarded as the public domain in the colonial period. The rural area and the peasant farm remained as the domestic domain which was the woman's place indirectly or directly owned by the man. Thus when opportunities appeared for grants of Rights of Occupancy these largely went to men who either were employed in large scale agriculture or who were already living in urban areas. Consequently, most of the land titles granted to urban workers, urban petty traders, and other urban dwellers were granted to men.

Overtime women followed men to the urban centers and today the population figures do show a balance between the male and female population in urban centers.¹⁵ Nevertheless women in urban areas face certain socio-economic hitches which operate against them in acquisition of statutory landed property.

First, the woman is still largely placed in a subordinate position within the sociological context of Tanzania's patriarchal setting. Once she is married, she loses her identity and subsumes it to her husband's. As such, in terms of ownership of property, only her husband's name is expected to appear in land titles; most married women, understanding and accepting this cultural trap, lose the initiative to acquire property or, where they do have the initiative, register the property as belonging to

their husbands as culture warrants. Young unmarried women expect to be married some day and may not bother to acquire real property since on one hand, the difficulties of a woman obtaining such property are immense and on the other hand, propertied single women "scare-off" men and as such stand to lose the opportunity of getting married. The older single women who do risk entry into men's property market face unsurmountable institutionalized segregation and must work through a set of complex hurdles as outlined below.

Second, the Granted Right of Occupancy is a formal title acquired through formalized procedures. An application for this right presumes a certain level of education which would enable one to write letters, answer correspondences—sometimes in English—and have a basic understanding of the operations of various institutions, e.g., the City Council's Land Allocation Committee, District Land Office, the Land Surveys Department, etc. It is a fact that the education level of the average Tanzanian woman is lower than that of an average Tanzanian man.¹⁶

Having been relegated to the domestic domain by the socio-cultural complex, women cannot grapple with public institutions properly. Therefore, illiteracy and ignorance operate against the average urban woman who seeks to acquire land.

Third, the acquisition of property carries with it certain financial outlays and future demands which make the ownership of real property less attractive to women. A granted Right of Occupancy is for development purpose. The average income level of the average urban woman is much lower than that of men. Consequently, women are at such an economic disadvantage that they cannot independently acquire Rights of Occupancy and subsequently develop the land. Financial institutions demand collateral for credit either in the form of property or adequate salary income—which more often than not women do not have enough of or at all. Furthermore, a majority of women are in the informal sector, and as such cannot meet the formalized requirements of credit institutions, e.g., a regular income, mortgageable property, permanent post office box number or address, etc. Consequently, women tend to shy off from investing their surplus income or time on landed property.

Fourth, the level of corruption operates negatively against women. Since their incomes are lower, they cannot afford the financial outlay required by corrupt officials. Often women fall victim to aggravated sexual advances from such officials.

Fifth, officialdom, largely dominated by men, more often than not adds nonofficial requirements for women. It has been the case that women are sometimes required to produce the consent of their husbands when they apply for a grant of a Right of Occupancy. At times women

are forced to register property in the name of their husbands. No where in the statute books is this required. A conspiracy of men, if we may be allowed to use the term, does exist here. A man is never asked if he has his wife's permission to acquire land.

Lastly, a plethora of other institutionalized hitches stand in a woman's way, especially those related to the cultural setting. For example, the mere fact that a woman cannot inherit landed property means that she cannot freely dispose of it without taking into consideration the dominant male interest in systems of kinship. In our Legal Aid Clinic, we have a case where a woman died intestate leaving a 17-year-old daughter. The male brother of the deceased woman appeared in Dar es Salaam Primary Court to claim two houses from the deceased's estate, completely ignoring the daughter. Apparently this did not appear as absurd to the court personnel. Facts like these do discourage women from entering into the ownership of landed property. A case study of Tenancy Housing in Dar es Salaam reveals certain imbalances and pinpoints some interesting information regarding control of property by women in housing. This study will be presented later below.

The legal regime of customary land tenure is manifestly patriarchal. It is a notorious fact in most literature that legal rights in patriarchal tribes are assigned to family, lineage, clan or tribal representatives who are men. It is also notorious that the woman is relegated to the domestic domain and is, in most cases, a private laborer in her husband's estate. As seen above, the rural areas in Tanzania, where the greater majority of women live, are subject to that patrilineal system and customary land tenure.

Customary Law and Land Rights

At the level of statutory provisions, an attempt has been made in Tanzania to codify customary law relating to patrilineal tribes. This was done through the Local Customary Law (Declaration No. 4) Order 1963.¹⁷ An analysis of these rules concerning the law of persons and inheritance indicates clearly the subordinate position of women in the Tanzanian Society.

First, at the level of ownership of property, the declaration distinguishes between clan land, family land and self-acquired property.¹⁸ It is only the last category which apparently gives a woman the chance of owning property. This may relate to the negligible category of domestic chattels - e.g. pots, mats, pestles and mortars, grindstones, baskets; etc. In some ethnic groups a woman might own some livestock through dowry arrangements or through commercial exchange. Much as some

of the landed property might be "self acquired," generally by clearing virgin land, no research has been carried out to find the position of women. It is nevertheless possible to speculate that whatever "self acquired" land that women get, it is often taken to belong to their husbands, especially where marriage is patriarchal. Again the technical division of labor which often assumes that it is men who clear virgin land, militates against women opening up new land that will be considered self acquired.

Second, at the level of succession or inheritance to property, women are ill-considered. The declarations provide for a three degree system.¹⁹ The first degree is the eldest son of the most senior wife. The second degree is all other sons. All daughters are in the third degree. Division of property is in diminishing order. Most of the landed property goes to sons. This is the family or clan land. The self acquired landed property of the deceased may be granted to daughters. In rare cases this actually happens. Where the deceased leaves daughters only, it is the clan members who inherit the landed property. The widow has no say and case law has been very emphatic on this. In the case of *Iddi Ali s/o Mpate*²⁰ it was ruled that,

... a wife does not acquire property simply because she contributed labor in developing it and therefore she gains no inheritance there on ... and further that it is a duty of a wife to help her husband in his employment whether it be cultivation or shopkeeping or any other lawful engagement. In doing so she is not counted as a partner in the property earned unless there was a special agreement to that effect

Judicial opinion sometimes has tried to be more liberal in favor of daughters. For example in the case of *Ndewawosia d/o Ndeamtzo v. Imaneul s/o Malasi*²¹ Judge Agustino had this to say,

... now it is abundantly clear that this custom which bars daughters from inheriting clan land and sometimes their own father's estate, has left a loophole for undeserving clansmen to flourish within the tribe. Lazy clansmen anxiously await the death of their prosperous clansmen who happens to have no male issue, and as soon as death occurs, they immediately grab the estate and mercilessly mess up things in the dead man's household, putting the widow and the daughters into terrible confusion. These men are not entitled to take the property towards the acquisition of which they have contributed absolutely nothing, when the deceased's widow and

daughters require it for their own use and enjoyment. The question of clan land would not be a problem if it were empty land. But here one finds that the land has been extensively developed by the deceased, a good house has been built on it and there are coffee trees and bananas and other permanent crops planted thereon by the deceased with the help of his wife and his daughters for his family's benefit. Then all of these are to be snatched from the widow and unfortunate daughters by undeserving clan members on pretext that clan land should not be inherited by females

Although this judicial decision is a welcomed development, its precedent value is apparently minimal. It is a decision which was not consistently followed, at least on record.

Again in some quarters it is argued that the decision is wrong or *per incuriam* since it is against a statutory provision. According to customary rules of inheritance where there is a failure of male issue it is the clansmen who inherit the landed property. It is also possible to say that Justice Saidi's position has not been followed because patriarchal attitudes prevalent in Tanzania's socio-consciousness tend to reinforce patriarchal rules and exclude women's rights in the process. No conscious effort has been undertaken to follow Judge Saidi's landmark decision.

It is evident from above that in the rural areas in Tanzania a social system based on patriarchal kinship relations is supported by a system of law which is patriarchal, hence the legal system is not gender neutral. The rural woman thus faces a social and legal system which excludes her from property relations while her urban counterpart only faces certain socio-cultural attitudes and structures which are at best informal since the formal structures and property law are gender neutral. Therefore in terms of immediate empowerment the fluid urban situation offers better opportunities for women initiatives than rural areas. In saying so we do not mean that no opportunity exists at all in rural areas since through universal education, political ideology, migration, development of cash economy and individualistic tendencies thereby, the patriarchal kinship system is gradually breaking down. It is also important to note that Tanzania has taken a massive reorganization of the rural areas through the villagisation process. The significant change which will occur here is that interests in landed property will no longer be based on tribal, clans, or family authority, that is the kinship system, but rather on the territorial unit, that is, the village council or government.²² The allocation of land will no longer depend on membership in kinship unit, rather

it will depend on membership in a village where any adult person (18 years old and above) is regarded as a member. And the law provides that each member of the village, men and women included, is entitled to a fair allocation of land.

This means that even in the rural areas, property law is in the process of being transformed to be gender neutral just as urban areas. These changes may sometime in the future bring the rural areas into a situation similar to that in urban areas in terms of property relations but obviously here the process will be much slower. As such, at present short term strategies might bear quicker fruits in urban settings than rural settings.

Urban Land Rights

The law relating to landed property affects urban women differently as compared to rural women. It is possible to see this by a brief analysis of a category of property law in urban areas in Tanzania mainland and of another category of property law in rural Tanzania. We shall deal with an analysis of laws related to land ownership in villages.

The Dar es Salaam Regional Rent Tribunal is one of the Regional Housing Tribunals established under the Rent Restriction Act, 1984.²³ This Act regulates and makes provisions for matters incidental to the relationship of landlord and tenant in the area of housing. It is a regulatory statute which seeks to mediate between the landlord and tenant, who in most cases is overcharged in terms of rent and often faces arbitrary eviction. The Act makes provision for a method of assessing a legal rent known as "the standard rent" and parties to the lease are not expected to exceed it.²⁴ Furthermore, the Act provides for conditions under which the landlord may evict the tenant through recourse to the Tribunal.²⁵ Again the Act imposes certain rights and duties which are implied in the lease agreement whether the parties express the terms or not. For example it is the landlord's duty to repair and he must also not annoy tenants or harass them by cutting off essential services or he might face criminal charges. Both the landlord and the tenant cannot contract out of the Act; they are strictly bound by it.²⁶ The watchdogs for this system of rental housing regulation are Regional Housing Tribunals. They are quasi judicial Tribunals given specific powers under the Act.²⁷ Parties appear before them for a variety of orders, i.e., consents, assessment of rent, etc.

From the above narration, it is quite clear that the statutory regulation of rental housing is very tight. But due to a shortage of rental houses, tenants often collude with landlords to break some provisions

of the Act provided the tenant gets the premises and the landlord gets his rent. However as soon as they agree, a myriad of problems occur. The landlord does not repair the premises, the tenant misuses the premises, e.g., by keeping livestock, and sooner or later due to inflation, devaluation or just re-evaluation of the property due to increasing demand, the landlord demands a higher rent which is unacceptable to the tenant. Consequently, in many cases, the parties find themselves in the Housing Tribunal which they had avoided in the first place. A study of cases appearing in the Tribunal provides a very fair indices of property relations in a city like Dar es Salaam. From the nature of cases brought before the Tribunal, one can see how property interests are articulated and derive some insights on the relationship of control of property between landlords and landladies. It is also a fair index on the proportion of ownership of landed property in urban areas between men and women. Definitely a much more thorough study of the Land Registry and the District Land Offices could yield a fairer picture of the sex ratio in terms of ownership. But this would have taken much more time and a short study of this "crucible of conflicts" in the Housing Tribunals appears to be quite indicative and does support some tentative theses and ideas advanced in this paper.

The data collected at the Tribunal covers a twelve-month period, from November 1988 to October 1989. The cases which were brought to the Tribunal were of eight types. They included Recovery of Compensation (including refund for repairs), Claims for Vacant Possession, Restraining from Eviction, Actions against Harassments, Assessment of Standard Rent and Approval for Letting.

In the period under review, the number of new cases filed were 492 and the number of cases disposed of were 291. Out of the 291 cases disposed of 55, concern women landlords giving a rough correlation of about 19% to 81% between cases involving women owners and men owners, respectively. However, the backlog of undecided cases is quite revealing. The period begins with a backlog of 821 cases and ends with a back log of 1,047 cases. Therefore there is no direct correlation between cases filed during the year and those disposed in the same period. However this concerns a management problem which may be dealt with elsewhere. What is useful here is the ratio between applications involving men owners and women owners, which is about 4:1 and which means that if this ratio reflects rental housing ownership, women own about a quarter of the rental housing.

Of the eight categories mentioned, a majority of cases disposed relate to vacant Possession and Restraining from Eviction Claims. A Vacant Possession Application is usually a case brought by the owner of

the premises. In the period under study, 178 Applications disposed by the tribunal related to Vacant Possession. Thirty six of these Applications were brought by women owners. Again a correlation of 20%: 80% is apparent. The Tribunal granted 87 Applications, of which 20 involved women owners. It dismissed 50 Applications, of which 20 involved women owners and 41 were settled out of court or withdrawn; 5 of these involved women. For both applications granted and those dismissed, the correlation of 4:1 is still roughly maintained except for settlement out of court where the correlation is about 5:1. A similar scenario appears in the case of Applications which were disposed by the Tribunal with regard to Restraining from Eviction. This is an Application which is brought by the Tenant against the Landlord. The Tribunal disposed 63 Applications, of which four involved women owners. It dismissed 26 applications, three of which involved women, and thirteen Applications were settled out of court or withdrawn, three of which involved women owners. However, the correlation is not very uniform. Nevertheless it is quite clear that women owners are not sued as often as men against unfair eviction.

Generally, in terms of access to property, the data indicates that women owners are in the minority, at best 25% of the total owners. Yet, in terms of control they do manifest the same qualities as men owners which shows that given the same economic capacities, women could be equally strong economically. For example, in Eviction Actions, women evict tenants as often as men. In fact women owners do not even settle out of court or withdraw as often as men. It might be possible that a woman litigant comes to the Tribunal as a last resort and therefore has no recourse outside the Tribunal. Experience with the Women's Legal Aid Clinic indicates that most of the women who opt for litigation have tried to settle the dispute informally through family, neighbors, friends, community elders (ten cell leaders), the Party Branch, the Church, etc. and this might not be the case with male owners. Another fact which invites speculation regards familiarity with proceedings and ability to prosecute cases by themselves. The data on women owners indicates relatively higher ability to prosecute cases, but this might be misleading when one considers that property owners are much more familiar with public institutions.

A landlord is familiar with land offices, revenue offices, local government offices, etc. and may have the financial resources to get assistance. This may hide the truth concerning women tenants. These often compose the most underprivileged group in urban housing. The Women's Legal Aid Clinic has had cases where women litigants have had matters decided against them due to absence from the court while they

were actually present in the vicinity only that they did not know either the court room they were supposed to go or could not read the case list or could not know whether they should be inside or outside the court room. Thus a clear case can be made for women professional groups such as lawyers to give organizational or logistical support to other women. The formation of Women's Community Centers where community services specific to women's needs are to be offered, might be a major step towards empowerment. Women lawyers can offer professional services to other women through such centers.

Village land in Tanzania is covered largely under customary land tenure. It has therefore all the shortcomings of patriarchal land tenure discussed above. It is noteworthy that since the late 60's Tanzania had resolved politically to transform rural communities into modern socialist entities. The strategy was rather simple. According to Presidential Circular No.1 of 1969, rural transformation was to be carried out through state farms and communal villages. State farms would be the large scale modern farms which would use all modern scientific advances in agronomy and management, while the villages would be based on small-holder peasant farming which over time would be transformed to large scale farming through collectivization. State farms were thus to be a model for future village-based agriculture. It was expected that once villages acquired the modern status, then state farms would be transferred over to village ownership. Collectivization was to be voluntary, and organization of the village economy was to be based on principles of self reliance.

Unfortunately the record of large scale state farming is very poor in Tanzania.²⁸ As for villages, success was also not forthcoming, so by the early 70's, party and government launched the notorious "operation villages" whereby peasants were compelled to move *en-masse* into villages. This was a radical departure from the voluntaristic principles enumerated in the Presidential Circular. New lands were opened in nontraditional areas. Land was allocated anew and families had to move to the new lands for clearing and developing the land. There was thus no social-cultural linkage between the ownership system based on kinship principles and those in the new village organization based on territoriality. An opportunity presented itself for the breaking up of the old customary land tenure system and the establishment at least of a gender neutral system of land tenure.

An act was passed in 1975 to consolidate the organization of villages and Ujamaa villages system. This was the *Villages and Ujamaa Villages Act (Registration and Designation Act) of 1975*. Under the Act, a village could be constituted when families composing 2150 homesteads (kayas) were

living together. These formed the village assembly composed of all adult members of the village, both males and females. The village assembly elected the village council which was to be the village government. This council was given corporate personality. It could hold property and act legally as a natural person. As far as land ownership was concerned land for the purposes of the village was to be allocated to the village by the District Council. After such allocation, the sub-allocation to the villagers was to be the responsibility of the village council. Even the structural patterns of farms in the village and the amount of reserve land were to be determined by the council. No specific tenure was recommended for an ordinary village which meant that ownership systems as practiced by dominant ethnic groups in the area replicated themselves in the village set up. No serious attempt was made to discourage the continued application of customary law.

For Ujamaa villages which were supposed to be more socialist than ordinary villages, Section 9 of directions made under the Act provided that the village council had to obtain a right of occupancy for 99 years which meant in theory that customary tenures would be extinguished once that grant were made. Since individual property would be marginal, it could be assumed that all male and female village members, were to become communal owners of village property and land.

Yet since no, or very few, villages actually attained this Ujamaa village status, it would be totally speculative to guess how the gender neutral tenure would have operated for the benefit of all. In certain cases, ordinary villages have acquired right of occupancy for all the land under the jurisdiction of the village council. Yet this has posed several operational problems. First, the granted right of occupancy is a term limited at most to 99 years, theoretically after 99 years it must revert back to the President, meaning that the village could no longer hold land in perpetuity. Further more, granted rights of occupancy are theoretically subject to conditions, breach of which are subject to revocation. They are subject to rent and the ultimate control of the Commissioner for Lands. It is not even clear how customary titles are to be extinguished. Once village land is subject of certificates of occupancy; is the land to be redivided? Is the village council supposed to issue subtitles? Or keep a village registry? Could village land be mortgaged to a nonmember? For example, if a member of the village mortgaged his ten acre farm to secure a bank loan and failed to pay the sum, could the bank enter into possession and by virtue of that become a member of the village?

In 1982 a new Local Government Act was enacted under which the former village structure was incorporated after the repeal of Villages Act. At the same time, a policy paper was issued indicating new direction in

terms of land ownership and development different from the earlier socialist policies. (See the Agricultural Policy of Tanzania, 1983). First, at the village level, it is recommended that a new system of tenure be introduced whereby the village council would be granted right of occupancy for 999 years, which is almost in perpetuity. The village council will have the responsibility of allocating to each village adult member a derivative lease of up to 99 years. These titles can be subject to disposition by sale, mortgage, lease or otherwise, provided the consent of the village council be obtained. Second, within the period from 1982 to date, there has been a noticeable rush for village councils to apply for granted rights of occupancy. Now since most of the rural areas are divided up into villages, and since in the near future all these villages will get Grants of Right of Occupancy, customary tenures will be abolished and land will be open for consolidation, redistribution, issuance of new titles, etc. In view of this fluid and uncertain situation which is developing towards a gender neutral land tenure, the position of women appears at once precarious and hopeful, depending on what position women undertake to influence these developments.

The position of women is precarious in that land under village jurisdiction composes more than 90% of rural land. Thus it affects the majority of women in Tanzania. Once customary tenures are extinguished, the property becomes gender neutral in theory but becomes the absolute domain of the male owner in practice, and may be disposed of at will without the limitation imposed by customary law. This may happen due to the fact that the heads of homesteads in the villages are often taken to be the man; since land allocation goes to homesteads, it is the head of the homestead (the man) who would be the registered owner, whether present or absent in the villages. This is irrespective of the fact that women in the villages have done abundant work in opening up and developing new lands and are presently, together with children, the main laborers. Thus, there is a great possibility that the re-division and re-allocation of property under the new formal tenure will totally disenfranchise not only women but also children in rural areas. The woman is relegated to the domestic domain and it would be very difficult for her to interact with public authorities to seek allocation of land in her own name. The same might apply to any attempt to apply credit for development.

Strategies to Improve Women's Access to land

Nevertheless, on the hopeful side, this scenario is full of possibilities. Statutory land is used to break the backbone of the customary tenure and tradition; allocation of land is now based on a state organization, the village council. Legally, every member of the village is entitled to land. Attempts may be made at both levels to affirm the gender neutrality of the changes in the law. Legislatively, clear village procedures must be set up whereby the village council will understand its role in land allocation, control of land use and control of dispositions. New gender neutral rules of succession must be enacted to prevent a patrilineal system of inheritance from growing. Simple land surveying techniques and land registry documentation formats must be modelled for village councils to record land allocations and transactions. In this, women lawyers can be very instrumental in assisting parliamentary draftsmen in drafting the appropriate by-laws and rules. Politically, it is noteworthy that while this process of disenfranchising the woman in rural areas is going on, women political leaders are not fully informed. It is important to formulate strategies of informing political leaders including members of parliament to give emphasis to the gender neutrality of the new developments. This may be done while at the same time showing how traditional law has operated negatively against the majority of the population in terms of property ownership. Women lawyers may play a positive role in briefing political leaders, seeking out administrative action and assisting concerned women to forward petitions and other documents to concerned authorities.

Lastly, the question of education also comes forward in the sense that it is the rural woman herself, once she is made conscious of her rights, who can best struggle for those rights and defend them. Educational materials informing the rural woman of these rights in property and how the law can assist her is part of the process in empowerment. It is definite that women lawyers through legal aid camps, legal literacy, etc, may assist in these cases. In doing so it must be appreciated that the obstacles operating against rural women are much heavier than those of the urban woman. Her education is much lower and traditional kinship systems are more operational in rural areas -holding the woman down. There are fewer opportunities to assert themselves and few models to give positive examples to those who wish to change social structures. Urban strategies for empowerment must differ radically from those of

the rural areas. We are relatively more familiar with urban areas and find it easier to work there, but, much more sophisticated methods are needed for rural areas and these require further research and study.

In her introduction to *Empowerment and the Law: Strategies of Third World Women*, Margaret Schuler isolates three key issues around the problem of the inferior legal status of women. First, the laws in themselves might be unjust or discriminatory, thus limiting the right of women. Second, the application of the law even when adequate, is often arbitrary or prejudicial towards women. Third, ignorance amongst women on their legal status, their rights, the effects of laws on them or even the fact that they are objects of injustice tends to reinforce this inferior legal status on women.

Our treatment above of landed property rights in Tanzania acknowledges the centrality of these three key issues, as identified by Schuler. The granted rights of occupancies do operate on a gender neutral basis, therefore issue No.1 is not central to this type of property. Yet we have observed the socio-cultural complex which renders the law arbitrary and prejudicial and the fact that women are unaware of their legal rights. Therefore, issues No. 2 and No.3 are central to the granted right of occupancy, its gender neutrality notwithstanding. Whereas with regard to the deemed right of occupancy that is, customary land tenures, it is quite apparent that property laws are unjust and discriminatory. It is contended that a majority of women have only a vague awareness of their legal status and others are totally unaware that they are objects of injustices. Consequently, strategies of empowerment must depend on the conception of issues by all the participants.

For women in urban areas the program of action cannot be very different in essence from that advocated by the PILIPINA Legal Resources Centre concerning legal acquisition of property in the Philippines.²⁹ Education is necessary for heightening the awareness of women's legal status and the cultural mechanisms which continuously marginalize them. In the process they might be able to conceive by themselves methods and strategies to overcome the limitations already articulated. For example, in our discussion we have not pointed out that the hurdles against women's access to property are due to extra legal requirements which might be rendered irrelevant if collective action were undertaken by women's groups. Further more, the landed property ownership imbalance might only be rectified through socio-economic resources which are not directly available to women. Action might be undertaken in providing logistical support to women in securing land, arranging for mortgages, drawing up leases and providing advice for the control and disposition of the same, which means that women's legal aid centers

might play a very positive role in this urban setting. There is no systematized strategy in Tanzania at this level. Further studies and mobilization are necessary.

For the rural areas, the problem is much more complex; it is obvious that the customary property laws must be completely overhauled. This must include policy and legislative changes which require broader organizational initiatives that cannot be the responsibility of lawyers only. Women lawyers might provide support when it comes to the drafting of new laws that embody women's conception of progressive property law.

Again the issue of education, e.g., literacy programs on property rights, is relevant for rural areas. Pilot studies are needed to determine how the socio-cultural complex might be broken through education to reach the rural woman. In Tanzania, there are experiences in legal aid camps, media campaigns, training of paralegals etc., which are in their infancy and uncoordinated but might provide a useful starting point for coordinated actions.³⁰

For the rural areas, it is also important to directly intervene in the legislative process presently under implementation. The villagisation process and consequent land registration might totally disenfranchise women. Quick action is needed for pressuring government agencies to make it clear that allocation and disposition of land at village level must be gender neutral *de jure* and *de facto*. Here is where the importance of building effective grass-roots women's organizations, training women activists and women's networks become the most basic ingredients of any strategy for empowerment in the rural areas; since it would be impossible for small groups of elite professional lawyers to lobby for these changes, pressure the government, and then follow up the implementation of legal reforms without effective support from the grassroots and other networks. It is possible to use the existing structures of Umoja wa Wanwake Tanzania (UWT) to save time and expense, but the enormity of the task clearly calls for a much more definitive program than what is presented here. A broad plan on research, identification of issues, programs of action and awareness is necessary.

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NOTES

¹S.3 of Land Ordinance, Cap. 113.

²S.4, *ibid.*

³Freehold titles (Conversion to Government Leases) Act 1963.

⁴S.6, 9 and 12 of Land Ordinance, Cap 113.

⁵S.3 of Land Regulations of 1948.

⁶S.7 of Land Ordinance, Cap. 113 and Land Regulations of 1948.

⁷S.10 of Land Ordinance, Cap. 113.

⁸S.3 of Land Regulations of 1948.

⁹S.2 of Land Ordinance. See definition of "Right of Occupancy," "Native," and "Occupier."

¹⁰R.W. Jones and G.M. Fimbo, "Customary Land Law of Tanzania: A Source Book," Nairobi: ELAB, 1973.

¹¹See R.W. Jones and G.M. Fimbo, *ibid.*

¹²Local Customary Law (Declaration No.4) Order of 1963 for Patrilinear Tribes.

¹³John Iliffe: A History of Modern Tanganykia (Cup, 1979).

¹⁴Paper by N.L. Tenga (unpublished): "The Law of Succession in Tanzania: Women's Position under the Customary Rules of Succession," (1988).

¹⁵Government of Tanzania: "Preliminary Report on Population Census" (1989).

¹⁶Tanzanian Government: "Situation of Women in Tanzania" (Government Printer, 1988), pp. 15-37.

¹⁷Government Notice No. 436/63.

¹⁸Rules 20-31: Local Customary Law (Declaration No. 4) Order 1963.

¹⁹Rules 21-25, *opp. cit.*

²⁰1967 High Court Digest, Case No. 49.

²¹1968 High Court Digest, Case No. 127.

²²Village Act 1975 and Local Government Act of 1982.

²³SS. 8-12 Rent Restriction Act 1984.

²⁴S.17 *ibid.*

²⁵S.25 *ibid.*

²⁶S.46 *ibid.*

²⁷S.12 *ibid.*

²⁸See Coulson A., "The Evolution of Rural Policies in Tanzania" 3 RAPE 53-58 (1975) and P. Raikes "Ujama Vijinini and Rural Socialist Development" 3 RAPE (1975).

²⁹Emelina Quintillan, in Schuler, *Empowerment and the Law: Strategies of Third World Women* (OEF International, 1986, USA).

³⁰Association of Women in Media and Legal Aid Services.

4

**Combatting Violence
Against Women**

Stewart: Zimbabwe

Badri/Badri/Badri: Sudan

Educating to Change Attitudes about Violence against Women

*Sheelagh Stewart
Harare Zimbabwe*

Musasa: Project for Zimbabwe

Musasa is the Shona name for a type of tree characteristic of the bush in the Zimbabwean Highveld and also means "a temporary shelter". The Musasa Project was set up in May 1988 to take action on the problem of violence against women in Zimbabwe. The project works through counselling and support work, consciousness raising, public education and training. Training programs are for Musasa's own support workers and others concerned with violence against them.

The aims of the organization are to empower individuals who have been raped or beaten and to mobilize the community on these issues. Musasa is a non-governmental organization of Zimbabwe. However Musasa does have the official approval and support of the government through the Ministry of Women's Affairs and through the Zimbabwe Republic Police.

The Debate About Empowerment

Groups concerned with the issue of violence against women the world over have hotly debated the issue of where their focus of energy should be. Many have argued that the education and empowerment of women who have and will survive violence should be their only focus, while others have argued that it is better to focus on the people and structures that actually have the power to change things within a given society. The position we have arrived at in the Musasa Project is that any activity we do has to contain both features. Therefore, our organization has a joint objective of empowering "individuals who have been raped and beaten" and mobilizing "the community on those issues." This broad conclusion has led us to a specific educational position.

We believe that public education is crucial, but that in certain circumstances, to educate only one section of a given community can have consequences which are not ideal. This is best illustrated by a possible scenario.

The rural areas in Zimbabwe are characterized by lack of access—lack of access to a telephone, to transport, to the nearest police station or clinic or city. A school's education program which exclusively educates school students in such an area, therefore carries with it certain problems. For example a school girl having recently been involved in such a program is raped and, aware of her rights, reports to the nearest police station. The police, however, are not interested in her rights and become angry as she thumps the desk in the charge office demanding "her constitutional rights as a Zimbabwean citizen." They eventually accuse her of being a prostitute and send her away, doubly humiliated, disillusioned, open to the disapprobation of her community and with no protection from further advances on the basis that she is a prostitute.

What we would rather see in such a community is an educational process which involves all of the key personnel in that particular community as well as the school students, so that in future the community can sustain its own educational program and anyone who has to deal with domestic violence or rape makes approaches for assistance in an aware and sympathetic community.

If we are to sum up this approach we would say that our program of education for empowerment is based on a belief that synthesis produces empowerment. This is illustrated by the diagram below:

Educated Rape Survivor

Makes a Report to Educated Policeman/Woman

Synthesis

Empowerment (The Capacity to Mobilize

Resources to Produce Beneficial Social Change)¹

A united consciousness and action of social forces such as the police, legal official, health workers, social welfare officers and rape or domestic violence survivors will act to produce beneficial social change. Another point in favor of this type of emphasis is that it shifts the emphasis or responsibility. From the second a rape or incident of domestic violence happens, the emphasis is on the women concerned:

You shouldn't have been wearing that miniskirt;

You should have had your husband's dinner ready;

You should have tried to escape;

You shouldn't have argued back;

and so on. The list is endless and intensely familiar to most of us. In among this list come the empowerers exhortations:

You should take control of your own life;

You should stand up for your rights;

You should report the case to the police;

You should leave.

The exhortations of both accusatory and sympathetic parties must sometimes feel indistinguishable to the rape or domestic violence survivor. The type of community education we use shifts the responsibility to where it belongs: to the perpetrator for committing the crime and to society for allowing it to happen. We believe that this in itself is a consciousness which is very empowering for women. It is very important to note that we do not negate the value of individual non-directive counselling—we use it ourselves—but we believe that this sort of empowerment can be augmented and increased by community education programs.

Of course the most difficult thing about this is how to educate in a community which doesn't yet share the same perspective as we do on the issues of rape and domestic violence. We work with three stages of community education which we illustrate as follows:

Musasa Project Public Education Program General Scheme

Stage 1 - Consciousness Raising: dealing with the issues, sensitizing participants on rape and domestic violence.

Stage 2 - Counselling Skills: how to counsel people who are the victims of domestic violence and rape;² information on referrals, etc.

Stage 3 - Practical Issues and Strategies: how this particular group can themselves practically assist with the problems of domestic violence and rape.

The rest of this paper consists of an illustration of practical educational strategies at the consciousness-raising (stage one) level which can be used with an unsympathetic group. We have used the Zimbabwe Republic Police as the model for this case study not because they are particularly unconscientized—on the contrary they have shown themselves in fact to be very concerned about the issues—but because to date we have done our closest and most extensive work with them. The history of our contact with the Zimbabwe Republic Police is that we have

been very closely linked with them since our inception. We were originally approached by senior members of the Police Community Relations Section because they were felt that there were elements in the force who needed training on these issues and further that we were equipped to assist with this training.

Methods of Educating for Empowerment

The whole methodology of this type of education is based on asking ourselves a series of questions about the participants and having clear objectives of what we wish to communicate. The asking of the questions begins a process in which we the educators empower ourselves with an understanding of the choices that the audience has. The effect of this is best illustrated by an example—if we stand in front of an audience of policemen knowing that they have a huge capacity of resources which they could mobilize on behalf of rape survivors and focus our energy not on telling them what they do wrong, but getting them to tell us how crucial and important a role they could play, this is going to affect the educational approach immensely.

The Questions

Question 1. *Can the participants be part of the solution?*

The answer to this is presumably "Yes." (If it's "No," the next question is well what are we doing here?) It's worth dreaming on a bit here—in an ideal police force how would a rape survivor be dealt with? This gives us a sense of what can be achieved in this process and anyway, it's the last chance to dream because from this point on, any thought that's not tangible, strategic, concrete, achievable and absolutely practical should be thrown out.

Can the police be part of the solution to the problem of rape? The answer is of course a resounding "Yes," They are in fact crucial in many different ways:

- They can provide the initial counselling and information on what the woman's legal position is.
- They can reduce further trauma surrounding the rape by explaining exactly what the pending medical and legal procedures are.
- The conviction of a rapist depends to a large extent on how carefully the police take the initial report.

- The police can ensure that the initial interview of rape complainants is sympathetic, private and takes the complaint seriously.
- They can ensure the prompt action and efficient investigation which a) removes the rapist from circulation and b) indicates to would-be rapists that rape will not be tolerated—an attitude held by many researchers to be crucial to the eradication of the crime rape.

Once we have grasped the potential of the group of people in front of us it is appropriate to tell them so. Not to tell them the details for what they can do, but tell them that they are crucially placed to do it. For example we would begin a workshop with the police by saying something along these lines.

"We consider it to be a privilege to be here talking to you, because we feel that you play a very important role. You are in a position to do things and to help in a way that we never could."

Question 2. *What are the problems?*

The next task is to tease out what the actual problems are, and what lies behind these problems in order to be able to devise educational strategies that can deal with the problems.

Example—Location of Problem Areas –The Police

- At the level of the initial report, the police may act as judges and begin interrogating the woman about whether she knew the alleged rapist, where she met him and so on. If there is any suggestion that she knew him at all or that she met him at a disco, the police will dismiss the case at that point informing her that what happened was not rape.
- If they decide to take the report, the police may be either unaware of or refuse to tell a woman her rights in respect to rape. Often this takes the form of refusing to take a report at all and telling the woman that her experience "was not a rape."
- They may be unsympathetic, judgmental and amused by the proceedings, thus traumatizing the rape survivor even further.
- There may not be the space or they may just refuse to interview the woman in private.
- They may not take the report seriously, which means that they will not investigate the case seriously leaving the individual rapist at large where he can repeat the rape. Cases of a rapist repeating an attack because the woman has made a report to the police are not unknown. In addition, this slack investiga-

tion of rape cases leaves the impression in the minds of both rapists and would-be rapists that they can get away with rape whenever they want.

The Attitudes

The next stage in this enquiry is to ascertain what attitudes underlie the actual problems. This is crucial because it is only if the attitudes are clearly understood that educational strategies can be as finely tuned as they need to be in order to meet the audience at the place where they find themselves. Below are some of the most common attitudes which we have encountered.

Rape is something which happens in dark alleys and is caused by sexual frustration.

The popular conception of rape is that it is something that happens in dark alleys. The rapist is seen as a pervert who is always unknown to the woman whom he rapes. This is a strong belief which persists even in the light of statistics and evidence to the contrary. A recent experience of the Musasa Project in this regard was that while cooperating with another organization which wanted to run a workshop on rape, a member of the Project discovered on the agenda a section on "sexual perversion." On enquiring further we were told that in this section the educator was going to cover the topics of bestiality, homosexuality and rape! Quite a lot of fast talking was necessary to persuade the educator that this was not a particularly good approach as it meant that "rape" could be seen as a problem to be dealt with by punitive measure alone and not by education.

The attitude that rape is caused by sexual frustration is graphically illustrated by an article which appeared in the *Sunday Mail* of September 8, 1985 entitled "Rape cases on the increase." This article was based on an interview with the Bulawayo Regional Magistrates (Bulawayo is Harare's second largest city.) "Sex is very readily available in this country and it is difficult to see why so many people turn to rape. But I suppose this is a problem for the sociologists to sort out," Mr. Cherry said."

It is interesting to note how closely the legal fraternity reflects the attitudes prevalent in society in the law and in both official and *ex-officio* statements of various legal professionals.

Rape is caused by women who wear miniskirts, smoke, have perms, walk alone at night, attend nightclubs, wear trousers, etc. Such women ask for it.

There is an all pervasive belief in our society that rape is caused by women who dress provocatively. All of the items in the list above are seen as "provocative" because in most Zimbabwean's minds women who dress like this are prostitutes and have therefore forfeited their right to say "yes" or "no" to sex. This attitude is again very clearly illustrated by the following incident. In the wake of a savage gang rape a number of reporters in our national newspaper *The Herald* were (very credibly) concerned that the issue should be kept in the news for as long as possible. In discussing this with one of the reporters, a Musasa Project worker was told "There were three more rapes this weekend, but I discount two of them because they involved women who were wearing miniskirts and birds who want to dress like that must take the consequences of their actions." Another way that this attitude is expressed is that "women who wear/do certain things ask for it." This attitude exists world wide and varies only in the list of activities or items worn which cause rape. It is also interesting that the list of activities which "cause" rape are often activities which women who have achieved some sort of economic dependence take part in.

Rape is caused by women saying "no" when they mean "yes."

This is another attitude which is found all over the world. It is complicated in Zimbabwe by the fact that girls are taught from a young age that they must never appear eager to have sex and should in fact always say "No" whether they mean it or not. So in any sexual exchange there is a degree of persuasion involved. The line between persuasion and coercion is fine, especially since the longer a woman resists, the more "upright" she is seen to be.

Women cry "rape" when in fact they are trying to cover up their immoral behavior, get rid of an unwanted pregnancy, etc.

A woman trying to report a rape at a police station may be asked whether she knew the rapist. If she answers "yes," she will be told "it was not rape," and the police will refuse to take a report. This is even more true if the rapist was a boyfriend of the woman and the logical conclusion encapsulated within the Zimbabwean law is that there is no such thing as rape within marriage. The belief is that the better the woman knows

the rapists, the more likely it is that there was consent. A belief running close to this is that in such a case (where the rapist was known to the woman) if she cries rape it is for some ulterior motive such as those listed above and therefore, there is a high degree of false reporting in rape cases. This view is given legal backing as is clearly illustrated by the following example from the Zambian Supreme Court:

The reasons for (the cautionary rule in sexual cases) are legion...Obviously there are circumstances in which a woman will make false allegations—in order to protect a boyfriend or in circumstances where she may fear the anger of a husband or father. *Katebe The People* 1975 ZR 13

The Zimbabwean Appellate Division echoes this:

There are several types of witness who, for one reason or another, must be regarded as suspect and whose evidence must be approached with particular caution; among the more common are the accomplice, the complainant in a sexual case and the person found in possession of stolen property or through whose hands it has passed...The danger in all cases of this kind is of false incrimination but the reasons for that danger, the possible motives of the suspect witness may vary from case to case...The complainant in a sexual case may allege that a consensual intercourse was a rape out of fear of a father or of a husband or she may accuse the wrong person of what was clearly a rape in order to protect the real culprit;...

There is no such thing as rape in marriage?

There is a strong belief that the marriage vows form a blanket consent for the rest of her life and she no longer has the right to say "no". This still forms part of the Zimbabwean Law.

If a woman doesn't scream, attempt to escape or run away, she hasn't been raped.

This attitude is best illustrated by a quotation from an article which appeared in the *Sunday Mail*, September 8, 1985. This was based on an interview with the Bualwayo Regional Magistrate Mr. Cherry. It was entitled "Rape Cases on the Increase."

Mr. Cherry said he observed a rather strange and consistent trend in the reaction of some girls to rape attacks. He said they hardly resisted and had the attitude of giving in, a tendency to say it was inevitable instead of scratching him, hitting him on the head with a brick or shooting him.

The magistrate said that girls who face a rapist should know that it was permissible for her to kill a would-be rapist. This was called justifiable homicide. In overseas countries, women resisted rapists with everything at their disposal.

Formulation of Educational Strategies to Combat These Beliefs

As the above summary of attitudes shows, the beliefs current in Zimbabwe are not so different from beliefs anywhere else in the world. However, educating around these beliefs will always be more effective if culturally specific arguments and ideas are used. The last section of this model is therefore devoted to illustrating some of the educational ideas, points and strategies which we have used effectively in Zimbabwe. This section corresponds closely with the section on attitudes, as specific strategies target specific attitudes.

Attitudes and Educational Strategies to Counter Them

We have found that the only method for doing this sort of education is participatory-question/answer sessions, debates, role plays and so on. The normal method is to stimulate a debate and then by using questions which throw a whole new light on the issue to open the discussion so that other conclusions apart from the usual may be drawn. A good example of this is the following:

During a discussion on wife-beating in a police workshop, one of the policeman pointed out that it was impossible to have "two bulls in one kraal" and that it was necessary for a man to beat his wife in order to keep her in her proper place. We have found it totally pointless to challenge the idea that a husband has to be the head of the house but we do challenge the necessity for beating to keep him there. The facilitator therefore replied in this way:

F Is the President the Head of Zimbabwe?

A Yes.

F And is his authority unchallenged?

A Yes.

F So we have one bull in the Zimbabwean Kraal?

A Yes.

F And does he beat the Vice President?

The response was one of amusement, but the point was made that authority could be maintained without physical violence.

Educational Strategies around the Issue of Rape

In formulating strategies it is important to be extremely creative and in tune with various cultural beliefs. The examples below should give some ideas of questions to use.

Attitude 1: Rape is something that happens in dark alleys.

Educational Strategy:

Question: Who or what is the rapist?

Likely answers: perverts, strangers, etc.

Question: In a case of incest who is the rapist?

Answer: father, brother, uncle, etc.

Question: So the rapist was known to the victim?

Answer: Yes

Question: Are there any other situations where the rapist is known to the victim?

Answer: Date rape, etc. This answer can then be backed up by statistics and if the group is policemen by asking them to draw on their own experiences.

It is quite possible at this point that a debate on the issue of what is and is not rape will come up. One of the greatest problems in educating about rape is to find a way of making audiences make the jump between the imagined scenario - the dark alley, pervert, etc., and reality. In this context we have found it useful to introduce at this point the legal definition of rape which is "unlawful sexual intercourse by a man, with a woman without her consent" and to throw this definition open to discussion. The question can be thrown even wider open by asking "Is rape sex?" and then following up by asking if rape is caused by sexual frustration. There are always some affirmative answers to this question although some people usually come straight to the point and say that rape is done "to show the women who's boss." After this discussion has run for a bit (when discussions are running the facilitator must be quite firm about one person speaking at a time or otherwise the group may lose its focus) this question can be asked:

Question: What about the situation which we see quite often where in the course of a rape, the rapist cannot maintain his erection and uses a coke bottle or stick instead?

This question invariably causes quite a lot of consternation, so the best technique is to just let people digest it for a few minutes and then to conclude this part of the discussion by doing an analysis of power and rape, suggesting a new definition of rape including the power element and finally commenting that the following all have in common the abuse of power:

1. incest;
2. jobs for sex (Zimbabwean slang for sexual harassment in the office);
3. rape of a hitchhiker;
4. any other relevant topics.

We have also found effective in this context, the following words, taken from an interview with a convicted rapist on why he had raped, "I did it because I wanted to show her who's boss and who does she think she is, telling me to go away like that now (that) she thinks she's got someone better!...Yes, I'd do it again; she had it coming!"

If there is access to video equipment the power element of rape can be vividly demonstrated by "Extremities" starring Farah Fawcett-Majors, or a showing of the homosexual rape scene in John Boorman's "Deliverance." If the second film is used, it is suggested that the video be run as far as the rape scene, then a discussion be held using the text from the book, which graphically illustrates the position of anyone trying to report a rape and then the film be played through to the end. This film is particularly effective in illustrating the power and humiliating nature of rape to men.

Attitude 2: Rape is caused by women who wear miniskirts, smoke, have perms, walk alone at night, attend nightclubs, wear trousers, etc. etc. etc. Such women "ask for it."

This again is an all pervasive attitude and one which is difficult to deal with. Several methods can be used.

Example 1:

- Q. Do you think men can prevent themselves from raping women who wear miniskirts?
- A. No, they are overcome with passion.
- Q. If you go to a swimming pool what are the women wearing?
- A. Very little, but it's not the same thing because it depends on the context.

- Q. So perhaps it's men choosing to go to a context where they know they can't control themselves who cause rape?
- Q. If a man can exercise control in one context, perhaps they should exercise control in another?

(Note: When written on a page like this, these questions look aggressive. Ideally the audience themselves will start asking the questions and the facilitator has to do very little except slightly guide the discussion.) Often an audience will say "In our culture, women are not supposed to wear miniskirts so they are asking for rape if they do". An effective response to this is "What about the days before the colonialists when women only wore small skins to cover them? Again let the discussion run on this point.

When the statement that such women "ask for it" rears its ugly head, a suitable response is the rhetorical question, "ask for what," followed by the answer ask for love, attention, affection, even sex, but sex is a warm loving atmosphere not a brutal forced rape. Someone counselled recently by the Musasa Project said, "No-one asks for rape no matter what they were doing before hand."

Another (risky) way of illustrating this point is by showing the film "The Accused" starring Jodie Foster. This is effective because Foster plays a working class woman who does behave extremely provocatively, does drink too much, is on drugs, is wearing a miniskirt and gets raped. The film makes the point that notwithstanding her behavior, she retains the right to say no and that while she might have been looking for attention and sex, she was not looking to be brutally gang-raped.

The assessment of the film as risky is based on the following experience. Musasa was running a workshop for a group of educated and concerned men and had decided to screen the film. During the gang-rape scene, the audience was cheering the rapist on and the Musasa Project members were horrified at the mistake they had made. However, the audience was deeply ashamed by the level of their involvement and the point was made after only a few minutes of discussion on the topic of "asking for what?" The film was in fact effective, but our assessment was that it was a risky strategy.

Attitude 3: Rape is caused by women saying "no" when they mean "yes."

Educational Strategies: In our experience because (as previously explained) this statement contains an element of truth within Shona and Ndebele culture, it is an extremely difficult attitude to present from another perspective. The only strategy we have used with any degree of success is to confront participants and ask them

"If the woman really means "no" it is quite clear isn't it?"

More often than not, participants have been prepared to admit that they know the difference between a "no" that means "no" and a "no" that means "yes". It would appear that extensive education and talking needs to be done in this area but at the level of sex education within schools.

Attitude 4: Women cry "rape" when in fact they are trying to cover up their immoral behavior, get rid of an unwanted pregnancy, etc.

Educational Strategy: A good strategy in this instance was in fact originally suggested by the police. Participants are asked to present a role play on "How not to take a report in a rape case." Invariably this is presented extremely accurately. At the end of the role play, the facilitator asks the police woman or man who is playing the rape victim, how she feels. The answer will be humiliated, embarrassed, etc. After this the rape victim is asked if she would rush to the police station and report if she/he were raped. The answer is "no" which, in conjunction with the role play, gives plenty of food for thought.

Another question-answer technique follows logically from the role-play:

- Q. Is there a high degree of false reporting for rape cases?
- A. Yes.
- Q. Can anyone think of any other crime where there is a high degree of false reporting?
- A. (There will be a few sporadic answers but seldom the correct one.)
- Q. What about thefts where there are related insurance claims?

Then continue to mention those crimes where there is the highest degree of false-reporting, that in fact the rate of false reporting in rape cases is exactly the same as it is in any other crime. Finally the point can be made that, considering the humiliation that rape brings to a woman both during the reporting and after, it is amazing and very brave if she reports at all.

Attitude 5: There is no such thing as rape in marriage.

It is a good idea to approach this problem from the other end, as it were, as the following will illustrate:

- Q. Do women have the right to say "yes" or "no" to sex at any stage?
- A. Yes
- Q. Does this apply to all women?
- A. Yes
- Q. There is one category of women to whom this does not apply. What is it?
- A. Married women.
- Q. And why is that?
- A. Because legally speaking there is no such thing as rape in marriage.
- Q. And what does everyone think of this law?
- A. Mixed response.
- Q. Well what about a situation where the husband has AIDS and refuses to use a condom. Does the wife have the right to refuse in that case?

This question will generate a lot of heated debate which can run for awhile and be concluded with a statement that actually the Musasa Project disagrees with the law as it stands and would advocate a change along the lines of recent British case law and Australian legislation. An interesting exercise if there is time in this connection is to get everyone into small groups to draft new legal provisions on rape which would make rape within marriage illegal.

Attitude 6: If a woman doesn't scream, attempt to escape or run away she hasn't been raped.

Strategy: Read Sophie's story (Appendix). This fiction-like account is based on a true story and many of its elements will be intensely familiar to most Zimbabweans. What is particularly good about this particular story is that the emphasis is on the fear felt by women. (This one point is the key to most education on rape: if the focus is swung away from "sex" to the violence and fear of the attacked, then most of the misconceptions about rape disappear automatically.) Divide the participants

into small groups and get the group to choose a "reader". The reader then reads the story aloud and the group is given time to discuss it. Someone reports back to the main group on questions such as:

"What was Sophie's principal fear?"

"How would you have reacted in Sophie's place?"

"What do you think a common feeling for rape victims is?"

A second strategy we use has an interesting effect, but can only be used a while into the workshop, otherwise everyone will just laugh. Ask the group to close their eyes. Then tell them to imagine that fifty armed, commando type men have just burst through the door. One of the group has already been shot. Every one of them now has a gun held to his head. They are held at gunpoint for an hour during which they are taunted and humiliated. Suddenly the commandos leave.

Ask immediately "What was your first feeling? The answer "relief" usually emerges first, followed shortly afterwards by anger, humiliation, shock and so on. It is important to make the point that relief is the first thing a woman who finds herself alive after a rape attack usually feels. Not horror that her honor has been damaged, but relief that she is still alive. This relief may make her light headed and hysterical. She may be shocked and very quiet. The main point is that the post-rape stage may manifest itself in a number of different ways. With a group of people as experienced as the police, one can always get them to dip into their own experience for the range of reactions.

The next question to ask is "Why didn't you fight back?" The answers will have something to do with power. The analogy with the powerless position of the victim in a rape attack is then easy to draw. This point can be re-emphasized by choosing a large well-muscled member of the audience (whose cooperation has been previously obtained) getting him to stand in front of the participants and asking them to think about whether they would challenge his power in a tense situation. This followed up with a statement such as "Bear in mind that to most women all men look this size and we all know that men are more powerful than women so perhaps in the light of this, the fact that women don't always fight back, is understandable."

Sheelagh Stewart, a lawyer and one of the founders of the Musasa Project, serves on the WiLDAF Steering Committee.

NOTES

1. Schuler M. "Conceptualizing Issues and Strategies," paper in Schuler M. (ed) *Empowerment and Law*, O.E.F. International (1986) U.S.
2. The term "victim" is a term which we have found acceptable in talking to groups such as the police, possibly because they see their role as one of rescuing or helping.

Appendix: Sophie's Story

Few women will talk about being raped, and even fewer will report it to the police. We can begin to see why if we look at the story of one woman—let's call her "Sophie".

One Friday before Christmas everyone at Sophie's factory had to work late and it was dark by the time the bus got to her street, Paul, who worked at the same factory and sometimes sat next to Sophie on the bus, said he would get off there too. He said she shouldn't walk alone at that time of night, that he would walk with her.

Sophie was surprised because they had often been late before and she always walked home alone, but Paul insisted, so she didn't argue.

On the way home Paul grabbed Sophie, pulled her behind an old empty building and raped her. At first she started to scream and struggle, but he said he would kill her if she didn't do what he said. She knew how strong he was and she was terrified of this man who looked at her as though he had never seen her before.

She cried and begged him not to hurt her, but this only seemed to make him mad.

When Sophie got home two hours later she was hurting all over and her clothes were torn, but all she could think of was how lucky she was to be alive.

As she sat at the police station the next day she no longer had that feeling of relief. She didn't really know whether to be ashamed or angry. She was even beginning to feel guilty. Other people seemed to think that she must have encouraged Paul in some way.

Her sister-in-law said she shouldn't have worn such a tight skirt, and her husband kept asking her how long she and Paul had been travelling on the same bus and how often he had walked her home before.

She seemed to have told the story over and over again so many times already, and the young policeman kept asking her why she hadn't screamed louder for help.

Why couldn't they understand how scared she had been? Didn't they realize that she hardly knew Paul at all?

In the end, Sophie persuaded the police to withdraw the charge. The policeman said she would have to tell the court everything in great detail—what Paul did, what he made her do, in what way, how many times, and so on.

He also said that it would be Paul's lawyer's job to make the court think that she was lying. She could not bear the thought of all that happening in front of a room full of strangers, with Paul standing in the dock staring at her all the time.

The police felt that Paul had committed a crime and should not be allowed to get away with it—he might do it again to Sophie herself or to someone else.

Sophie knew they were right, but she just wanted to forget the whole thing—it was messing up her life so much already. For a long time she was afraid her husband would leave her, and she never got over the feeling that everyone she met knew what had happened and saw it as her fault.

Female Circumcision: Attitudes and Practices

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Origins

The origins of female circumcision are unknown. In 1769, Niebuhr, the German traveller, reported that in Oman, on the shores of the Persian Gulf, among the Christians of Abyssinia, and in Egypt, among the Arabs and Copts, this custom was prevalent (Baasher, 1979). Baasher also noted that Ghalioungui seemed to be right when he pointed out that the state of preservation of mummies does not permit firm conclusions regarding the presence of the practice. Herodotus alluded to FC in Egypt as early as +/- 500 B.C.

In the Sudan, female circumcision goes back to antiquity and has been passed from one generation to the next. It has not only become part of the tribal customs and traditions, but also was associated with religion. Hence, it is deeply entrenched in society (Badri, 1979).

Background on Types of Female Circumcision

There are three types of female circumcision (FC) practiced in the Sudan:

- Sunna, which entails the excision of the tip of prepuce of the clitoris.
- Intermediate, which involves the removal of the entire clitoris with some part of the labia minora intact, or the removal of the clitoris, the whole of the labia minora, parts of the labia majora, and the stitching of the two sides together, leaving an opening.
- Infibulation (Pharonic Circumcision), which involves removal of the entire clitoris, the labia minora, and the labia majora, leaving two raw edges to adhere which produces a lengthwise scar.

Studies on the Prevalence of the Practice

Gasmin Badri (1979) distributed a questionnaire to 68 Sudanese gynecologists in 12 towns covering all the regions except the southern region of Sudan to get their opinions about the prevalence of the practice of female circumcision. Of the gynecologists who responded, 77% believed that there had been a slight decrease, while the remaining believed that there had been a moderate decrease. Sixty seven percent observed that infibulation was the most common form of female circumcision; 23% believed that the intermediate was the most prevalent; and about 10% thought the Sunna form was the most common. The Sudan Fertility Survey (Democratic Republic of the Sudan, 1979) was based on sample of 3,114 married women from Northern Sudan.

The prevalence of female circumcision, according to the results of this survey, was 95.9%. There was no significant difference in the degree of prevalence between these results and the results obtained by the survey of the faculty of medicine at the University of Khartoum (Rushwan, 1983.) The faculty of medicine survey covered six regions: Darfur, Kordofa, Central, Eastern and Southern regions, and Khartoum Province. Rushwan reported that female circumcision is practiced all over the areas studied with a prevalence of 91%. The survey was done among a sample of 2,576 women of whom 1,823 (70.8%) were ever married women, and 696 (27%) were either single or engaged. Of these 2,576, 991 (38.5%) were illiterate and 70.3% came from urban areas, whereas 29.4% were from rural areas. It is interesting to note that the prevalence of the practice among the daughters of these women is 94.9%. Of these, 49.6% had an intermediate operation, whereas 38.7% were infibulated, and 6.2% had the Sunna form. Only 5.1% were not circumcised (Rushwan, 1983.)

In 1979, a study was done among 100 female patients in three hospitals in Khartoum province (S. Abdel Hadi, 1979). The prevalence of female circumcision among this sample was 98%.

Apart from seeking the opinions of gynecologists, Badri (1979) sought the opinion of female college students in Omduran, Sudan, in a survey of 190 female university students. Results from the university students, however, differed in one important way from the other survey results; whereas 73% or more of the older women in the other surveys had been infibulated, only 60% of the college students reported such circumcision.

In a recent study among 150 high school students in Khartoum City, Badria Badri (1983) found that 94% were circumcised. Of these, 58.9% had an intermediate circumcision, whereas 29.8% were infibulated, and 11.3% had the Sunna form.

These results suggest that there has been no significant decline in the practice of female circumcision. However, there probably has been a decline in the infibulation type of circumcision among educated women inhabit the three Khartoum town areas.

Age of Circumcision

The most common age for performing the operation of female circumcision is between 5-9 years. According to the Sudan Fertility Survey (1979), 86% of the women studied were circumcised before they were ten years old with 74% between 5-9 years. Similar results were obtained by Rushwan (1983) who found that 81-86.5% of the women in his sample were circumcised by the time they were nine years old, depending on the type of FC.

Badri (1983) found that almost 81% of the girls had the operation prior to their eighth birthday with 76.6% having had the operation when they were 4-7 years of age. Among girls who were less than five years of age at the time of circumcision, infants between the ages of a few days and a few months were found to be circumcised only among Eastern Sudan tribes, such as the Bej (Rushwan, 1983).

Complications of Female Circumcision

All 48 of the gynecologists who responded in the Badri Study (1979) saw female circumcision as harmful. Although they pointed out the infibulation leads to more severe complications, they argued that any form of female circumcision is bound to create serious complications such as infections, urinary complications, shock, tetanus, hemorrhage, and retention cysts. Other complications cited difficulty during and lack of satisfaction from coitus, infertility arising from the failure of the husband to achieve penetration or from infections stemming from the operation, and difficulty in delivery.

In another study of patients in hospitals in Khartoum Province, Abdel Hadi (1979) found that only 30% of the women questioned reported complications. These divided about equally among shock, bleeding, and subsequent difficulty during coitus. Physical complica-

tions were reported by 14.2% of the high school girls in Khartoum (Badri, 1983), another 27.7% reported some form of psychological shock, making a total of 51.8% who reported some form of complication.

Rushwan (1983) reported that for most complications, frequency of occurrence was greatest for women who had Pharonic circumcision and least for those who had Sunna type.

Reasons for Practicing Female Circumcision

Although medical opinion is against female circumcision, and although research shows that at least 30% of those who are circumcised faces one or more complications, and in spite of the fact that there is a law prohibiting infibulation, female circumcision is still widely practiced in Sudan. Why?

Four reasons were advanced by the gynecologists included in the Badri Study (1979). The first is the ignorance of the public, especially the mothers and grandmothers, as to the immediate and later danger of female circumcision. This view is supported by the fact the 92.7% of the mothers whose daughters were circumcised were illiterate and 79.9 % of these mothers had Pharonic circumcision performed on their daughters (Rushwan, 1983). The second reason is the lack of health education and basic health services. The third reason is that there is a widespread but false belief that circumcision is endorsed by religion. The fourth and main reason for continuation of the practice is based on a set of social values. Virginty at marriage for women is a requirement in Sudanese society. As part of this traditional value system, female circumcision is believed to prevent promiscuity and ensure virginty at marriage. Girls accept this view and ridicule those who are not circumcised, calling them (Ghalfa), uncircumcised, or (nigsa), unclean. Badri (1983) found this phenomenon and reported: "An unexpected finding was that some high school girls indicated that they had forced their parents to have them circumcised mainly because they were called names like ghalfa or nigsa by classmates who had been circumcised." Another reason given for continuing the practice is the belief that men prefer women to be circumcised and, hence, uncircumcised women will not be married. Finally, there is the attitude of men that female circumcision is a woman's concern or a mother's decision and, therefore, men assume a passive role in decisions concerning circumcision of their daughters.

Rushwan (1983) reported several reasons advanced by respondents in support of FC. Social criticism and ignorance of consequences were seen by men and women as the main reasons for continuation. Women

most often said that FC was a good tradition. Men generally invoked religious sanctions erroneously. Among high school girls, Badri (1983) found that protecting virginity was the most frequently given reason for continuation of the practice, given by 21% of the girls, followed by reduces sexual desire (17%), promotes cleanliness (10%), for beauty (7%), increase chances of marriage (7%), and other reasons (18%); while the rest (20%) gave no response.

New attitudes toward the practice

There is some evidence that attitudes toward the practice are changing. Medical authorities are against the practice (Badri, 1979.) However, this belief is not shared by other groups, including some within the health profession. Ten percent of the sample of forty midwives in Khartoum and Port Sudan expressed the view that female circumcision of the Sunna type should be continued (Badri, 1979.) It is worth mentioning here that the results of the Sudan Fertility Survey show that 98% of the operations were done by midwives. Most midwives are trained for delivery and not trained to perform FC. Moreover, Pharonic circumcision is illegal. When questioned, midwives give social and religious reasons for performing FC and not the obvious reason that they also benefit financially (Badri, 1979.)

Attitudes towards FC appear to be changing. Although Rushwan (1983) found that only 20% of the male respondents and 26.1% of the female respondents were opposed to the practice, Badri (1979) reported that 80% of a sample of college girls indicated that they would not circumcise their daughters. Attitudes reported for high school girls (Badri, 1983) also show declining support for the practice; 69% said the practice should be stopped.

Price (1979) has reported data on women whose families had decided against circumcision. These parents differed from the population at large in being better educated. The mothers had an average of 8.1 years of schooling, the fathers had 17.7 years of schooling, and they were primarily urban residents. Sixty-five percent of the families had lived in Khartoum for at least fifteen years. The women themselves were young, 16 to 29 years of age, with a mean of 21; 70% were single; and 90% had either completed a university degree or had completed the maximum years of education appropriate for their ages.

In 78% of the families, the decision not to circumcise the daughter was made by both parents, though both parents were opposed to circumcision in only 54% of the families. Childbirth complications was the main

reason for opposing the custom, listed by 67% of families. Some families listed more than one reason. Such reasons included hazards to the health of the girl or woman (56%) and problems associated with sexual relations in marriage involved (34%). When asked what single factor most influenced her decision against female circumcision, 57% of mothers responded that it deprived women of their sexual pleasure as opposed to 29% who cited complication at childbirth. Thirty percent of the families were persuaded that female circumcision was an undesirable practice by a husband or father who was a doctor; 20% of the families reported being persuaded by a relative who was an active member of the 1940's campaign against female circumcision.

The only data about the effects of being uncircumcised on the lives of women come from the exploratory investigation by Price (1979) based on ten families in Khartoum. All the women interviewed expressed positive feelings about not being circumcised and all of the mothers and daughters continue to approve the decision. None had encountered problems because of being uncircumcised other than teasing by friends as suggesting that the woman was unclean or hypersexual. One respondent reported having felt worried and feared that being uncircumcised might cause problems for her marriage due to possible objections by in-laws. For the three who had married, their husbands were reported to strongly approve of their not being circumcised. Married women expressed the opinion that they found sexual relations with their husbands much more pleasurable than did their circumcised friends.

Approximately 45% of the respondents felt that the majority of people who knew about their being uncircumcised had mixed feelings of approval and disapproval; approximately one-third felt that most people who knew approved, and about 22% felt that most who knew disapproved. However, none of the families had reported social rejection.

National Efforts to Eradicate FC 1930-1984

Sudanese medical officers, religious leaders, and community leaders contributed to the campaign against female circumcision during the 1930's and 1940's which led to the 1946 Law. The Law prohibited the practice of Pharonic circumcision making it illegal and punishable by fine and imprisonment (5 years).

In the 1930's, a medical student presented an article to be published in local government newspaper (*Hadarat El Sudan*). In the article he wrote openly about the effects of FC saying that it should be prohibited.

The British authorities (the Sudan was under British Administration) withheld the article because they thought it might be dangerous as traditionally minded Sudanese might conclude that it was inspired by the British Government.

In March 1945, the Sudanese Medical Service published a seven page note with a forward by the British Governor-general, the Mufti (Islamic Legal Leader of the Sudan) and the two influential national and political leaders, Sayed Abdel Rahman El Mahdi and Sayed Ali Mighani. The Mufti, Sheikh Ahmed Al Tahir quote that "in Hedaya, circumcision was a tradition in men as conducive to purity and a practice which should not be given up; but that it was merely an embellishment in women." But the word "embellishment," that which is preferable and commendable, does not imply obligation. Accordingly, the Mufti noted that it was the duty of the Moslems to follow the tenet of their religion and to give up repulsive customs which had no origin in the Koran or tradition and were not substantiated by the opinion of learned Moslems.

Al Sayed Abdel Rahman El Mahdi published a statement in *El Nil* newspaper in 1944 in which he advocated the education and uplift of Sudanese women and the combating of Pharonic circumcision. In the Sudan Medical Service note he added: "The time for action has come now. I have enough information to convince me that the person giving thought to this vicious custom with a view to getting rid of it in a practical way."

Al Sayed Ali Al Mirghani indicated that the eradication of Pharonic circumcision would be achieved through education and awareness: "The Sudan has good customs and bad ones, and to the latter belongs the Pharonic circumcision which is practiced in parts of the country...There is no doubt that it will, together with other bad customs, disappear through enlightenment and education."

The Sudanese and the British doctors who signed the note, described in detail the dangers of the practice for the health of Sudanese women. They concluded that "it is one of the major social problems of the Sudan and it is the duty of the present generation to do away with it." The general agreement influenced the British Authorities to pass legislation in the form of the 1946 Law mentioned above. Few incidents of resistance and demonstrations against the law were reported, yet the Law was only partially enforced.

In the 1970's, the campaign against all forms of female circumcision started. Medical doctors have contributed by conducting research on different aspects of the practice.

- In 1975, the Sudan Family Planning Association, on the occasion of the UN International Women's Year, held a seminar on female circumcision. In 1977, the fifth Congress of the Gynecologists Society of Sudan declared that female circumcision should be abolished in all its forms. The high nursing College, then introduced a course on "Ethics of Nursing" which include consequences of FC.
- In 1978, the Faculty of Medicine in cooperation with the Ministry of Health and WHO started a field research project. The results showed the more than 90% of the female population studied had been circumcised, which is an indication of the extent of the practice.
- In 1979, and in the occasion of the International Year of the Child, with help from UNICEF, the Department of Social Welfare produced a booklet titled "Pharonic female circumcision, for it, against it." Even though women's efforts to eradicate the custom began in the early 1930's, when the Sudanese midwife Melka Eldar launched a campaign against female circumcision among the midwives, 1979 marked a big change towards action taken by women.
- In 1979, two symposiums were held in Khartoum, one by WHO and the other by Ahfad University College for Women, at which the matter was discussed openly. As a result of scientific research, the participants of the latter symposium recommended that legislation should be passed to prohibit all forms of female circumcision, not only Pharonic circumcision. This is in addition to specific action recommendations.

Efforts of the Babiker Badri Scientific Association for Women's Studies on EFC

The theme of the Ahfad symposium was the "changing status of Sudanese women." In accordance with one of the recommendation of this symposium, a voluntary association was formed and was registered under the name Babiker Badri Scientific Association for Women's Studies (BBSAWS) as a tribute to the founder of education for Sudanese women. It is a voluntary non-profit women's organization.

The BBSAWS assumed the responsibility of implementing the recommendations of the symposium and formulated an action program for the abolition of female circumcision.

In late 1980, BBSAWS decided to hold a national workshop whose main purpose would be to develop a national plan of action for the eradication of female circumcision in all its forms. With UNICEF and Radda Barnen support, the workshop was convened in March, 1981. Prior to that, an intensive multi-media campaign was undertaken for a duration of three months. It included radio programs and articles in the newspapers.

The three-month workshop held in March in Khartoum was inaugurated by the Ministry of Health. In his speech the Minister linked the fight against the practice with the goals of Health for All by the Year 2000, thus legitimizing the efforts to end female circumcision as an important component of the country's overall health strategy.

The participants included people from various backgrounds: gynecologists, psychiatrists, psychologists, sociologists, health visitors, midwives, schoolgirls and parents/grandparents from rural and urban areas. There was a high representation from all the provinces.

The workshop concluded with the following recommendations:

- To issue an anti-female circumcision (FC) charter and have it signed by all participants, as well as by supporters throughout the country.
- To have BBSAWS sponsor the FC eradication program and undertake the execution and follow-up of the recommendations of the workshop.
- To request the government, represented in the Ministries of Health, Education, Culture and Information, the High Council for Religious Affairs and the National Council for Social Welfare and Development, to assist and facilitate the association's work (specific recommendations were addressed to each ministry individually).
- To have the BBSAWS be the coordinating body between all the different categories or representatives who attended the workshop and any others.
- To have a follow-up committee be formed as part of the BBSAWS with a permanent office for coordination. The committee was formed in April, 1981, and the chair was given to Professor Yousif Bedri whose efforts and activities in various fields for women's advancement and education had resulted in both the formation of the BBSAWS and the workshop on EFC.

The BBSAWS follow-up committee on EFC has undertaken many activities since its establishment on April 1981. The committee, as part of its constitution, should follow up the recommendations of the workshop and coordinate activities with other organizations and persons.

On request from different residential organizations, the follow-up committee has given public lectures and held discussion groups. In every discussion the committee has been keen to include influential religious figures to talk about the custom from the religious point of view and to show its irrelevance to religion. It has undertaken nineteen lectures and discussions and has arranged for discussions and talk on radio and television. It has broadcast four radio and six T.V. programs.

It has contracted poets and playwrights and encouraged them to write poems and produce plays that help in EFC. Until now, one poem and one play have been received; the latter is under production for school theater.

The BBSAWS follow-up committee on EFC has formed a subcommittee of six to evaluate the experience of these lecture discussions, to summarize what has been said from both groups (the discussants and the attendants) and to suggest the best approaches, tactics and points of emphasis for future campaigns. It is felt that the continuation of these discussion groups is vital to raise the awareness of the public, to involve them and to educate them on the FC hazards, It is also a necessity to meet the different organizations' requests for more talk and discussion in residential areas and educational institutions.

The BBSAWS has an integrated health program which includes the EFC. This is done through an integrated community development and rural women training project. The project is financed by the Swedih Radda Barnen. The project is training women in income-generating activities and health education. Part of the health education is on female circumcision. It is being implemented in four villages in the White Nile Province. It is felt that the EFC can be reached in a slow yet embracing program. Eight potential village leaders have undertaken six months of training on health and EFC at Ahfad College. A special guide on FC has been produced by the Association to be used mainly for the trainers. The book was written in a simple way in order to be useful for the large audience of those who can read. A similar program will be implemented in the Red Sea Province with the help from the Netherlands Government.

The BBSAWS follow-up committee has coordinated work with Khartoum University students (KUSU) on EFC. The students asked the committee to supply them with material they can use in their summer campaigns in rural areas. The medical association of the KUSU has

organized discussions and talks in seven of the Gazira villages ending with a workshop held at the Gazira University in Madani. With its limited resources, the committee has supplied them with some material like posters, tapes, booklets, travelling expenses and workshops.

The committee has coordinated with the Ministry of Health and the Sudan Women's Union to give lectures on EFC to a team of women leaders from the Khartoum Province who were receiving a course on health education sponsored by the health education section of the Ministry of Health. The committee members have recorded their lectures and written some by the SWU in an effort to make materials available to regional leaders and others who ask for them.

The BBSAWS executive committee has two representatives who are members of the specialized committee formed by the council of development and social welfare, "a governmental body," to write booklets for three target groups at three phases. These groups are secondary students, teachers and midwives. This project is financed by UNICEF, as well as the Association. It is represented in the newly formed national committee for EFC, organized by the Minister of International Affairs.

The executive and follow-up committee have published the workshop proceedings with help from UNICEF.

The BBSAW has just started on another project to produce audio-visual and written materials on the topics of female circumcision, organizational training for women and income generation skills. The production of materials is considered necessary for any campaign against FC.

A special project is under progress to guarantee the continuation of work on EFC, particularly the publicity and raising of the public awareness through public meetings and the mass media.

In accordance with the recommendation of the 1981 workshop, the Ministry of Education has introduced the topic on the hazards of FC as part of the curriculum of biological sciences for ninth grade students.

Also the Ahfad University for Women has introduced as part of its Extension Education curriculum a seven-hour training session on education on female circumcision, which prepares students to conduct action programs, discussion groups and public lectures.

In addition, the Ahfad UCW as part of its research projects has investigated the following:

- a. The attitudes of families deciding not to circumcise their daughters.
- b. The opinion of gynecologists, midwives, and college students about FC.

- c. The knowledge and attitudes of high school girls towards female circumcision.

The data produced by these research projects are used as base line data to plan for action-oriented programs in the rural as well as in the urban areas.

Future Plans of the BBSAWS

From the experience of the BBSAWS in co-operation with Ahfad University College for Women on the implementation of the integrated projects in rural areas, the follow-up committee suggested that a model area should be chosen where intensive work could be carried out by different means. It is believed that through such a project, we can evaluate all the efforts carried out directly and indirectly by the different bodies engaged in EFC campaigns with the goal of influencing people to change their attitudes and values towards the custom and abolish it altogether. This large project is believed to be a very important test not only of the efforts but of the participants of EFC and of their enthusiasm and ability to continue. It will be useful to the donors, who have shown true and long support. The custom is not easily abolished; it needs intensive and long-lasting missionary efforts to eradicate. As human resources are now limited, we are thinking of beginning small and planning similar efforts that can be reproduced in other areas.

It is thought that regional workshops similar to the one held in Khartoum should be held. Regional capitals have been chosen where the workshops will be held. The leader of the Committee, Professor Bedri and Dr. Atabani (one of the first doctors who talked and worked against FC) are going to be the contact persons who will approach regional governors to gain their support, approval and active participation in the success of the implementation of the workshops through the offering of many possible facilities.

A special project has been designed for midwives to talk to them about FC from the medical, socio-cultural and religious point of view. It is believed necessary that midwives be coached against FC in the hope that many may become opposed to it as indeed some, already have. This project will hopefully be implemented in coordination with the Ministry of Health.

The Association is attempting to promote coordination with the other African countries where FC is practiced, and, understanding the increased international interest in the custom, has thought of organizing an African workshop where African women meet, discuss the issue,

coordinate work and plan for an African policy for EFC. The workshop was held in Khartoum in October 1984 under the name "African Women Speak."

The National Committee for Education of FC

Although activities against FC started as early as the 1930's, the involvement of the Government began only in the late 1970's. The administration for Women's Affairs in the previous Ministry of Social Affairs ran a survey on the social and health effects of FC in the capital in 1977. 1980 brought the study of a project intended to fight the practice in the country at large. However, those efforts were not as effective as they should have been.

The turning point came when BBSAWS brought the issue into public debate and discussion over the last few years. It became evident to government bodies that voluntary action must be well-supported if FC is to be combatted. In this spirit, the Minister for Internal Affairs decreed the creation of a National Committee for Eradication of FC in the country. UNICEF, medical doctors, psychiatrists, social workers, women's representatives, educators, voluntary associations (especially BBSAWS) and others are all active members of the committee. Functions of the National Committee include the following:

1. To activate and mobilize all forces in society that are expected to assist in the fight;
2. To gather together and publicize all available data on female circumcision in the country;
3. To widen the scope of public awareness towards the exercise through mass media programs;
4. To suggest legislation and other measures needed to be adopted by the government;
5. To raise funds needed for future programs;
6. To coordinate national efforts directed towards FC.

The committee held a number of meetings, the first two or three of which were organizational. In the meeting of January 15, 1984, the following recommendations were made for immediate action:

1. Sending a circular to all voluntary associations in the country encouraging them to cooperate with the committee.
2. Increasing support and assistance to BBSAWS to make the scientific workshops the association plans to hold become a reality.

3. Including female circumcision in the curricula of education in cooperation with the concerned committee in the Ministry of Education. The Ministry of Internal Affairs realizes that deeply rooted practices can only be changed with societal acceptance and approval. Patience and continued action are crucial. The march is long and the forces are few, but the wheel has started to turn. It is thanks to the efforts of UNICEF, WHO, BBSAWS and other that a sensitive and touchy subject is no longer untouchable.

National Efforts for the Eradication of FC during the Period 1986-1990

This period witnessed the formation of new associations for fighting FC. These include the Psychiatric Health Association and the National Population Committee, which have included among their programs seminars to enlighten the public on the hazards of FC. Moreover, during this period different students' associations in universities have conducted campaigns against FC in their regions during their summer holidays. Public lectures were conducted in girls' secondary schools as well. Two-hundred-fifty lectures and discussion groups were organized all over the country during the period 1981-1990. A recent three-day seminar was conducted in February, 1990 by the Psychiatric Health Association. One of its purposes was to prepare students for their campaigns against practicing FC, which will take place in their different regions during their summer holidays. The second was conducted by the National Committee for the Eradication of Harmful Practices against Children and Women at the National Women's Conference in January 1990.

The Role of the Law in Combating FC

In 1946, during colonization, Article 284A, the first law to stop infibulation and permit only the "Sunna" type of FC was passed. The sanction for committing female infibulation was five years imprisonment, a fine or both. When the law was passed, people reacted against it by taking their two-year-old daughters to be secretly infibulated. Besides that, the legislation was not fully accepted. It was taken to mean a political interference and seen as a threat against national solidarity and cultural and social values.

Consequently, the colonial government, interested in avoiding social upheavals and instability, suspended the law and passed new legislation, Article 146, which provided that an indictment under the first law, Article 284A, cannot be brought unless the provincial judge authorizes it. This restriction made the law rather ineffective. That situation continued even after independence in 1956 and until 1983.

The year 1983 witnessed a change in law which indirectly affected the legislation prohibiting the practice of FC. Article 284 was abolished without implementing a new law on FC. However, the new law, Article 272, which prevents the amputation of any part of the human body, specifically referred to the amputation of the external reproductive organs of the human body. Thus, FC could be integrated into this article. Though no specific mention of FC was made, it was specified that the partial or complete cutting of any part of the human body or causing harm to it, or any action resulting in the inability to perform sexual intercourse was deemed a crime punishable under the article. So this made it clear that FC is one of those illegal practices. According to this article, FC is a crime punishable by either retribution, which is impractical in the case of FC, or a "Diyah" (a fine of about 400 camels). However, the drawback of this article is that the crime needs to be reported by the victim as an action taken against him or her and that legislators or police cannot take the initiative to sue criminals unless the case is reported. As the victim is usually a young girl who is unaware of the legislation and the parents are the parties who authorize the practice on their daughters, it is unlikely that they will make a complaint against the perpetrators. But, if the article were drafted in a way to make FC like any public crime, e.g., murder, then it will be easy for authorities and citizens to file complaints against the offenders (parents or perpetrators) and initiate the proceedings of prosecution. Consequently, the article has no effect on the eradication of FC and is no better than the previous one in the 1974 Law.

Article 62 of the Public Health Act of 1975 prohibits the practice of FC and denounces FC as not being surgical treatment. In addition, Article 68 of the same Act states that the delivery of babies is the only authorized activity of midwives. So the practice of FC by midwives is considered illegal.

It is clearly stated that under the Public Health Act and the Criminal Law section 278 doctors and midwives are not allowed to practice FC and can be punished for doing so. Furthermore, the Employee Disciplinary Act of 1976 indicates that such action can be punished by dismissal from work. As far as the situation of FC under international law is concerned, we find that Article 55 of the UN Convention defends human beings

against all forms of injury and torture. The UN Declaration for protecting child rights in 1959 stated the necessity of legal protection for mental, physical, social and moral development. Also the Geneva Declaration of 1924 affirmed the necessity for protecting children's rights. Similarly, the International Convention for Civil Rights on its Articles 2-23 emphasized the right of children to protection.

Consequently, it is clear that protecting girls from FC practices is a major issue that the country should address to fulfill its obligations in the international declarations and treaties on human rights in general and children's rights in particular, to which Sudan has subscribed.

The Sudanese Society for the Protection, Rights and Development of Children held a conference in Madeni in 1988 in which it was stated that nations (Sudan is one) should put all different bodies, be they legislative, educational, or administrative to the service of protecting children against harmful practices, whether physical or mental.

The above clearly shows that the international community considers FC to be a harmful practice that should be prevented by law, and that all efforts should be made to bring about its eradication.

Conclusion

Having illustrated the current legal situation, it is worth mentioning that the current legislation relating to FC needs change. This could either be through passing a new law prohibiting FC or by adjusting the present law to give the practice of FC the public status of criminal law.

Women's groups can pressure other groups to make the government pass such a law against FC. They can also participate in a consciousness-raising campaign of legal education about current laws that incriminate FC with harsh punishments and can make many who are half-heartedly for FC have second thoughts or take action against it for fear of breaking the law.

The challenge to change the public opinion needs not only strong convictions but also a strong law to support it. We thus call on all women's groups, children's rights organizations and all enlightened people to apply pressure and lobby for a law clearly prohibiting all types of FC that includes harsh punishment for offenders who will be identified as both the practitioner and the parents of the girl.

The Women's Law and Development Sudan Chapter, as part of its activities on legal literacy, can integrate FC activities. Moreover, the group can work on the formulation of a draft law prohibiting FC and forward it to the authorities.

Boran Badri, Belghis Badri, and Sadik Badri all teach at El Ahfad College and the University of Khartoum and are associated with the Babiker Badri Scientific Association for Women's Studies. For many years they have been involved with both research and education of women in Sudan.

NOTES

¹Amira Badri, "Female Mutilation, with Special Reference to Sudan," post-graduate dissertation, 1985.

²Amna El Sadik, "Female Circumcision in Sudan," *Ahfad Journal*, Volume 1, 1984.

³Amna El Sadik, "Fighting FC, Present and Future Strategies," summary paper presented at the NEO 1985 Forum preparatory meetings, Arusha, Tanzania, 1984.

⁴Badria S. Badri, "Knowledge and Attitude towards FC among High School Girls," Ahfad University for Women- Sudan, 1983.

⁵Boran Y. Badri, "Female Circumcision in Sudan, a paper presented at Women and Health Conference, Costa Rica, 1987.

⁶Hamid Rushwan *et al*, "Female Circumcision in Sudan: Prevalence, Complications, Attitudes and Changes," Faculty of Medicine, Khartoum, 1983.

⁷Hamid Maki, "An Arabic Report on Efforts on the Eradication of FC," February 1990.

⁸Gail Price, "Factors Related to Sudanese Families Deciding against FC" in proceedings of the symposium on the Changing Status of Sudanese women, Ahfad University for Women, 1979.

⁹Gasim Badri, "The Views of Gynecologists, Midwives and College Students on FC," proceedings of the symposium on the Changing Status of Women, Ahfad University for Women, 1979.

¹⁰Inaam El Mahdi, "Laws that Affect Safe Motherhood," a paper presented at the Safe Motherhood Conference, Khartoum, 1988.

¹¹Malik Badri, "Sudanese Children's Concepts about FC," in proceedings of the WHO seminar on Traditional Practices Affecting the Health of Women and Children, Khartoum, WHO, 1979.

¹²Mohamed Siddig, "The Role of Law in Combating FC," a paper in Arabic presented at the Psychiatric Health Association Seminar, Khartoum University, 1990.

¹³Taha A. Baasher, "Psychosocial Aspects of FC," in proceedings of the WHO seminar on the Traditional Practices Affecting the Health of Women & Children, Khartoum, WHO, 1979.

PART IV

INTERNATIONAL EXPERIENCES

**Dairiam: Asia Pacific Forum on Women, Law, and
Development**

Dasso: Peru Mujer

Campbell: National Women's Law Center, USA

The Asia Pacific Forum on Women, Law and Development (APWLD)

*Shanthi Dairiam
Kuala Lumpur, Malaysia*

Introduction

I bring to you warm greetings from the Steering Committee of APWLD and from Nimalka Fernando, Regional Coordinator of APWLD. I would also like to convey to you the warm greetings of all your sisters in Asia and the Pacific to our sisters in Africa.

I am here today to share with you the experiences we have had in setting up APWLD and in developing a regional WLD program. I propose to touch very briefly on the origins and mandate of APWLD, the direction in which the program has now developed, the realization that this has brought about at a conceptual level and the programmatic process that were taken to bring about this realization. I will address the current demands that are now being placed on APWLD as a result of the development of the program, organizational and networking experiences and finally some lessons we have learned.

Origins of APWLD

As you all know, the impetus for the formation of regional WLD institutions came from the End of the Decade of Women Conference in Nairobi in 1985. Participants from Asia and the Pacific concretized the intentions expressed at the Nairobi Forum at two regional meetings, one in New Delhi, India in July, 1986 and one in Manila, Philippines in December, 1986. As a result of a process that engaged women's rights lawyers and activists, the programmatic mandate for APWLD was determined and the secretariat set up in Kuala Lumpur, Malaysia in January, 1988.

Legal Status

The APWLD has been registered in Kuala Lumpur as a company limited by guarantee. It was felt that this was the most feasible way to do it in light of several considerations such as time taken for registration, etc.

Programmatic Mandate

At the Manila meeting in December, 1986 the APWLD was mandated to build up an Asian Pacific network to strengthen local/national WLD initiatives so that they will address the issues concerned more strategically and initiate and facilitate regional dimensions into local and national involvement.

The major issues of concern to women in the Asia Pacific region were identified as:

- The impact of religion, law and custom on women and the family;
- Violence against women which included sexual assault, domestic violence, and trafficking in women;
- The economic rights of women.

The Development of the Program

Current Program Concerns

The APWLD has been functioning for two years and there is now a sharper sense of the pressing concerns facing the program. Realizing that law needs to be seen within the political, economic, and social systems which foster oppressive structures on the basis of class and gender, we have raised awareness among relevant women's groups that legal strategies (legal literacy, legal aid, legal reform) need to be strategically and holistically implemented. The aim of such strategies would be to break down oppressive structures and bring about a balance of power through collective action.

In the light of this realization, the immediate question for APWLD is twofold:

- 1) How do we inject law and development concepts into the program of existing women's organizations. There is a proliferation of women's organizations in the region most of whom are neither concerned with development nor the law. In fact most of these

organizations feel alienated from the law and need to develop skills in using the law to promote women's rights. This might be a better approach than starting new WLD groups.

- 2) The second question, and equally important, is how to raise the awareness of lawyers about what the law means to poor women, whether the poor have access to justice, the importance of mobilizing and strengthening the community for collective action, and both legal and extra-legal redress. In other words, there is a need to train lawyers in alternative community lawyering.

Evolution of the Program

Several related key program activities were implemented over the last two years, culminating in the present stage of program awareness and development.

In November of 1988, APWLD convened a Regional Conference on a Common Code of Values for policies and law affecting women. Forty two women from thirteen Asia Pacific countries gathered together in Kuala Lumpur and formulated a Charter of Values for policies and laws affecting women. What was the importance of this charter? We were looking at law within the development framework and there was already a strongly felt need for alternative system structures and development processes. If we rejected the status quo, then we had to be clear about the kind of alternatives we wanted. We felt the need for a human rights approach to development which guaranteed dignity, freedom and equality for all regardless of class and gender. This meant that we needed a new set of principles or values in which our alternatives would be grounded. Hence the Charter of Values, which was a set of around 22 principles governing all facets of women's lives both private and public. These principles will be used to measure all existing laws and policies and will form the value base for any kind of reform or transformation proposed by the APWLD networks.

The next step that was taken was to look at the issue of development more closely. Who defines development and who benefits from development? What has been the role of the law in mandating the kind of development we want? How can women influence development policies through their work in the area of legal literacy and other legal strategies? These questions were addressed at a Regional Consultation on Asia Pacific Women's Issues and the Law in Development Modes held in New Delhi, India in August, 1989. Around 25 person both men and women, academics, grass roots activists, practitioners, and researchers participated. The consultation served to clarify certain key concepts

relating to alternative development and the role of legal strategies in raising critical consciousness and mobilization for bringing about social transformation.

This was followed by two sub-regional workshops (South Asia and Southeast Asia) on Legal Literacy Strategies that Empower Women that were held in November, 1989. The clarifications and key concepts arising from the August 1989 consultation provided the focus and direction for these workshops. Around fifty five women lawyers and activists from about thirty women's groups that were carrying out any legal literacy strategies either as their main agenda or as a component of their agenda attended the workshop.

The aim of the workshops was to enable the women's groups to evaluate their existing legal literacy strategies in the light of legal issues facing women and to create alternative, more effective strategies. As a result of these two workshops, the groups concerned have a sharper realization of the issues facing women. As I said earlier, there is now the awareness that oppressive systems and structures need to be broken down and that law can play a pivotal role in liberating women only if the legal process is made accessible to women and if women learn to use "the law" creatively. A range of legal strategies need to be holistically implemented as part of an on-going continuum. Such transformations cannot take place unless there is collective action in solidarity with grassroots movements and women need to "participate" in the political process.

However, the work cut out for us women, especially if we are to challenge existing structures, is fraught with risks and we need to find creative solutions. This also has brought home the point that linkages and networks at the national, regional, and international levels are vital and need to be strategically worked out.

The women at these two workshops confirmed the need for an Asia Pacific women's voice that influences the kind of development women want.

Proposed National Level Actions

Several national level actions that need to be taken were proposed by the women's groups concerned. They include:

- the evaluation of existing legal strategies implemented by them;
- the convocation of national meetings bringing together lawyers and women's groups for an "educative" process that will be mutually beneficial;

- national level identification of development issues and problems under the law as faced by women;
- the setting up of women's networks around specific development issues;
- the training of lawyers in alternative/community lawyering; and
- training in community organization and popular education methodologies, in monitoring the implementation of the law and in gender analysis.

The Role of APWLD

With such a range of proposed actions, the demands placed on APWLD are intensifying. The women's groups have already identified the following support they will need:

- the provision of technical assistance in developing evaluation methodologies and frameworks for the range of training identified;
- the facilitation of the exchange of information, materials, strategies, and resource persons;
- the arrangement of internship programs;
- the facilitation of regional/interregional pressure when there are instances of violation of women's rights in any country;
- the facilitation of fundraising for the national level groups.

These demands have made APWLD realize the magnitude of the tasks facing us. We clearly feel the need to be realistic and to slowly consolidate one level of initiative and action before starting off several initiatives at the same time.

Organizational Issues and Processes

At the APWLD Secretariat, the work is carried out by a staff of three, a Regional Coordinator, a Program Associate and a Secretary cum Administrator. Broad policies are set up by the steering committee comprised of seven women representing the various sub-regions of Asia and the Pacific. They meet twice a year. A small program and management committee, which includes the Malaysian and Thai members of the steering committee and a local consultant oversee the implementation of the program.

Developing the Asian Pacific network of women's groups however, was not an easy process. In the first year we grappled with structures relating to the setting up of the networks. We considered the idea of having a lead agency in each country that would coordinate a national WLD program and help link the national network with APWLD. This idea was rejected because it was too rigid, tended to bureaucratize the networks and in the final analysis was counter productive. We also realized that having a lead agency or contact person in each country could limit the participation of the local level groups. Given the fact of local level politicking among women's groups, we realized that some women's groups may not work through certain lead agencies or that potentially such a mechanism could give rise to the manipulation of those groups or individuals participating in the network.

Next, we tried formalizing membership of women's groups directly with APWLD. Hundreds of invitations were sent to women's groups, membership forms developed, brochures distributed. We soon realized that we were wasting time on structures rather than developing the program. Furthermore, we were hit with the thought of what were we networking for. Networks can only function and be sustained if there are issues around which they are networking. We then decided to start a network around legal literacy and bring together only those who were involved with legal literacy. This is what we did at the Southeast Asia and Asian workshops on legal literacy. The groups that attended now form a loose, informal network among themselves in their countries and, at the same time, are linked to us.

In time, we see the formation at country level of networks around the issue of violence towards women, economic rights of women specifically on certain aspects such as women labor in the free trade zones, etc. As the local-issues-based networks develop, we see them networking across the countries with groups working on the same issue and strategizing together. Several of the problems of women in Asia such as female migrant labor cut across national boundaries and we need transnational solutions. APWLD will keep in touch with all these networks as they develop and help facilitate their actions.

Finally, we are going slow. To begin with, we have sparked some action in South Asia and Southeast Asia and we need to help them consolidate what has been started. Then we will move to the Pacific and East Asia.

Lessons Learned

1. Programmatic concerns should meet the needs of grassroots women. Hence, the network should include grassroots organizations with whom there is a constant process of consultation.
2. Duplication of efforts carried out by national level or regional organization should be avoided. There is a need to identify such organizations and communicate with them for purposes of collaboration and cooperation.
3. In developing and implementing the program, care needs to be exercised to maintain the balance between law and development. There is frequently a temptation to be carried away with development issues *per se*, at times, or to get involved with legal strategies and rights without linking them to development issues affecting the target group.
4. The program needs to be strategically planned. In other words, there needs to be a sense of evolution of the program so that one activity links with another all moving towards a goal. Sometimes many things will be happening around us and one has to be careful about getting caught in all of them, and dissipating our efforts.
5. Initially, appropriate local and national level individuals and groups need to be carefully identified and their capabilities explored. Networking visits are useful for this, but the visits need to be carefully planned and the agenda of the visits must be purposeful.
6. There is a need to prepare a directory of feminist WLD resource persons, well in advance of intended program implementation.
7. Rigid network structures are counter-productive, time consuming, and can suppress participation. There is a need to network around specific issues.
8. Continuity of funding must be assured and cash flow problems avoided. It is best to get a two or three year assurance from funders.
9. Secretariat staff need to be carefully selected. A great deal of the responsibility for implementation will rest on them. They should have the following capabilities:
 - women, law and development perspectives
 - networking and mobilization skills
 - programmatic vision and management capabilities.

Shanthi Dairiam has been on the staff of APWLD since the office opened in Kuala Lumpur, Malaysia in 1988 and has participated in the network's program development from its inception.

Peru Mujer: Education and Legal Services in Lima, Peru

Elizabeth Dasso
Lima, Peru

Peru is a country with 18 million inhabitants living in three geographic regions (coast, sierra, selva). A third of the population lives in the city of Lima, many in the shantytowns or *Pueblos Jovenes* which surround the city center. Peru is a country that is diverse both socially and culturally. We are now in a constant state of economic crisis accompanied by a process of rapid social change which tragically has been violent at times.

Peru has a new Constitution (1979) and a new Civil Law (1984), which greatly strengthens the rights of women in society and in the home, in comparison to the old law. For example, we now have a new law regulating the sale of artificial milk for babies due largely to pressure from women of the *Pueblos Jovenes*, and now officially recognize the International Convention for the Elimination of Discrimination against Women. The pressure from international organizations has also helped a great deal. Unfortunately, the implementation of these laws are limited by Peru's power system.

The Peruvian system is characterized by corruption, violation of civil rights, discrimination against the poor, *machismo*, racism, and domination by a small group of politicians and the wealthy. This power system is an inheritance from the Colonial Period. For almost four and a half centuries, Peru has been dependent on other countries. From 1532 to 1821 Peru was dependent on Spain, from 1821 to 1930 on England, and since then on the United States. Within Peru, the dependency system is supported by different power groups based in Lima. These include a landowning oligarchy, businessmen, financiers, figureheads of foreign enterprises, and the governing political party. From Lima, these groups control and dominate all of Peru including all levels of government, including the departments (equal to your states), provinces, districts, all levels of the court system, the *guardia civil* (our national police force), the army, the educational system, land use and housing, finance and in-

dustry, the church, the regional governments, and the courts. This power structure undermines respect for constitutional rights, human rights, the rights of women and children, and all of the legal rights which contribute to a life of peace and justice.

This difference between legislated law and the natural law (what is written and what is in fact, reality) is very well expressed by the popular saying—"hecha la ley, hecha la trampa" (When a law is made a trap is laid.)

In the *Pueblos Jovenes*, women belong to neighborhood organizations, women's clubs, mothers' clubs, glass-of-milk committees, popular kitchens, and other organizations that combat hunger and survival needs. Women work a double day, domestic work and work in the informal sector of the economy to bring home small incomes to feed the children. Women are twice as likely to be illiterate as men and are five times as likely to be unemployed or underemployed. Women who are fortunate enough to be employed often earn less than men for similar work despite legal prohibitions against this practice. The effect of this discrimination is compounded by the fact that the number of female headed households is reported to be increasing. Today it is estimated that 25% of the households in Lima are headed by women, and this percentage is higher among the poor. Peruvian law does provide certain fundamental protections for women. But unfortunately, poor women have generally been unable to take advantage of even the limited protections afforded them by the legal system. Because of their limited educational backgrounds, these women are usually unaware of their rights. Even when they are cognizant of their rights, they rarely have the means to assert them because they lack familiarity with law and lawyers who are willing to help them enforce those rights.

Poor women of the *Pueblos Jovenes* of Lima generally cannot afford to hire their own attorneys. Although legal assistance programs do exist, they have two major drawbacks. First, they are too small even to begin to meet the demand for the services which they provide and clients must wait for months, or even years, to see a lawyer. Second, many of these programs are characterized by a conventional view of the attorney-client relationship which focuses on individual problems and ignores the potential for collective redress. While the implementation of these programs has made legal services available to a slightly larger group of people, they have not effectively educated poor people nor poor women concerning their legal rights.

Strategies for Women's Rights

What can be done? What strategies are there to assure legal rights for women? What can women from the *Pueblos Jovenes* do? What is the best strategy for Peru-Mujer? In response to this problem, Peru-Mujer is working with women using a participatory method. Legal education is the most important issue. We do this by creating educational materials like pamphlets, audio-visual sets, drawings, participatory techniques, and educational games that affect education, build self-confidence, promote community development and combine concern with women's rights with entertainment. We train women as paralegals to increase public awareness of women's rights to community members and to defend poor people. We give seminars and workshops for women in leadership skills, self-affirmation, voluntary maternity, sexuality, family inter-communication, self-actualization, myths and barriers related to female social participation, and sexual stereotypes. In these seminars and workshops, we discuss the meaning of constitutions; laws and legal codes; current legislation affecting women; the legal rights of wives and common-law wives; civil code; civil, labor, and criminal law; *Pueblos Jovenes* and the law; and, administration of the judicial system.

Women are selected by their own groups or organizations to participate in the legal education courses. After seven months of training, the participants in the courses go to the field for practical experience before they graduate as *Promotoras Legales*—paralegals.

Now there are six legal assistance centers staffed by the legal promoters. They give legal information and undertake legal cases dealing with personal documentation, birth certificates, child support, divorce, violence, rape, and the defense of battered women. They also present educational programs for women's organizations, campaign to increase women's legal awareness, deliver information house-to-house, and make radio broadcasts.

Peru-Mujer assists the promoters with its two lawyers, four law students, and four social work students. Peru-Mujer also has team members from other academic backgrounds such as sociology, psychology, communication, education, law, and social work. This combination makes the legal program greater in breadth and depth.

These efforts have increased the equity demands placed on the legal system, thereby creating pressure for reforms that may modify the system and make it more responsive to the needs of the poor. The only way to guarantee the implementation of justice in Peru is to provide good information and to increase public awareness. There is a great result;

many women have become conscious of their rights and have started eight committees for the defense of women's rights. This will become a popular movement towards women's rights. One other goal is to demystify the legal system for the legal promoters and develop their abilities to solve their own problems. These women have an understanding of the socio-economic juridical world in which they live, and have a sense of their position within it. These poorly educated women appear to have experienced a profound attitudinal change. They now see themselves as Peruvian citizens, women with legal rights and as political actors in the *Pueblos Jovenes*.

Elizabeth Dasso directs Peru Mujer's Legal Program and is a member of CLADEM.

National Women's Law Center

Nancy Duff Campbell
Washington, D.C.

I am very happy to have been invited to your conference, and to be here today. I have learned a lot not just about the issues that are important to you, but about strategies you are pursuing that will be helpful to me in my work. As Elizabeth, Silvia, and Shanti said yesterday, we have more similarities in our problems and strategies than differences.

I want to begin by giving some background on the issues in the U.S. that are similar to those we have all discussed here—economic issues, family law issues, and issues of violence against women. Then I will tell you about my organization and other organizations in the U.S. working for women's legal rights, and the strategies we have used.

Economic Development

In the United States today almost one half of all women work outside the home for pay. Although some work in agricultural production, most work in the industrial or the service economy. The law declares that women are entitled to equal pay for equal work. Because most women work in jobs that have traditionally been held by women, however, the pay for these jobs tends to be lower than the pay for so-called men's jobs. There are no men for women's pay to be "equal to." For example, highway construction jobs, which are usually held by men, may pay more than nursing jobs, even though the educational level and skills training required of nurses are more extensive. Consequently, one important issue in the U.S. today is to try to establish equal pay for jobs that are equal IN VALUE. This would result in higher pay for women in traditional women's jobs.

We are also making an effort to get women into non-traditional jobs that is, jobs that are traditionally held by men, like highway construction—because these jobs pay more. Here we have run up against traditional attitudes that are barriers. For example, employers say that women

cannot do the job, or men—and women, too—believe they should not do the job. We have tried to educate women about their ability to do the jobs, and the higher pay that they can receive in the jobs. We have also tried to establish what we call government "set-aside" programs, which provide that in certain jobs that have traditionally been filled by men preference should be given to women, to redress past discrimination.

Women also need what we call supportive services in order to be able to work outside the home, such as child care. We are the only industrialized nation without a national family policy so we are working to get national legislation to pay for child care for low-income women and to guarantee women's jobs when they leave them temporarily to have children. In maternity policies, I believe your countries are much more advanced than we are; in the U.S. women can lose their jobs when they leave them to have a child. We were involved in a case challenging the denial of certain employment benefits to women who are pregnant, claiming that the denial was sex discrimination. The Supreme Court said no; the policy does not discriminate between women and men. It discriminates between "pregnant people" and "non-pregnant people." We were able to quote this quite often to successfully obtain legislation to overturn policies for pregnant women.

Family Issues

Married women can own property in their own names or jointly with their husbands. For joint property there is still a problem of who manages and controls the property. Women can inherit property from their husbands through wills. In fact, in some states the law does not permit the husband to leave the wife out of his will, and if he does she has a right to challenge the will. If the husband dies intestate without a will in most of our states, the law provides that the property goes either entirely to the wife or to the wife and the children.

Our biggest problems in the family law are arising in connection with divorce: getting a fair division of property, spouse and child support that is adequate (your term is maintenance, I believe), and in getting support orders enforced.

Violence Against Women

Our problems with rape and family violence seem almost exactly the same as yours. We are a violent society in general, with many assaults and murders. With respect to family violence we have the same problems of educating women about their rights, changing the community at-

titudes towards family violence, establishing procedures that will make it easier for women to report acts of violence, and ensuring that there are legal remedies that will be available quickly to prevent further acts of violence.

I can't touch on all our issues in addition to these employment, family, and violence issues. Let me say briefly, however, that we work on educational issues (preventing discrimination in schools and improving educational opportunities for women); income security issues (making sure women are being treated fairly in our government benefit programs that help women who can't work because they are caring for children, incapacitated, or elderly); and health and reproductive rights issues (ensuring better health services and women's control of their own bodies).

Women's Legal Organizations

Let me turn now to my organization and other organizations working on women's legal rights. The National Women's Law Center was started in 1972. We are, as our name suggest, a national organization working to advance and protect women's legal rights. We have a staff of 15 - 16 lawyers, a lobbyist who works just on legislative issues, a fundraiser who raises money for our program, a public education specialist who works to get coverage by the media of women's rights issues, and several administrative staff members. We receive no government funding. Rather we are supported by private foundations, such as the Ford and Carnegie Foundations that have supported this conference, and by contributions from businesses and from individuals. We do not charge for our services.

We are a "law reform" center. By that I mean that we do not provide legal services for all problems that women have. Rather we work on issues that will have a broad impact on many women.

In addition to a few women's legal centers such as ours, there are other organizations with lawyers who work on women's legal issues. Probably the most important of these are the legal services programs funded by the government to provide free legal services to the poor. The Executive Director of OEF, Cynthia Metzler, who could not be here today, directed one of these programs in Florida, and I worked on one in New York. They consist of attorneys who are paid by the organization to provide direct representation to poor people, and they work to reform the law as well. Because in our country the majority of the poor are women and children, these programs serve many women.

There are also other organizations with lawyers on their staff who work on women's issues but not just women's issues. For example, the American Civil Liberties Union works to defend the constitutional rights of persons and causes that are politically unpopular. And there are organizations that specialize in advocating for certain groups of our society, such as the Mexican American Legal Defense Fund and other civil rights groups, that work on women's issues that are specific to the women in their cultures. Finally, there are legal organizations that do not receive government funding like legal services programs but that work on problems of the poor. There are also lawyers in law firms who provide *pro bono* services and work through their bar associations on women's legal issues.

How We Operate

How do we all operate and what are our strategies? I will use my organization as an example, but say that the other national legal organizations operate in similar ways.

First, we believe, as we have all discussed at this conference, that many strategies must be used to further women's legal rights. Also, we do not work as lawyers alone but in coalition with many other groups—women's organizations, grassroots groups, civil rights groups, religious groups, trade unions, and the like to achieve our goals.

Second, we use the strategies that have been discussed at this conference, and we face the problems you have described of having to work within traditional attitudes and cultures, needing often to change the law as it is written, and even when the law is good, having to work hard to get it enforced.

Our Strategies

Let me list briefly the strategies we use, and then give an example of their use.

Public Education Our efforts are similar to those you have described, although I believe in some respects not as sophisticated. We use different methods to reach different audiences. Our efforts are directed at women themselves, the general public, policymakers, and the media. We try to educate our audiences not only about what the law is, but also what it ought to be.

Research We engage in research and write reports and other materials to demonstrate the extent and effect of women's problems. Usually our research includes recommendations or strategies for change. We disseminate the results of our research broadly.

Advocacy The most important part of what we do, perhaps, is advocacy. It takes many forms. One form is lobbying the legislature; we spend a lot of time trying to introduce or amend laws that are more responsive to women's needs. We do this in coalition with national groups at the national level, and we work with local groups who do it at the state and local levels. Another form is advocacy before administrative agencies, which have the power to interpret and enforce the laws. We meet with the heads of these agencies, in coalition with other women's groups, and file written critiques and comments on their policies to try to influence these policies.

A third form of advocacy is litigation to enforce the law, to get it interpreted in ways favorable to women, and to invalidate laws that are inconsistent with our Constitution.

An Example of Use of Strategies

An example of how these strategies have been combined is in the area of child support laws, your maintenance laws. In a divorce, the parent who is awarded custody of a child has a right to child support from the other parent. (There is a right to spousal support as well, but I will confine my example to child support.) In most cases, women are awarded custody. Since they usually earn far less than their husbands or may not have worked for pay outside the home during the marriage, an adequate child support award is very important to their ability to support the family. For many years women have had difficulty obtaining support awards that are adequate and then getting these awards enforced. This problem has been addressed in several ways.

Grassroots Organizing and Education: Organizing Women at the Grassroots Level.

These are often women who had never before been involved in women's organizations. They formed groups to work exclusively on child support issues. They used clever acronyms to name these groups. For example, one is called "SOS"—the international distress symbol which stands for "Save Our Support." Their names help convey their message effectively. They have worked with lawyers in their com-

munities and with our center to educate themselves and other women about their right to get support. They prepared booklets and other materials. They talked to the press. They got themselves on radio and TV talk shows. They gave sympathetic examples of their problems. For example, they might describe a woman who had been married for several years, supported her husband while he attended school, never worked outside the home, and in divorce got only a small award, which even then the husband didn't pay. They also held "public hearings." These hearings are open to the public and the press. At the hearing individual women "testify" about their problems and propose solutions. In other words, these grassroots groups worked in several ways to educate women themselves and the public at large about their problems. In this process they had to contend with traditional attitudes that posed barriers, for example, that women shouldn't get divorced, that men earned the money in the family and so are more entitled to it than women, among others. We worked with them to develop responses to these arguments that would be effective in their communities, for example, articulating their problems not just as problems for women but also as problems for children and for society at large, because society must bear the burden under our public assistance programs of supporting these families.

Research

In addition to these grassroots efforts, women in universities and in our Center began to do research to demonstrate how widespread the child support problem is. Most people thought this was only a problem for poor women, and, in fact, that men in poor families just didn't have enough money to support themselves and their families in separate households. But research showed that courts often ordered small child support awards even against men with large incomes, and that men at all income levels did not pay their child support awards. For example, one study showed that men made higher payments each month to pay for their cars than for their families. One showed that at divorce, men's income increased 70%, while women's income decreased 30%. (And, of course, the women had the children to support.) This research was disseminated widely and publicized by the media.

Law Reform

Women at the grassroots level who were empowered to assert their rights began to see that they had problems even when they did so, because the laws were not sufficient. For example, there was no guidance

given in the law as to how to determine how much support should be ordered to be paid, so judges had a lot of discretion. Men could afford lawyers who would assure that the support awarded was small. Also, there were long delays in getting court orders for support; meanwhile the family had no income. Finally, in order to enforce an order, you had to keep bringing the man back to court, which was expensive. Since there were problems across the country, women wanted a national solution.

We worked with them to get national legislation to address these problems. We did legal research, met with sympathetic legislators and together with grassroots women wrote new legislation. We made our case to the media, and organized a national coalition of groups that worked together to lobby the legislature to pass the legislation. We were aided by the few women who are in our national legislature, who have organized themselves into a women's caucus to support women's issues.

The new law did four important things:

1. It required every state to set guidelines for determining the amount of child support awards. This limits judges' discretion. The grassroots groups are now working in their states to assure that they establish good guidelines, and thereafter to see that the guidelines are followed.
2. It required every state to have simple, quick procedures in child support cases and set time limits on each stage of the process to try to reduce delays.
3. It gave courts new remedies for enforcing child support orders. Now when the award is first entered, a copy is sent to the man's employer who must deduct a portion of the man's salary and send it directly to the woman. If the man is self-employed, the law permits a lien against his property that the property may be required to be sold, if necessary, to pay the child support. And if a man is entitled to any refund on his taxes, and he has not paid his child support, that refund must be sent to the former wife, instead.
4. Finally, each state was required to have a child support enforcement office where any woman can go to get legal representation in child support cases. These offices are funded by the federal and state governments. Women with money pay for these services; poor women do not.

Of course, there are still problems with enforcement of the new law. It is not easy to persuade a judge that a man's property should be sold, to pay his child support. Again we have used grassroots organizing and public education about the law, research and reports documenting how it is being enforced, and lobbying for further changes in the law to try to make it stronger.

We have also used litigation. For example, one state said that only women who were receiving public assistance benefits could get help from their child support enforcement office. We brought a case on behalf of women who were poor but just above the income level at which public assistance is provided. This case established that the law requires all women get legal services. We then sent the opinion in this case to grassroots women in other states who were having this same problem. They showed the case to the government authorities and said that our Center would bring litigation on their behalf if their state's policies were not changed. We have not had to bring any more litigation.

Lessons We Have Learned

The hardest stage in our development of strategies has been to move from public education to action strategies that will change the law and the way it is enforced. We find that when women are successful in their strategies, it is empowering and leads to further action strategies. Success leads to respect and changes in attitudes—on behalf of women, the general public, the media, and policymakers.

One final thought on the changing of attitude; it is important to harness these changes by translating them into "real" political power. One way to accomplish this is by encouraging women to vote for candidates that support their issues. Another way is to help more women into elected and appointed offices as well as judgeships.

In the U.S. we are taking the first steps towards this kind of political power. We have now defeated a few candidates who took positions against women's interests because they took those positions, and elected a few candidates who were supportive of women's interests BECAUSE they were supportive. This is a beginning in what we call a "women's vote" that makes policymakers more responsive to women's issues. If we can achieve this kind of political power, we will have real power.

I believe the empowerment of women through use of the law that we have been discussing these last few days is an important part of helping women achieve political power in all its forms. I look forward to our celebrating the achievement of this political power together in the future.

Nancy Duff Campbell is Managing Attorney of the National Women's Law Center, Washington, D.C.

PART V

THE WLD AFRICA CONFERENCE DOCUMENTS

Resolutions

WILDAF Proposal for a Network

Participant List

RESOLUTIONS FROM THE WLD AFRICA REGIONAL CONFERENCE Harare, Zimbabwe, March, 1990

PREAMBLE:

We the assembled women, realizing

that development for women in Africa means increased access to economic and other resources and greater participation in decision making at all levels of society,

that some laws and certain legal practices and aspects of legal systems inhibit African women's benefit from and participation in the development process, and deny their fundamental human rights,

that, in many cases, women lack the awareness or specific information about how to use the legal system, or lack the necessary self-confidence, leadership skills, or organization to challenge unjust laws or demand their rights and protections under the law,

Hereby, adopt the following resolutions which will guide the design and implementation of legal rights programs to empower and enable women to participate actively in decisions regarding the betterment of their own lives, their families' and their nation and to use the law as a tool to increase their access to and ability to utilize national resources.

FOSTERING RIGHTS AWARENESS AND ACTION

Given that it is not enough to simply provide legal information, legal literacy efforts must foster a sense of ownership of the law and strengthen women's ability to exercise their rights, we resolve that:

1. In promoting legal awareness and human rights education, women's groups and others should encourage grassroots women to identify and discuss their own problems and then work together to find legal and other solutions to them.
2. Legal education efforts should be initiated and carried out through the local leadership of women's organizations and other community structures.
3. The electronic and print media, drama and role-reversal techniques can be very effective in fostering rights awareness. The use and content of language, visual tools and the dissemination of the information are crucial to this goal.
4. Both lawyers and non-lawyers should be involved in fostering rights awareness and implementing legal reform programs.
5. Paralegals should be trained to be liaisons between grassroots women and lawyers in urban areas. This training should include legal issues, combine different teaching methods, and utilize the resources that are available in each country.
6. Legal awareness must also be fostered among educated and professional women and members of the legal professions. Society generally must be educated about the legal issues confronting women.
7. Lawyers and legal educators must network to systematically exchange information about effective legal strategies in their respective countries and at the regional level, making effective use of the African Regional network to achieve this.
8. Human rights awareness must build on a clear analysis of women's legal problems taking into account and addressing those cultural, political, social and economic factors which may contribute to the problems. Root causes of legal problems and related factors must also be considered and incorporated into any legal education program.
9. It is necessary to identify and utilize extra-legal and legal strategies. These strategies must be designed to respond to the differences among grassroots women, and reflect the differences in political and social structures of each country.
10. In order for legal education to be empowering for women, communities should be mobilized to lobby for legal reform regarding women's issues.

11. All people, especially children and youth, must be educated about women's issues.

POLICY AND LAW REFORM

Given that changes in the law alone will not improve the lives of women, women at all levels must be mobilized to lobby for reforms so that they will exercise their rights once reform is achieved. Moreover, in addition to laws that discriminate against women, national and international policies also contribute to the subordination and economic deprivation of women and must be challenged. Given the context of the debt crisis and structural adjustment, it is essential for women to examine development policies and promote alternative development strategies. Law and policy reform covers not only the content but also the structures that exist for implementing the law and the attitudes of those who enforce these laws and policies. We resolve that:

1. Law reform can be initiated by a variety of actors and through a variety of methods, such as:
 - women who are adversely affected by the law;
 - individuals or groups who are aware of or sensitive to injustices;
 - legal and academic research;
 - through litigation at the local and international levels which may lead to the identification of needs for legal reform;
 - government agencies;
 - international agencies which act as pressure groups for reform;
 - using international charters for human rights.
2. Before law reform can be initiated, grassroots women must identify the legal problem and agree that there is a need for law reform.
3. In implementing a law reform campaign, grassroots women must be mobilized and utilize strategies which will ensure their involvement.
4. Women at all levels and in all sectors must be consulted and involved in policy and law reform.
5. It is important to identify and involve men who are sympathetic to women's issues, to support legal reform.
6. Education programs are essential to educate law enforcement officials, religious leaders, and others to support and implement legal reforms.

7. NGOs, professional groups, trade unions, political organizations, activists and parties (if existing) should be organized as pressure groups to advocate for reform in alliance with women's rights groups and others, to disseminate information about legal rights.
8. It may be necessary to mobilize government support for legal reform. The level of government support desired may vary from country to country.

ACCESS TO AND CONTROL OF ECONOMIC RESOURCES

Given that women will not fully contribute to or benefit from development until they have access and control of economic resources, it is critical to organize around economic rights, we resolve that:

1. Barriers to women's control of economic resources should be removed. Discriminatory practices concerning access to credit must be eradicated.
2. Practices and policies which exclude women from management, ownership and administration of property be reformed.
3. Land tenure laws should be reviewed and reformed to allow the individuals who work the land to profit from it and have control over their earnings.
4. Women's rights activists and groups should encourage and support the establishment of alternative credit schemes such as women's banks, cooperatives and economic associations.
5. Lawyers should take on legal cases or use legal action to support the enforcement of anti-discrimination policies.
6. Legal education initiatives for women should prepare them to take advantage of the benefits of existing economic structures that provide resources for them and, if necessary, to use the legal system to get further economic benefits.
7. Women must be mobilized to pressure governments to assess the needs and contributions of the informal sector and reform laws to provide the necessary protection and assistance for women as workers.
8. Women workers must be encouraged to participate more actively in trade unions and utilize them to defend their interests. Unions must increase the number of women in leadership roles and be made aware of the special concerns of working women in order to defend them.
9. Governments should be lobbied to adopt affirmative policies for women.

VIOLENCE TOWARDS WOMEN

Given that violence is a global problem, legal and other remedies must be sought to ensure women's empowerment and self-respect. By violence we mean all forms of physical and psychological abuse that women are subjected to. This injustice must be eradicated in order to ensure women's full participation. We resolve that:

1. Violence towards women is the product of cultural, societal and religious attitudes, and may be exacerbated by economic problems, alcoholism and drug abuse. These factors must be taken into account in providing legal solutions.
2. Women's rights initiatives must challenge cultural attitudes especially about family structures. Where necessary, customary attitudes and laws should be used to discourage violence.
3. Violence against women requires a combination of legal and other remedies. Counseling services are needed for both the assailant and the victim. Support services, such as shelters and legal aid must also be accessible to the victims of violence.
4. There is urgent need for law reform to create cohesive legislation that deals specifically with acts of violence against women.
5. These laws must be flexible and offer alternative remedies that take into account the social and economic realities of women's lives which inhibits them from seeking legal solutions.
6. Special courts or special procedures in existing courts that focus on violence against women should be established to make it easier for women to take advantage of laws. These courts and procedures may also serve to humanize and facilitate the process of using the legal system so that women are not repeatedly violated by it.
7. Law enforcement agencies and individuals who by profession are in contact with victims of violence, should be educated to challenge preconceived attitudes and ideas about victims of rape and domestic violence. They must be trained to provide support to victims of violence.

WOMEN in LAW AND DEVELOPMENT in AFRICA (WiLDAF)

WiLDAF was established at the regional conference, "Women, Law and Development: Networking for Empowerment in Africa," held in February 1990 in Harare, Zimbabwe.

Purpose and Objectives

The purpose of the network is to promote the development of strategies that link law and development to empower women. The network's objectives are:

- 1 To establish and facilitate communication among network members in order to:
 - learn from one another's experiences, successes and challenges in the areas of legal education, law and policy and legal services, and
 - promote effective ways of using law as an organizing and educational tool at the local, national and regional levels;
- 2 To provide assistance in the form of training and advice to local groups in designing and improving legal programs and strategies;
- 3 To coordinate the compilation and exchange of information including case studies, research on legal issues, landmark cases, and materials used by legal projects for women;
- 4 To establish and maintain a regional emergency response network to respond quickly to serious violations of women's rights;
- 5 To work with the Women, Law and Development Program of OEF International (OEF/WLD) to exchange and coordinate with the other WLD networks in Latin America (CLADEM) and Asia (APWLD) and with individual programs in those networks.

Structure of WILDAF

WILDAF is an independent, autonomous, non-governmental organization in the process of becoming a legal entity in Zimbabwe. Its membership is open to:

Individuals of any profession involved in women's rights initiatives;

Non-governmental and governmental organizations working in the area of women, law and development.

A 15-member Steering Committee was elected at the Zimbabwe conference in February and is comprised of one representative of each of the fifteen countries which participated. It is charged with designing the program. The members will meet in November 1990 and March 1991 to review the initial steps toward establishing the office and review the regional program. They will meet once a year thereafter to assess the progress of the network and continually strengthen and adjust the program to respond to local and regional needs.

A Subcommittee of five within the Steering Committee was authorized to expedite decision-making during the first two-year period. They will meet more often to elaborate the regional program developed by the Steering Committee and oversee the establishment of the regional office. Task Force members are: Akua Kuenyehia (Ghana), Florence Butegwa (Uganda), Shirin Aumeeruddy-Cziffra (Mauritius), Sheelagh Stewart (Zimbabwe), and Seny Diagne (Senegal).

Regional Secretariat:

The conference assembly selected Harare, Zimbabwe as the venue for the regional office. The office will be staffed by two regional coordinators who will be responsible for implementing the regional program. One regional coordinator will begin in October 1990, and the second in February 1991. A sub-regional liaison office for the Francophone countries will be established in 1992 after a systematic organizing and planning initiative with groups involved in women, law and development in that region. The proposed site of the Francophone office is Abidjan, Cote d'Ivoire.

WiLDAF Regional Program

The activities of the regional program will follow four theme areas: fostering rights awareness and action, organizing around policy and law reform; access to and control of economic resources; and confronting violence against women. As the four themes of the WLD Africa regional conference, the conference assembly passed a series of resolutions in relation to each which will serve as a basic document to guide the regional program. In relation to the objectives of WiLDAF, there are five broad areas of priority for the regional program in the upcoming two years. They are:

1. Institutional Development and Planning:

Activities will focus on establishing legal and administrative mechanisms for functioning in Zimbabwe, including obtaining NGO status and developing the capacity of the regional office to implement the regional program. The consolidation of the regional structure will also be a priority. Two planning meetings for the Steering Committee will be held in the first year and one per year thereafter to build the regional program. At the end of 1992 WiLDAF will hold a regional conference to provide an opportunity for network members to exchange directly and establish new priorities for the subsequent two year period. An evaluation will be carried out, a new program will be developed and funds raise.

During the first year a comprehensive organizing and planning project will be carried out in Francophone Africa to strengthen their participation in the regional network. The project will be coordinated with OEF/WLD. It is expected that by the end of the second year, a sub-regional liaison office will be established and a system of communication between the two regions developed.

2. Education and Training:

The Steering Committee made training and education the first priority of the network. This will be developing in the network members a clear understanding of the concepts, issues and effective strategies for carrying out legal organizing and education for women, as well as strengthening network linkages.

The current focus of training is participatory methods and techniques for legal literacy, strategies for mobilizing women around reform, strategy development, project design and planning and paralegal train-

ing. In order to meet the training needs of network members, the Steering Committee has proposed that the major activity in this area be a train-the-trainer program with the help of OEF/WLD to develop a corps of trainers to serve the members.

In order to utilize resources effectively, training programs will be held in following each of the Steering Committee planning meetings. The regional coordinators will join OEF/WLD staff in WLD workshops in the transition period through March 1991. The network will offer workshops covering problem identification and analysis, education methods and strategy development in eight countries in each of the first two years of the program. The kinds of training and technical assistance provided by the network will change in response to the needs of groups in the network.

3. Outreach and Communication:

In the first year, the regional office will focus on strengthening existing ties and communication among network members. It will begin outreach to groups in countries not currently in the network, specifically in South Africa, Namibia, Egypt, and Ethiopia. Regional Coordinators will combine training and outreach activities in all countries. In addition, three mechanisms will be used to promote communication and outreach:

WILDAF Directory: This will be a comprehensive directory of groups, activities and programs involved in women's legal rights activities in the network. Its content will be based on WLD workshop and conference participant lists and will be regularly supplemented. It will be made available to network members.

WILDAF Newsletter: WILDAF will produce a quarterly newsletter, the first to be published in October 1990. It will contain updates on events and projects in the region, announcements and requests for information, and one article on each of the issue areas of the network.

Resource Directory: During the first year, the regional coordinators will compile available information, research and materials to be published in a reference directory for network members. The Directory will be completed in the second year.

4. Emergency Response Mobilization:

During the first year, the regional coordinators and steering committee members will investigate how to set up an effective system for generating immediate responses to violations of women's rights. This will include research in each country and discussions with human rights networks. In the second year, the network will be set up and activated.

5. International and South-South Linkages:

WiLDAF will draw from the experiences of women's legal programs in Latin America and Asia, as well as the lessons of the WLD regional organizations. In the first year, WiLDAF regional coordinators will visit the regional secretariat in Asia.

Program activities will be carried out in three phases:

Transition (September 1990–March 1991): The regional coordinator will work closely with OEF/WLD staff in establishing the regional office, training workshops and planning.

Phase 1 (March 1991–March 1992): The network office will increase its capacity to respond to and serve members, a corps of trainers will be developed, and communication within the network will be strengthened.

Phase 2 (April 1992–March 1993) The establishment of the emergency response network and the evaluation and planning of the next two-year period will be implemented.

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