

The East African Lawyer

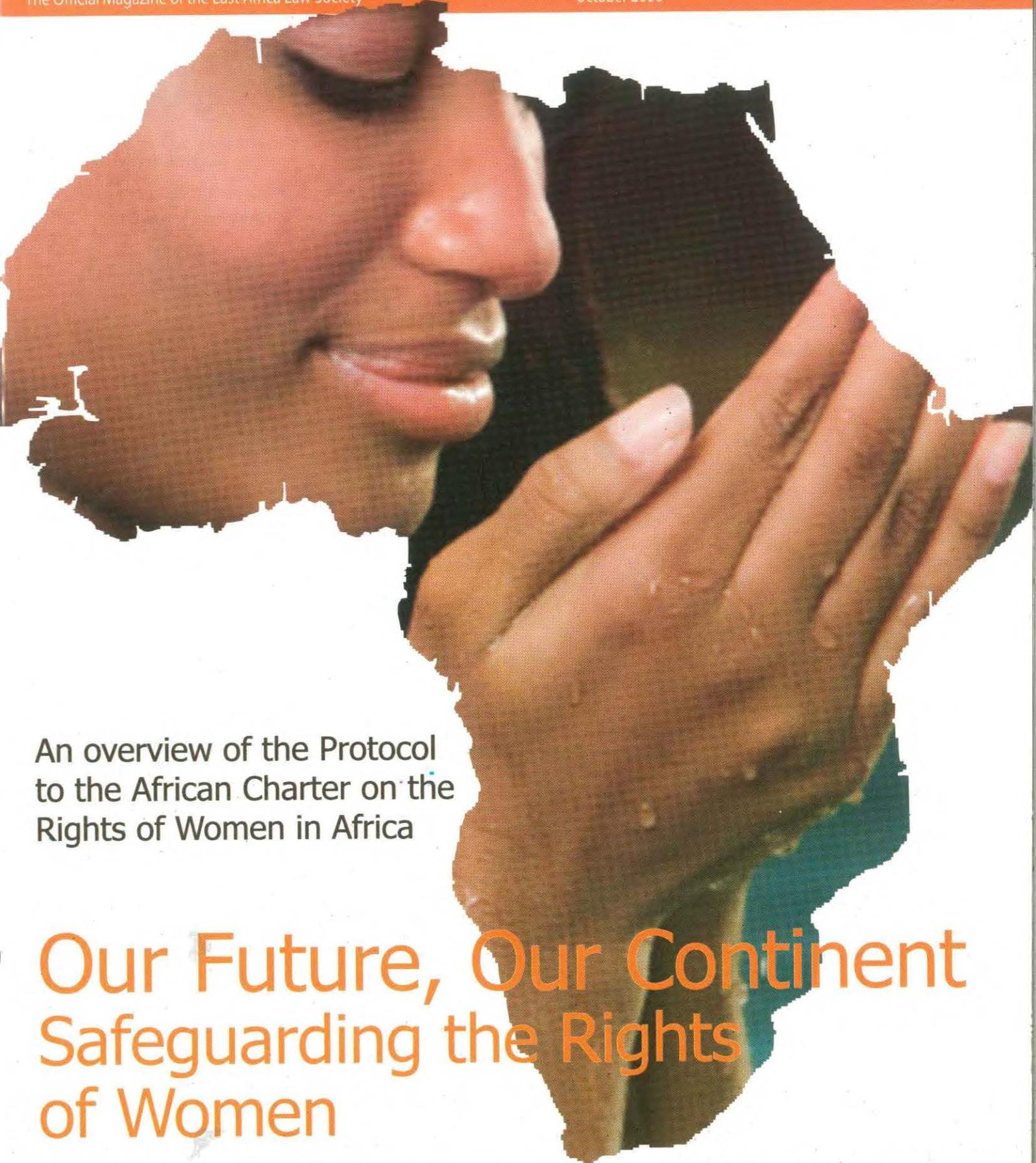
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The Official Magazine of the East Africa Law Society

October 2006

Issue #11



An overview of the Protocol
to the African Charter on the
Rights of Women in Africa

Our Future, Our Continent Safeguarding the Rights of Women

Inside:

Gender Equality in the Workplace

Shouldering the Burden of Patriarchy



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20th September 2006

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To: All Members - East Africa Law Society

NOTICE IS HEREBY GIVEN pursuant to Article 6 of the Articles of Association of the East Africa Law Society that the ANNUAL GENERAL MEETING FOR THE YEAR 2005 shall be held at 11.00 a.m. on Saturday 28th October 2006 at the Speke Resort and Country Lodge, Munyonyo, Kampala, Uganda and that the business to be transacted there shall be as set out below:

AGENDA

1. The Secretary General to read the Notice convening the Meeting.
2. Recognition of Dignitaries and Observers Present.
3. Silence in tribute to Members departed.
4. Confirmation of the Minutes of the Annual General Meeting held on 26th November 2005.
5. Matters arising from the Minutes in item 4.
6. Report of the Governing Council (Board).
7. Report of the Hon. Treasurer.
8. Report on the Audited Accounts and Balance Sheets for the year 2005.
9. Presentations of Motions by the Council of the Society.
10. Elections of the new governing council.
11. Any Other Business which may be admitted in accordance with the Memorandum and Articles of Association of the East Africa Law Society.

FURTHER NOTICE IS HEREBY GIVEN that the Annual General Meeting aforementioned shall be preceded by the Annual Conference of the East Africa Law Society, under the theme "Business, Law and Human Rights in the East African Region", which shall be held from 8.00 a.m. on Friday 27th October 2006 at the same venue.

DATED AND SIGNED AT KAMPALA, UGANDA THIS 1st DAY OF SEPTEMBER 2006.

BY ORDER OF THE GOVERNING COUNCIL (BOARD) OF THE EAST AFRICA LAW SOCIETY.

CHEBORION BARISHAKI
Honorary Secretary General

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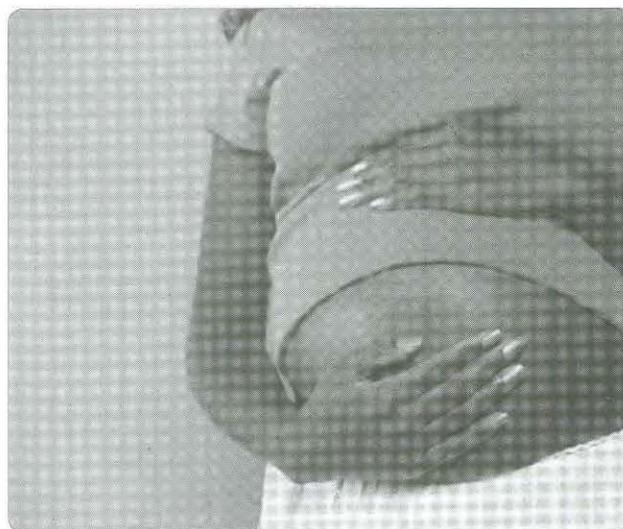
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Chief Executive

Donald Deya

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A Word from the Chief Executive Officer's Desk

The fundamental equality of all individuals in the eyes of the law, regardless of gender, is an axiom of democratic thought and is central to the rule of law. The East African Law Society is strongly committed to defending and promoting this inalienable human right and has made gender equity and gender-based legal issues the focus of its most recent newsletter. By focusing on relevant gender-based legal issues, the EALS hopes to raise awareness of these issues and reaffirm the role of the legal community in ensuring gender equity. By taking a strong and progressive stance towards gender-based issues, the EALS hopes to act as a catalyst for change within the East African Community. The EALS believes that the legal community should use its unique position and considerable resources to bring gender-based issues to the forefront and as a result is fiercely determined to continue its advocacy of gender equity.

This bumper issue contains among others, articles on the following topics:

1. Domestic violence
2. Understanding gender and related disparities
3. Gender equality in the workplace
4. Women's reproductive rights
5. A message from the Advocacy Unit, World Vision Tanzania, delivered on the International Women's day
6. An overview of the Protocol to the African Charter on the Rights of Women in Africa
7. Shouldering the burdens of patriarchy

This issue captures a detailed summary of the activities EALS has carried out in the recent past. Since the beginning of this year we are happy to report that EALS has carried out Continuing Legal Education Seminars [CLEs], which took place in Nairobi and Kampala on June 8 and 30 2006 respectively, while lawyers in Zanzibar and Dar es Salaam hosted their own on July 15 and 19 respectively. These seminars focused on the theme: "*Litigation in the East African Court of Justice.*" These seminars looked at the viability of the litigation process in the same court, the current draft protocol extending the Jurisdiction of the Court and the challenges involved and how to overcome them. Our view is that the seminars were rich and significantly beneficial to the participants thus meeting one of our core objectives of enhancing professional development in the delivery of their services to the community.

Tailored to the Nairobi seminar was a brainstorming workshop for members of the East African Legislative Assembly, (EALA) on the theme, "*Litigation in the EACJ,*" which did not only equip the participants with the knowledge on the subject, but it was a positive step towards the development of the necessary legal jurisprudence on the same subject.

Further, the EALS was blessed with an opportunity of co-



Donald Deya, EALS CEO

hosting various conferences with several partners on different themes from which most members greatly benefited. From May 17-19 2006, we co-hosted an Access to Justice Conference with the Canadian Bar Association (CBA) which was held in Zanzibar. This conference attracted participants from the East African region and beyond who shared and enriched their experiences in that field. On June 12-13 2006, we also co-hosted a police reform conference with the Commonwealth Human Rights Initiative [CHRI] in Arusha, Tanzania. This conference attracted participants from national human rights institutions, national judiciaries, departments of public prosecutions, civil society organisations and the police forces' representatives who came together and expounded upon the initiatives on police reforms.

The society also worked tirelessly and moved very fast towards consolidating its ties with Rwandan lawyers by organising a solidarity mission to Rwanda from July 2-5 2006. The major purpose for this mission was to widen the scope of involvement and membership of the EALS. Following that mission, it is hoped that the Rwanda Bar Association will very soon join the East Africa Law Society.

Plans are underway to host an East African Civil Society Organisations' (CSOs) Forum in November this year with a view of engaging the EAC with a common voice on matters of interest.

Finally, we wish to express our sincere appreciation and gratitude to those who have positively taken time to research and compile articles contained in this issue and to all our esteemed members and readers for their continued support. ■

Women's Rights are Human Rights

When I was asked to write this article, the first thought which came to my mind was how we can be engaged in a discussion about the rights of women, almost 60 years after the adoption of the Universal Declaration of Human Rights in 1948, which proclaimed in Article 1 that, "*All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.*" (One could add, to be gender sensitive, "in the spirit of sisterhood" as well).

The proclamation of the Universal Declaration and the subsequent adoption of a number of international and regional instruments addressing the rights of women do not appear to have ensured the full enjoyment of equal

rights by women the world over. Some of the reasons behind the failure by the international community to eradicate the problems of inequality and discrimination against women can be found in politics, economics, sociology and law, as well as other fields of human relations.

While societies and states have been dealing with the various challenges to eradicate inequality and discrimination against women, through social movements for the rights of women, struggles for political liberation (as we saw through the valiant role of women in all liberation struggles) or through the adoption of political or socio-economic oriented programmes and policies, new challenges and problems continue to emerge in our societies. Old prejudices remain entrenched in our minds, as reflected in the structures of governance, which predominantly remain the preserve of men, in almost all countries without exception. The perpetuation of negative practices, such as sexual and gender-based exploitation and violence against women, human trafficking in women and girls, and other social vices such as Female Genital Mutilation and underage marriage of girls, are matters of grave concern to us.

African states have ratified the majority of UN human rights instruments as well as African regional human rights instruments



Bahame Tom Nyanduga, EALS President

concerning the recognition, respect, promotion and protection of rights of women. These instruments grant women the right to equality, equal protection before the law and non-discrimination, the right to human dignity, right to property, the right to liberty and the right to access all economic, social and cultural rights. In other words, women, like all other human beings, possess the right to enjoy all fundamental and basic rights and freedoms as individuals and as a collective, as are enshrined in the international and regional instruments, and the bills of rights under the national constitutions.

The international instruments we refer to include two international covenants: the Convention on the Elimination of Discrimination against Women (CEDAW) and its

Protocol, while at the regional level we have the African Charter on Human and People's Rights and its Protocol on the Rights of Women in Africa, adopted by the African Union Assembly in July 2003, in Maputo, Mozambique. The Constitutive Act of the African Union enshrines the principle of gender equality, which obliges the African Union in the conduct of its policies and programmes - and therefore by implication - the policies and programmes of its member states, to respect gender equality.

At the sub-regional level, the three East African states are bound by these international and regional instruments, in as far as the particular member state has ratified them. The fact that women continue to experience inequality and discrimination in many respects, notwithstanding the existence of a plethora of instruments and laws, is a matter of major concern, not only to women but to us lawyers and all people of goodwill. The papers published in this edition attempt to address some of these issues, in particular by trying to highlight the extent to which national laws address or fail to address the issues of gender inequality in our sub region and elsewhere. Indeed, I can state that one of the major reasons behind the inability of women to fully enjoy the rights enshrined in international instruments has been the failure to domesticate international and regional human rights through

From the President's Desk



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internal legislation. After all women's rights are human rights. It is my submission that if these instruments were implemented scrupulously, the rights of women would be far much better than they are now.

The situation faced by women in our region is not different from that faced by women in other developing countries. One of the papers will discuss the legal regime created following the adoption of the Protocol to the African Charter on the Rights of Women in Africa. Uganda has ratified it, while Kenya and Tanzania are yet to ratify it. This alone does not mean that the situation of women in Uganda is much better than that of the women in Kenya and Tanzania. One of the objectives of the East African Community, as enshrined in the Treaty for the establishment of the East African Community is, *"The mainstreaming of gender in its entire endeavour and the enhancement of the role of women in cultural, social, political, economic, and technological development."* It is indeed my proposition that adherence to the principles enshrined in the Treaty would necessitate the three East African partner states harmonise their policies, including, gender policies and legislations affecting the rights of women.

We in the East Africa Law Society recognise that we have an important role to play in raising awareness among our members about the challenges we face in combating inequality faced by women, in society and at the professional level. This publication is a modest effort towards creating awareness about the need to continue the struggle for gender equality.

I dare say that the position of women has improved over the years in our countries, compared to the position of

women at independence, through the advocacy and struggles by women and activists, at the local, national and international level. Admittedly though, a lot remains to be done. Advocacy against the exclusion of women from holding public offices and discrimination against women in other spheres of life has to continue. The level of female representation and participation in the structures of governance remains inadequate, in spite of the proclamations highlighted above.

Litigation at the national level has in some cases secured rights, such as the right of women to own property, but there remain many areas which legislation and litigation have not been able to address yet. The topics which this publication brings to you will highlight issues, problems, and challenges facing women in the workplace, and the very pertinent question concerning women's reproductive health and rights. The publication will also address the role of the patriarchal society in the gender equation.

This publication raises questions about some of the problems we see in society, which are a result of social forces and which legislation alone cannot eradicate. In that respect it is important that in order to secure long-term solutions to the problems facing women we address the societal issues as well, because without society understanding the underlying causes, the problems will take long to solve.

It is my sincere belief that this publication will contribute to a better understanding of some of the issues involved in the struggle for female emancipation. Dialectically speaking, this shall emancipate men, who are imprisoned in their patriarchal gulag of male chauvinism as well. ■■

Open Letter to President Museveni and the Movement Caucus

Mr President

First of all, let me apologise for causing or spreading "disorientation." I imagined that a person of your vision and focus is not so easily disoriented, particularly by "recycled" judges and academics. I also apologise for not being able to attend the NRA/M Caucus, which is due to the fact that I am presently out of the country. I must nevertheless thank you for not describing us as "Agents of Confusion," which is the term former president Idi Amin Dada used to describe those who dared speak out in opposition to him. We were also spared the title "obscurantists" which was one of your favourite appellations during the early days of the NRA/M "revolution" and became almost a term of abuse. So causing "disorientation" or "disorientalism" is not such a bad thing, particularly if the intention of such action is to force you to question the direction in which you are heading. I would equate our action to that of a signpost that warns of trouble ahead: "Hatari; danger; kabi!" In the circumstances of Uganda today, I am quite happy to be described as a "disorientor" if it helps people to stop and think a little bit about our current predicament, rather than plunging headlong into the waiting abyss. Mr President, do not act like the rhino (*kifaru*), which runs in a straight line and doesn't turn corners even when approaching a cliff. Remember Okonkwo in Chinua Achebe's *Things Fall Apart*? As you are well aware, the subtext to that great story is: the tale of a strong (but grossly mistaken) man.

Mr President, you also described our views as "mendacious," which term I discovered means "false" and "misleading." Given that you were not at the Africana seminar - and your various sources of information may not have been entirely accurate - I believe it is necessary for me to both reiterate the points I made there and to add a number of new ones on the issues of governance and constitutionalism facing the people of Uganda today. I am forced to do so because your response to our presentations (*New Vision*, July 27, 2006) was not only a fine example of historical escapism and obfuscation, it also completely missed the main focus of our talk, namely the state of democracy and constitutionalism under your fifth *kisanja*. In the circumstances prevailing in Uganda and on the African continent today, to talk about ancient world history and the marginal status of African economies is simply diversionary.

The fact is that the essence of Uganda's problem yesterday, today and tomorrow is that of democracy. Period. It is the failure of leaders such as you to not simply talk the path of democracy, but to actually walk along it that is the cause of our problems, even in the economic arena. I now turn to the points I made at the seminar:



President Yoweri Museveni

Presidential Term Limits and Longevity in Office

My first point related to the issue of the removal of presidential term limits and the other controversial amendments to the 1995 Constitution that were effected by the seventh Parliament in 2005. Although I spoke about the way in which the process was manipulated through the amendment of parliamentary rules and the use of various forms of coercion, legal trickery and inducement, I believe it was my concluding remarks on this issue which you have described as "dramatic and exaggerated" that have caused you such displeasure. For the sake of clarity, let me repeat them here. I told the seminar that after 10 years in power, one was a veteran; after 15 you are an elder; at 20 you are nearly extinct, and at 20+ you have become a liability. Why did I say this? The history of those leaders who have been in power for over 15 years has largely been a history

Letter to the Editor

of diminishing marginal returns (DMRs). In other words the longer in office, the more disastrous their performance. Correspondingly, the situation of their countries grows worse. While it is true that there have been a tiny few - such as Singapore's Lee Kuan Yew - who have managed to avoid the DMR phenomenon - these are only a handful. In other words, they are the exception who amply prove the rule. For every Lee Kuan Yew, there are 10 Mobutu Sese Seko Wazabanga Kuku Mbengus of Zaire/DRC, or Omar Bongos of Gabon, now celebrating 37 years in power. By contrast, for all those African countries (without exception) that have introduced term limits (among them Tanzania, Kenya, Ghana, Mozambique and South Africa, to mention only a handful) there has been progressive democratic (and economic) reform. By removing term limits, Uganda joined the ignominious company of a country like Chad, which despite its large oil reserves, is in both political and economic trouble.

Mr President, you and your supporters have argued that there is no problem with removing term limits, provided a president presents him or herself at regular elections; in other words, provided the institutional mechanisms to ensure the genuine will of the electorate are in place. With respect, I beg to disagree. The historical record demonstrates that the longer a president stays in office, the harder it is to remove him or her in a democratic fashion. This is the very point you made in your book, *What is Africa's Problem?* And which formed the basis of the NRA/M revolt against the events of 1980, and your brilliant *Fundamental Change* speech on the steps of Parliament on January 29, 1986. The naked truth is that incumbents exercise a considerable degree of control over electoral processes. The more desperate they become, the lower the likelihood that those processes will be free and fair. This point is amply demonstrated by our own recent history. In 2001, our Supreme Court was split (4 to 3) on the "freeness" and "fairness" of the presidential election, although they ultimately declared you winner. By contrast, in 2006, a unanimous court (7 to 0) concluded that the electoral process was completely unsatisfactory. The implication of the latter judgment is clear; the longer you stay in office, the worse the electoral processes are becoming.

Since you made the point of invoking history, it is fundamental to point out that the historical record of open presidential terms in Uganda has been a wholly negative one. From 1962 until 1995, the system in operation was one of open terms, and we all know what happened over that 33-year period. In other words, we have the empirical data to demonstrate that open limits assist dictatorship to become more embedded rather than the reverse. Out of the nine presidents who preceded you, the majority have been bad at best and lacklustre or positively disastrous at worst. Ugandans - including yourself - were acutely aware of this fact. This is why over the whole seven-year period of the debate on the Constitution (from 1989 to 1995) the overwhelming opinion was to insert term limits into the Constitution. It is therefore the height of arrogance to suggest that the imposition of term limits was simply borrowed from elsewhere. As a matter of fact, the introduction of term limits had nothing to do with the experiences of other countries. It was an entirely indigenous and home-grown experience. It was a reflection of the overwhelmingly negative experience of open terms in Uganda up to that point in time. Let me reformulate this

point for emphasis. While open terms help a country to keep a good president, they hamper it in getting rid of a bad one, especially within a context where the mechanisms to control him or her are weak, as is the case here. The objective of term limits is not to stop the good presidents of this world from ruling well; it is to stop the bad ones from continuing to rule badly and to avoid the arrogance, inertia and complacency that inevitably come with overstaying in power. Term limits also guard against the dangers that arise when good presidents overstay in office.

In concluding this point; I informed the Africana participants that I found it rather strange that the NRM government had introduced term limits (fixed contracts and lower age retirement ceilings) for civil servants, vice chancellors, professors, permanent secretaries and a whole range of public servants on the grounds that it is necessary to introduce and continuously infuse new blood into the system. However, this same government has refused to do so at the point at which it counts the most: the presidency. Indeed, I voiced the opinion that rather than decreasing the number of offices that are limited by set terms of office, we should be increasing them, including MPs. As you can no doubt imagine, that point was greeted with jeers and booing from the audience. Quite frankly, I was not surprised by that reaction since many of them have been in Parliament as long as you have been in State House, and a few from as far back as 1980.

On the Sanctity of the Constitution and the Importance of being Earnest

The second general issue with which I was concerned at Africana was the question of constitutionalism. As you are well aware Mr President, your government placed considerable stock on the passing of a new Constitution. Indeed, it was mainly for this reason that you secured the first extension to your term of office in 1989. While it is debatable whether we needed more time within which to enact a new Constitution, I can concede that it was necessary for the NRM government to see this process through to the end. Against that background, the enactment of the 1995 Constitution represented a high point of the process of democratic reform in Uganda. On October 8, 1995, when addressing the country on this historic occasion, you praised the instrument as the best we had ever had. With only a few grumbles (about land and investment) you strongly recommended it to the people of the country for adoption.

In setting up the Constitutional Reform Commission under Prof Frederick Ssempebwa in 2001, you were responding much more to the irrational election fever generated by the Kizza Besigye challenge than to the rationale imperatives of constitutional change. After all, how much had fundamentally changed over the five years since the enactment of the 1995 Constitution? Couldn't many of these issues have been dealt with by ordinary legislation? If you were genuinely concerned about the overall thrust of the instrument, why was the Commission stacked with Movement supporters? Against this background, I told the Africana seminar that during the Constituent Assembly (CA) process in 1993, a number of scholars, CA delegates, journalists and activists came together to discuss the issues we felt required serious attention. My

view at that meeting was that it was necessary to ensure that what was then draft Article 108(2) - which eventually became Article 105(2) of the 1995 Constitution - needed to be reinforced so that it would become treasonous for anybody to attempt to amend it. My colleagues, consisting of Movement, neutral and opposition actors, laughed me out of the room. In particular, the "Movementists" argued that it would be impossible for President Museveni ("of all people!" they said) to change the Constitution in order to stay in power beyond two terms. I lost the argument. Today, I have no comment on whom history has proven correct.

However, what is most important about the amendment process is the following. Despite all your denials and evasions, you were the most interested party in ensuring that Article 105(2) was dropped, and on occasions such as when the late James Wapakhabulo issued views contrary to your own on this issue, you revealed exactly which side you were on. I do not accept the argument that "the people" pushed you into accepting the *kisanja*. After all, on numerous occasions, you have rejected proposals by the people which you have considered "reactionary," "uninformed," or simply "backward." A single word from you would have ended the alleged clamour for the amendment of 105(2). Instead, you were conspicuously silent, arguing that it was "unimportant" whether or not the provision were to be amended. And yet, in 2001, you not only included the fact that this would be your last term in your election manifesto, on the BBC's World Service *News Hour* you categorically stated even after intense questioning, that you would not run again for office. Mr President, at which point did you change your mind and why? The point of my question is not to solicit an answer from you. It is simply to demonstrate that either you were not telling the truth at that time, or you were not telling the truth when you eventually agreed to the amendment. Only you have the answer to that question.

Your attitude to the *kisanja* saga relates to a larger problem, which goes to the essence of the problem of democracy in this country. Constitutionalism is about accepting the rules of the game as written and agreed upon, whether those rules favour you, or not. If the goalposts are changed whenever the tide goes against those in power then we have simply returned to the stage when Apollo Milton Obote abrogated the 1966 Constitution, rather than face the possibility of losing his job as prime minister. The 2005 amendments to the 1995 Constitution were the non-violent equivalent of Obote's 1966 abrogation. My short point is that in the final analysis, constitutionalism is based on trust, not on the document in which the Constitution is embodied, because as you and your supporters have said time and again; nothing in that document is sacred. Just as it is not the quoting of biblical verses that shows whether you are a true Christian; it is your actions. Mr President, how can you expect to be trusted for example on the issue of an East African Federation which today you are so much in favour of, and tomorrow may have turned completely against, if you discover that the federation's Constitution does not favour your political interests?

Yoweri Kaguta Museveni, A Great Reformer but a Poor Democrat

I believe it is necessary to end my remarks by saying a few things directly about the political persona of Yoweri Kaguta Museveni, 10th President of Uganda. I have no hesitation to state that you will go down in history as one of our country's most important and reformist rulers. Due credit must be given where it is duly deserved, and your great achievements should likewise be applauded. Needless to say Mr President, you have also made great mistakes. The first of these is to treat every expression of opposition to your rule as a military, rather than a political matter. Even your letter to the Caucus is a thinly-disguised military response to matters that are essentially political and intellectual. In this era of multi-partyism, I believe the most important thing is not to enforce a code of conduct to stifle debate within your own party, but rather to encourage the flowering of ideas in order to demonstrate that the NRM is truly superior to the political competition with which it is faced. Your translation of the essence of multi-partyism is thus flawed in a fundamental area, and indeed is a complete repudiation of what you claimed to have been trying to build for the last 20 years. By the same token, and it is in this respect that I repeat the appeal I made at the seminar; do not sign the NGO Bill as it is the negation of the very essence of democratic participation by non-political actors, who have as large a stake in the democratic process as political parties do.

Secondly, Mr President, please stop the practice of scapegoating - the practice whereby everybody but the president and the NRM is to blame for the failures of the government. American President Harry Truman famously stated, "The buck stops here," meaning that ultimately, the president must take responsibility for both the successes and failures of his or her government. I find it rather duplicitous of you to lay the blame for all of Uganda's present ills on people other than those in your own government. You continuously blame the FDC, the opposition, so-called "donors," internal Movement saboteurs, and now "disorientors" for the failures of your government. If it is indeed true that FDC and donors blocked your plans for increasing the supply of electric power or for stopping the war in Northern Uganda, how is it that they were unable to block everything else proposed by your government, especially given that you had a majority in the sixth Parliament? How can you explain the fact that the Constitution effectively gives you a veto over Parliament, which veto you have used on numerous occasions in order to alter the decision of Parliament? Why did you fail to use the veto then?

In conclusion Mr President, I would like to thank you for responding so robustly to our Africana statements. I must say that I think this debate is a healthy initiative on your part. My only request is that this dialogue be regarded as the beginning of a serious reflection on the state of democracy and constitutionalism in Uganda, rather than as its termination.

**J. Oloka-Onyango (Visiting Professor)
University of Oxford, UK**

A Message on Domestic Violence

Shared by the Advocacy Unit-World Vision in Arusha, Tanzania on the International Women's Day (March 8, 2006)



Augustine Rutakolezibwa



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It is our pleasure and delight to share a message with you as we commemorate the International Women's Day on March 8, 2006. This day offers all of us the opportunity to meditate on the situation and welfare of women from our respective areas and highlight critical issues of concern in relation to women's welfare.

Normally during International Women's Day on March 8, people gather together as government leaders, politicians, representatives of the international community, non-governmental organizations, civil societies, local community members and ordinary citizens to commemorate the day by sharing messages, making speeches, discussing, talking and meditating on various themes, especially those related to women and children who are most vulnerable and victims of diverse kinds of discrimination, oppression and exploitation.

On this day we choose to share our message and experiences on domestic violence.

According to research and studies conducted on the situation

of women and children, it has been found that African women still experience oppression, humiliation, subjugation, injustices and violation of their dignity and rights despite the ratification of international conventions, declarations and agreements such as United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) from 1979, the Nairobi Declaration from 1985, Beijing Action Programme from 1995 and several other United Nations Declarations on the Elimination of Violence Against Women since 1993.

What is Violence Against Women?

The situation in Tanzania

Tanzania's current population is about 35 million. Women comprise 51 percent of the total population. Tanzania is a multicultural and multi-religious society, which is predominantly rural but has some modern sectors.

Poverty is widespread and the bulk of the society remains traditionalist when it comes to gender issues. The culture is a combination of the customs, norms, beliefs and traditions of more than 130 ethnic groups, 80 percent of whom are patrilineal and hence guided by the patriarchal system.

Even where matriarchy predominated in the past, trends toward patriarchy are evident due to influences from foreign religions, commercialisation and intermarriages with people from patrilineal communities.

Customs are highly regarded in the legal system, since customary laws form part of Tanzania's dual legal system, which is essentially patriarchal.

Culture has been used to justify the oppression of women and denial of their rights, contrary to the Universal Declaration of Human Rights, the UN's CEDAW, national constitution, laws and political platforms.

Domestic violence is simply any kind of violence, which is against women and that causes injustices, oppression, and discrimination of women. Domestic violence violates the rights and dignity of women and lowers their human status in the image and likeness of God. (Genesis 1:26-27).

The majority of women are victims of abuse, suffering and mistreatment. Violence is generally done to women with the intention of hurting them simply because they are women. Violence takes different forms like:

- Physical violence, such as beating, slapping, punching and female genital mutilation (FGM).
- Psychological violence, like verbal abuse, greater appreciation of boys than girls, fear of being attacked, beaten or harassed, or husbands restricting their wives' movements, etc.

Psychological Violence

This is any act or treatment made to divert, falsify, oppress, attack or alienate women's way of thinking, reasoning, understanding and behaviour. When women are tortured verbally, this can harm, disturb, and destabilise their personality and generally their whole life as women.

Women are frequently subjected to psychological and emotional torture through insults and offensive words. One example, is when a boy is told, "Be strong. Don't be weak like a woman, and don't cry or gossip like a woman." In Tanzania, most men pay dowry for their wives. In some cases men view their wives as their property.¹

Domestic violence is by far the most common form of gender-based violence.

The Marriage Act of 1971 makes a declaration against spousal battery, but does not prohibit it or provide for any punishment. Traditional customs that subordinate women remain strong in

urban areas, and local magistrates often uphold such practices.

The husbands may punish women for not bearing children. It is acceptable for a husband to treat his wife as he wishes, and the wife beating practice occurs at all levels of human society.

A large number of women are killed by their husbands or commit suicide as a result of domestic battery.

Discrimination against women is most acute in rural areas, where women are relegated to farming and raising of children, with almost no opportunity for wage employment. There is a persistent and increasing burden of poverty on rural women. Customs and traditions may override laws that provide for equal treatment and often hinder women from owning property such as land, houses and farms. Individuals who are either shielded by law or customs and traditional practices perpetrate violence against women.

Female Genital Mutilation

The government officially discourages FGM, which national and international health experts and human rights activists also widely condemn for physical and psychological damage. FGM is still practised at an early stage in approximately 20 of the country's 130 main ethnic groups. According to a 1996 health survey conducted by the Bureau of Statistics, FGM affects 18 percent of the female population. In some ethnic groups such as Maasai, Gogo, and Kuria tribes of Arusha, Dodoma and Mara regions respectively, FGM is compulsory.

In other ethnic groups, a woman who has not undergone the ritual may not be able to marry.

The current government data shows that this problem varies by region, with the most affected regions being Arusha (81%), Dodoma (68%), Mara (44%), and Kilimanjaro (37%). World Vision Tanzania (WVT) has worked with other NGOs like AFNET, Network Against Female Genital Mutilation (NAFGEM), Legal and Human Rights Centre (LHRC), Tanzania Media Women's Association (TAMWA), and Tanzania Women Lawyers Association (TAWLA) in Arusha, Manyara, Dodoma, Singida and Morogoro to eradicate FGM in these areas.

Women in refugee camps suffer a high level of rape and gender-based violence perpetrated by male refugees. Many rapes go unreported because of the stigma and trauma associated with them, and also due to lack of sympathetic treatment from the legal system. Government officials frequently make public statements confronting such abuses but rarely take action against the perpetrators.

In response to intensified concern about violence against women, parliament passed the Sexual Offences (Special Provisions) Act in 1998, which among other things, provides for life imprisonment for persons convicted of rape and child molestation. Several

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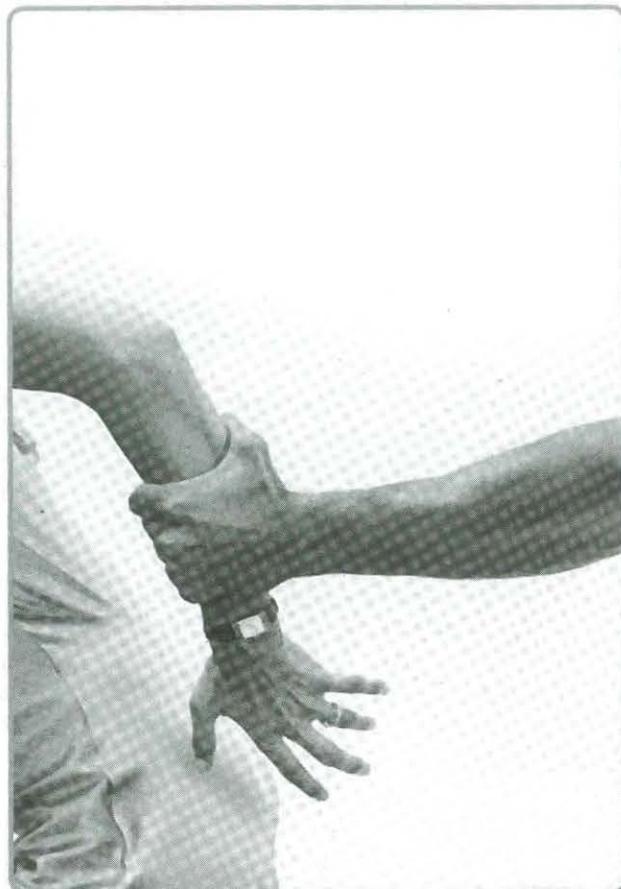
1. Ruth Kahurananga, *Finding a way forward: Gender-based violence in Tanzania*

Cover Story

people were prosecuted for rape and battery under this law during the same year.

According to the 1997 report from TAMWA, 2,022 cases of wife beating were reported and recorded between 1990 and 1995. For example, Shinyanga alone had 170 cases in 1996, 194 in 1997, and in 1998, 136 women were killed because of witch-hunting operations among the elderly women. From 1996 to 1998, 547 women were killed as a result of either domestic violence, adultery and or jealousy. Up to 2001, cases of domestic violence leading to homicide were reported and tried by the High Court of Dodoma. For example, in Mpwapwa District where World Vision is working, a husband was convicted for manslaughter after he had stabbed his wife five times to death because of suspected infidelity.

In other cases the culture gives men the right to be superior over women. It institutionalises some forms of violence such as FGM, beating, violence related to inheritance, rape and the discrimination of girls. For example, single mothers are seen as prostitutes and irresponsible adults. Boys are given more priority than girls. Girls are always the first ones to wake up at home to do domestic chores and last to sleep while boys enjoy sleeping. Also in some tribes in Tanzania, cultural taboos prohibit women from eating some foods such as eggs and liver. Cultural oppression against women goes as far as widow inheritance, which is against the will of a woman who is forced or coerced to be inherited by another man after the demise of her husband. Tribes in some regions of Tanzania still openly follow this practice.



10

What Should be Done? (Recommendations)

To this end we are all called upon to take strategic initiatives in addressing domestic violence in our areas and context. This may include:

- The local government should formulate a by law that criminalises domestic violence.
- NGOs and civil societies should join hands with the central government in educating and equipping the police to effectively fight domestic battery.
- The government should translate the Sexual Offences Act of 1998 into Swahili for every citizen to be acquainted with it.
- The government together with the civil society organisations should raise awareness among the general public on the negative customs and traditions which affect inheritance rights of widows.
- The government should work with community-based organisations to assist survivors of domestic violence and

Cultural oppression against women goes as far as widow inheritance, which is against the will of a woman who is forced or coerced to be inherited by another man after the demise of her husband

harassment through counselling and providing shelter for refugees.

- Political parties should demonstrate their stance against domestic violence on women and the means with which to eliminate it.
- Communities should understand the issues related to domestic violence so as to prevent and eradicate all forms of violence from the household at both local and national levels through mobilisation campaigns.

Conclusion

To our entire past, present and future sisters, brothers, fathers, mothers, uncles, aunts, relatives, neighbours and fellow citizens is a call upon our

fight against domestic violence; we say that:

- It is our time to care enough to act,
 - It is our time to rise up and overcome,
 - It is our time to demand equality, justice and respect for all.
- Happy International Women's Day.

Prepared by: World Vision Advocacy Unit
David Makala, Esther Mongi and Augustine Rutakolezibwa.

2. TAMWA, Sauti ya Siti 1999.

Women's Reproductive Rights: A Case for Legalising Abortion in Kenya

Abortions are carried out in Kenya daily and several women die and/or suffer life-threatening complications as a result. In a report following a 2004 Ministry of Health survey¹ on the impact and incidences of abortion, it was stated that 300,000 spontaneous and induced abortions occur in Kenya annually, putting the national incidence of abortion at 44.7 per cent for women aged 15 to 49².

The director of medical services has been quoted as saying that at least 60 percent of the bed occupancy rate at Kenyatta National Hospital, a government institution and the largest referral hospital in East Africa, goes to patients suffering from the complications of an abortion procured or attempted.³

Health Minister Charity Ngilu in Parliament also confirmed abortion is a daily occurrence in Kenya. The minister was quoted as saying: "I am afraid to inform this house that doctors, nurses and quacks are carrying out these activities in unlicensed clinics, and I assure the house that we shall crack down on all these people and get them out."⁴

Unsafe abortions cause between 30 per cent and 40 per cent of maternal deaths in Kenya.⁵ This high index is a cause for concern. The government's response is to clamp down on those procuring abortion.

The legal position in Kenya is that abortion is illegal. The Penal Code⁶ classifies abortion as a felony, punishable by a maximum sentence of 14 years for the procurer and seven years for the woman who undergoes the abortion. The code also makes it unlawful for any person to knowingly supply drugs or instruments for use in performing an abortion; this felony is punishable by a maximum prison sentence of three years.

This article takes the position that it is wrong to criminalise abortion. Access to a safe and legal abortion is a woman's human right; numerous treaties and other international instruments guarantee this. The right to a safe abortion is supported and can be found within the fundamental rights to life, equality and non-discrimination, and the right to health.



By Roselyn Odede

Right to Life

The right to life is recognised and protected in all the human rights instruments and in the constitutions of all states. This universally recognised right has been used to challenge the constitutionality of the death penalty in various jurisdictions. In Kenya, Constitution Sections 70 and 71 provide for the right to life.

Banning and criminalising abortion and the failure of the state to provide safe abortions to all leads many women and girls to procure unsafe abortions. Unsafe abortions are responsible for a high percentage of maternal mortality. Laws, therefore, that force women to resort to

unsafe abortion procedures infringe upon the women's right to life.

Usually anti-abortion and pro-life campaigners use the debate on the right to life in championing the right of the foetus to life. In this debate the woman's rights are often forgotten, and the threat to her life by unsafe abortions is never argued. Indeed what is argued is that the woman should retain the baby, and by procuring an unsafe abortion, the woman is deemed as compromising her right to life. It is indeed equated to suicide.

The other argument however, is that abortion is a human right, and every woman is entitled to the right to a safe abortion. The state must therefore ensure that every woman has access to safe abortion procedures. The high number of maternal deaths from unsafe abortions cannot be ignored. It indicates the need to ensure and protect the right to safe abortion.

In the South African case of *Christian Lawyers Association of South Africa and Others v. Minister of Health and Others*⁷, the applicants went to court challenging the law permitting the right to abortion, claiming that it went against the provisions of their constitution. The applicants argued that section 11 of the constitution protects the right to life of "everyone," and that the terms "everyone" and "every person" include a foetus from the moment of conception. In reaching its finding, the court stated that section 11 of the constitution does not expressly protect the life

1. Ministry of Health (Kenya) *A National Assessment of the Magnitude and Consequences of Unsafe Abortion in Kenya xi* (2004)
2. *Id* at 20
3. *Id* at 21
4. *Daily Nation*, May 28th 2005

5. BBC Monitoring International Reports, January 29th, 2004.
6. Sections 158 – 160 of the Penal code
7. *South Africa, High Court, Transvaal Province Division, Case No. 1629/97; (1998)(1) BCLR 1434 (T)*

of a foetus. It further stated that as a child is defined as a person under the age of 18 years in section 28 of the constitution, and that since age begins at birth, a foetus is not recognized as a child. The court thus inferred from the fact that section 28 did not explicitly or implicitly apply to a foetus, that section 11 was not intended to protect the life of a foetus. It further stated that if the court extended the interpretation of section 11 to include the protection of a foetus, the resulting legal regime would violate a woman's constitutional rights.

The European Court of Human Rights reached a similar decision in 2004 in the case of *Vö v. France*⁸ where the court refused to adopt a ruling that would have called into question the validity of laws permitting abortion in 39 member states of the Council of Europe. The court stated: "It is neither desirable, nor even possible as matters stand, to answer in the abstract the question whether the unborn child is a person for the purposes of Article 2 of the Convention."

Article 2 of the convention provides that law protects everyone's right to life.

The European Court of Human Rights has made several similar decisions over time, and the position that the right to life does not extend to a foetus is now entrenched in its jurisprudence.⁹

Jurisprudence has thus knocked down the debate pro-life campaigners put forward on behalf of the foetus. It is clear that the life of the foetus cannot supersede or erode the rights of the woman.

It also recognises that post-abortion care is basic obstetrical care, and a right due to every woman, and the guide mandates emergency treatment for incomplete abortions and life-threatening complications

are discriminatory as they affect only women, and they denigrate and undermine women as people not able to make responsible decisions about their bodies and for their lives.

The European Court of Human Rights has decided this right when prospective fathers have gone to court to try to stop their wives from having abortions. It has been held several times that the mothers' wishes are paramount and that any law that takes or seeks to take away the power to decide what is best for her is discriminatory.

The cases of *Paton v. UK (1980)*¹⁰, *RH v. Norway (1992)*¹¹ and *Boso v. Italy (2002)*¹² in addition to rejecting the suggestion that article 2 protects the life of foetuses¹³, support and further develop women's privacy rights under article 8¹⁴, and the right to non-discrimination¹⁵. All three cases involved a father's claim that the convention granted him rights regarding the foetus when the woman sought to terminate the pregnancy. The court in all the three cases rejected this claim and recognized that respect for the private life of the pregnant woman as "the person primarily concerned by the pregnancy and its continuation or termination supersedes any rights of the 'potential father.'"

Laws that therefore deny women the right to decide whether to continue a pregnancy can be argued as being discriminatory, thus infringing the rights of women.

Right to Health

The right to health includes the right to reproductive health and ties in with the right of reproductive self-determination.

International law guarantees women the right to have "the highest attainable standard of health¹⁶." Health has been defined as "a state of complete physical, mental and social well-being, not merely the absence of disease or infirmity¹⁷." The failure of states to provide women access to safe abortion procedures has been regarded as a derogation of the right to health. The United Nations has called upon governments to consider the consequences of unsafe abortion on women's health¹⁸ and required governments to deal with the health impact of unsafe abortion as a major public health concern.

Kenya, in response to the ICPD Programme of Action¹⁹ prepared policy documents to apply the action plan. The National Population Policy²⁰ firmly states that abortion shall not be used as a method of family planning but provides and mandates that women who undergo an abortion must have access to quality service for

Right to Equality and Non-Discrimination

The right to gender equality is a fundamental human right and every major human rights instrument recognises and protects it. In Kenya, the constitution was amended in 1998 to include protection against discrimination on grounds of gender. However, the amendment is watered down by the provisions that still give supremacy to customary laws in areas of family and private law.

The provision for non-discrimination on grounds of gender encompasses the elimination of laws that have the effect and or purpose of preventing women from exercising their human rights on a basis of equality with men. Laws that deny and or restrict abortion have the effect of denying women the right to decide and choose for themselves what is in their best interests. Such laws

8. App. No. 53924/00, *European Court of Human Rights*, July 8, 2004, para 85.
 9. *Paton v. UK (1980)*; *RH v. Norway (1992)*; *Boso v. Italy (2002)*
 10. App No. 8416/78, *European Court of Human Rights*
 11. App. No. 17004/90 *European Court of Human Rights*
 12. App. No. 50490/99 *European Court of Human Rights*
 13. Discussed supra
 14. Article 8 of the *European Convention for the Protection of Human Rights and Fundamental Freedoms*, provides for the right to respect for private and family life.
 15. Provided for Article 14 of the *European Convention*
 16. *International Covenant on Economic, Social and Cultural Rights*.

Article 12
 17. WHO, *Constitution of the World Health Organization*.
 18. *Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, 1994, para. 8.25, UN Doc. A/CONF.171/13/Rev.1 (1995); hereinafter referred to as the *ICPD Programme of Action*
 19. *Id.*
 20. *Republic of Kenya, National Population Policy for Sustainable Development*, (2000), hereinafter referred to as *NPP*.
 21. *Id.* At 5.6.1
 22. *Ministry of Health, Reproductive Health/Family Planning, Policy Guidelines and Standards for Service Providers (1997)*
 23. *Id.* 62-63

management of complications arising from it²¹. The Reproductive Health Guidelines²² provide that post-abortion care, including counselling, education and family planning services, must be available to every woman at every district hospital level. It also recognises that post-abortion care is basic obstetrical care, and a right due to every woman, and the guide mandates emergency treatment for incomplete abortions and life-threatening complications²³.

These guidelines and policies recognise reproductive health rights as part of human rights due to all women and provide for humane treatment for women who choose to have an abortion. It also recognises the health risks associated with abortions. The limitation is that it lacks implementation, and it is not clear whether the beneficiaries of the health benefits of post-abortion care would have to face criminal charges for attempting to procure, or for actually procuring an abortion. The policy and guidelines do not permit abortion. If not reported, would the medical team be treated as accessories after the fact, or would they be protected, by the right to privacy and confidentiality? A grey area indeed.

The right to health also encompasses the right to reproductive health and autonomy. International instruments, including The African Union Protocol on the Rights of Women in Africa, define reproductive health as including the rights to decide whether to have

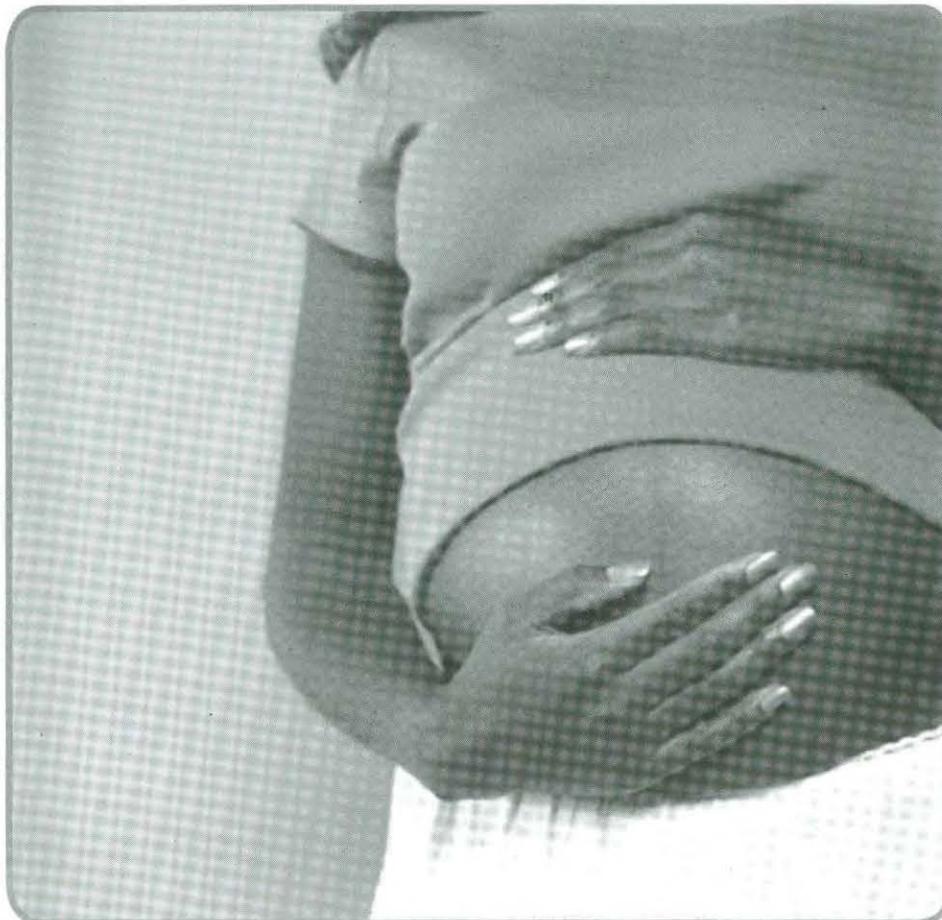
To ensure compliance with this right governments must make available all forms of family planning methods, including emergency contraception, and must also liberalise abortion to ensure that a woman only continues a pregnancy that she desires to keep

children, the number of children to have, and their spacing; to choose any method of

contraception; to control fertility; and to have family planning education.

Reproductive health therefore requires governments to ensure that women are able to determine when to have children. To ensure compliance with this right governments must make available all forms of family planning methods, including emergency contraception, and must also liberalise abortion to ensure that a woman only continues a pregnancy that she desires to keep. There are a number of circumstances in which abortion may be a woman's only means of exercising this right. A woman who becomes pregnant through non-consensual sex would be forced to bear a child where she is denied her right to an abortion. For women who live in settings in which family planning services and education are unavailable, access to safe abortion may be the only means of controlling their family size. Finally, contraceptive failure will inevitably occur among some women who regularly use contraception²⁴.

Family planning services offered by the government account for at least 68 percent of the family planning services offered in Kenya. The government services are plagued by low quality



24. *Safe and Legal Abortion is a Human Right*. Center For Reproductive Rights, August 2004.
25. *NPP at 20* *supra*, 5.6.1

26. *National Council For Population and Development & Macro Int. Demographic Health Survey (1999)*



Foetus in a woman's womb

care, overcrowding, often unfriendly service providers and unavailable services and supplies²⁵. A survey carried out by Kenya Demographic and Health Survey indicates that while two-thirds of married women express a desire for family planning services, 24 per cent of these needs go unmet²⁶. It is, therefore clear that the family planning services in the country are inadequate.

Conclusion

Abortion is never an easy decision, but women have been making that choice for thousands of years, for many good reasons. Whenever a society has sought to outlaw abortions, it has only driven them into back alleys where they became dangerous, expensive, and humiliating. To prohibit abortions does not stop them. When women feel it is absolutely necessary, they will choose to have abortions, even in secret, without medical care, and in dangerous circumstances. Legal abortion not only protects women's lives, but it also protects their health.

To impose a law defining a foetus as a "person," granting it rights equal to or superior to a woman's - a thinking, feeling, conscious human being - only diminishes women. If there is any matter which is personal and private, it is pregnancy. There can be no more extreme invasion of privacy than requiring a woman to carry an unwanted pregnancy to term. If government is permitted to

compel a woman to bear a child, where will government stop?

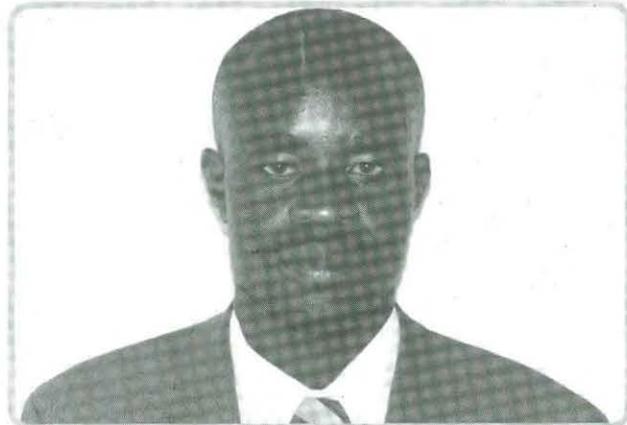
Here are the critical questions: Should the penalty for lack of knowledge, contraception or even for a moment's carelessness, be enforced pregnancy and childrearing? Or an unsafe and illegal abortion? Should we consign a teenager who gets pregnant to a life sentence of joblessness, hopelessness, and dependency?

Even when precautions are taken, accidents can, and do, happen. For some families, this is not a problem. But for others, such an event can be catastrophic. An unintended pregnancy can increase tensions, disrupt stability, and push people below the line of economic survival. Family planning is the answer. All options must be open.

Concern should not centre on abortion but on the value of women in society. Should women make their own decisions about family, career, and how to live their lives? Or should government do that for them? Do women have the option of deciding when or whether to have children? Or is that a government decision? Denial of the right to abortion is denying women their human rights. ■■

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Understanding Gender and Related Disparities



By Vincent Kodongo

Society's assessment of the worth of a given sex has perpetuated gender disparities. In the African setting, women are perceived to be weak, cowardly and pre-occupied with trivial matters. It is also believed that women can only do housework and should not own property. On the other hand, men are perceived to be strong, brave and concerned with important issues. It is widely believed that men are the breadwinners in the family and should occupy high positions in employment.

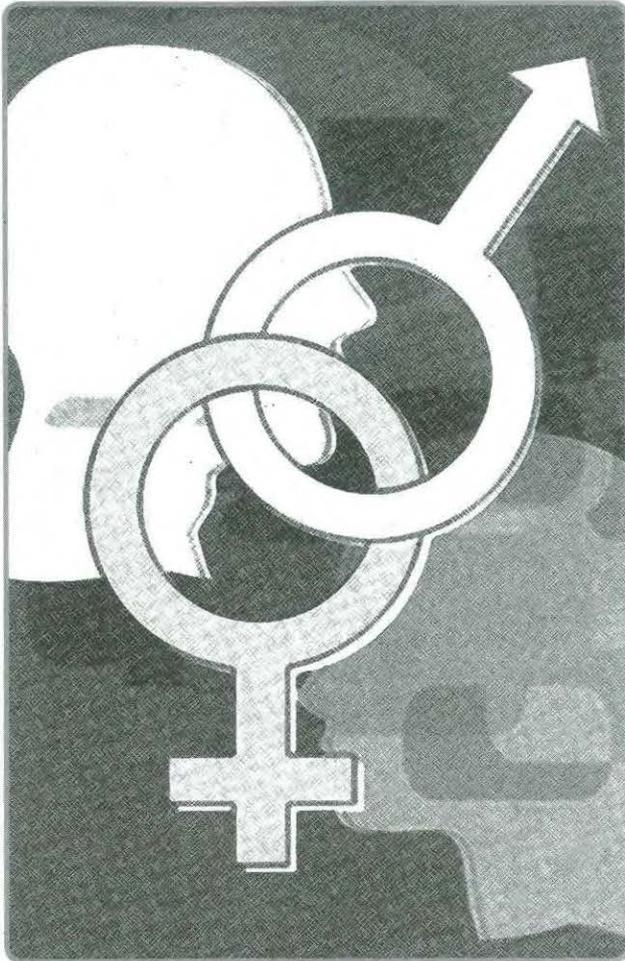
Gender disparities are caused by various factors, including the following:

1. **Culture:** Most cultures in Africa have inculcated and ingrained a belittlement of women in society. Women are generally treated as equal to children and do not have a right to speak before men or challenge them on wrong views and decisions. Women and girls are restricted to the kitchen, child bearing and other household duties. Given that many people religiously adhere to their culture, their perceptions as to gender roles in their society cannot be easily changed.
2. **Education:** Elementary school uses books that allocate lesser roles to women and girls. For instance, a textbook giving a hospital scenario will most likely show a picture of the doctor as a man while that of the nurse as a woman. Such illustrations are ingrained in the subconscious of children to the extent that boys want to become doctors when they grow up while girls want to be nurses.

The meaning of gender has been misunderstood and distorted by society's ill-advised understanding of the term. In many communities, the mere mention of the word is equated to matters relating to women and feminism. Gender has also been misinterpreted as to the sex of an individual, further complicating the distortion of the meaning. A basic understanding of the term will contribute toward eliminating related disparities. Gender is the sociological difference between men and women. It is distinct from sex, which is the biological difference between men and women. Sex is universal and unchangeable. For instance, the biological role of giving birth remains with women throughout the world. On the other hand, gender varies from culture to culture and is quite changeable. For instance, in the African setting of marriage men pay bride price while in the Indian society, women pay dowry.

Gender is the sociological difference between men and women. It is distinct from sex, which is the biological difference between men and women. Sex is universal and unchangeable.

Disparities



3. **Media:** The media has contributed greatly to society's perception of a woman's worth. Many advertisements emphasise the woman's sex appeal and use it to promote various products whether feminine or masculine. This adds to the perception of women as objects of sex.
4. **Social upbringing:** The way a child is brought up can greatly influence the perception about gender roles. For instance, a child who grows up in a family that allocates all nurturing roles to a girl and places little value on the girl's education will likely grow up with the same mindset.

The cost of gender disparities is quite high, especially in respect of women's rights. It has resulted in:

1. **Harmful cultural practices:** Due to the low value placed on women in Africa, many communities subject them to early marriage to earn wealth through bride price. The perception that women need to have their sexual morals guarded has led to the practise of female genital mutilation, which has many adverse effects.
2. **Lack of education:** The perception that the education of the girl-child is of little or no value at all has resulted in greater numbers of uneducated women. This means men dominate many good jobs and positions.

3. **Discrimination:** The gender-biased perceptions against women have resulted in discrimination against women in fields like politics. For instance, most political parties do not have gender-sensitive policies on representation. Legislators and policy-makers have further compounded the problem by passing laws discriminatory against women, e.g., immigration laws and succession laws.

4. **Gender-based violence:** The perception that women are the weaker and lesser sex has resulted in abuse through domestic violence. The notion that women are primarily objects of sex has also resulted in their subjection to rape and defilement.

The ills associated with gender disparities warrant a fight for equality of opportunities for both sexes. Various strategies can be employed to promote this objective, including:

1. **Affirmative action:** This process works to bring a weaker or lesser group to the same level with other groups. It can be done by giving incentives and providing favourable conditions to the lesser group. This can be very effective in promoting gender parity. For instance, an institution can adopt a policy that requires that a particular gender occupies a given position notwithstanding the qualifications of other candidates.
 2. **Gender mainstreaming:** This involves ensuring that laws and policies are gender-sensitive. The best time to ensure that this happens is at the policy-making or legislative development stage.
 3. **Education:** What is learnt in a formal educational system or forum tends to form most people's perceptions. A good education system and curriculum should adopt policies that enhance gender parity. For instance, better incentives will encourage the enrolment of more girls in Kenyan schools.
 4. **Advocacy:** Given that gender disparities are characterised by strong perceptions founded on beliefs and cultural practices that shape many individuals, it would not be a surprise if efforts to enhance gender parity meet with great resistance. Thus, there is a great need for advocacy against gender disparities and related setbacks.
 5. **Media:** Since the media contributes greatly towards the opinions and perceptions of many people, it can be a useful tool in the fight for gender parity. This can be done by changing the nature of advertisements and programmes that essentially depict women as sexual objects. Another example is advertisements, features and programmes that show women can be good leaders and hold good positions in life such as pilots, lawyers, doctors, engineers, and managing directors. The electronic media can also conduct regular debates and discussions geared towards enhancing gender parity.
- The fight for gender parity is a tough and long one. Even in the developed countries, the disparities are glaring and compete with other evils such as racism. This fight is for those who will neither relent nor refrain. It is for those who will fight all odds to the end. It is not for women alone but for those who embrace the need for equal opportunities for all. ■■■

Shouldering the Burden of Patriarchy

Introduction

Patriarchy, according to Anthony Giddens (1993), refers to male dominance. He argues that patriarchy exists due to the natural phenomenon that women give birth to, and nurse, children. The initial physical necessity for mothers to give birth to and nurse their children leads easily to the continuing caring and nurturing role which women adopt in all cultures. Because of their role as mothers and carers, women are primarily absorbed in domestic activities. Patriarchy in the contemporary society manifests in the roles men and women perform at different levels of society: home, workplace, and in the community whether social, economic or political. The feminist movements have perpetually resisted patriarchy – at least verbally and through documentation by women activists who are fighting for the increased visibility of women in public life and/or the equal participation of women and men in the political and economic decision-making levels. Whether the arguments by women activists for equal participation of women and men in all sectors of society are appropriate is relative, subject to practicability and necessity at a given time and place. It is, however, important to note that women activism has foreshadowed a section of men who are the real victims of patriarchy despite being perceived by most as beneficiaries of the system. This section has two categories of people: the relatively well to do who coexist with the exploits of the evil because they can afford a moderate living and those who are living in “hell” on earth just to measure to the dictates of the system - the utterly poor. This section needs to be thought about not only by the male activists but also the women activists as well because it in a way impacts on some of the issues they advance.

Patriarchy exists due to the natural phenomenon that women give birth to, and nurse children. The initial physical necessity for mothers to give birth to and nurse their children leads easily to the continuing caring and nurturing role which women adopt in all cultures.



By Narcisio Bangirana

The Roots of Patriarchy

Patriarchy has its roots in nature. According to the second biblical account of creation in Genesis 2:21-22, God made Adam sleep and took a rib out of his side from which he made Eve the woman. In Genesis 3:16, God scolds the woman “and your desire shall be to your husband and he shall rule over you.” These biblical verses not only portray man as senior to woman, as having come into existence before her and that woman is subset of man, but also that God ordained man’s dominion over woman when he said she shall be subject to man. Other creatures apart from man also portray male dominance expressing authority and power in the male gender. For example, among cows the bull always defends the rest of the herd against any foreign intruder and when feeding, it is always moving alone with a lot of space around him, something synonymous

with power and authority. Cultural dimensions also reinforce the patriarchal nature of most societies. In most African cultures, men are dominant in marriage; the man gets the woman out of her mother's home, and she moves to the man's. Besides, the man has to pay bride price to the family of the woman. This enhances male dominance as the man is portrayed as more able and therefore more powerful than the woman because he can afford her. Efforts by feminist movements to fight this dominance have also indirectly promoted male dominance. In a bid to increase women participation in public life, certain initiatives like affirmative action have been adopted further depicting women's inability to match men. For example, in Uganda, female students joining higher institutions of learning are given 1.5 free entry points compared to their male counterparts. This has helped increase the number of females in higher institutions of learning, but it is demeaning to females as if it shows they are incapable of competing with the males with whom they have undergone the same education process. This affects the self-esteem of the females who could make it without that bonus because they are counted in the other lot as well as encouraging laziness of females.

Living to meet the Challenges of a Patriarchal Society

In society, patriarchy is inevitable and one must struggle to live up to the societal expectations and challenges. In every sector of society, man fights to be recognised because recognition goes with influence. There's no better avenue to public recognition than registering achievement either as a leader or successful businessman that puts one in the limelight. Culture across most societies on the globe and particularly in Africa has patriarchal challenges. Take the marriage process: the man must pay an agreed bride price to qualify to marry someone's daughter. In some cultures, for instance the Karamajong of North Eastern Uganda, a man may be required to pay as many as 100 cows worth of bride price for one woman. The interesting bit of this is that it is imperative for a man to pay bride price to prove his worth lest society looks down on him. This is not only a challenge for men as they have to live up to societal expectations but also demeans women who are regarded as acquired property.

In a capitalist economy, the notion that marriage is based on love is highly questionable. Some people argue that even love must be spiced up. In the contemporary society, social relationships have strong attachments on the man's financial ability. Even in traditional culture, the haves can afford to be polygamous, sometimes snatching beautiful wives from poor men. As Mwaka (1990) says, "The participation of women in the political and public arena is dominated by a handful of educated women who have been accused of blocking fellow women from sharing the benefits of change," so are the well-to-do men treating their disadvantaged brothers.

Apart from the biological constructions that give women the peculiar roles of child bearing and breastfeeding, men and women could easily share the rest of the workload. However, in practice, harder tasks such as carrying heavy materials, digging pits, hunting and splitting hard wood are reserved for men while women are left



with the relatively softer tasks such as preparing meals, nursing babies and washing clothes. In some societies, a man seated in a kitchen is said to be either gluttonous or bewitched by his wife to do her work. The implication is that the man is dominant to the woman.

Regarding provision of goods and services, the right man is the one who can provide for his wife including basic needs like food and personal effects. In some societies, like Uganda, outing is one event that should be sponsored by a man irrespective of the woman's economic status. In fact, it is now common perception that when you see an ordinary lady looking nice then some man must be investing in her to sustain the looks. This has led to a practice of "detoothing" where some ladies ordinarily acquire forceful "investment" from men so that they keep up with the standards. This search for "investors" by females has so deeply affected society that some university females who cannot get "investors" of their status resort to dating boda-boda cyclists who can part with cash. These are some of the exploitative and demeaning practices of patriarchy.

Women activists argue that women are left out on important issues of decision-making, property inheritance and access to resources. Whereas they may be right in some instances, it is important to acknowledge that the power to make decisions and control resources goes hand in hand with the power to provide for

the family. As the saying goes, "He who pays the piper calls the tune." If the activists still believe that this man should build the house, pay bride price, do the hard tasks, take the lady for a date and buy everything including personal effects; on what base does the woman have to make decisions? The onus should not be a one way with the man providing and the woman at the receiving end. Patriarchy affects both sexes, and they should work together to address these challenges.

The Impact of Patriarchy on Men

The struggle to cope with patriarchal challenges has associated negative and positive effects on men. On one hand it has empowered men to take decisions of an ambitious nature that lead to their development. On the other, it has led to exploitation and promotion of certain vices in the human society. Sometimes, men who cannot afford to fulfill certain obligations resort to robbery and cattle rustling. For instance, the many cases of theft and highway robbery in urban places and cattle rustling in *karamoja* are predominantly done by men not women. These behaviours raise money to provide for the family, keep standards with other colleagues and raise cows to pay bride price.

Rural men who are not lucky enough to inherit a fortune from their fathers and are not in well-paying employment move to towns and other areas for manual labour in search of money. This not only leads to rural-urban migration but also to marriage breakdowns due to the man's prolonged absenteeism from home.

The desire by men to maintain the status quo makes them so shrewd and resilient in the search for well-paying jobs that the women cannot compete. Men dominate politics not because they can do better than women but because they are determined to do anything to keep a high status in society. Naturally one is a man if he has the power to control resources and make things happen. This phenomenon therefore creates the gender gap in the public sphere.

The patriarchy syndrome also leads to biased activism. Because

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of the thinking that men do the most important jobs and dominate the field of decision making, women activists are employing what can be considered gender-biased approaches in championing the cause. They put the blame on men even where it does not belong and refuse to blame themselves where they contribute. They do not also appreciate the fact that some men are more marginalised than the women. This renders the whole struggle against gender more biased.

Possible Approaches to Mitigating Negative Effects of Patriarchy

There is a need to respect domestic roles and acknowledge they are as significant to men as any other role. I do not believe performing domestic chores is less significant than other social aspects. Instead I blame those who demean it. It is not very appropriate to argue that women play minor roles in society because they do most of the domestic work and nurture children. Nurturing a child should be regarded more highly than serving as a head of state or in any other decision-making capacity. To propagate the belief that domestic work is minor is inappropriate.

Bride price and other related marriage practices should be reviewed. Whereas most people argue that bride price is a token of appreciation, it benefits one side and presupposes that it is only the man who should appreciate. Why don't the girl's parents also show appreciation for the man in form of a token? There is a need to show that it is actually a pleasure that someone has loved their daughter and chosen to offer himself for her throughout their life. When taking marriage vows, it is not only the woman who says, "I am yours for ever, in good and bad times," but the man too. It is therefore improper for one to advocate emancipation while condoning practices that perpetually put women in a subordination situation.

It is true that society is male dominated and women are put in a less significant position. It is also true that the men are perpetually exploited and required to measure to expected society standards. Leaders at every level must have somewhere to fall back to home. This is the basis of morality, virtues and social values that we cherish in life. A person responsible for the daily running of such an institution should be accorded greater prominence: without them, there would be no society worth talking of. Women should instead be empowered to perform their duties better. In fact, there should be a special fund to support women and men in domestic work to give it the excellence it deserves. The family as the basic institution requires contributions from both parties without overlooking their various roles.

Conclusion

It is more important to acknowledge and respect the importance of the various roles people play in society irrespective of their sexes. Serious sensitisation about this significance should be given prominence rather than implying that a given gender is less important than the other. Living with patriarchy is a challenging phenomenon that further marginalises the voiceless men by keeping them in perpetual exploitation by fellow men and women. It affects both men and women, but lower economic status men shoulder the greater load. ■■

An overview of the Protocol to the African Charter on the Rights of Women in Africa

Low levels of economic growth, political instability and respect for traditions, cultures and customs, which have a negative impact on the rights of African women, have generally characterised the African continent. The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa offers new hope for the promotion and protection of women's rights.



By Roselyn Segawa

Background to the Protocol

Before the adoption of the protocol, the African Charter on Human and People's Rights (African Charter) was the only instrument providing for the rights of women in Africa. The African Charter's provisions on women's rights are not elaborate and attracted a lot of criticism from scholars. Apart from the general equality and non-discrimination clauses, article 18 (3) which specifically mentions women provides: "The State shall ensure the elimination of discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions."

It is possible to develop progressive interpretations of this article by the African Commission, which is responsible for interpreting and enforcing the African Charter, but there was no opportunity because no communication was brought before it. Nevertheless, it is certain that despite the formal protection offered in the African Charter, women's rights continued to be violated in reality.

This prompted the African Commission, as a result of lobbying from non governmental organisations (NGOs), to search for solutions to women's problems like appointing a Special Rapporteur on the rights of Women in Africa responsible for drafting a protocol to the African Charter. It was considered vital to address the weaknesses of the African Charter by providing a comprehensive framework for the optimal protection of women's rights through a protocol to provide for concrete obligations that prescribe definite obligations.

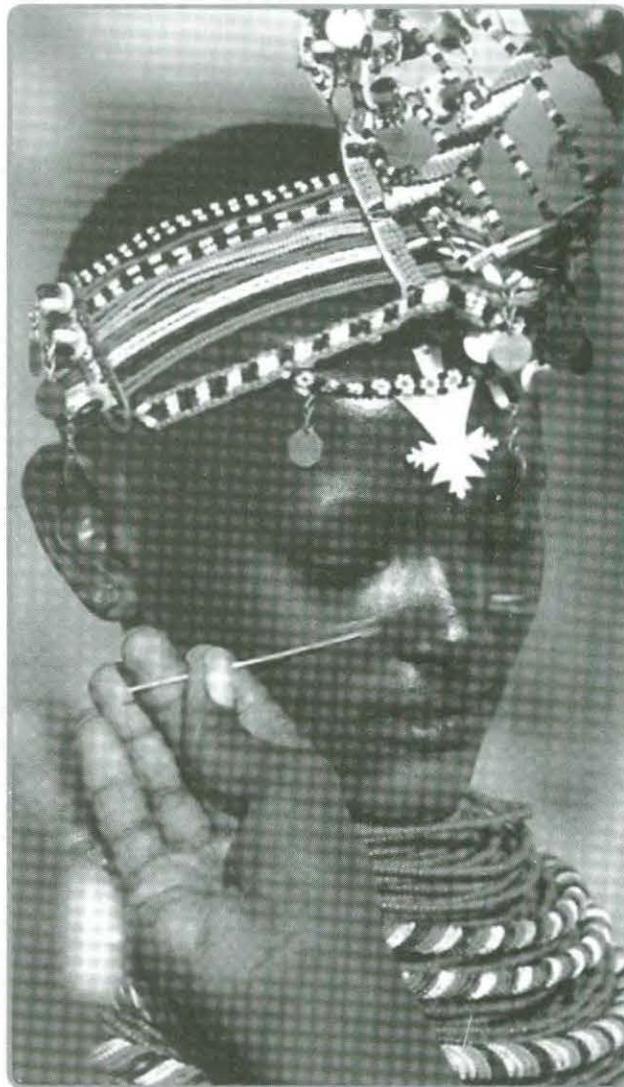
The drafting process was mostly under the auspices of the African Commission but NGOs played an important role. NGOs recommended the idea of a protocol and appointing a Special Rapporteur and were largely involved in the developments leading to the protocol by providing support to the African Commission and the Special Rapporteur. The Organisation of African Unity (OAU)/African Union's (AU) role was largely limited to organising the experts' meetings and approving the final document. The OAU was clearly not involved in the beginning because the Inter-Africa Committee on Traditional Practices Affecting the Health of Women and Girls had been working on another related convention. It was obvious that there was no prior knowledge of the African Commission or the OAU organs of what the other was doing. Nevertheless, these two documents were incorporated and the draft protocol was made. After some amendments, it became the "Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa," which was adopted and is now in force.

How does the Protocol Measure up?

The preamble of the protocol suggests a new and strong determination by African states to eliminate discrimination and protect the rights of women. In comparison, it is important to point

The protocol introduces new rights not explicitly provided for in the African Charter such as protection against harmful practices, access to justice, health and reproductive rights of women, right to food security, right to adequate housing, right to peace, rights of women in armed conflict, widow's rights, rights to inheritance, special protection of elderly women

out that the Protocol just like the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belem Do Para) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) have the same strong determination and resolve to promote gender equality and to remove barriers especially cultural that sustain discrimination against women. However, the protocol provides for a wider range of rights and its provisions go further than the CEDAW and the Convention of Belem Do Para in content. This is particularly the case with regard to provisions on the right



to dignity, the right to life, the right to access to justice, right to political participation, protection from harmful practices, right to education and training, economic, social and welfare rights, health and reproductive rights and the right to development.

The protocol provides for various rights that were not included in CEDAW or the Convention of Belem Do Para but are relevant to African women such as the right to food security, right to a positive culture, right to peace, protection of women in armed conflicts, widow's rights, right to inheritance, special protection of elderly women, special protection of women with disabilities, special protection of women in distress and refugee women.

It adequately emphasises the need to back up legislative measures with effective policy and other appropriate measures to promote and protect women's rights in Africa. The protocol, apart from educational campaigns and cultural transformation, specifically provides for affirmative action unlike the CEDAW and the Convention of Belem Do Para. It clearly tries to specifically address problems women in Africa face by providing for the right to dignity, protecting women against harmful traditional practices and protecting widows, elderly and disabled women and those in



distress. It emphasises positive culture in relation to women with due regard to the fact that women have always been discriminated against and their rights have often been violated because of various cultural practices. In a revolutionary manner it provides that women are to participate in the formulation of cultural policies at all levels.

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Experience has shown African states to be reluctant to enforce and implement ratified international and human rights instruments at the national level. Furthermore, they have not made the requisite reports to the treaty monitoring bodies

reiterates and expands some rights that were already provided for in the African Charter such as equality and non-discrimination with emphasis on implementation, right to participation in decision-making, right to education and training, economic and social welfare rights, the right to health, right to a healthy and sustainable environment and the right to sustainable development. In interpretation, it is likely that both the protocol and the African Charter will be considered.

Unlike the Convention of Belem Do Para, the protocol does not provide for the right to liberty and freedom from torture, which are also important for African women. However, these are already provided for in the African Charter and obviously apply to women as well. CEDAW falls short in areas such as equality in marriage by allowing polygamy, right to education and training, economic, social and welfare rights, the right to adequate housing and the special protection of rural women. It is important to note that omission or retraction of these rights in the protocol does not in any way thwart the obligations of African states that are party to CEDAW. The protocol provides in Article 31 that it does not affect the more favourable provisions contained in the national legislation of state parties or other international and regional human rights instruments applicable to them.

Enforcing and Implementing the Protocol

The protocol is silent on reservations and does not provide for derogation or limitation of the rights. Enforcing the rights in the protocol will require a lot of resources but they are stated in an unconditional manner as if they are not subject to progressive interpretation or the availability of resources as is the case with the International Covenant on Economic, Social and Cultural Rights (ICESCR). This creates unrealistic expectations, which could undermine the protocol. In enforcing and interpreting these rights, the African Commission and/or the African Court will have to prescribe the circumstances in which they can be derogated or limited and will subject them to the progressive realisation; otherwise it will not be practical.

Under the protocol, state parties are obligated to provide appropriate remedies, implement and report on the progress made. They also have to provide budgetary and other resources for implementing the rights in the protocol. All this is important for effective implementation. Experience has shown African states to be reluctant to enforce and implement ratified international and human rights instruments at the national level. Furthermore, they have not made the requisite reports to the treaty monitoring bodies and where they have, these reports have been late. Moreover, they have not adequately financed human rights institutions at the national or domestic levels. It can only be hoped that African states will respond better in terms of reporting on the protocol than they have with the African Charter and CEDAW or other international instruments for that matter.

The mechanisms for enforcement and implementation of the protocol are the African Court, the African Commission and competent authorities at the domestic level. It is important for a start that the mechanisms at the domestic level are strengthened. The regional mechanisms cannot adequately enforce women's rights or human rights as adequately as the domestic mechanisms. Protecting the rights of women in Africa can only be effective where there is an adequate level of compliance with the human rights norms on the domestic level. If the level of respect for women's rights on the domestic level is low, and domestic courts are not effective in implementing these norms, there can be little hope for regional

enforcement. The African Court and the African Commission have an important role in the implementation and enforcement of the protocol. African states must ensure that they support these institutions by providing adequate funds to enable them to function. The work of both institutions must be publicised through dissemination of their decisions and/or resolutions, which must be respected by state parties, at both the national and regional level to make an impact. Shame and exposure are often used as a tool to pressure obstinate states. Unfortunately, in the past, many African states were unbothered by the exposure, and this may call for mobilisation of stronger forms of sanctions against such states. The coming into force of the protocol may not be of much help in improving the situation of women on the continent, if the flaws in the African human rights system are not corrected.

There will likely be challenges in implementing and enforcing the protocol within the current cultural and social context. It is difficult to penetrate the deeply-rooted patriarchal and predominantly patrilineal African culture. There has to be cultural transformation through educational campaigns to fully implement and enforce women's rights. Some practices that negatively affect women's rights, such as polygamy, bride price and other related practices, remain a challenge and will have to be dealt with progressively. Most importantly, there must be political will by African states to ensure that women's rights are enforced and implemented at both the domestic and regional level.

Conclusion

On the whole, the protocol is a remarkable and innovative document whose provisions go further than the CEDAW and the Convention of Belem Do Para although it diverges and falls short in some areas. It is hoped that in spite of the fact that the OAU/AU was not largely involved in the drafting process that they shall take on the protocol and implement it. The question of whether the AU will actually achieve gender equality especially through enforcing and implementing the protocol will depend largely on whether there is a cultural transformation, the political will of states and strengthening of the AU and its human rights mechanisms. ■■

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Gender Equality in the Workplace



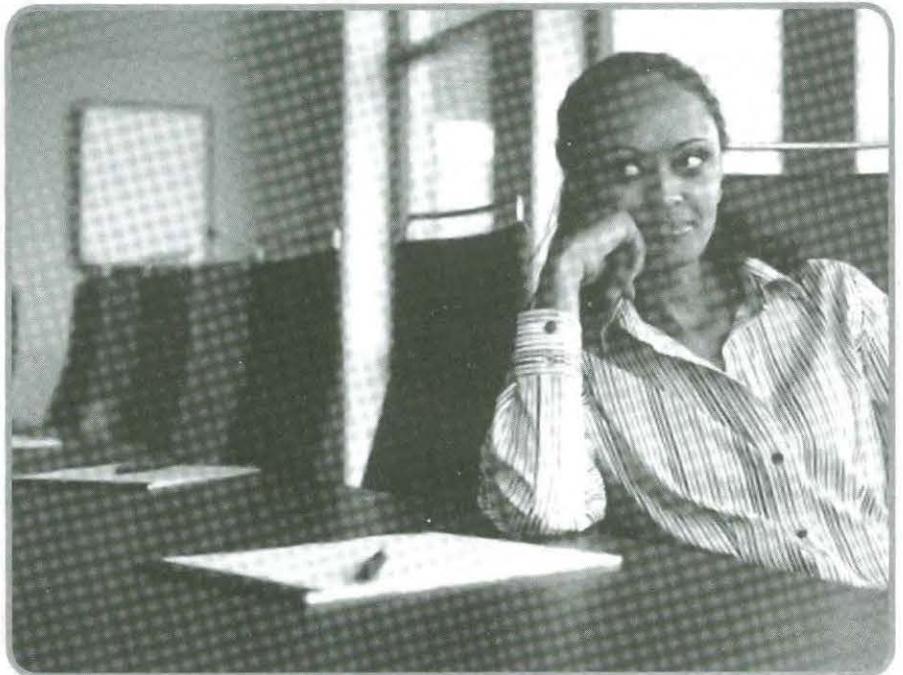
By Myra Dang'ana

The desire to promote equality between men and women (gender equality) is now a consistent feature of many organisations. Corporate strategies are increasingly recognised as critical to achieving gender equality in the workplace. Promoting an equality-sensitive approach to human resource management remains, however, a major challenge for companies and policy makers.

Many businesses today face a virtually unprecedented human resource challenge. They must maintain or enhance productivity with workers who differ from each other in values, work ethics, expectations and motives, as well as their ethnic, socio-cultural and professional backgrounds. This must be accomplished at a time when the skills and demands of many jobs are increasing, the structure of organisations and the manner in which work is done is undergoing remarkable change, and global competition for workers with new skills intensifying.

Market conditions also influence development of innovative approaches to human resource management. Increased market competition due to globalisation requires organisations to improve product and service quality and enhance customer satisfaction. Achieving these improvements depends on the contribution of human resources. Both men's and women's skills and potential must therefore be fully developed and utilised. Also, the customer base for more products and services is becoming "feminised," again highlighting the importance of achieving a balanced workforce that reflects this.

The goal of promoting gender equality in the workplace remains the same; however, the means applied to it have changed over time. Blindness to the respective needs of women and men has



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been compounded by the fact that men still do much of the decision-making. Men have traditionally predominated in positions of authority. Today, the numbers of women decision makers has improved, but this is no guarantee gender equality will get sufficient attention. Female decision makers too, may fail to grasp the importance of gender equality. Despite women creating opportunities, various barriers still prevent them from achieving their goals.

To ensure effective and sustainable results, it is necessary that women and men jointly promote gender equity and equality. Every organisation needs to adopt a culture of change. A learning environment needs to be fostered so as to realise significant future benefits and ensure the organisation's viability and future success.

Definition of Gender Equality

Gender equality in the workplace can be interpreted as creating an organisational environment that enables all employees to reach their full potential and be fairly rewarded on this, without any discrimination on any basis.

Observations of Gender Scenario in the Workplace

Evidence suggests that women tend to be in less senior positions than men, and they therefore tend not to progress as far in their careers. Too many women are in low administrative/secretarial positions. Women in more traditional jobs, with fewer skills and less education, are seen "naturally" redundant, and no specific action is taken to improve their situation.

Few women occupy the top senior positions of director or CEO. The number of women in higher-skilled occupations has increased; however, there are still more men in supervisory positions.

Women's employment starts to decrease when they have young children; whereas men are more likely to be in employment when there is a child in the household.

Male colleagues recruited at the same level as female colleagues come in with a much higher salary package than their female counterparts. Women are paid less than men. The gap is greater in the private sector than the public sector.

There is no mentorship for both male and female workers, especially after office hours.

A "glass ceiling" restricts women's career prospects relative to men's, preventing them from attaining equal levels of seniority, responsibility and pay.

Gender Analysis

Cultural Beliefs and Tradition

A number of social and cultural factors complicate the issue of gender equality and these play an important role in our lives. Most of us strive for acceptance and approval within our family and community. We are all influenced - often unconsciously - by prevailing ideals of masculinity and femininity, and most of us conform to them.

The masculinist culture remains pervasive in the attitudes and expectations of the middle-aged and older men who have moved into management and leadership over the past decade. Many organisations and other workplaces remain largely unchanged when it comes to work practices. There are more women employed and in a greater diversity of positions, but the gendered culture is still pervasive in the workplaces and in promotional opportunities.

Gender a "woman's issue"

Equality between men and women is not a woman's issue; but rather an important issue for society as a whole. No country where women and men are not equal can claim to be democratic and just.

In general, in most languages and cultures, "gender" translates as "woman." Gender is translated as about advancing the rights of and improving the status of women. The language of gender does not fool men who oppose women's rights to equality and justice. Therefore, just using terms like gender does not usually assist in promoting a gender-inclusive approach. More problematically, using the word gender can render women invisible again.

Women's Behaviour towards other Women

Some women, due to socialisation, contribute to excluding women from responsible positions. There is the traditionalist woman who wholeheartedly believes serious work is only a man's prerogative. The "pull her down" syndrome is also very common. Fellow female colleagues/subordinates may easily discredit a female manager in a senior position for her management skills.

Lack of Mentoring

Mentoring refers to the process of taking a protégé or less experienced person in an organisation and over a period of time advising them on how to move ahead. In addition to improving their confidence, increasing visibility in the organisation and increasing prospects for promotion, mentors provide the contact and support required with other more senior staff.

A good mentor supports and advises the staff, helps to develop their reputations, helps to get their names known to senior management, sets high standards for them and stimulates their personal motivation.

A critical question is whether organisations create conditions that encourage both male and female seniors to take on the role of mentors, as it is largely clear that there is a lack of senior mentors, with most bosses preferring just to be "bosses."

Lack of Networking

When asked if staff meet after working hours, a majority of the female staff said "no," citing family obligations. Networking, like mentoring, is very important and can facilitate careers and personal development. Networking is useful at all stages in career development, while mentoring is useful in the early stages of career development.

Peer relationships are different from mentoring relationships in that they often last longer, are not hierarchical, and involve a two-way helping. Peer relationships have advantages, particularly since a significant number of women may not

have had mentors. Research indicates that in many organisations, the "old-boy" network is still strong. Men admitted that quite an amount of office work is discussed out of office and even tensions worked out when male managers network informally.

There is a total lack of networking for the female staff, and especially the female manager, who did not realise the challenges of staying at the "top" of the male-dominated field.

However, some female staff wholeheartedly agree that excluding females from male managerial groups perpetuated

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the more exclusively male customs, traditions and negative attitudes toward female managers. The detrimental effects of these covert barriers included blocked promotion, blocked career development, discrimination, occupational stress and lower salaries.

Female colleagues are also encouraged to initiate their own networking groups. Networking is about becoming proactive, about strength in numbers and about sharing so they can overcome obstacles.

Conflicting Demands of Careers and Family

Research showed that the male employees are able to travel to the field, and therefore are very flexible. The result is greater

exposure, sharper understanding of how the projects run and a clearer perspective on the way forward. They are also able to take up more challenges, and work "after office hours" to meet their deadlines and in the final analysis get more recognition. Women at management level have a problem reconciling home and working life.

The man with a partner in the background remains the most likely to get ahead as he is unencumbered at work and has a support system outside work. Many women who have developed careers are single, since having children seems to be as much of a problem and career destroyer in the general workforce. Men who seek a better balance of work and family life often also find that their careers stall and opportunities dry up.

Recommendations

Organisation culture has been identified as being a very strong level for change in achieving gender equality. A "people-centred" approach to corporate values and culture is consistent with equality and diversity and is a key success factor to ensure an organisation achieves its strategic objectives.

1. Organisations should implement gender mainstreaming. This involves not restricting efforts to promote equality to implementing specific measures to help women, but mobilising all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account at the planning stage their possible effects on the respective



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situation of men and women (having a gender perspective). This involves a continuous equality process where the organisation's commitment to equality is declared and supported, the business case for equality is continually affirmed, and monitoring represents a key step for ensuring continuous incremental movements (this demands that results are monitored by means of both qualitative and quantitative indicators and that they are communicated to everyone).

2. Although there has been awareness creation to increase women's upward mobility to executive positions, progress has been slow. This poor response has been attributed to the attitude value system of men and women as well as the organisational behaviour and culture. For many organisations, policies should be re-formulated to restructure the organisational culture and behaviour. Both male and female employers should develop positive attitudes and perceptions about women as competent professionals. This can be done through:

- Sensitising women toward planning their careers strategically, having goals and focusing on achieving them.
- Modifying policies to minimise the risks of negative cultures and sensitising men towards changing their attitudes, i.e., a "masculine" culture, dominated by some professions such as engineering. A diversity policy will modify this culture as well as favour the recruitment and career development of women, especially in a context where women were

originally a minority.

- Promoting visibility to women's performance through selective assignments to committees and teams.
 - Establishing work/home support structures to enable women to balance both professional and personal lives and be able to perform at their optimum, whether at the office or in the field. This also involves having flexible policies such as proper paid maternity leave, home-based work, flexible hours and job-sharing.
 - Promoting cross-gender networking engenders human resource and people management policies in the work area. This involves integrating action-based programs on issues of sexual harassment and male violence on childcare, sharing the domestic load, children's rights, etc.
3. Organisations should introduce formal and informal mentoring strategies designed to promote the participation of women in senior management positions and recognise that female managers may have different mentoring needs than men. Networking and mentoring are processes that encourage team learning. Such learning is viewed as the process of aligning and developing the capacities of a team to create the results its members truly desire.

The challenge for organisations seeking to increase women's participation in both local and international management (locally and overseas) is to develop a pool of senior female mentors who can advise, support, sponsor and very importantly, act as role models for other female staff seeking to further their careers in management level.

4. There is widespread need for companies to be innovative in HRM to meet the challenge of change in the competitive marketplace, ensuring quality in their products and services and increasing customer satisfaction. Greater flexibility and responsiveness to the customer and the changing environment is required, with a switch in focus from processes to results.

Thus human resources represent a key lever for change and new conditions and operational tools are needed to capitalise on and fully realise employee potential. This helps create attitudes, behaviours and an environment more suitable to equality. It is vital to develop transparency, positive flexibility, better communication, better assessment of skills and potential, changes in the career structure and more open systems for recruitment, professional development and training.

5. Gender-training is one of the key methods to support behaviour and organisational change. Providing training, however, is not on its own sufficient. Training is helpful if lessons are drawn from the experience, used to improve future work and shared with others. Training:
- Improves staff understanding of gender concepts and gender equality issues in relation to the organisation's domains.
 - Ensures the integration of women's empowerment and gender equality perspectives in programme and project implementation, monitoring and evaluation to promote

gender equality in all the organisation's activities and programmes.

- Enhances the capacities of staff to help contribute toward the achievement of gender-related goals.
6. Female legislators also have a major role in bringing reforms on affirmative action and equality so they can open more doors and opportunities for women who need both economic and political empowerment.

Summary

Lack of gender equality is a decisive hindrance to development. Gender equality is not only about justice, it is a matter of effective development. The prime challenge is to devise more effective ways of incorporating gender equality into day-to-day operations. Objectives need to be defined or clarified in measurable terms, and methods defined.

Organisations compete for human resources, and as the workforce becomes more heterogeneous, organisations will have to service the employees' diverse needs or they will lose the workforce to competitors. Organisations that discriminate against women are forced to select workers from a smaller pool, reducing their ability to find top performers. There is therefore a need to increase the diversity.

In situations of rapid change only the flexible, adaptive and productive will excel. For this to happen, organisations need to discover how to tap people's commitment and capacity to learn at all levels. A learning organisation is one where people continuously expand their capacity to create the results they truly desire, where new and expansive patterns of thinking are nurtured, where collective aspiration is set free, and where people are continually learning to see the whole together. A learning organisation is one that integrates gender in all its activities and is constantly ensuring gender-centred values are held and there is a positive appreciation of each individual's abilities and skills.

Moving the organisation in the right direction entails working to transcend the sorts of internal politics and ideologies that dominate traditional organisations and "stereotypes." It involves fostering openness by integrating equality and equity.

An organisation must also integrate gender into its vision and mission. When there is an inclusive genuine vision, people excel and learn, not because they are told to, but because they want to. Such vision uplifts and encourages experimentation and innovation. Shared visions increase clarity and enthusiasm, and commitment rubs off on others in the organisation.

We must recognise the importance of everyone in the organisation. None of our institutions exists by itself and is an end to itself. Everyone is an organ of society and exists for the sake of society.

This is the challenge of the future. Kofi Annan put it well when he said, "Women's equality must be a central component of any attempt to solve the world's social, economic and political problems¹."

1. Kofi Annan's speech during the International Women's Day, 8th March, 1997.

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Definitely the best email of 2006!!!

A man was sick and tired of going to work every day while his wife stayed home. He wanted her to see what he went through so he prayed: "Dear Lord. I go to work every day and put in eight hours while my wife merely stays at home. I want her to know what I go through, so please allow her body to switch with mine for a day. Amen."

God, in his infinite wisdom, granted the man's wish. The next morning, sure enough, the man awoke as a woman. He arose, cooked breakfast for his mate, awakened the kids, set out their school clothes, fed them breakfast, packed their lunches, drove them to school, came home and picked up the dry cleaning, took it to the cleaners and stopped at the bank to make a deposit, went grocery shopping, then drove home to put away the groceries, paid the bills and balanced the cheque book. He cleaned the cat's litter box and bathed the dog.

Then it was already 1pm and he hurried to make the beds, do the laundry, vacuum, dust, and sweep and mop the kitchen floor. Ran to the school to pick up the kids and got into an argument with them on the way home. Set out milk and cookies and got the kids organised to do their homework, then set up the ironing board and watched TV while he did the ironing. At 4.30pm he began peeling potatoes and washing vegetables for salad, breaded the pork chops and snapped fresh beans for supper.

After supper, he cleaned the kitchen, ran the dishwasher, folded laundry, bathed the kids, and put them to bed. At 9pm. he was exhausted and, though his daily chores weren't finished, he went to bed where he was expected to make love, which he managed to get through without complaint.

The next morning, he awoke and immediately knelt by the bed and said: "Lord, I don't know what I was thinking. I was so wrong to envy my wife being able to stay home all day. Please, oh! oh! please, let us trade back."

The Lord, in his infinite wisdom replied, "My son, I feel you have learned your lesson and I will be happy to change things back to the way they were. You'll just have to wait nine months, though. You got pregnant last night." This has been voted women's favourite E-mail of the year! ☺☺

A man and his wife, now in their 60s, were celebrating their 40th wedding anniversary. On their special day a fairy came to them and said that because they had been so good, each could have one wish. The wife wished for a trip around the world with her husband. Whoosh! immediately she had airline/cruise tickets in her hands. The man wished for a female companion 30 years younger. Whoosh! immediately he turned 90! Gotta love that fairy!

A Prayer

Dear Lord, I pray for wisdom to understand my man;
Love to forgive him; And patience for his moods.
Because, Lord, if I pray for strength, I'll beat him to death. ☺☺
Amen

Even God enjoys a good laugh

There were three good arguments that Jesus was black:

1. He called everyone "brother."
2. He liked gospel.
3. He couldn't get a fair trial.

But then there were three equally good arguments that Jesus was Jewish:

1. He went into His father's business.
2. He lived at home until He was 33.
3. He was sure His mother was a virgin and His mother was sure He was God.

But then there were three equally good arguments that Jesus was Italian:

1. He talked with his hands.
2. He had wine with every meal.
3. He used olive oil.

But then there were three equally good arguments that Jesus was a Californian:

1. He never cut his hair.
2. He walked around barefoot all the time.
3. He started a new religion.

But then there were three equally good arguments that Jesus was Irish:

1. He never got married.
2. He was always telling stories.
3. He loved green pastures.

But the most compelling evidence of all – three proofs that Jesus was a woman:

1. He fed a crowd at a moment's notice when there was no food.
2. He kept trying to get a message across to a bunch of men who just didn't get it.
3. And even when He was dead, He had to get up because there was more work to do. ☺☺

Amen!!!

The reason why the Daladala Drivers in Tanzania will go to Heaven

A priest dies and waits in line at the gates of heaven. Just ahead of him is a guy in casual jeans and a T-Shirt. An angel addresses this guy, "Who are you, so that I may know whether or not to admit you to heaven?" The guy replies, "I'm Masumbuko, a *Daladala* driver from Dar es Salaam."

The angel consults his list, smiles and says to Masumbuko, "Enter into the paradise." So the Tanzanian *Daladala* driver enters heaven and the priest is now next in line.

Without being asked, he proclaims, "I am Father Alphonse Masawe of St. John's Cathedral of Moshi for the last 43 years." The angel once again consults his list and says, "I am sorry, you are on the waiting list. You have to pass some tests before you get entry to the kingdom of heaven." The priest says, "Just a minute. That man was a *Daladala* driver, and you issued him an instant entry. But I have to go through more tests. How can this be?" The angel replies, "Father, I am sorry but up here, we go by results. While you preached, people slept. While he drove, people prayed." ☺☺



Gender and Organizational Development Course

The millennium development goal on gender equality is a global recognition that men, women and youth are key actors in realizing wholesome development. Designed programmes rarely ensure equal participation in decision-making and access to resources and benefits. Women and youth in Africa have a long way to go before they fully participate and influence social, economic and political development. One key reason is that many development organizations do not have resources and the organizational framework to ensure that gender concerns are mainstreamed. Besides, few organizations provide high quality courses in this area. More still, courses that already exist, mainly abroad, are not contextualized to suit the needs of Africa. Further, documentation and sharing of gender analysis tools and techniques appropriate for Africa is scarce.

IIRR Africa has taken care of this need. Over the years we have built substantial experience in gender mainstreaming. Good examples are the Gender in Leadership and Decision Making (GLDM) project in Ethiopia, the production of the book on gender mainstreaming, technical support in gender audits, policy development and mainstreaming. These experiences enrich our gender courses.

Learning Objectives

After the training, participants will acquire practical skills to:

- Explain the history and rationale for gender and development in programming
- Articulate the concepts and inter-linkages between gender and organizational development
- Develop and apply gender needs assessment and analysis tools
- Design tools and conduct a gender audit in an organization
- Facilitate the process of developing Gender and HIV/AIDS policies
- Plan, monitor and evaluate gender mainstreaming within institutions, programmes and the national policy agenda
- Share experiences and challenges in mainstreaming gender and emerging opportunities



Title: A Concise Text & Manual of Forensic Medicine, Medical Law and Ethics in East Africa
Publisher: Independent Medico-legal Unit (IMLU) - Kenya
Authors/Editors: Prof Mohamed Ayob Dada, Dr Alex Kirasi Olumbe, Prof David McQuoid-Mason and Dr Ahmed Yakub Kalebi.
Contributors: Lawyers and healthcare practitioners from Kenya, Uganda and Tanzania.
Price: US\$40

The manual is meant to provide a concise description of forensic medicine, medical law and ethics with specific focus on application to the legal system in the three East African countries Kenya, Tanzania and Uganda. It is divided into three sections for comprehensive coverage of the topics:

- ✦ Section A : Medical Law and Ethics
- ✦ Section B: Clinical Forensic Medicine
- ✦ Section C: Forensic Pathology

The manual is designed to be used as a resource text, as a manual for teaching, training and workshop meetings. It has been published in a hand out format with rich illustrations, table, charts, case scenarios, an appendix with anatomical diagrams, colour pictures and a comprehensive index for easy referencing. The manual contains information obtained from authentic and highly regarded sources, including materials reprinted from the Guide to forensic Medicine and Medical Law and the Handbook of Forensic Medicine and Medical Law in Kenya. These have been updated by the editors with contributions from various medical and legal practitioners from the three East African countries.

The Manual provides concise information for medical, legal, judicial and law enforcement officers; forming a platform on which that can be used to pursue further knowledge in areas of specific interests. The issue covered in the manual demonstrates the complexity of the subject of forensic medicine as a whole, which needs to be viewed in a simplified manner whereby the role of each of the relevant professions is understood. It is primarily meant to bridge the gap between these professions and to promote the general understanding of how medicine relates to the law in East Africa.

The major chapters covered by the manual include Inquest, Traumatology, Sexual Offences, Reproductive Health, Child Abuse, Forensic Toxicology, Torture, Prisoners and Detainees, HIV/AIDS, Forensic Psychiatry, Forensic Nursing, Injuries, Sudden Death, The Crime Scene, The Autopsy, Human Identification, Bioterrorism Setting and Equipping a mortuary facility.

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