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ACRONYMS

ANC	African National Congress, South Africa
AU	African Union
CBO	Community-based organization
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CLC	Community Law Centre, University of Western Cape, South Africa
CRC	Convention on the Rights of the Child
CSO	Civil society organization
DNM	National Directorate for Women, Mozambique
DV	Domestic Violence
EGAT/WID	Office of Women in Development
FRELIMO	Front for the Liberation of Mozambique
GL	Gender Links
ICT	Information and Communication Technologies
IQC	Indefinite Quantity Contract
IMF	International Monetary Fund
JEP	Jurisprudence of Equity Program
NGO	Non-governmental organization
OMM	Mozambican Women's Association
PRSP	Poverty Reduction Strategy Paper
RCSA	Regional Center for Southern Africa
RENAMO-UE	Mozambique National Resistance-Electoral Union
SADC	Southern African Development Community
SADC PF	SADC Parliamentary Forum
SADC RWPC	SADC Regional Women's Parliamentary Caucus
TOT	Training of Trainers
UNDP	United Nations Development Programme
UNIFEM	United Nations Development Fund for Women
USAID	United States Agency for International Development
WAR	Women Against Rape
WiLDAF	Women in Law and Development in Africa
WLR	Women's Legal Rights Initiative

EXECUTIVE SUMMARY

The USAID Women's Legal Rights Initiative (WLR) is a task order under the Women in Development indefinite quantity contract signed by Chemonics International Inc. on September 30, 2002. The WLR Initiative is intended to further the goals and objectives under the USAID Office of Women in Development's (EGAT/WID) third strategic objective (SO3)—"women's legal rights increasingly protected"—and to strengthen USAID missions' strategic objectives, particularly regarding democracy and governance.

The WLR project team, in coordination with USAID/Regional Center for Southern Africa (RCSA), the Africa Regional Bureau, and EGAT/WID, selected Southern Africa as a focus region for WLR activities in Africa. The WLR team will work closely with democracy and governance teams at the USAID/RCSA mission to identify constraints and gaps in women's legal rights and design activities to address them.

The team conducted a four-week assessment and analysis trip to Southern Africa from August 19 to September 12, 2003, including visits to Botswana, Mozambique, and South Africa, as part of the effort to begin the process of designing activities for USAID to implement in Southern Africa with WLR. The team met with USAID/RCSA, USAID/Mozambique, USAID/South Africa, international donors, government representatives, and civil society organizations. The meetings made it readily apparent that issues related to violence against women, discriminatory marriage and family laws, as well as the denial of property and inheritance rights to women, have a wide-reaching negative impact throughout the entire region of Southern Africa. Not only are the lives of women adversely affected, but social, legal and economic institutions are greatly challenged and to remedy these factors. A number of elements converge to create an environment where violence against women, lack of economic empowerment, and HIV/AIDS result in the ongoing denial of women's rights. The lack of legal systems to effectively deal with the problem is a one of the key factors. Poor economic conditions and weak civil society capacity also contribute to these problems. Moreover, the scourge of HIV/AIDS directly affects women's legal rights and is a cross-cutting issue in the region. In order to combat these problems, we recommend that WLR design a regional program that focuses on capacity building and advocacy for civil society and parliamentarians, with a focus on violence against women, legal aid and legal literacy, and customary law.

Southern African Development Community Parliamentary Forum (SADC PF)

WLR proposes work with the SADC PF and its Engendering Parliaments Plan of Action to eliminate laws and policies that continue to discriminate against women. This will include training parliamentarians about women's legal rights in the context of international human rights law and on the process of gender budgeting, in an effort to increase their capacity to demand accountability in terms of implementation of related laws and policies.

Civil Society Organization (CSO) Networking. WLR recommends activities that focus on working to strengthen regional networks of CSOs and NGOs, including Women in Law and Development in Africa (WiLDAF), Gender Links, Women and Law in Southern Africa (WLSA), the International Association of Women Judges' Southern African regional network, and other stakeholders to advance the women's legal rights agenda in the region. This cooperation with regional networks will provide the impetus for greater demand for implementation of established norms and standards, including holding governments accountable for the implementation of regional declarations and other international treaties, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Violence Against Women. WLR proposes work on the issue of violence against women and the impact of HIV/AIDS, CEDAW compliance, justice sector training, and implementation and capacity building for NGOs/CSOs. The impact of HIV/AIDS on these issues creates an opportune time for WLR to ensure that the HIV/AIDS issue is mainstreamed into all initiatives. A recent report by Emang Basadi, a leading women's rights organization in Botswana, emphasized the need for local, national, and regional training on domestic violence. Resources for capacity building and leadership are necessary for the NGOs and CSOs in the Women's NGO Coalition to improve and sustain their capacity to advocate for and promote women's rights. As CEDAW reports have been prepared in the region, WLR will build on this process by providing training about the implementation of CEDAW and other international human's rights treaties for the judiciary and the NGO sector. WLR proposes partnering with anti-violence organizations to undertake a regional research project on best practices and lessons learned in confronting domestic violence with regard to the specialized courts. This will provide a useful tool for addressing domestic violence in the region, and assist those countries in the region that are currently preparing draft domestic violence laws.

Legal Aid and Legal Literacy. WLR recommends a focus on legal literacy and legal aid in support of women's legal rights. This may include a legal literacy campaign in partnership with existing CSOs/NGOs. WLR proposed activities related to legal aid will focus on enhancing the institutional capacity of CSOs/NGOs that provide legal services to women, particularly in rural areas. WLR legal literacy and legal aid activities that may be country-specific will be linked to regional initiatives.

Advocacy and Litigation Program. WLR proposes work with the Georgetown University's International Women's Human Rights Clinic Program to provide access to resources in the region on best practices and lessons learned in their African advocacy program. Success stories on impact litigation, legislative drafting, the passing of laws, and test cases may be shared at a regional conference. Advocacy strategies may also be discussed with participants re-convening at a later date to report on their progress. These lessons and practices will be widely shared throughout the region in a publication, an email list serve, and a web site.

Customary Law. Customary law is an issue that impacts on women's legal rights throughout the region. Successful test case impact legislation that has resulted in a significant change to the domestic law will be reviewed and researched. WLR recommends the preparation of a manual on how to conduct impact litigation on the issues of customary law that can be disseminated widely in the region.

The WLR team will work in coordination with other USAID programs, international donors, government, and civil society organizations to avoid duplication of efforts. WLR will identify with USAID/RCSA and EGAT/WID the focus activities for the project based on the recommendations included in this report and the budgetary limitations. Following discussions with USAID/RCSA and EGAT/WID, an action plan with specific activity details and timeframes will be developed for project implementation.

After a careful review of all the information obtained in the assessment and analysis process, the WLR team made the following initial findings and recommendations for assistance related to the legislative framework, judicial enforcement, civil society advocacy, and public awareness in the Southern Africa Region. After the assessment visit, initial country specific findings and recommendations were made for Botswana, Mozambique, and South Africa as representative of the needs for a regional program. The final action plan will focus solely on a regional program, but it is important to place the regional action plan within an understanding of the findings from some of the SADC countries that are illustrative of the needs of the region as a whole.

SECTION I

Introduction

A. Women's Legal Rights Initiative Objective

The Women's Legal Rights Initiative (WLR) team, in collaboration with the Office of Women in Development (EGAT/WID) and USAID missions worldwide, is working to strengthen and promote women's legal rights and participation by enhancing opportunities for women to meaningfully participate in the economic, social, and political dimensions of society. To achieve these goals the project coordinates with international donors and local stakeholders to provide strategies to identify constraints, discern gaps, and document best practices in knowledge and practice related to women's legal rights.

B. Country Selection Process

The WLR team initiated consultations with EGAT/WID and the USAID Africa Regional Bureau on April 2, 2003, to ensure that country selection was consistent with USAID priorities in the region. Bureau representatives Curt Grimm, Carla Komich, Ajit Joshi and Afia Zakiya recommended communicating through cable with all USAID missions in Africa to identify interest in accessing WLR project services. A cable was sent on April 15, which resulted in 11 responses from missions in Benin, Ethiopia, Liberia, Madagascar, Malawi, Mozambique, Niger, Democratic Republic of Congo, Tanzania, Rwanda, and the Regional Center for Southern Africa (RCSA). The WLR team was very encouraged by the widespread interest in strengthening women's legal rights throughout Africa, however, due to limitations in the scope of work, only four countries were chosen for the first three years of the contract.

Responses to the WLR announcement cable were assessed and ranked by the WLR team in early May 2003. The evaluation of mission responses was based on six objective criteria designed to measure the potential impact a project could have in a given country. The review and ranking of the responses revealed that a regional "hub" approach would be most appropriate for addressing region-wide women's legal rights needs while facilitating optimal use of WLR resources. WLR recommendations were shared with the project's cognizant technical officer and representatives of the Africa Regional Bureau on May 21. These recommendations were further reviewed by the relevant country desk officers. The final decision on priority countries was made in consultation with the Regional Bureau on June 5 and included RCSA, Madagascar, Benin and Rwanda. In Year 2, WLR will launch programs in Southern Africa, Madagascar, and Benin; and beginning activities in Rwanda in Year 3.

C. Assessment Objectives and Activities

The WLR team worked closely with USAID/RCSA, USAID/Mozambique, and USAID/South Africa to identify and organize activities for the assessment and analysis phase conducted in Botswana from August 19 to September 2, 2003, Mozambique from September 2 to 7, and South Africa from September 7 to 12. Members of the democracy and governance teams at the RCSA/USAID Mission provided guidance and assistance to

identify on-going programs, constraints to women's legal rights, gaps in knowledge and practice, and the current social, political, and economic context. Consultations were conducted with the USAID Missions of South Africa and Mozambique, as well as government agencies, civil society groups, international organizations, and other stakeholders to identify priority issues, potential partners, and existing activities. Results from the assessment and analysis trip will be used to design a regional action plan that meets the identified needs of USAID/RCSA, in compliance with the WLR task order's scope of work. The action plan will target issues to be addressed, using local and international resources to achieve goals and objectives that strengthen women's legal rights, reinforce Mission objectives, and dovetail with ongoing activities. The focus of the program will be regional in scope, with a particular focus on USAID non-presence countries in the region.

D. Technical Approach and Methodology

The WLR technical approach and methodology to assess the needs, opportunities, and constraints related to women's legal rights in Southern Africa included:

- Background research and document review on the economic, political, social, and legal context related to women's legal rights in Southern Africa prior to the initial assessment and analysis trip
- Presentation of WLR program to USAID/RCSA, USAID/Mozambique, and USAID/South Africa staff and discussion of Mission strategic objectives, constraints to women's legal rights, current programs in place, and identification of existing successful models
- Discussions and consultations with key civil society groups, government agencies, and other stakeholders to identify program priorities, concepts, and issues
- Collection and review of existing reports, studies, legal texts, and training materials related to women's legal rights

The assessment and analysis team consisted of David Vaughn, WLR Project Director, Teresa Cannady, WLR Gender and Legal Specialist; and Irina Sedova, Assistant Project Administrator. In Botswana, Mozambique, and South Africa the team met with numerous civil society organizations, international donors, representatives of the judiciary and government agencies, personnel from USAID-funded projects, and Mission staff. (See Annex A, Meeting Notes, for a comprehensive list of individuals and organizations). These meetings provided the background regarding the current status of women's rights in the region, identified current programming, and assisted the team in determining activities that may be undertaken as part of this project.

Following the assessment and analysis trip, the WLR team will:

- Debrief with USAID/RCSA, EGAT/WID, and Africa Regional Bureau on preliminary assessment and analysis findings and recommendations
- Prepare and submit assessment and analysis report to USAID/RCSA, EGAT/WID, and Africa Regional Bureau
- Identify local and foreign consultants and resources required for implementation

- Prepare and submit draft action plan to USAID/RCSA, EGAT/WID, and Africa Regional Bureau
- Conduct roundtable discussion on the draft action plan with USAID/RCSA, EGAT/WID, Africa Regional Bureau, and local counterparts
- Finalize action plan incorporating comments and suggestions

SECTION II

Women's Legal Rights Country Overview

A. USAID Programs and Partners

A1. USAID/Regional Center for Southern Africa

The USAID Regional Center for Southern Africa (RCSA) based in Gaborone, Botswana currently covers 12 of the 14 member countries of the Southern African Development Community (SADC), namely Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. The Regional Center focuses on democracy and governance, natural resource management, regional market integration, agriculture as well as cooperation with regional organizations.

RCSA supports regional democracy and governance (D&G) initiatives in three main areas: improving electoral and political processes, reducing corruption, and increasing media freedom. The Regional Center assists the Southern African Development Community Parliamentary Forum in promoting the adoption and application of national electoral norms and standards. It has a particular focus on the SADC countries that will hold general elections in 2004 including Namibia, Malawi, South Africa, Mozambique and Botswana. USAID/RCSA is also working with the Institute for Democracy in South Africa to generate information on the state of democracy in the region and disseminate it to advocates for improved governance. In all of its D&G activities RCSA concentrates on creating regional linkages among stakeholders to promote democratic norms and achieve regional D&G impacts.

The final year of funding for the current strategy is FY 2003. USAID has developed a new strategy for Southern Africa covering FY 2004-FY 2010. The new strategic plan focuses on four strategic objectives (SOs) that aim to improve economic competitiveness, rural livelihoods, electoral competition and management of river basins in Southern Africa. Gender is a crosscutting theme that will be mainstreamed into the overall program. Future programming in the area of democracy and governance will build on past successes in fighting corruption and promoting media freedom and electoral norms and standards. Additionally, USAID/RCSA will expand its activities into human rights and the rule of law. The Women's Legal Rights Initiative has been integrated into the new strategic plan. Implementation of the new strategic plan will begin in October 2003.

A2. USAID/Mozambique

FY 2003 is the final year of Mozambique's current Country Strategic Plan. In FY 2003, USAID/Mozambique's strategic objectives were: (1) increase rural incomes; (2) advance private-sector-led growth; (3) increase the use of comprehensive maternal and child health services; and (4) strengthen the government-civil society partnership. Under the democracy and governance rubric, USAID has been providing training and technical assistance to improve the effectiveness of the national legislature, implement justice sector reforms and enhance the effectiveness of CSOs. The current maternal and child

health program focuses on general improvement in the management of public health systems to ensure the availability of basic services, training and commodities, including condoms, to enable key organizations to carry out effective HIV/AIDS prevention efforts.

The new country strategy beginning in 2004 will have the following objectives: (1) fostering economic growth through agriculture and international trade; (2) stemming HIV/AIDS; (3) further improving maternal and child health; and (4) building productive relationships between citizens and their governing bodies. Gender is a cross-cutting issue in the new strategic plan and a limited gender analysis was completed in order to aid in the development of future programming. The democracy and governance program within the new strategy will focus on the local level to improve performance of municipal governance, reduce corruption, develop citizen oversight of government, and strengthen models for community-based decision-making. USAID/Mozambique will also work to strengthen the capacity of civil society organizations and emerging political institutions. In FY 2004, the Mission will expand its HIV/AIDS program to train community-based organizations (CBOs) to provide appropriate education that will act as an incentive to individuals to reduce personal risk to HIV. The Mission will also train and mobilize national and local leaders, including traditional chiefs, to strengthen the response to HIV/AIDS at all levels. Finally, USAID/Mozambique will provide essential supplies and support services for HIV prevention and treatment.

A3. USAID/South Africa

The USAID Mission in South Africa has six strategic objectives. They include: (1) increasing access to quality education and training; (2) improving capacity to formulate, evaluate and implement economic policies; (3) increasing access to shelter and environmentally sound municipal services; (4) increasing market driven employment opportunities; (5) increasing use of primary health services and HIV/AIDS prevention and mitigation practices; and (6) advancing democratic consolidation.

USAID/South Africa's Democracy and Governance (D&G) program has three main prongs: (1) assistance in the fight against crime; (2) assistance in the establishment of a democratic local government system; and (3) improving the viability of the civil society sector. With respect to the first prong, USAID/South Africa is supporting the restructuring of the Ministry of Justice. This effort includes the introduction of an integrated case flow management system, the decentralization of court support services and the outsourcing of management of child support and bail funds. The restructuring is a cooperative effort between USAID/South Africa, the U.S. and South African Departments of Justice, and Creative Associates International, Inc. USAID/South Africa also provides technical assistance to South Africa's National Prosecuting Authority to improve prosecution skills. To increase access to the criminal justice system for women USAID/South Africa supports NGOs that provide victim support services, monitor cases of violence against women and conduct public awareness campaigns to reduce crime.

The second prong in the D&G program seeks to increase local government capacity to deliver social services by assisting the Department of Provincial and Local Government in establishing a new national statutory framework that emphasizes citizen participation in

development planning. This goal is being achieved through the training of ward committee members who meet regularly with citizens to discuss the activities of the local council. To date, 284 of South Africa's municipalities have participated in implementing the new program. Additionally, USAID is instituting a web-based network that compiles and shares local government best practices. The Mission also supports a program to bring together community stakeholders in 195 municipalities across the country to collectively address the issue of HIV/AIDS. Finally, USAID supports 20 legal service centers throughout rural South Africa. These centers offer free legal services to domestic violence victims and to those who have been infected or affected by HIV/AIDS.

As part of its third D&G prong, USAID/South Africa seeks to strengthen the civil society sector through support of the amendment that will provide tax exemptions for qualifying non-profit organizations. USAID/South Africa is also supporting training for NGO personnel on conducting fact-finding investigations and utilizing the information to engage and monitor the government.

The USAID/Regional Center for Southern Africa and USAID South Africa cooperate to fund parliamentary training in South Africa. The two Missions also collaborate to fund the Afrobarometer survey, which measures public attitudes toward democracy.

B. International Donors and Organizations

B1. Southern Africa Region

The European Union (EU) countries and USAID are the largest donors to the Southern African Development Community countries. The EU and the United Nations Development Program (UNDP) support media freedom, and the International Monetary Fund (IMF) provides funding for anti-corruption initiatives. UNDP is a regional advocate for programs emphasizing the role of parliaments in the governance process. They also work in partnership with other organizations to ensure the inclusion of a gender perspective in the parliamentary budgetary process.

The United Nations Development Fund for Women (UNIFEM) is working closely with SADC to build gender capacity in the region's governments, through gender analysis training, national and regional internships, and the creation of a fund to support pilot projects and action research that promote women's economic and political empowerment. To strengthen civil service accountability, assistance is being provided for public sector reform, changes in the codes of conduct, review of public administration and anti-corruption acts. Training has also been provided for government and judicial staff in personnel management, public procurement, information systems service contracting, investment procedures and strengthening public services.

B2. Botswana

Since Botswana was classified as a "middle income" country there has been a significant reduction in donor aid. The British Department for International Development (DFID) previously funded a program on violence against women in cooperation with Women and Law in Southern Africa (WLSA) and Women in Law and Development in Africa (WiLDAF). The UNDP supported activities of the Women's Affairs Department until September 2003.

USAID/RCSA is currently focusing its interests in Botswana on democracy and the rule of law, reducing corruption, and ensuring United States and SADC cooperation.

Botswana has been identified by the Bill and Melinda Gates Foundation as their primary target country for HIV/AIDS programs to create a model of prevention, treatment, and eradication. At a September 2003 conference of international donor organizations, the Gates' Foundation, the International Aids Trust, the European Parliamentarian Association, and the European Union identified using the SADC Parliamentarian Associations as a model for coordination on the issues of discrimination against women in the area of HIV/AIDS.

B3. Mozambique

The United States remains the largest bilateral donor. Other major donors include the IMF, the World Bank, the UN agencies, the EU, the UK, Japan, Netherlands, Sweden, Denmark, Switzerland, Italy, France, and Norway. According to USAID, donor coordination groups are active in all of its strategic areas. USAID is a leading member of a working group chaired by the Mozambican Ministry of Health that includes the EU, Canada, the Netherlands, Japan and the World Bank. USAID also cooperates with the Mozambican Ministry of Agriculture, the World Bank, and the EU. DANIDA, a Danish international development NGO, cooperates with the Ministry of Justice and the Supreme Court on judicial legislation. USAID continues to be one of the few donors supporting anti-corruption efforts in Mozambique.

Mozambique is also a participant of the World Bank and IMF initiated Poverty Reduction Strategy Program (PRSP). The PRSP provides the operational basis for IMF and World Bank lending and for debt relief under the Heavily Indebted Poor Countries (HIPC) Initiative. Through a participatory process involving domestic stakeholders as well as external development partners, Mozambique has designed and is implementing a comprehensive strategy for poverty reduction. In 2003, overall donor assistance to this strategy was approximately \$620 million.

B4. South Africa

USAID is the largest bilateral donor and second largest overall donor to South Africa. The largest donor is the European Union with the efforts to support criminal justice reform. The second largest bilateral donor, the United Kingdom, assists in the areas of democracy and governance and criminal justice. Germany also supports programs in democracy and governance, as well as activities in health and education.

UNIFEM sponsors the Agisanang Domestic Abuse Prevention and Training, which consists of conducting educational campaigns in high schools. The campaigns involve young men and women, educators, and parents to address the problem of violence against women in dating relationships. UNIFEM also supports the South African National Network on Violence against Women program that combats gender-based violence through a multi-media campaign involving women and targeting the general public. The program includes a radio awareness campaign on the issue of violence, an outreach video to highlight South Africa's Domestic Violence Act (DVA), media training to build the

capacity of network members and the distribution of materials for increased education. The project responds to the lack of awareness by victims of abuse and aims to increase the impact of the media towards combating violence against women.

C. Government Agencies

C1. Southern Africa Region

Southern Africa has a regional governing structure in the form of the Southern African Development Community. The ultimate objective of SADC is to pool resources to achieve collective self-reliance, harmonization and higher living standards for the people in the region. SADC's 14 member states are Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe.

The principal institutions of SADC are the Summit, the Troika, the Organ on Politics, Defense and Security; the Council of Ministers, the Integrated Committee of Ministers, SADC National Committees, the Standing Committee of Senior Officials; and the Secretariat. The 1992 treaty establishing SADC also provided for a tribunal to ensure adherence to and proper interpretation of the SADC treaty and declarations. However, this tribunal has not yet been established.

The Summit is the policy-making branch of SADC and is composed of the heads of state. President Sam Nujoma of Namibia is the current chairman of SADC. In 1997, the Summit signed a Declaration on Gender and Development, which calls for the equal representation of women and men in the decision-making of member states and the achievement of at least 30 percent target of women in political and decision-making structures by 2005. The Declaration also commits SADC member countries to repealing and reforming all laws and practices that discriminate against women. In addition to the Declaration, the Summit adopted an Addendum to the Declaration on Gender and Development on Violence Against Women and Children, which commits member states to enact laws that protect women and children against violence.

The SADC Secretariat, based in Gaborone, is the principal executive institution within SADC. It is responsible for strategic planning, coordination, and management of SADC programs. The current SADC Program of Action has over 400 projects with a total estimated value of \$8.09 billion. The Secretariat is responsible for gender mainstreaming in all SADC programs and activities. A Gender Unit within the Secretariat designs activities aimed at implementing the Declaration on Gender and Development. The Gender Unit has a permanent slot at Heads of State Summits to report on its work. Currently, the Unit is in the process of finalizing a report on the progress of initiatives dealing with violence against women in the region. This report has been in development for three years, as has the Gender Monitor which should be published every year. The Gender Unit has only two full-time staff members making it difficult to accomplish tasks in a timely and efficient manner.

SADC also has an Engendering Parliaments program, under the 1,800 member SADC Parliamentary Forum. It is designed to equip both female and male members of

parliament with necessary gender analytical skills and information. Particular attention is paid to the practical needs and strategic interest of women parliamentarians to be effective as legislators. Through this program the SADC PF seeks to “facilitate the review of existing laws and passage of gender sensitive laws and policies.” To this end, the project has facilitated the creation of Women’s Parliamentary Caucuses, which have successfully lobbied SADC country parliaments to pass laws that specifically protect the human rights of women. However, little has been accomplished in terms of mainstreaming gender into laws that are not specifically meant to protect women’s rights. The SADC Parliamentary Forum and the SADC Gender Unit have coordinated to establish the Regional Women’s Caucus to assist female members of parliament to strategize on addressing women-specific issues in their respective parliaments.

C2. Botswana

Botswana is Africa’s longest continuous multiparty democracy. All elections since the 1966 independence have been regarded as free and fair and have been held on schedule. There are two main parties in Botswana including the Botswana Democratic Party (BDP), which won 33 of 40 contested National Assembly seats in the last national elections in 1999, and the Botswana National Front (BNF), which won 6. The 40th seat went to the Botswana Congress Party (BCP) and four additional members were appointed by the majority party.

The president is chosen by the National Assembly following countrywide elections. President Festus Mogae assumed his post in 1998 and is nearing the end of his first five-year term. He has been vocal on the HIV/AIDS pandemic plaguing his country and proactive about seeking international assistance to address the issue.

President Mogae has given considerable attention to the promotion of women’s rights in Botswana. He was the featured speaker at a fund-raising dinner for the Women’s NGO Coalition held in Gaborone on August 29th. In that address the president condemned violence against women, stating, “We must be consistent and firm in our total rejection of such crimes which are demeaning to our very humanity.” President Mogae detailed a number of positive benchmarks that the Government achieved in eliminating discrimination against women in law and practice, such as the amendment of the Citizenship Act in 1995, adoption of the National Policy on Women in Development in 1996, the upgrading of the Women’s Affairs division to the status of a full-fledged department in 1997, the launch of the National Gender Framework in 1998, the establishment of the National Council on Women in 2000, and the amendment of the Marriage Act in 2001. He emphasized the importance of involving all the citizens of Botswana when in the process of change, noting that “change should be managed in a way that promotes the peaceful and orderly development of society and not to inadvertently undermine or disrupt established institutions. I have faith in the willingness of the people of Botswana to bring about greater gender equality.” The following day, President Mogae attended a seven-hour installation ceremony of Mosadi Seboko-o-Powe as the first woman paramount chief in Botswana. Given this level of interest in women’s rights, it is not surprising that the 2003 United Nations Human Development Report ranked Botswana 31st in the world in terms of its gender empowerment measures.

The National Assembly has a Law Reform Committee which is responsible for reviewing and amending legislation that is outdated or that is not in compliance with international commitments. The attorney general is a member of the committee and advises the members on all legal matters. The Attorney General's Office has a staff member as a "gender focal point" who handles women's affairs and human rights and works closely with the Ministry of Women's Affairs. There is no international treaty committee or division within the National Assembly. Individual committees ratify treaties and often other members of parliament are not made aware of the new treaty commitments.

In addition to the president, Members of his Cabinet, and the National Assembly, Botswana also has a national level advisory body called the House of Chiefs. The house is comprised of the paramount chiefs from the eight principal subgroups of Botswana and four elected chiefs. Any draft National Assembly bill involving customary law or practice must be sent to the House of Chiefs for review.

The Women's Affairs Department of the Ministry of Labor and Home Affairs is the national machinery for gender and is charged with implementing the National Gender Strategy. It has been a full-fledged department since 1997, but has been handicapped by a lack of funding. The Department has identified six areas of priority from the Beijing platform with HIV/AIDS as a crosscutting issue: (1) power sharing/political process; (2) violence against women; (3) education and training; (4) capacity for access to economic opportunities; (5) health/reproductive rights; and (6) the girl child. In 1998, the Women's Affairs Department published the Report on a Review of All Laws Affecting the Status of Women in Botswana, which resulted in the removal of discriminatory provisions in the Public Service Act of 2000, Affiliation Procedures Act, Penal Code of 1998, Criminal Procedure Code, Deed Registry Act, Employment Act, and the Citizenship Act.

The Women's Affairs Department developed a collaborative relationship with many women's rights groups through the National Council on Women, which acts as the highest advisory body to the government on all matters relating to gender and development. The Council reviews policies from a gender perspective and makes concrete proposals to address existing gender inequalities. It has recently embarked on developing a Strategic Plan to serve as a road map to achieve the goal of gender equality more effectively.

The Women's Affairs Department is also responsible for developing and submitting CEDAW reports. Botswana has not submitted the required CEDAW reports. A draft report was compiled two years ago but was never finalized and is now being updated. The Women's Affairs Department hopes to complete and present the CEDAW report by the end of 2003. The Department has developed gender policies for the Ministry of Finance, Ministry of Local Government, and the Ministry of Trade and Industry, but has not been able to monitor or follow up on progress due to a lack of funding.

The judiciary of Botswana consists of both a civil court structure, including magistrates' courts, a High Court (Appellate Court), and a Court of Appeal (Supreme Court) as well as a customary court system. There are two women judges out of a total of 14 on the High

Court. The Court of Appeal is comprised of nine judges, all of whom are foreigners from countries including Kenya, Zimbabwe, South Africa and Britain. These judges are appointed by the president upon the recommendation of the chief justice of the High Court. No woman has ever had a full-time seat on the Court of Appeal. The Court of Appeal meets twice a year in January and in July and considers about 30 cases during each meeting. The appointment process for the lower courts has been criticized for lacking transparency. A seven-member Judicial Service Commission, headed by the chief justice, selects applicants and makes appointment recommendations to the president.

There is no justice minister in Botswana. Court administration is handled by the Registrar of the High Court under the Ministry of Presidential Affairs. The Judicial Branch administers its own budget. Currently, court statistics are not disaggregated by gender. A plan to purchase a computerized case management system is currently underway.

The majority of civil cases are handled by traditional leaders in customary courts. The most common cases are those relating to land, marriage, and property. Proceedings in customary courts are strictly based on traditional law and practice and lawyers are not allowed to practice in these courts. Sentences of tribal judges may be appealed to the Customary Court of Appeal or through the civil court system. A majority of women file their cases with the traditional courts. Women generally prefer these courts because they are cheaper, easier to access, and less formal. There are more than 300 customary courts in Botswana.

The Customary Court of Appeal hears appeals from the lower level customary courts. There are two Customary Courts of Appeal, one located in Gaborone, which handles cases from Southern Botswana, and the other in Francistown, which reviews cases from the northern part of the country. The court sits in a three member panel and has three additional members to sit if one of the panel members is unavailable.

C3. Mozambique

The government of Mozambique is comprised of the president, the parliament, the council of ministers, the judiciary and a Constitutional Council. The president is elected by the majority vote of the people to a five-year term and may serve three terms. Mozambique held its second general elections in 1999. President Joaquim Chissano was reelected in what was considered generally fair elections. His party, the Front for the Liberation of Mozambique (FRELIMO), obtained 133 seats in the 250-seat Assembly of the Republic. The remaining seats were taken by the Mozambique National Resistance-Electoral Union (RENAMO-UE). FRELIMO, which has ruled the country since the 1975 independence, dominates policymaking. President Chissano has indicated that he will not run for a third term stating that to do so would violate the spirit of the law due to the fact that that he was already serving as president in 1990 when the constitution was adopted.

The Ministry for Women and Social Action is a newly-formed institution. It was started in 2000 along with the National Directorate on Women (DNM). The directorate functions as two departments that work in parallel. The Department of Women and Family coordinates strategies related to family and vulnerable women. This department deals with

the issue of HIV/AIDS and the empowerment of women. It also designs public education programs that promote women's rights and help stop violence against women. The Department of Gender and Development develops gender action plans and implements gender programs. One of its mandates is to promote the implementation of legislation that protects women's rights in all sectors.

The National Directorate for Women also coordinates its activities with the Operational Group for the Advancement of Women. The group is a mechanism of inter-sector coordination to supervise the implementation of government programs in the field of women and gender. It is composed of members of civil society and various government organizations that focus on gender issues.

The DNM is currently developing the CEDAW report and the African Union (AU) Charter on Human Rights report. It is also heavily involved in lobbying for the passage of the Family Law in parliament. Additionally, the DNM prepared a draft Domestic Violence Law in cooperation with the Women's Forum. The Directorate has a National Plan for Action for the Advancement of Women and is now developing its implementation strategy. Deliberations on the National Policy on Gender are also under way.

Women's representation in parliament is now 30 percent. Three ministers and five deputy ministers are women. Each Ministry should have their own gender focal point. There is also a parliamentary committee on Gender, Social Issues, and the Environment.

There are two complementary justice systems in Mozambique including the civil/criminal system and the military system. The highest judicial body in the country is the Supreme Court. It is composed of professional judges appointed by the president upon the recommendation of the Supreme Council of the Judiciary. The lower courts are comprised of provincial and district courts which have the authority to deal with both civil and criminal matters. Provincial courts exist in all provinces but few are staffed by trained judges, despite the mandate of the Judicial Magistrates Statute. District courts have not yet been established in all districts. There are approximately 160 judges in the country with many lacking adequate training. The judiciary is often criticized for being corrupt, biased, and inefficient. While independent in principle, it is dominated by the executive, and by extension the FRELIMO party. In addition to the formal court system, a number of local customary courts adjudicate matters such as divorce and property division.

C4. South Africa

South Africa is a multiparty democracy. The parliament consists of the National Assembly and the National Council of Provinces. The 400-member National Assembly is elected by a system of "list proportional representation." Each of the parties appearing on the ballot submits a rank-ordered list of candidates and the voters cast their ballots for one party. Seats in the Assembly are allocated based on the percentage of votes each party receives. In the 1999 elections, the African National Congress (ANC) won 266 seats in the Assembly. The parliament has a Joint Committee on Improvement of Quality of Life and Status of Women, which monitors the effects of government programs and policies

on women. Parliament also receives recommendations to amend legislation affecting women from the constitutionally-mandated Commission on Gender Equality.

The second branch of the government is headed by the president. The National Assembly elected Thabo Mbeki as president following the June 2, 1999 elections. President Mbeki has been active in efforts to eradicate violence against women. Last year during the 16 Days of Activism Against Gender Violence campaign, he traveled around the country on a “Peace Train” visiting schools and talking with students. He handed out whistles with the theme of “blow the whistle” on violence. The presidential branch houses the Office on the Status of Women. This body coordinates departmental gender desks that have developed strategies to ensure the integration of gender into all aspects of government policy and planning.

The third branch of the central government is the judiciary. The Constitutional Court is the highest court for interpreting the constitution, while the Supreme Court is the highest court for handling appeals of other cases. There is a single judiciary throughout the country but it consists of both magistrates and judges. The magistrates tend to have less exposure to new legal trends and international human rights laws and treaties, such as CEDAW.

Judicial nominations are made by the Judicial Service Commission which is a multi-party, multi-disciplinary body. The Commission interviews nominated candidates and makes its recommendations to the parliament. The parliament then makes its recommendations to the president. The president can reject all of the proposed nominees but cannot appoint judges from outside the pool of nominated candidates. Recently there has been a conscious effort to propose women for judicial positions. As a result, the percentage of women in the judiciary has increased by a factor of several hundred percent. Currently, 30 out of 170 judges are women. In 2002, the government established 22 sexual offenses courts throughout the country along with special services to protect victims.

D. Civil Society Organizations

Southern Africa has a significant number of civil society organizations dedicated to promoting and protecting women’s legal rights. Below is a chart that lists key regional and national CSOs in the Southern Africa region, Botswana, Mozambique, and South Africa. For more detailed information on the activities of these organizations please refer to Section III, Assessment Findings and Recommendations, as well as the notes from meetings with most of these organizations found in Annex A.

D1. Southern Africa Region

Organization	Focus/Purpose	Significant Achievements
Women and Law in Southern Africa (WLSA) (Based in Zimbabwe) Botswana, Lesotho, Malawi, Mozambique, Swaziland, and Zambia	To undertake strategic, action-oriented research in the socio-legal field and to lobby for legal reforms and policy changes on laws and practices that disadvantage women.	Completed and disseminated research on the following topics: maintenance law, inheritance law, family and legal status of women in the family, the administration of justice, delivery problems and constraints.
Gender Links (based in South Africa) Botswana, Lesotho, Malawi, Mauritius, Mozambique, Seychelles, Swaziland, Zambia and Zimbabwe	To transform gender relations in and through the media by conducting research, developing gender training materials, and creating and sharing gender-related media content.	Organized a high profile multi-media campaign on the 16 Days of Activism against Gender Violence from November 25th to December 10th, 2002.
Women in Law and Development in Africa (WiLDAF) Present in 26 African Countries including most countries in Southern Africa.	To facilitate networking and communication among African NGOs working in the area of women's rights; to design training and technical assistance to women's rights groups; to lobby for women's rights at major international events and institutions.	Publishes a quarterly newsletter covering developments in the network in English, French and Portuguese.
CIVICUS (based in South Africa) Has CSO members from 65 countries.	To aid CSOs in increasing legitimacy and transparency, improving the quality and quantity of engagement with government and mobilizing quick responses to threats to citizen action.	Provide numerous trainings for CSOs and holds successful bi-annual world conferences for CSOs and other stakeholders to exchange information about their achievements and challenges.

Organization	Focus/Purpose	Significant Achievements
SADC Lawyers Association (based in Botswana) Angola, Botswana, Swaziland, Lesotho, Mozambique, South Africa, Zambia, Zimbabwe, Swaziland, Namibia, Seychelles	To promote the rule of law and human rights for women and children in Southern Africa; to assist in the harmonization of national laws with regional commitments.	A new organization with access to 5,000 lawyers in the region, 1/3 of whom are women. Instituted a requirement that each country must send women to the Association meetings.
Southern Africa Human Rights Trust (SAHRIT) (based in Zimbabwe)	To mainstream human rights within public institutions and thereby fulfill the UN Declaration for Human Rights Education and the Vienna Declaration of Human Rights, which call upon states to introduce human rights education in all their institutions.	Conducted gender training for the Zimbabwe Republic Police and produced a human rights resource book and manual. Provided regional training on human rights.
Southern Africa Research and Documentation Centre (based in Zimbabwe)	To enhance the effectiveness of key development processes in the SADC region through the collection, production and dissemination of information.	SARDC's gender focus group, WIDSAA, has produced 12 books profiling the status of women in most SADC member states and a regional book Beyond Inequalities: Women in Southern Africa.

D2. Botswana

Organization	Focus/Purpose	Significant Achievements
Emang Basadi	To identify problem issues related to women through action research; to develop action oriented strategies to change the socio-economic and legal position of women in Botswana; to increase public awareness of the problems faced by women.	Established a legal aid and counseling center to provide legal advice and counseling services to women who cannot afford independent legal assistance.
Kagisano Society – Women’s Shelter Project	To raise community awareness about domestic violence and HIV/AIDS and to empower affected individuals by providing temporary shelter, counseling, referrals and survival skills.	Has provided shelter for hundreds of domestic violence victims, as well as counseling and skills training. Published a book entitled Stories of Courage with personal stories of DV from women who stayed in the shelter. Conducted successful workshops on DV in Gaborone and neighboring towns.
Women’s NGO Coalition	To serve as a focal point and network of organizations committed to the empowerment of women through coordination, collaboration, networking and capacity building of its members.	Conducted domestic violence trainings for police, tribal chiefs, and community leaders.

Organization	Focus/Purpose	Significant Achievements
Women Against Rape (WAD)	To assist women and children survivors of sexual abuse and rape. To promote institutional change to protect women and children against sexual abuse and to raise awareness within the whole society on these issues.	Educated the school system and the community in the Northwest part of Botswana and on their rights and where assistance / support can be found with regards to sexual abuse and other forms of gender violence. Conducted community workshops on incest and defilement.

D3. Mozambique

Organization	Focus/Purpose	Significant Achievements
Women's Forum	To rationalize human, material and financial resources of CSOs working in the area of women's rights; to lobby for legal reform and policy changes on laws that impact negatively on women.	Successfully lobbied the government to amend the labor law to conform with CEDAW. Created a CD-ROM with all the versions of the draft family law as well as many articles for and against the law to be used as a best practice in the future.
Mozambican Women's Association (OMM)	To lobby the government to include women's participation in all areas of life; to make women aware of their rights and capable of defending them.	Effectively lobbied ministries for the appointment of women with 16 women now serving as district administrators and 6 women as post administrators. Organized a group of 22 women in 6 areas of the Maputo province to spread the "All Against Violence" message to communities.

Organization	Focus/Purpose	Significant Achievements
Association of Women Farmers of Imbuzine, Eduardo Mondlane Cooperative	To profitably farm 60 hectares of land.	Have benefited from property rights and other women's rights training by the civil society community.
MULEIDE, Association for Women, Law and Development	To promote an improved status for women through legal assistance and education and reform of legislation that discriminates against women.	Utilized radio, television, plays, seminars and numerous publications to educate a wide audience of women about their rights. Participated in the "Women and the Right to Health" program, through education training and information activities.
AMMCJ, Women Lawyers Association	To provide legal assistance to vulnerable groups; to conduct research on the legal framework and advocate for changes in the law.	Created a weekly radio program that provides legal advice and answers to callers' questions.
AMODEFA, Mozambican Association of Family Development	To promote the sexual and reproductive rights of men, women and youth through training of youth as community activists, community-based services to distribute contraception, and HIV/AIDS prevention and home based care.	Formed an association for those living with AIDS and successfully lobbied the government to be more concerned with HIV/AIDS. Trained youth in counseling, psychosocial support and sexual awareness, to be activists in their communities and among their peers.

Organization	Focus/Purpose	Significant Achievements
Association of Women and Social Communication	To advocate for women's rights through the use of media.	Launched the first radio station "made by women for women" to broadcast on issues of common concern such as legal and reproductive rights. Published numerous articles related to women's rights in various newspapers.
COMMUTRA, Committee of Women Workers	To advocate for the protection of working women by lobbying to improve labor legislation, attempting to prevent HIV/AIDS discrimination, and providing training for working women.	Trained women's committee members of each of the 15 unions on labor law, gender and equality, leadership, violence and harassment. Conducted a "train the trainers" program for 56 participants who are now training others members in the provinces.

D4. South Africa

Name	Focus/Purpose	Significant Achievements
Women's Legal Center	To provide legal assistance to women and to advocate for women's legal rights.	Defended numerous women in cases involving inheritance rights and Muslim law.
Center for Applied Legal Studies (CALS – Gender Unit) at The University of the Witwatersrand, Johannesburg	To apply legal research to advocacy.	Two decades of precedent-setting cases.
Tshwaranang Legal Advocacy Centre to End Violence Against Women, Johannesburg	To provide national advocacy and research on violence against women.	Provides research, training and advocacy; special project on gender violence and HIV/AIDS.

Name	Focus/Purpose	Significant Achievements
Network of Violence Against Women	To facilitate networking of all South African VAW NGOs and CBOs.	The creation of a national network.
Agisinang (ADAPT)	To provide public awareness, especially to youth, on VAW; train judicial sector; service provider to victims.	Excellent training materials and public awareness campaigns.
WLSA – Women and Law in Southern Africa (See regional section)	See regional section.	See regional section.
Masimanyane Women's Support Centre	To work to end violence against women and other human rights abuses.	Coordinated the first South African CEDAW Alternative Report.
Women's Net - Association of Progressive Communications	To provide training and capacity building to women's NGOs on use of information and communication technologies (ICTs).	Coordinates GEM in partnership with APC and Gender Links.

SECTION III

Assessment Findings and Recommendations

After a careful review of all the information obtained in the assessment and analysis process, the WLR team made the following initial findings and recommendations for assistance related to the legislative framework, judicial enforcement, civil society advocacy, and public awareness in the Southern Africa Region. After the assessment visit, initial country specific findings and recommendations were made for Botswana, Mozambique, and South Africa as examples of needs for a regional program. While the final action plan will focus solely on a regional program, it is important to place the regional action plan within an understanding of the findings and recommendations of the following three countries. It must be noted, however, that the RCSA Action Plan, while incorporating some of these country specific recommendations, will not replicate the findings herein.

A. Southern Africa Region

A1. Legislative Framework

A1a. Findings

Many of the relevant norms and standards exist in the Southern Africa region for promoting women's legal rights. The 1997 SADC Declaration on Gender and Development commits SADC and its member states to repeal and reform all laws, constitutional provisions, and social practices that discriminate against women and children. It also commits member states to enact laws that protect women and children against violence such as sexual offenses and domestic violence. All Southern African states (except Swaziland) are signatories to CEDAW. The national governments in the SADC region have national gender policies, programs and plans of actions. Many of the countries have established gender focused institutions within their national governments for the promotion of women's human rights. However, there is a great difference between the de jure and the de facto situation for women.

A major advocate in the engendering of parliaments has been the SADC Regional Women's Parliamentary Caucus. However, very little has been done to mainstream gender into legislation other than for those issues considered to be specifically related to women and children. Many of the laws of trade, business, employment, tourism, commerce, and property are discriminatory.

However, all parties consulted agreed that the greatest needs are for implementation and resources. Parliamentarians need to be equipped with the necessary skills to effectively oversee budgetary processes to ensure that gender is mainstreamed into those budgets, and that adequate resources are allocated for the implementation of the legislative framework.

Increasingly in Sub-Saharan Africa, the context within which women's human rights are to be protected and realized is one of decentralization or decentralizing states.

Contemporary decentralization is changing the relationship between citizens and the state, and is having an impact on the entitlement of citizens to certain rights and in this particular case, on women's entitlement as citizens to the protection and realization of their rights, as required by international and national legislation. A significant reason to undertake regional and comparative initiatives, such as the RCSA, is the determination of whether in practice this decentralization reforms, contributes to, or hinders the realization and protection of women's rights.

A1b. Recommendations

It is recommended that a multi-faceted regional training program be conducted on the use of CEDAW as an advocacy tool for NGOs; as an international human rights tool for the judiciary; as an introduction in the preparation of shadow or alternative reports; and as an example of the methodology of data collection for evidence-based advocacy. Similar training on international human rights instruments was requested by representatives of the SADC Lawyers Association.

It is recommended that a regional workshop on violence against women be conducted to collect and share best practices from the SADC region on drafting of legislation, advocacy campaigns, enforcement and implementation, and monitoring of such legislation. It is further recommended that the conference organizer be housed and resourced within a SADC regional domestic violence organization.

It is recommended that a regional training program be provided for parliamentarians on women's legal rights to assist in developing a critical mass of legislators in the region who can advocate and lobby for women's legal rights from an informed position. It is further recommended that the South African Women's Budget Initiative (WBI) be further developed as a tool for the regional parliamentarians to ensure that national governments can resource their own programs and services.

It is recommended that a project on women's legal rights be implemented in collaboration with associations of women entrepreneurs. This project should focus on three main areas including training micro-entrepreneurs in women's legal rights and provide them access to mentoring, identifying the legal, institutional, and cultural constraints to operating their businesses and fostering public/private enterprise partnerships. It is understood that women entrepreneurs, micro-entrepreneurs and women engaged in commerce in the informal sector not only need legislation to facilitate their business development, but are key stakeholders in the economic empowerment of women in Africa. Knowledge of all aspects of their legal rights will have a cascading effect throughout their communities.

A2. Judicial Enforcement

A2a. Findings

One critical area related to judicial enforcement is the intersection of violence against women and children and HIV/AIDS. In fact, WLSA has made gender and HIV/AIDS their main research project for 2004. This is an approach that should be implemented at a regional level to ensure HIV/AIDS is a lens through which all areas of discrimination against women are viewed. Without remedying the inequality of women and improving

judicial enforcement of legislation in a gender-equitable manner, the prevalence of HIV/AIDS in Africa will continue to worsen.

Training for all personnel in the judicial system was also identified as a key need in the region. The University of the Western Cape's Community Law Centre (CLC) Gender Project has developed a curriculum for training police used in the SADC region that could be replicated as a model for future training programs for justice sector officials.

A2b. Recommendations

It is recommended that efforts be undertaken to encourage the SADC Lawyers Association to cooperate with WLSA in providing expertise and training, as well as counsel, particularly for indigent representation of women. It is also recommended that partnerships be developed with legal resource centers and legal assistance centers to increase the availability of legal services.

It is recommended that a regional conference of key law enforcement personnel be organized to encourage senior management to develop and implement criteria for conduct for all officers regarding women's legal rights. While the training initiatives themselves must be bottom-up, they should demonstrate leadership at the highest level and the required accountability of all personnel.

It is recommended that the newly formed Southern African Regional Network of the International Association of Women Judges be the key partner for the development of judicial training activities in the region.

A3. Civil Society Advocacy

A3a. Findings

There are a number of civil society organizations in Southern Africa whose activities and mandate have a particular regional focus. Women and Law in Southern Africa (WLSA) and Women and Law in Development in Africa (WILDAF) both have regional Southern African programs for achieving law reform and consistency of legislative frameworks. The SADC Women's Parliamentary Association's activities, described herein, while less civil-society based, enhance opportunities for civil society to engage in advocacy.

Gender Links has also conducted trainings, advocacy campaigns, and public awareness campaigns with a regional focus. All of the women's legal rights issues they have advocated for have both a national and a regional implication.

Civicus, an umbrella organization for civil society with membership from 65 countries will host its world assembly in Gaborone in March 2004. This forum will provide an opportunity for NGOs to network and learn more about advocacy and public awareness campaigns. Another aspect of Civicus programs is a civil society index that is currently being carried out by 35 countries to assess gaps in the civil society framework.

A3b. Recommendations

A number of recommendations are made for working on a regional basis. The training of parliamentarians through the SADC Women's Parliamentary Forum will impact civil society by strengthening their allies in governments. It is further recommended that leadership training for NGOs be conducted at a regional level.

Gender Links has significant experience with regional trainings on gender violence, media, information technology and education. The level of sophistication of this organization is quite high as well as their institutional capacity. These programs should continue to be expanded within the region to share experiences and successful models that have been implemented in Southern Africa. Additional regional trainings should include training for participatory research and evidence-based advocacy that will be conducted to develop impact studies and assessments on the use of CEDAW and other international human rights mechanisms. These training should initially be conducted utilizing international experts with a component for training local NGO advocates who can continue this work in a sustainable manner.

It is recommended that NGOs and CBOs receive training in innovative advocacy strategies, capacity building, fundraising, social enterprise, and leadership. It is further recommended that regional NGOs be supported to attend the Civicus World Assembly in March 2004 in Gaborone, Botswana. This program will provide opportunities in regional and global networking, exposure to a wide range of donors, and the chance to attend numerous workshops on best practices and women's legal rights, HIV/AIDS, legal advocacy, and the sustainability of NGOs and CBOs.

A4. Public Awareness

A4a. Findings

Both WLSA and WiLDAF have carried out regional public awareness campaigns on issues such as inheritance law, customary law, divorce and family law, and violence against women. Gender Links has also conducted regional campaigns and public awareness on women in the media and violence against women. The organization conducted an extensive campaign in South Africa as part of its 16 Days of Activism against Gender Violence.

A4b. Recommendations

It is recommended that the WLSA and WiLDAF public awareness campaigns be resourced to focus on the linkage between HIV/AIDS and discrimination against women in law and practice. The impact of HIV/AIDS with customary law, inheritance, land rights, and family law is readily apparent. Further, it is recommended that such campaigns be integrally linked with the work of the Women's Parliamentary Caucus regional women judges associations, the Council of Women World Leaders, the Gates Foundation, and other USAID and other donor initiatives. A comprehensive strategy should be developed under USAID leadership in order to ensure that the impact of such a regional program will lend itself to continued expansion. A second regional campaign is recommended in the application of international human rights mechanisms such as CEDAW. Any public

awareness campaign on violence against women should emphasize the impact on and the need for improvement in women's socioeconomic rights.

B. Botswana

B1. Legislative Framework

B1a. Findings

Botswana is a member of the Commonwealth, the African Union, and SADC. Rule of law is a fundamental principle of Botswana's legislative framework, and the country has made efforts to ensure that its laws are in conformance with international human rights standards. The Report on a Review of all Laws Affecting the Status of Women in Botswana reviewed several pieces of legislation from a gender perspective to ensure compliance including the Public Service Act of 2000, the Affiliation Procedures Act, the Penal Code of 1998, the Criminal Procedure Code, the Deed Registry Act, the Employment Act, and the Citizenship Act.

One of the main issues identified by the organizations consulted is the discrimination against women based on present inheritance laws, which is being exacerbated by HIV/AIDS. The conflict between customary law and national legislation has not been well documented and has been identified as both a national and regional priority to study. Both the national constitution and international human rights standards are underutilized as advocacy tools to combat these legal barriers faced by women.

Another issue that was identified as critical for women is access to credit for women entrepreneurs. It has long been recognized that the economic "backbone" of Africa are women entrepreneurs. Recently, the United Nations appointed a commission to focus on entrepreneurship as a way to poverty eradication, with the role of women as micro-entrepreneurs identified as a priority. Policy and regulatory frameworks and the constraints to operating businesses for women, such as laws and practices regarding access to land, capital, and credit, need to be documented in order to support advocacy for change.

B1b. Recommendations

It is recommended that innovative advocacy techniques be developed to train local NGOs on the new sexual violence law, particularly evidence-based advocacy. A second component to this advocacy training would be to bring together the Women's Parliamentary Caucus and the women's legal rights advocates to develop sound constitutional arguments regarding the responsibility and obligation of the national government to fund women's rights programs and services.

B2. Judicial Enforcement

B2a. Findings

The critical area of judicial enforcement for Botswana has been the implementation of all forms of legal protection in the areas of violence against women and children including rape, the so-called "marital rape," sexual violence, child abuse, and domestic violence. The link between violence and HIV/AIDS is a critical one that all groups are focusing on but that also requires additional support.

The legal aid system is operating under severe disadvantages with a lack of staffing, resources, and expertise. The level of services presently available is not sufficient to meet the needs of all women who require assistance. While some NGOs and the law school legal clinic provide substantial assistance, additional resources are still needed for women to have fair and equal access to justice.

B2b. Recommendations

The recommended regional initiatives, previously discussed herein, are also applicable to Botswana on a national basis. It is recommended that monitoring of the new Sexual Offences Act be facilitated in conjunction with Emang Basadi and the Women Against Rape organization. It is further recommended that drafting of a domestic violence law be completed in conjunction with a review of domestic violence legislation in other jurisdictions to assess best practices and lessons learned. A careful review of the implementation of domestic violence legislation in neighboring countries should be made to determine what practices have been the most effective in protecting women. Additional resources, training, and support should also be provided for legal aid to women, including NGOs and law school clinics.

B3. Civil Society Advocacy

B3a. Findings

The NGO community has been active in Botswana for over 20 years. There are a number of NGOs dedicated to the protection and promotion of women's rights. During the time of the Beijing Conference, the NGOs were working very actively and coordinating their efforts and resources. However, in recent years a number of NGO leaders have left to accept positions in government or other organizations. This exodus has left a gap in leadership ability in many of the NGOs resulting in a loss of momentum in the fight for women's rights. The institutional capacity of many NGOs remains low and sufficient funding is not available. Botswana has been classified as a middle income country resulting in many donors withdrawing support. NGOs are now seeking corporate sponsorship, but this is proving difficult due to a lack of fund-raising skills within the organizations and the fact that most corporate headquarters, where funding decisions are made, are located in South Africa or other regions of the world.

Most organizations either do not have sufficient personnel resources or are not sufficiently trained to multi-task. It is difficult for NGOs to retain qualified staff, especially professionals such as lawyers and psychologists, due to the low salaries they are able to provide. While volunteers are used in a number of NGOs there also appears to be a lack of ability to properly utilize their services in an effective manner. Many NGOs presently are or have been led by a "charismatic" leader and once that person leaves the NGO there is no leadership capacity remaining and the organizational structure suffers.

One of the preeminent organizations, Emang Basadi, began informally in the mid 1980s in preparation for the Nairobi Conference in 1985. As a result of the preparation for the conference, the NGO recognized the lack of awareness of women's legal rights. Emang Basadi was formalized as an NGO in 1986 and organized a conference in 1987 at the

University of Botswana and entitled “Women and the Law in Botswana,” during which women began to realize there was more resistance to equality in their country than they had anticipated. Emang Basadi presently has four project areas: 1) political education and decision-making; 2) a resource center that produces and gathers materials and provides Internet services; 3) women’s economic empowerment including training and small loans; and 4) a legal aid and counseling center.

The main goal of the Emang Basadi legal aid and counseling center is to promote respect for human rights, especially for those of women and children. This program has two staff members, a lawyer and a counselor who provide counseling services to both domestic violence victims and perpetrators. The organization also has a civic education component designed to sensitize the public about domestic violence as well as a lobbying and advocacy campaign designed to identify laws and practices that are discriminatory and bring them to the forefront for discussion and change.

Emang Basadi is the only legal aid office specifically targeting women and children. This legal aid office has far more potential clients than they have the capacity to serve and therefore, limit their services to low income clients. Most of the cases are divorce, property division and child support and maintenance issues. Due to provisions in the Legal Practitioners Act, NGOs are not allowed to employ lawyers to represent clients. Therefore, the staff attorney is employed by a law firm that is paid by Emang Basadi for her services. This process is costly and the program is already experiencing funding problems. They fear that they may have to close if additional funding is not secured soon.

Emang Basadi also provides training of police in gender issues. The police are cooperating but progress in changing their attitudes has been slow, particularly about violence. Police typically see domestic violence as a “family matter” best dealt with in the home and without their intervention. Emang Basadi is now trying to identify people that work in villages and can be trained as paralegal or “lay advocates” to provide additional assistance, such as social workers and voter educators. They have recently developed a concept paper for a regional conference designed to share experiences.

The Women’s NGO Coalition, organized in 1993 in preparation for the Beijing Conference, is led by coordinator Vivian Gunda. In order to be well-prepared for the Beijing conference, the NGO community decided to pool their resources and select areas of concern. These areas included education, violence, the girl child, decision-making power, health and employment. The Coalition was formalized in 1997 to monitor the areas of concern and conduct lobbying and advocacy. They presently have 3 paid staff members and utilize volunteers for additional assistance. In order for them to be successful in their lobbying campaigns they need more research, as the government requires proof in the form of statistics and empirical data. In particular there is a need for research on customary laws and their impact. The Coalition recognizes its need for capacity building, particularly in knowing when and how to properly intervene in the legislative process. Most programs are local but they do network regionally. They want to participate in a regional workshop to discuss common issues and how they have been resolved in the various countries.

The Coalition has also conducted trainings with police, tribal chiefs, and community leaders. They are working to change the attitude that domestic violence is a family matter. Many women feel they have to accept violence and this is perpetuated by the traditions that tell women they must keep the family together. When victims do approach the police they are re-victimized by the process. There were reports of the police questioning women in the open areas in the police station, asking them about the clothes they were wearing and suggesting they caused the situation. The Coalition is attempting to sensitize police and make the system more victim-friendly.

Another organization that began as a result of the Beijing Conference is the Women's Shelter Kagisano (translated as living in peace and harmony). They began operations in 1998 and were originally working with refugees. After the refugee crisis passed their focus changed. They are the only shelter in Botswana and have clients from all over the country. They also have a "drop-in" counseling center. Fifty-five percent of cases are related to domestic violence. The shelter pays for the services of a lawyer and doctor from their funding sources. One difficulty this presents is that these professionals are not activists and do not add to the organizational capacity to advocate for change.

The women's shelter has been actively involved in the recent so-called "marital rape" case that was very present in the media during our visit. A woman who had left her husband was abducted by him and raped. The woman filed sexual assault charges against her husband. However, the Magistrate dismissed the charges stating that a husband cannot rape his wife. They plan to challenge the ruling and pursue a private prosecution if necessary. However, they will need additional support and resources to effectively pursue this case. Their present plan is to work through the NGO Coalition and utilize their resources and advocacy capacity.

The Botswana office of WLSA is currently conducting research on women and HIV/AIDS as Phase V of their research program. Prior phases included research and resulting publications on the issue of alimony and child support, inheritance, the role of the family, and violence against women. WLSA is also experiencing institutional capacity issues, having recently undertaken a leadership change, and suffers from a shortage of staff. The organization does not have a full-time lawyer on staff as the salary to retain one would be twice the salary of the program officer. They presently have five part-time employees (two lawyers and three sociologists) conducting research as part of the current phase which will take three years to complete. The research publications are available at their office for citizens to read or purchase and they have also been distributed to libraries, parliament, police and other institutions. WLSA has a good relationship with police and has launched two new rape kits for both victims and perpetrators. They are conducting training for police on how to use the kits appropriately. There are now special police units to handle rape cases and assist victims and the organization is attempting to provide support and training to these units.

The Law Society of Botswana began operations in 1998 and has 170 members including 20-30 women. Sanja Manahan, formerly a magistrate with the Department of Justice, is the director. The Society itself has not taken any specific women's rights initiatives.

However, during their annual meeting in November the agenda will include a discussion of legal representation for women and children. While there is no continuing education requirement for lawyers in Botswana they do provide such opportunities for their members. A women lawyer's association has recently formed but has yet to undertake any significant activities.

B3b. Recommendations

The advocacy efforts of the NGO community are evidenced through the change in numerous laws, the opening of a shelter, and the legal aid services that are available. However, there are a number of institutional issues that almost all NGOs continue to face, included funding and lack of leadership. Many NGOs are in fact more of an NGI (Non-governmental Individual) and when that person leaves, the organization dissolves. It is important that a team of managers be developed and further networking be supported so that this situation is avoided. It was recommended that the organizations should be "learning organizations" and develop mentoring programs. It is important for staff to be multi-skilled to handle a variety of tasks and for part-time staff and volunteers to be effectively utilized. Leadership training is critical for all members of the NGO staff.

While there is some cooperation with the government, improvements are needed. A dialogue should be developed between NGOs, the government and the corporate sector to determine how each can contribute time and resources to promote sustainability of projects. It is therefore recommended that the WLR project facilitate a consultative process between government, NGOs and private sector representatives, possibly as an initiative of the Regional Women's Parliamentary Caucus. It was generally acknowledged that NGOs in Botswana are not sustainable and that none of the organizations are capable of paying the salaries without donations. It is recommended that the WLR facilitate a roundtable with NGOs and donors to promote funding and sustainability.

B4. Public Awareness

B4a. Findings

A variety of public awareness campaigns, focusing on issues such as domestic violence, inheritance and property rights, have been conducted by the NGOs discussed in Section B3a. Numerous publications on issues related to women's legal rights have been developed and distributed throughout the country. However, there is still a great lack of awareness particularly of legal rights and how to pursue those rights.

Emang Basadi has a very extensive resource center and library with Internet access. WLSA has also produced research publications, as noted above, which were distributed to the community. The Women's NGO Coalition conducted a 16 Days of Activism Against Gender Violence campaign with t-shirts, posters, and drama/theater groups. These dramas were conducted in bus and train stations to attract people to their workshops. In addition, a drama group gave a performance as part of their launch of the WHO World Violence Report. Despite this being a world report, the drama brought the message home on a local level and was hailed as an event to be repeated throughout the country.

B4b. Recommendations

Despite significant progress by civil society organizations in Botswana there remains a great need to empower women. Many women tend to sit back and wait even though they are very capable of taking the lead. Women make up the majority of the population in the rural areas and need to be made aware of their rights and sensitized to these issues so they can take the initiative to protect themselves. NGOs in Botswana are struggling to survive and need to be encouraged and supported. The NGOs need to provide tools for women to stand up and take responsibility for their livelihood. The momentum surrounding the preparations for and the follow-up to the Beijing conference appears to have subsided and organizations need to be re-energized. It is recommended that this could initially take place through the attendance of local and regional NGOs at the Civicus Forum in March 2004.

One interviewee noted that having a great legal framework is of no effect if people do not know and understand the laws. Efforts to increase that awareness must be tailored to the audience to ensure those at the grassroots level as well as more sophisticated recipients understand the message. Laws are not written so that average people can understand them and more effort is needed to provide simplified versions of laws. Equally important is the delivery system for these messages. While television is a viable option in Gaborone, it is generally not effective in the remainder of the country. Radio has been a very effective way to reach people in their communities.

A further plan should be developed for a regional workshop on innovative ways to engage in legal advocacy and popular legal education, and focusing on awareness of violence against women. Efforts should be undertaken with a donor's roundtable, similar to the one that exists in South Africa, to facilitate ongoing funding for the anti-violence organizations working on domestic violence (Kagisano) and rape (Women Against Rape).

It is recommended that USAID play a networking and coordination role in leveraging existing opportunities in Botswana and regionally. For example, the Bill and Melinda Gates Foundation has chosen Botswana as a target country for the program on eradication of HIV/AIDS and funded the ground-breaking September 2003 "Conference to Examine Women's Issues Fight Against HIV/AIDS" hosted by the Parliament of Botswana, and co-sponsored by Mary Robinson's Ethical Globalization Initiative, the Washington-based International AIDS Trust, the Association of European Parliamentarians, and the Centre for AIDS at the University of Pretoria. USAID can play a critical role in developing tools for parliamentarians on enacting legislation, funding programs, and enhancing public awareness on the interconnectedness of HIV/AIDS and women's legal rights.

C. Mozambique

C1. Legislative Framework

C1a. Findings

As with all countries in the region, women have equal rights under the Mozambique Constitution and Mozambique is a signatory to all major UN treaties and conventions, including CEDAW and the Convention on the Rights of the Child (CRC). Similar to other countries in the region, there are gaps in the legal framework and a failure to comply with international norms and standards. The lack of specific domestic violence legislation was identified as a serious gap. The recently passed Family Law has not been reviewed for implementation and impact and the current Family Code remains from the days of colonialism.

Despite the constitutional provisions for the equality of men and women in all aspects of political, economic, social and cultural life, the civil and commercial legal codes contradict one another and the constitution. Women may not lease property, obtain a loan, or contract for goods and services without the approval of husband, father, or closest male relative. These legal barriers make it very difficult for women to start their own businesses.

WiLDAF noted the bureaucracy of the legal framework and how difficult it is to navigate through conflicting provisions of the law. They are looking at alternatives to improve the situation and are lobbying the justice minister and the attorney general (AG) on this point. A focal point for gender issues has been established within the AG's office.

Cultural traditions and customary law contribute greatly to the violation of women's rights. The National Institute of Gender, Democracy, and Leadership is presently conducting a study on the various forms of customary law in 12 communities and the results will be presented at local community roundtables. Customary law varies throughout the country, depending on the region. While property laws permit women to exercise rights over community land, held in trust through customary rights, in reality this seldom happens. HIV/AIDS is also a cross-cutting issue in Mozambique. It is estimated that 80 percent of marriages in Mozambique are customary. This situation is particularly problematic for inheritance purposes and even more so with deaths from HIV/AIDS continuing to increase.

C2. Judicial Enforcement

C2a. Findings

There is a crisis in the judicial system and one of the key factors is a lack of trained personnel in all areas. There is a need to document the impact of inheritance of land and lack of property rights on women and children due to the increase of HIV/AIDS. While this issue has begun to be addressed in other parts of Africa no studies have been undertaken of the problem in Mozambique. Additionally, the link and the disparities between customary law and civil law on property issues needs to be studied and addressed. National standards should be developed and utilized in the resolution of these

inheritance issues that adversely affect the rights of women or in the alternative advocacy for the use of international human rights standards needs to be employed.

C2b. Recommendations

A critical recommendation is to provide more legal services for women through legal aid centers and the use of trained paralegals. It is also recommended that training of all levels of judiciary, police and prosecutors be carried out, and that the training include the relationship between sexual violence and HIV/AIDS.

C3. Civil Society Advocacy

C3a. Findings

NGOs in Mozambique suffer from some of the same problems as those in Botswana, particularly related to capacity. One expert noted that there is no clear vision or strategy for gender issues in the country. The attitude tends to be that if the country develops, the situation will be better for everyone including women. The low level of education, particularly in the rural areas, was indicated as a major challenge to women being aware of and exercising their rights. While women in the provinces are prepared to work and are often well organized, their success is hampered by their lack of education. It was noted that there are personality issues between NGOs in Maputo and that organizing those outside the city would be easier. It was recommended that more young people should be involved in NGO work rather than allowing the same small group to continue to control the NGO sector. There are a limited number of NGOs in rural areas with some of those located in Maputo having branches or conducting programs in the regions.

One of the most active NGOs in Mozambique is the Women's NGO Forum. It is a coalition of 59 organizations founded in the early 1990s. They have advised and lobbied on a number of laws including the real property law in 1995, the labor law in 1998, and the family law during the past two years. They are presently hosting working groups on the family law and domestic violence law. The NGO Forum gained strength before the Beijing conference. They participated in the "All Against Violence" campaign during which the NGOs cooperated and divided tasks to effectuate a successful awareness raising exercise about violence against women. The Forum's assigned responsibility was for publications, which included one with legal information and one with clinical/medical information. They organized a march in 2001 against domestic violence and poverty and submitted a declaration to the head of state. They noted that an important lesson learned from that process was that while it is important to work with government it is also necessary to step back and see where they need to defend women directly.

The Mozambican Women's Association (OMM) began in 1973 during the national struggle for independence to promote the emancipation of women. They currently work throughout the country and lobby government to include women's participation in all areas of life. They have been effective in lobbying ministries for the appointment of women; 16 women now serve as district administrators and 6 women as post administrators. The OMM have training centers for women throughout the country as part of an education program funded partially by the Ministry of Education and partially through NGOs. They were also involved in the lobbying activities for the family law and the "All Against

Violence” program. They organized a group of 22 women in 6 areas of the Maputo province to spread the message to the community that women do not have to tolerate abuse. The association seeks to make women aware of their rights and help them defend themselves.

MULIEDE was founded in 1991 with members from a variety of professions including doctors, lawyers, and counselors. Their programs focus on legal assistance and women’s health. The legal assistance program is comprised of volunteer lawyers who provide free legal services to indigent clients. They have recently experienced an increase in employment discrimination cases due to HIV/AIDS sufferers losing their jobs. They also represent violence victims and presently have a case where a woman’s ears were chopped off by her husband. Their health program focuses on HIV/AIDS and reproductive rights. MULIEDE has delegations in a number of cities and offer legal assistance in two cities outside of Maputo. They emphasized the slow judicial process and the need for a coalition of NGOs to advocate for reform in this area.

The Women Lawyer’s Association provides legal assistance to vulnerable groups, conducts research on the legal framework, and advocates for changes in the law. They have a radio advocacy program and have conducted training workshops in the regions on issues such as labor law and legal literacy. The weekly radio program provides legal advice and answers callers’ questions. They have cooperated with the NGO Forum on drafting both the Family Law and the domestic violence law.

AMODEFA, a long-time USAID partner, promotes the sexual and reproductive rights of men, women and youth. They have three focus areas: training youth as community activists and counselors, community based services to distribute contraception and provide pregnancy counseling, and HIV/AIDS prevention and home-based care. They work actively at a community level operating inside of hospitals to reach a broader audience. They are training community leaders, including agricultural cooperatives and livestock associations, to build capacity at the local level so the projects will be sustainable.

COMMUTRA, Committee of Women Workers, with 15,000 members, advocates for the protection of working women by lobbying to improve labor legislation, attempting to prevent HIV/AIDS discrimination, and providing training for working women. They conducted a “train the trainers” program with a trainer from Denmark for 56 participants who are now training others. Each of the 15 unions has a women’s committee that COMMUTRA has trained in Maputo on labor law, gender and equality, leadership, violence, and harassment. In an effort to reach working women at convenient times they conduct a series of trainings at the workplace for two to four hours at a time.

The Eduardo Mondlane Agricultural Cooperative is led by a group of women who have been successful in securing land for their farming venture. This is an unusual occurrence in Mozambique as women are generally forbidden to hold rights to land. The cooperative has 60 hectares that was designated as farm land “for the people.” The women made a successful application for the land despite discrimination and cultural attitudes that

espouse that women have no rights. These women are carrying water by hand and cultivating the land with a hoe. When asked what we could do to help them they replied that they need a tractor and a water pump. They emphasized the need to sensitize women to be advocates on land issues and the importance of their obtaining title to the property.

C3b. Recommendations

Institutional capacity of NGOs needs to be improved and coalitions strengthened especially in the regions. It is essential to enhance women's decision-making power at the community level. To achieve success it is imperative to work with local leaders who can influence communities and change attitudes. An advocacy campaign for the family Law should be developed and pursued involving lawyers and activists throughout the country to reach all regions. Due to the low literacy levels, it is important to develop creative methods of reaching the target audience including the use of dramas, audio visual techniques, and direct contact. One possibility for achieving these objectives is placing a short-term advisor in country to provide technical expertise at the community level with the goal of continuing the program with local expertise. Further, NGOs working on women's legal rights issues require trained lawyers within their organizations. The main barrier to this has been funding, and it is recommended that project proposals be designed to include lawyers on staff.

There is an urgent need for women to have sufficient legal representation. In order to provide those services a comprehensive education and training program should be developed, particularly for the rural areas. An education campaign on the need for independent advocates and paralegals is essential to this effort. This project should work in partnership with existing legal aid providers in an effort to expand their services.

C4. Public Awareness

C4a. Findings

Mozambique has a very progressive constitution but, as noted by many NGOs, the practical reality is very different. There is a great lack of information; the country is physically vast and communication difficult. There are many local languages and information needs to be provided in those languages to reach women in the regions. The literacy level among women is very low and therefore creative methods must be employed to ensure public awareness. NGOs have utilized brochures with pictures, community radio, songs, and dramas as methods to spread their message. There is a particular need for community level awareness about domestic violence. Given the high rate of illiteracy and the lack of Portuguese spoken outside of urban areas, attention must be paid to local languages and local needs.

The Women's NGO Forum organized 150 NGOs for a campaign on land issues, utilizing one lawyer in each city to support the program. The campaign lasted for two years and they would like to see a similar campaign for the Family Law once it is fully approved by parliament. The Forum is utilizing internet technology and telecenters for training women. In one program this support allowed women in the regions to determine the prices of farm

products in Maputo. Prior to that time women in the region were paying twice the price they could get in Maputo.

As part of the campaign to promote the adoption of the Family Law, a demonstration was held at parliament during which participants wore t-shirts demanding the approval of the Law. Participants told their representatives that if they did not vote for the Law, they would not receive their vote in the next election. The Association of Women and Social Communications conducted awareness raising about the family Law through the use of community radio. They developed a women-to-women radio network utilizing local languages. The Association has also emphasized a number of gender related issues including violence against women and provided information on where to seek help through the radio program. The Association also publishes supplements to the weekly and daily newspapers.

The Eduardo Mondlane Law School Clinic provides legal services to indigent clients, many of whom are abused women. Students volunteer to provide free services, but they have many more requests for assistance than they can accommodate. The clinic noted a lack of legal literacy and the importance of a legal education campaign. They suggested utilizing students when they return to their home towns to get the message out.

OMM works with the Ministry of Education to gender sensitize teachers in an effort to reach out to the younger generation and change attitudes. In the past the priority for education has focused on men and therefore, a huge percentage of women are illiterate. Hopefully, the new programs initiated through the ministry and the NGO community can alleviate the illiteracy and help women and young girls to become serious participants in the democratic process.

The AMODEFA organization has a number of campaigns regarding HIV/AIDS and sexual and reproductive health rights. In Maputo they utilize both radio and television but in the regions they rely on community radio. They often record interviews with community leaders and then replay them on community radio programs.

C4b. Recommendations

Due to the significant illiteracy in the country, public awareness must be a priority, especially for women. Public awareness campaigns are also essential for changing attitudes in communities to enable women to have the equality to which they are entitled. Based on the size of the country, the poor infrastructure, and the numerous languages, this task is a huge challenge. It is recommended that all programs be tailored to the particular region and the local language. Public awareness campaigns should focus on domestic violence, property rights, and the new Family Law. Community radio and programs to reach people at the grass roots level are highly recommended.

Any public awareness campaign must incorporate references to HIV/AIDS and address its impact on the particular issue being discussed. It is also recommended that training for women's organizations on information and communication technologies be provided in partnership with regional training organizations.

D. South Africa

D1. Legislative Framework

D1a. Findings

South Africa has some of the best legislation and constitutional framework for gender equality. However, as with other states, the implementation of that framework is lacking at a practical level. The Constitutional Court frequently employs international human rights standards and conventions in its decisions and issues groundbreaking decisions that evidence their full understanding of gender and race equality. The constitutionally mandated Commission on Gender Equality provides a 'watchdog' mechanism to Constitutional Court decisions as well as the drafting of all legislation.

Customary law practices need to be brought into line with the constitution. Research needs to be conducted on the extent of customary law and its impact on women and children, and what mechanisms can be used to retain customary and traditional practices while eradicating those aspects that are harmful to women and children.

D1b. Recommendations

It is recommended that innovative advocacy tools that already exist within women's NGOs be augmented with training on evidence-based advocacy and the strategic use of data collection. This work is urgent based on the implementation of 22 new sexual offense courts. This can be done in partnership with both the Gender Project at the Community Legal Centre at the University of the Western Cape and the University of Cape Town. This would be information presented at a regional training on prevention of violence against women program best practices.

D2. Judicial Enforcement

D2a. Findings

Organizations in South Africa focused on the need for improvements in implementation of the law, particularly with magistrates, police, prosecutors, and administrative tribunals. In particular, issues of violence against women and other legal rights such as property, marriage and divorce, and maintenance, are dealt with at the lowest level of the judicial system and usually impact women disproportionately.

Given the role of local courts and local government institutions, USAID should build on existing work with local governments to ensure that women's legal rights are mainstreamed. Women are most active politically at the local level, and a campaign on women's legal rights during the next election (forecast to be between April and September 2004) would be a significant opportunity.

Recently, 22 sexual offense courts were established throughout South Africa. The administration and decisions of these courts will require monitoring, not only to compile a best practices manual for their expansion, nationally and perhaps regionally, but also to monitor their practices for compliance with the legal principles of gender equality.

While there has been a great deal of training on issues of domestic violence, the awareness of police and prosecutors, especially at the lower levels and in the less urban areas, is sorely lacking. Also the role that women's socioeconomic rights play in relation to their legal rights in areas of violence has not been sufficiently emphasized.

Many interviewees commented on the need to monitor the specialized courts especially noting that personnel in these courts are considered to have a lack of awareness of the issues. There have not been any broad-based monitoring efforts for the implementation of legislation that either addresses violence against women or uses other laws to provide a partial remedy or prosecution.

D2b. Recommendations

It is recommended that a program be developed for the training of NGOs on monitoring the implementation of legislation at the grassroots level. This documentation can then be used in evidence-based advocacy and other strategic and innovative tools for lobbying and working with progressive parliamentarians. For example, the constitutional and international human rights instruments can be used to persuade national governments at the regional level that they must fund their legislative commitments, thereby helping fund the costly enforcement of implementation. Further, cooperation with the private sector can be sought through collaborative roundtables.

It is recommended that training for lower level courts, magistrates, prosecutors, and police be given priority. We recommend a coordinated approach at the local level, accountable to local women's NGOs working on violence against women issues. This could complement the ongoing work on local governance presently funded by USAID.

It is recommended that an increase in resources be made for the provision of legal representation and legal aid. The need for women's independent advocates is very clear and urgent. The WLR Project can leverage its contacts with partner institutions such as law school clinics and NGO legal assistance centers to promote this activity.

It is recommended that a regional training on the use of international human rights instruments for lawyers, the personnel of lower level courts and advocates be developed and resourced.

D3. Civil Society Advocacy

D3a. Findings

There are a number of NGOs dealing with domestic violence and providing shelter and counseling services in South Africa. NGOs have experienced a loss of capacity in the "new" South Africa as funding has decreased significantly. As a result a lot of good talent has been lost from the NGO community. WLSA has been one of the most active NGOs in transforming legislation. South Africa has now moved to the stage where monitoring, enforcement and accountability are essential. NGOs do not know how to conduct these types of activities and have no standards for monitoring. Two NGO surveys indicated a 50 percent awareness of rights but problems with practical implementation. The

Afrobarometer indicated a significant lack of confidence by the public in democratic institutions.

The University of Western Cape has an undergraduate course in Gender Law as well as a master's level module for gender equality and rights. The master's program is practice-oriented and requires students to review and critique CEDAW reports submitted by signatory countries. The Community Law Center located at UWC has a gender focus that includes programs related to violence against women, reproductive rights, vulnerable women and general outreach. They developed a pre-trial handbook for NGOs to help women victims through the legal process. They have also conducted training for police from 12 SADC countries. They have been involved in regional networking focused on domestic violence but find it difficult to sustain regional networks.

The Law, Race, and Gender Unit at the University of Cape Town (UCT) is involved in training judges, magistrates, and court staff from throughout Southern Africa on women's legal rights issues. This includes experienced based workshops, peer training, and training videos, as well as publication of a quarterly newsletter for magistrates. UCT also has a judicial certificate program in conjunction with Justice College, the government entity responsible for judicial training in South Africa.

D3b. Recommendations

It is recommended that NGOs and CBOs be trained in the collection of data to engage in evidence-based advocacy on the implementation of legislation, particularly on domestic and sexual violence. Potential partners to develop this methodology for NGO researchers would be the University of Cape Town's Institute of Criminology and the University of the Western Cape's Community Legal Centre's Gender Project. It is recommended that this partnership could then be expanded to strengthen links to the NGO networks on violence against women to include the associations of women parliamentarians, bar associations, judicial associations, the legal resource centers, and other networks. This would continue to serve the coordination component of the donors roundtable on violence against women.

D4. Public Awareness

D4a. Findings

Gender Links (GL) is one of the pre-eminent NGOs working throughout the Southern Africa region. GL's primary area of focus is the transformation of gender relations in and through the media by conducting research on gender disparities in media, developing gender training materials for the media, creating and sharing content that demonstrates how a gender perspective can be integrated into media coverage, taking advantage of opportunities presented by information and communication technologies for advancing gender equality, and strengthening the media and communication skills of gender activists and women in decision-making. In addition GL leverages its skills and expertise by providing research and advisory services on gender and governance more broadly. In all its work, GL strives to build strategic partnerships and networks and to serve as a catalyst for gender transformation by working through existing structures.

Gender Links was active in the 16 Days of Activism Against Gender Violence campaign which is held annually from November 25 (Violence Awareness Day) until December 10 (Human Rights Day). One of the activities included a media presentation about victims of violence each day during this 16-day time frame. The presentation was made as a part of the nightly news on the South Africa Broadcasting Corporation (SABC). Another activity involved the president visiting schools and giving whistles to children with the theme of “blow the whistle on violence.”

Gender Links has just completed a study throughout Southern Africa about the connection of women in parliament on the types of legislation that is passed. A publication is forthcoming from the completion of this study. There has been a cascading effect in the region with South Africa leading the way on legislation in areas such as domestic violence and rape. The issue has now turned to implementation. The domestic violence law was adopted with little thought as to the costs of implementing it and that is now proving to be a barrier. It is important to empower women parliamentarians so that they in turn can push for implementation. Having an advisor at the parliament proved to be a successful model for South Africa where a Canadian advisor was placed for two years. It is important to have a hands-on approach for training legislators and a program that fits their time constraints and the issues that are important to them.

The Legal Aid Center at the University of Western Cape provides legal services through funding from the University Association of Legal Clinics. Approximately 70 percent of their cases are gender-related and they work closely with the NGO network on domestic violence. The clinic is trying to change attitudes and mindsets. They encourage students to develop brochures, participate in marches, and volunteer to work in the specialized sexual offenses courts during their vacation time to provide victim support. Students also help with research and 40 papers on gender issues have been completed at the center.

D4b. Recommendations

It is recommended that Gender Links’ ongoing public awareness campaigns be expanded within South Africa and regionally in collaboration with other existing partners such as Women’s Net, WLSA, and WiLDAF. Innovative methods already exist for the development of legal literacy, legal advocacy and popular legal education and they should be incorporated into ongoing programs and expanded.

As noted, HIV/AIDS as a cross-cutting issue should be incorporated into all campaigns, especially those focusing on violence against women and children and the impact of customary law. It is also important to ensure that Agisanang (ADAPT) and the SA National Network on Violence Against Women educational campaigns are given increased visibility.

SECTION IV

Implementation Approach and “Next Steps”

A. Implementation Strategy for Southern Africa

Issues related to violence against women, discriminatory family laws, the denial of property and inheritance rights to women, the impact of HIV/AIDS, the lack of capacity within the NGO sector and of women in leadership roles all have wide-reaching negative impacts throughout Southern Africa. Not only are the lives of women adversely affected, but social, legal and economic institutions are greatly challenged and diminished by these factors. A number of aspects converge to create an environment where violence and the denial of women’s rights continue to flourish. The lack of legal systems to effectively deal with the problem, particularly the lack of implementation of laws, is a key factor. Poor economic conditions and weak civil society capacity also contribute to these problems. Moreover, the scourge of HIV/AIDS directly affects women’s legal rights and is a cross-cutting issue in the region. In order to combat these problems, we recommend that WLR design a regional program that focuses on domestic violence, discriminatory customary laws and practices, capacity building for civil society, women’s leadership particularly in the Parliamentary and NGO sectors, and women’s economic empowerment in the Southern Africa region. All programmatic activities will incorporate awareness on HIV/AIDS as a cross-cutting issue.

A1. Southern Africa Development Community Parliamentary Forum

WLR recommends a comprehensive regional activity involves supporting the SADC Parliamentary Forum Engendering Parliaments Plan of Action to eliminate laws and policies that continue to discriminate against women. Through this plan the SADC PF seeks to improve legislation that protects women’s rights. WLR proposes to support the Engendering Parliaments Plan by building the capacity of parliamentary gender committees and women’s parliamentary caucuses to ensure the passage of gender sensitive laws in all sectors. This will build the capacity of parliamentarians to demand accountability for implementation of National Gender Policies, Programs and Plans of Actions and equip parliamentarians with the skills to effectively oversee budgetary processes and not only ensure that gender is mainstreamed in the budgetary processes, but also that national gender mechanisms are adequately resourced to carry out their mandates. WLR would support training of parliamentarians on women’s legal rights with a focus on gender budgeting and CEDAW, with the aim of developing a critical mass of legislators in the region who can advocate and lobby for women’s legal rights from a more informed position.

Expected results. Training members of parliament on women’s legal rights will increase the promotion of gender sensitive and equitable legislation (IR1) by creating more informed parliamentarians and strengthened coalitions of women parliamentarians.

A2. Civil Society Organization Networking

Another recommended regional activity focuses on working with networks of NGOs and other stakeholders to advance the women's legal rights agenda in the region. This work with regional networks can result in a greater demand for implementation of established norms and standards, which would include holding governments accountable for the implementation of regional declarations other international treaties, such as CEDAW. Regional networks, including Women in Law and Development in Africa, Gender Links, Women and Law in Southern Africa, and the newly formed SADC Regional Network of Women Judges could be reinvigorated through WLR interventions. WLR would build the capacity of existing networks to plan and execute sustained lobbying and advocacy campaigns of women's legal rights in the region. This could include support for cross-border advocacy on women's legal rights through the use of information and communication technologies (ICT), research on the impact of HIV/AIDS on women's legal rights, support of legal literacy initiatives within communities, and support for organizations that provide legal aid to women whose rights have been violated. Further, capacity building for NGOs and CSOs has been identified as a critical issue in the region. Training of trainers in the sector of women's rights NGOs in the areas of sustainability and leadership would increase the capacity of women's rights organizations to carry out their mandates.

Expected results. Providing assistance to existing regional networks of women's rights organizations will improve the ability of CSOs/NGOs to advocate for women's legal rights and provide legal services to women (IR3). Supporting legal literacy campaigns will increase public awareness and societal receptivity to women's legal rights (IR 4). Increasing the capacity and sustainability of NGOs and CSOs will result in a strengthened ability of the sector to engage in advocacy activities to achieve all four IRs of the WLR.

A3. Violence Against Women

WLR proposes focusing on the critical issue of violence against women. Domestic and sexual violence against women remains a serious problem throughout the region. The true extent of this fundamental violation of women's rights is not known due to a lack of research. However, experts in the region acknowledge that it is a very substantial problem and one of the most serious ones currently facing women in Southern Africa. Support for a regional research project on best practices and lessons learned in confronting domestic violence would provide a useful tool for addressing domestic violence in the region and assist those countries in the region that are currently preparing draft domestic violence laws. Trainings on violence against women will be developed in collaboration with the national anti-violence organizations in the countries in the region. Trainings on evidence based advocacy will be developed for the anti-violence NGO organizations and the legal communities. A multi-pronged approach to training on CEDAW will be undertaken for promoting its advocacy including the use of an assessment tool, the preparation of alternative reports, and the use of international human rights instruments.

While passage of a domestic violence law is an achievement, it is also important to train legal and judicial professionals as well as advocates on implementing and enforcing the law. This will achieve real short-term results that ensure that women have an effective, appropriate, and reliable means of protection. Legal and judicial professionals should be trained to utilize current national law as well as international law, including CEDAW and other human rights treaties and laws as tools to protect women. At the same time, we can support the CSO/NGO community and national governments, such as Botswana and Mozambique, in drafting new domestic violence laws by providing technical expertise based on best practices and lessons learned in Southern Africa.

Expected results. Increasing assistance to NGOs/CSOs to address violence against women will improve their ability to provide service, engage in public awareness (IR4), and increase their leadership and sustainability (IR3). Training of parliamentarians and women's advocates to design constitutional advocacy litigation strategies will lead to the compliance of the government with laws on violence against women and the mainstreaming of a gender budget approach (IR2).

Technical assistance to local organizations for utilizing the domestic violence law and monitoring it to ensure its effective implementation will increase the promotion of gender sensitive and equitable legislation (IR1). Providing additional technical expertise that will educate CSOs/NGOs and government on this topic will lead to increased community cooperation with justice sector institutions, law enforcement, administrative agencies, and legislative bodies (IR4). Training legal and judicial professionals to effectively utilize laws that protect women's rights will improve implementation and enforcement of laws (IR2).

A4. Legal Aid and Legal Literacy.

WLR also proposes a focus on legal literacy and legal aid in support of women's legal rights. This may include a legal literacy campaign in partnership with existing CSOs/NGOs. WLR proposed activities related to legal aid will focus on enhancing the institutional capacity of CSOs/NGOs that provide legal services to women, particularly in rural areas. WLR legal literacy and legal aid activities that may be country-specific, for example in Mozambique, will be linked to regional initiatives.

Expected results. The legal literacy program will be fully integrated into the regional approach to violence against women and HIV/AIDS awareness, and will result in improved public awareness (IR4).

A5. Advocacy and Litigation Program.

It is proposed that the WLR will work with the Georgetown University's International Women's Human Rights Clinic Program to provide access to resources in the African region on best practices and lessons learned from their pan-African advocacy program and the LAWA program. Success stories on impact litigation, legislative drafting, the passing of laws, and test cases will be shared at a regional workshop to be held in Botswana. These lessons and practices will be widely shared throughout the region in an ongoing email list serve and a publication to be completed by the end of Year 3. Final

reports and findings will be posted to a website that will provide ongoing information and sharing of resources throughout the region.

Expected results. Increasing the capacity of CSOs and women's legal rights advocates to undertake more strategic advocacy strategies will result in the promotion of equitable legislation (IR1), improved capacity of NGOs to advocate for women's legal rights more effectively (IR3), and increased public awareness of test cases and legislation (IR4).

A6. Customary Law.

WLR recommends engaging in research on customary law and practices with the intent of providing a guide to test case impact litigation on the issue. Customary law is an issue that impacts on women's legal rights throughout the region. Successful test case impact legislation that has resulted in a significant change to the domestic law will be reviewed and researched. A manual on how to conduct impact litigation on the issues of customary law will be developed in collaboration with regional organizations and disseminated widely in the region.

Expected results. Increased awareness of the discriminatory practices of customary law will result in increased public awareness (IR4) and improved implementation and enforcement of existing national laws (IR2).

B. Development of Action Plan

After comment and review of the assessment and analysis report by EGAT/WID and USAID/RCSA, an action plan will be developed based on the activities selected for implementation. The action plan will detail the specific activities, the methods for completing those activities, and timeframe for completion. These activities will reinforce USAID's relevant strategic objectives and coordinate with other Mission activities.

C. Next Steps

Following the initial visits to Southern Africa, the collaborative design of action plans, and USAID Mission and EGAT/WID approval of the action plan, the WLR team will begin implementation of the project. Implementation will take place over two years and will be guided by USAID Mission and EGAT/WID strategic objectives. Implementation will also include the development of partnerships with existing organizations and networks. In all cases, the WLR team will ensure maximum collaboration and coordination with USAID programs and partners.

The project will be implemented through local staff and partners, who will coordinate activities and serve as WLR project representatives. The local staff will be supported by short-term experts and consultants, primarily from the region, and will act under the supervision of the WLR Project Director while implementing the action plan. International experts will be utilized as needed.

Core home office team members will travel to Southern Africa periodically to provide supervision and technical assistance as required. In addition, they will be in regular communication – by email, phone and fax – with the field. The core team may identify technical experts on a specific topic to provide short-term field assistance and/or training for staff or implementation partners. Resources will be identified to ensure that capacity and sustainability are priorities for the ongoing continuation of the project and initiatives.

ANNEX A: MEETING NOTES

BOTSWANA

8/20/03 USAID RCSA - Keboitse Machangana, Democracy Advisor and Program Development Specialist
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The WLR initiative was written into RCSA's new strategy for 2004-2010, which was approved by USAID/W on August 7, 2003. Ms. Machangana shared with the team both the Mission strategy and the accompanying gender analysis, which was completed by DevTech Systems, Inc., under the WID IQC, in July 2003. She also recommended some other materials that could prove useful to the WLR project design including: "Into the Future: Gender and SADC", the "Women's Access to Justice" report, the "Beyond Inequalities" series and the "SADC Engendering Parliaments Plan of Action" as well as the evaluation of this project by Ms. Machangana herself. The WLR project serves as the first opportunity to make gender a part of their implementation strategy. In the past there has been a lot of talk about gender but it has never really been integrated.

Ms. Machangana has been a women's legal rights activist for many years. She is a former employee and current board member of Emang Basadi, the most prominent WLR NGO in Botswana. She provided the team with a first-hand account of the history and current situation of women's legal rights in Southern Africa.

In the late 80s and throughout the 90s there was a strong focus on women's legal rights in Southern Africa. The 1995 Beijing Conference on Women had significant positive and negative effects on the work already under way in this arena. On the positive end, 1997 saw the passage of the SADC Declaration on Gender and Development, which committed SADC and its member states to repeal and reform all laws, constitutional provisions and social practices that discriminated against women. Since then, a significant number of countries have amended some discriminatory legal instruments, although in a lot of them, a piece-meal approach to the amendment of laws was adopted. Implementation of the amended policies and laws remains a significant challenge in most SADC countries. On the negative side, those CSOs that helped governments with legal reforms ended up "going to bed" with the government and forgetting about their roles as watchdogs. After Beijing, governments in the region made a lot of promises and the CSOs took these as significant progress and forgot that not much was actually achieved. To this day the governments keep promising that they are working on the issues but they do not have much to show for it. Furthermore, those women's rights advocates who had been most active during the Beijing process have since been co-opted into various government positions (e.g. judges) that prevent them from making sure that the promises of Beijing and the SADC Declaration on Gender are realized.

Marital rape is currently a big issue with regard to women's legal rights in the region. In Botswana, the court of appeals recently threw out a case brought by a women who was raped by her husband. The court ruled that there was no such thing as rape in a marriage; women consent to intercourse with their husbands at the time of marriage.

Another major challenge to women's legal rights in the region is the dichotomy between constitutional law and customary law and practices. In Botswana in particular customary laws are widely recognized. These laws usually discriminate heavily against women.

In Botswana, the Women's Affairs Department is the national machinery for gender and is charged with implementing the national gender strategy; it is heavily under-resourced. This office is also responsible for producing CEDAW reports but none have been submitted as of yet. The government provides some funding to the NGOs for such things as training but it is not enough to do anything of impact. Donors used to give more but are now phasing out their programs in Botswana.

Comparatively speaking, Southern Africa has a well-developed civil society base with regard to women's legal rights. One current challenge for civil society is the issue of leadership. During the 90s there was an initial group of activists but many of these prominent advocates have now moved on to other pursuits without adequately transferring their knowledge and experience to the next generation. Some civil society organizations have even collapsed after the departure of the founding member. Sustainability is a big challenge. The lack of expertise within the younger generation really affects negatively on the successes that could be made. There is a serious lack of human capacity within the NGOs. The same people sit on all the committees. As a result, they do not have time for anything else. In Botswana, a prohibition for CSOs to employ practicing lawyers further limits civil society capacity to effectively defend and protect women's legal rights. Organizations such as Emang Basadi have tried to solve the problem by placing a lawyer with extensive knowledge in the field of women's legal rights in one of the law firms and by contracting for her services on a regular basis.

WLR arranged to make a power point presentation to the all the SO teams at the Mission on Monday, August 26th.

Recommendations

There is a great need to build up the capacity of civil society organizations to transition in terms of leadership so that donors do not personalize funding and fail to allocate money to the organization if the trusted leader leaves. Train members of the new generation so that they can take on more responsibilities within the NGOs. New expertise will make the NGOs more sustainable. CSOs need to develop mentoring and training programs similar to professional development mechanisms within private sector companies.

8/21/03

Botswana High Court - Hon. Justice Athalia Molokomme
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In Southern Africa, the issue of women's legal rights has received a great deal of attention over the past two decades. Justice Molokomme thought it to be "sad that we're still working in the area of women's legal rights because we've been working on them for so long" yet still many of the battles are not won. The push toward legal reform to protect women's rights began shortly before the 1985 UN Conference on Women in Nairobi. Many of the women's rights activists at the time were lawyers and chose to take up the issues on the basis of what they knew best – law. Nineteen eighty-seven was another watershed year during which a conference entitled "Women and Law" was held in Botswana. The conference spurred a wave of activity in the area of women's legal rights but progress was soon hampered by the unexpectedly strong resistance to proposed legal changes within the country.

One organization that has been the driving force behind many women's legal rights campaigns in Botswana has been Emang Basadi. In 1991 this organization took up the case of Unity Dow and the Botswana Citizenship Act which gave Botswana men and not Botswana women the right to pass their citizenship to their children. Emang Basadi and Unity Dow won this politically controversial case. Following the watershed decision the Botswana government had to change the discriminatory citizenship act. It did so without amending the constitution but the ruling itself instilled confidence in those fighting for women's legal rights that the constitution was behind them.

In the mid 90s Emang Basadi changed their focus from women's legal rights to women's political participation. The organization still runs a legal clinic that helps women deal with many of the day to day legal problems that need resolution. Emang Basadi is currently facing large resource constraints. Donors need to keep supporting this organization because it does a great deal of good in the area of women's legal rights, lest it collapse.

There is little emphasis on women and the law in legal and judicial education in Southern Africa. The University of Namibia used to have a gender and the law course but many others do not. In Botswana, judges are given very little training. Both Athalia and Unity Dow were put on the Court of Appeals without any training.

Recommendations

Carefully select the issues to be worked on so that they address practical needs. For example, there is a great need for capacity building for CSOs especially in addressing issues of sustainability. Another area where WLR could add value is in providing capacity to begin to translate many of the current issues into law. Over the years numerous organizations have been chipping at little parts of various discriminatory laws but no one has looked at and come up with a strategy to address the legal framework in its entirety. If such an endeavor should be undertaken, parliament should be the last stage in the process. WLR will be able to make much more of a difference working with NGOs. The

Botswana Women's NGO Coalition (Ms. Machangana used to chair it) lobbies parliament on a wide range of issues affecting women. This body would benefit greatly from capacity building activities such as sharpening of lobbying skills and strategies as well as improving understanding of women's legal rights. WLR could do a great deal of good by putting forward model legislation and even drafting laws. It is high time to begin to see laws actually changing.

WLR could also provide training to NGOs and the government on the enforcement of international laws. Currently there are numerous gaps between international laws, such as CEDAW, and national laws, especially in terms of compliance. WLR could train the government on understanding, complying and reporting on international laws as well as train the NGOs in making sure that the government complies. The UN has provided some assistance for such activities in the past. The organization could be a good partner if such activities were to be undertaken.

One concrete area in which WLR could work is the field of domestic violence which has recently become a hot topic in Botswana as well as in other countries in the region. In Botswana, domestic violence cases can only be prosecuted under criminal law. There is no specific law against marital rape. There is now a draft violence against women bill which includes provisions on marital rape. The bill is in the parliament and it remains to be seen if it will be passed. This issue can also be taken up on a regional basis. The SADC Declaration on Women contains an addendum on violence against women. This document has become a rallying point for the region and can serve as a solid base on which to build.

In terms of awareness-raising, much has already been done. A useful activity for WLR could be to undertake a review of everything that has been done and compile a state of the art/best practices document to be disseminated to all the NGOs working in the area of women's legal right in Botswana and regionally.

Finally, any WLR program must involve both the government and NGOs. Sole support for NGOs does not accomplish much politically. WLR would be smart to design a project that strengthens the NGO-government partnerships but still provides more support to the NGOs because they are more creative, flexible, and have more passion for the cause. Working on a regional basis is challenging and the best way to do it is through existing regional NGOs such as Women and Law in Southern Africa. WLR could make meaningful contributions by simply supporting the regional organizations on the issues of current priority. Most importantly, pay attention to practical needs. For many years women's rights activists have been talking above people's heads and have thereby hampered progress.

8/21/03 Law Reform Committee, Parliament of Botswana – Hon. A Tafa,
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Hon. Robert K. Molefhabangwe – MP for Gaborone West, member of the
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Hon. S.P. Kawindama, Member; Hon. J.J. Maruatone, Member

The attorney general is a member of the committee and advises the members on all legal matters. The Attorney General's Office has a staffer who deals with women's affairs and human rights and works closely with the Ministry of Women's Affairs. Unfortunately, she was not able to attend the meeting.

According to Mr. Molefhabangwe, the only opposition party member on the committee, Botswana upholds the issue of human rights in general and the rights of women in particular. Botswana is a long-time leader in its efforts to empower women in positions of responsibility. It was one of the first countries to elect women to parliament. Even before the Beijing platform Botswana already had women ministers. The country was one of the first to have women diplomats. In terms of women's empowerment, Botswana has always been two steps ahead of most other countries. After the Beijing in 1995, the government of Botswana decided to concentrate on six areas of concern: 1) violence against women, 2) education of girls, 3) women's economic empowerment, and 4) empowerment of women in positions of leadership.

The Constitution of Botswana guarantees equal rights to all citizens; however, certain pieces of legislation are still found to be wanting. The committee has reviewed and repealed or amended a number of discriminatory laws. For example, it has recently repealed the Married Persons Property Act. Now any person can own property. The country has recently adopted a 30 percent quota for women's political participation.

Most statistics in the country are not disaggregated by gender. Some NGOs have come up with their own statistics. The only statistics that are disaggregated by gender are the HIV/AIDS figures. Most of the HIV/AIDS testing is done at the maternity clinics, where men do not usually go. HIV/AIDS stats are therefore more reliable for women than for men.

Botswana has a dual legal system. Customary law is recognized by the constitution and runs parallel to civil law. The civil code is based on Roman Dutch law and tries to adhere to other international laws and commitments. Comparatively speaking, Botswana is slightly ahead of many countries in Africa. There is no country on the northern side of Botswana that has anything better in place but the legislators understand that there is always room for improvement. The general level of knowledge and understanding of international law is low. International laws are not cascaded down to the villages. Additionally, there is no treaty division within the parliament. Individual committees ratify

treaties and sometimes other parliamentarians are not made aware of the new treaties the country has signed on to. Usually, once a treaty is ratified effort is made to align national law to the new international commitment. For example, the parliament recently amended the labor law to comply with international standards.

The government has fairly good cooperation with the NGOs. It pays for NGO participation in various conventions and international meeting.

Currently there is a new controversy over the issue of marital rape. A female judge recently dismissed a marital rape case with the opinion that a married woman cannot be raped by her husband. Unfortunately, her point of view is reflective of the majority of the population. The Committee would not have a problem with amending the law to make marital rape an offense but there is a lot of resistance on the part of the people. Most still believe that there can be no rape in a marriage and that the husband has a right to do whatever he wants to his wife. Since the legislators are the representatives of the people they must take heed of their concerns. A great deal of education on the rights of women must be carried out before marital rape can be made an offense under the law.

Many people also believe that a law providing for the jailing of a husband for raping his wife would contradict the Bible verse that is used in most traditional weddings, "man and woman will cling together and will not be separated by anyone." Mr. Molefhabangwe, however, keenly pointed out that a couple can be divorced under Botswana law. It is therefore inconsistent to refer to the Bible when talking about marital rape but not when getting a divorce. The Bible verse should be irrelevant to both issues.

In Botswana, most marriages still adhere to customary traditions. Before a couple can be married, the man must pay a dowry or a labola for his bride. Once that is done, the woman is considered to belong to the man. She is his property. There are exceptions to this general practice. In certain areas of the country there is no labola system but men still treat their wives as property, as if they have paid for them. As Mr. Molefhabangwe concluded, it is not the dowry system that relegates women to the status of property but the mindsets of the people themselves.

Recommendations

There is a great need for intensive public awareness campaigns on the issues surrounding marital rape. There is currently no common, collective understanding of the issues. One of the principles of democracy is that the government must work with the people to come up with laws that please them but the government is still in the process of nursing and educating the people about the importance of women's legal rights. The level of understanding also varies by regions in the country.

Under the traditional system, if a dispute arises between a husband and wife the matter must first be addressed by the family members. If the two families fail to resolve this problem the case goes to the local assembly and ultimately the chief will be the last person to decide.

Most committee members believe that Botswana laws have an adequate definition of what rape is. When there is no consent on the part of one of the parties the act is considered rape. When it comes to marital rape the term “consent” becomes an issue because many people believe that a wife gives consent at the time of the marriage and therefore cannot be subsequently raped by her husband.

Public awareness is still a problem because it goes hand in hand with capacity building and education. The Women’s Affairs Department and its partner CSOs are still under-resourced and over-stretched. The country is mainly rural and thus far the campaigns have been mainly centered around towns. The vast majority of women are still not aware of their rights. Many of them still believe that a man should be the head of the family.

The Committee is interested in learning what other countries and regions are doing with respect to women’s legal rights.

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Today both of them were attending a conference to gender sensitize public ministers sponsored by the Commonwealth and the University. Ms. Kethusegile works as Technical Advisor to the Secretariat. There are only two of them in this Office – her and Christine Warloba, the head of the department.

They held a regional workshop that included reports of progress on Violence against Women which is being developed into a full report. They are still drafting the report and will provide us with a copy of it. This report was an audit of what stage they are at in each country represented at the conference. They commissioned researchers around the region to review how these issues are being dealt with, then held the conference in November 2000, and are now preparing the report. Perhaps we can find areas of cooperation from this report. This particular project on violence was added in 1998 as an addendum to the gender plan. They cooperated with WLSA and WiLDAF who have regional operations. Violence remains a priority for them. The Violence program is funded by DFID.

They have a broad mandate on gender mainstreaming including Women and the Economy, Decision-making and Politics, Human Rights, and Institutional Mechanisms. They conduct monitoring and evaluation. They have an extensive program on Women in

Politics funded by the Dutch government. Structure for Gender at the Regional level includes committees to ensure policy level and NGOs are involved. There is a restructuring now at SADC and they are not sure what level of authority will be in future.

MALAWI

Dr. Shaw explained her Department and stated that after Beijing they made a National Platform with these four priority areas: Poverty Alleviation, Girl Child, Violence Against Women, and Peace. They have six thematic areas of focus including Education and Training for Reproductive Health, Food and Nutrition, Psychology, National Resource Management, Governance and Human Rights, and Empowerment and Participation.

They have a National Program to advertise their platform. Governance and Human Rights stand out. A National Gender Based Violence Strategy has been developed but is not funded. They have received a small amount of funding from GTZ. They have identified problems in Malawi which include a lack of knowledge of Human Rights and no legal framework for gender equality. There is a special commission on gender working on these issues which are massive and only progress at a slow pace.

“Property grabbing” is a major problem with people dying of HIV/AIDS. They are not doing enough on domestic bill that is going to parliament in October. They need more awareness and implementation in areas such as marital rape, spousal battering, sexual violence, child battering, and economic violence. The bill was drafted and widely discussed, then sent to the Ministry of Justice where it is now.

They need help for the Women in Politics and Decision-making program. The current situation makes the power of women very weak. Governance and Human rights sector also needs a lot of work. They need to work on gender equity as well.

In 1992/93 women felt they didn't know their law and wanted government to provide it to them in plain language. They produced a booklet, Women and Law in Malawi. It included an explanation of the CEDAW protections in simple language so people in rural areas could understand it. There are over 100 acts that apply and they restated nine areas. Customary law is a hot issue. When they moved to a multi-part government in 1995-6 the government abolished traditional courts, but in practice they still exist. Paralegal Magistrates are now utilized. There are conflicts between the traditional/customary law and the civil law — property grabbing is one example. Different regions within the country have different traditions — some matrilineal and other patrilineal. In the Southern region men have no right to own land unless they are married. Women acquire land in some regions only by having sons. Some lawyers and judges use traditional ideals in court (ex. Rape cases – questioning woman what she was wearing and claiming she invited it). High Court Judge has stated there cannot be marital rape—says he bought his wife and she must submit.

The level of understanding in Government and Ministries of International laws and treaties is low and they are not harmonizing local law to conform with these. An initial CEDAW

report was prepared in 1987 with updated comments in 1991. Since that time there have been no further reports. There are no resources for preparation and many difficulties in trying to put the report together. She is now editing a report that would combine several past due reports. Another problem is that they cannot disseminate the report after it is filed because there is no funding for this. People within the country don't know what is in the report. There is a national CEDAW committee comprised of government, university, and NGO representatives. Only two of the people on the committee are from government. A person from one of the human rights NGOs is the chair. The NGOs normally produce an NGO shadow report. There is good cooperation between the government and NGOs. They receive encouragement from the SADC gender union to work with NGOs.

Violence against women has traditionally been accepted and even seen as strengthening family virtues. A DV law is likely to pass due to lobbying, which has been lead by WLSA. However, it will just be "on the books" and will not be implemented like most other laws. Even women do not perceive violence as a problem.

Children are marrying very young and we need to change the law to stop that and have mass education of this issue. Plans are made for this already but no funding is available.

Trafficking is becoming an issue. Eighteen girls from Malawi needed to be expatriated from Brussels. Four have been returned but it was very difficult due to costs. Brothels are mushrooming. Syndicates are the ones doing the trafficking. USAID says that more boys are trafficked for child pornography.

They are now considering drafting a Gender Equity Act with a goal to ensure equal participation of men and women in development (ex. 50/50 in education and job promotions).

8/21/03 Kagisano Society - Women's Shelter Project;
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Banyana Monyena Parsons – Director
Gofaone Arntshilo – Finance Officer
Oratile Kidd - Economic Empowerment Officer.

Rosemary Mokgosi - Project Officer for Economic Empowerment

In 1998 they started as a result of the Beijing World Conference and identified six areas of concern including: education, violence, girl child, decision-making and power, health, and employment. These issues were divided among the NGOs and they were put in charge of the violence issue. They formerly worked with refugees and once the refugees had returned home they changed their focus. They have a total staff of ten.

Kagisano means living together in peace and harmony.

They have an outreach program and try to empower women with a holistic approach, They don't want to perpetuate dependence. Have groups for meditation (operated by Art of Living group), yoga, and counseling. They have two programs in the north (Francistown, Vobona) and one in the South.

The shelter was born out of the Beijing process. This is the only one in Botswana. More and more people are coming from all over the country. Young people are realizing DV is not acceptable and are utilizing their services. They have never been without clients in the shelter. Yesterday they got a 10-year-old girl. Other NGOs, women's affairs department, and local stakeholders help to get word out about their services at the shelter. Local police do patrol the area and protect the shelter. Police generally don't want to get involved in DV cases and claim it is a family matter. WLSA has done a lot of training in the past on DV. There is also a drop-in center for counseling and if necessary they refer people to the shelter. Earlier this year there were a lot of "love killings" – at least six were reported and probably many more were not. Girlfriends and wives were killed.

There are number of laws within Botswana that discriminate against women including the marriage act, married persons property act, and abortion (illegal except in cases of rape, incest, and a few other limited circumstance). A report on the review of all laws affecting the Status of Women contained great policies but the problem is implementation.

Domestic violence and HIV/AIDS are linked. This is still a male dominated society and men don't want to use condoms. The men are promiscuous and are infecting their wives. They are now trying to reach areas outside of Gaborone – 3 areas were chosen including one that is strongly traditional, one high in HIV/AIDS and one low in HIV/AIDS.

They compile their own statistics in addition to getting information from police. According to a study from a month ago, of those utilizing NGO services, 55 percent were DV related. Women's Affairs Department will also have statistics on the prevalence of violence. WLSA has produced a book entitled "No Safe Place."

They use a private law firm and private doctor for services by paying them from funding they receive. The law does not allow for lawyers to work in NGOs as advocates who will go into court. Whether these services are provided depends on the income level of the women/victim. These lawyers who are assisting are not activists doing pro bono work; they are being paid and they not pushing the issues.

There is no separate DV law, though there is a draft which was prepared by NGOs. They provided a copy to us.

Most parliamentarians are men – there are now 5 women out of 40.

They have been struggling with marital rape. People believe women have to submit to sex whenever men want it. The concept of "labola" is that "I paid for this woman" and therefore can do whatever I want with her. Labola is not practiced in all regions of the country but people still tend to think this way and act as if a contract were made for sex

on demand. Police turn victims into the accused and question them in open areas of police station with comments about what they were wearing, etc. They want all police stations to have a special room to handle these cases. You need corroboration to prove a rape case. After rape women should be tested for HIV/AIDS and get prophylaxis anti-retroviral drugs.

According to the marital act once you marry you are giving up most of your rights. There is a conflict between customary law and civil law. A woman is not considered a citizen within the family.

There is no definition of consent within the law so it comes from customary law definitions. There is presently an on-going marital rape case. It was thrown out by a female magistrate who said that a husband cannot rape a wife. They are now appealing that decision. The attorney general should have been involved but wasn't and the police prosecutor was not competent to pursue the case. He should have used the penal code. They will challenge the decision because the law needs to be changed. They will undertake a private prosecution but they will need a lot of resources to pursue it. The NGO coalition will work together to pursue it. They recommended we also meet with Alice Mogawe of the Women's Center for Human Rights (Ditshwanelo – literally means rights).

They conducted a maintenance (i.e. child support) project a few years back for women with children born out of wedlock. At the time could only get 40 Pula (slightly less than 10USD) as support for a child. Now has been raised to 100 Pula (approximately 25USD).

They conduct training with police, stakeholders, chiefs, and affected members of the community. In June they held a conference with three areas of focus to see what the situation is and what the level of awareness is. Problem with government prosecutors not having the know how to pursue cases. There was a case where a partner was being re-infected with an STD. She filed rape case and had done everything perfectly to preserve evidence and follow procedures, yet the prosecutors still mishandled the case.

Women do feel they have to accept violence because society says you have to keep matters in the family. Older family members continue to give advice and say it is normal for a woman to put up with violence. The husband is the only one who can sell property. The extended family structure has collapsed. In time past the family members would work together to resolve their problems and elders would provide settlement, but that has now died out.

Recommendations

More legal aid support; more trainings both for awareness and for police/prosecutors on how to handle DV cases.

8/21/03 Botswana High Court – Hon. Justice Unity Dow;
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Justice Dow, a former human rights attorney, was recently appointed Botswana's first female High Court judge. She has since been joined by Justice Athalia Molokomme. Justice Dow co-founded the Women and Law in Southern Africa Research Project and is a member of International Women's Rights Watch. In the early 90s, she was the plaintiff in a monumental case in which Botswana's nationality law was overturned and new legislation was passed which allowed women to pass on their nationality to their children. In her spare time Judge Dow writes novels which address the problems women face in their struggle for equality in Botswana. She chose to write fiction on the subject because it reaches a broader audience.

There are 45 magistrates in the lower court and 14 in the higher court. The court of last instance is comprised of nine judges all of whom are foreigners from such countries as Kenya, Zimbabwe, South Africa and the UK. These judges are appointed by the president upon the recommendation of the chief justice. None of the judges are from Botswana. There has been some pressure to change this rule but the government wants to keep the system the way it is. Judges from outside the country cannot be accused of partiality. No woman has ever sat on the highest court except for Justice Dow who did so on an ad hoc basis for one session in 2002. The highest court meets twice a year in January and in July and considers about 30 cases each time. The appointment process for the lower court and the court of appeals is not very transparent. A seven member Judicial Services Commission, headed by the chief justice, selects applicants and makes appointment recommendations to the president.

There is no justice minister in Botswana. All court administration is undertaken by the Registrar of the High Court under the Ministry of Presidential Affairs. The Judicial Branch administers its own budget. Currently, court statistics are not disaggregated by gender. A plan to purchase a case management system is in the works.

In addition to the civil courts Botswana has about 200 customary courts (lower and appeals). Most customary court justices have no judicial training and no attorneys are allowed in these courts. A decision in these courts can be appealed to the customary court of appeal which is comprised of traditional chiefs. Customary law is not written and has no set parameters.

A couple must be married under both the civil law and the customary law. The whole process is very family focused and can take up to a year. The marriage is usually negotiated by the elders of the bride and groom. First, a delegation from the groom's family asks the elders of the bride for permission to marry the couple. If the bride's family agree a date is set. Only married people can be part of negotiating delegations. Separate talks are held between the women and the men of the two parties. In some tribes a bride price (labola) is negotiated. Separate meetings are set for the bringing of the presents,

the signing of the marriage certificates and the payment of the labola. Usually, a couple will have been married for two days by the time there is a public feast. The feast is held at two places – first the woman's place and then the man's. During this time the couple also receives more instructions from the elders on what to expect from a marriage and how to make it work. In the evening, the bride is officially handed over to her husband.

According to custom, if a married couple should have a serious dispute the matter will first be handled by the family council, usually the same group of people who negotiated for the marriage. If the family is not able to resolve the dispute the matter is brought to a ward headman (an unpaid, inherited position). If the headman is not able to resolve the situation then the next likely step is divorce.

A marriage cannot be ended by customary law. In Botswana, written law supercedes customary law. All divorces, therefore, must go through the high court and can only be granted on a fault basis. Adultery, desertion and abuse are usually considered to be grounds for divorce. A couple can also divorce without fault if the two have been living apart for two years or more and both consent to the separation. Most divorces are initiated by women. About 80 percent of divorce cases are a result of domestic violence. Women can now get restraining orders against their husbands but the police are not trained to deal with situations that lead to such requests and are under resourced to enforce the orders.

Domestic violence and violence against women in general is a big problem in Botswana. Sexual harassment is very prevalent in the work place. Women are often pressured into sex as payment for promotions or for not being transferred to some remote village. Half of all the appeals cases are rape cases. Often women end up withdrawing domestic violence cases due to the pressure put on them by the family council, the purpose of which is to reconcile the couple not to deliver punitive justice. The most common argument is that men are family providers and if they go to jail their absence will hurt the children.

For cases that make it to court, very rarely do lawyers use CEDAW or other international human rights conventions to prosecute offenders. Few lawyers and judges are well aware of the international conventions that Botswana has signed on to and how to use them. While there is an interest among judges in using international law they are the group least open to training because they tend to think that they already know everything.

A number of NGOs are very active in the area of women's legal rights but most of them are now experiencing severe funding problems. Many donors have pulled out and the ones that remain have a tendency to give funding to the charismatic leaders of organizations and not the institutions themselves. If the leader decides to move on or retire, as many have in Botswana, the organization loses its funding because the trust was not established with it but with the person in charge.

Recommendations

There is a need to strengthen legislator knowledge of how the laws impact people and each other. Mostly, what needs to be changed is attitude. It is not just about legislation but also about changing people's mindsets. Male involvement is key to success. Training for lawyers through the Botswana law society may be a good activity.

8/22/03 Botswana Customary Court of Appeal – Chief Levchive, president, and Mr. Malzepe Phineas, member

The Customary Court of Appeal deals with appeals against the decisions of Customary Courts in matters of indigenous nature and criminal and civil cases of limited extent. There are two courts of this kind. The court in Gaborone deals with cases from the Southern part of the country and its equivalent in Francistown takes on cases from the north. There are three members in each court and three others stand ready to act as replacements in case one of the original members is for some reason unavailable. Proceedings in this court are strictly traditional and are governed by the Customary Act. No lawyers are allowed in these courts. If a party wants to engage a lawyer it can appeal the case to a higher constitutional court.

The Court of Appeal was organized in 1986. The case load has increased every year since then and especially over the last few years. The current president of the Court of Appeals is a paramount chief who formally served as the Botswana ambassador to the U.S. His son, the man who will replace him in the court, is a powerful lawyer who recently stayed two executions by arguing that the defendants were not represented properly in their initial trial.

There are more than 300 customary courts, headed up by traditional chiefs, in Botswana. Paramount chiefs hear appeals from lower courts according to their hierarchy (based on birth status). Customary chiefs are charged with following customary law as long as it is not repugnant to common law. In cases where civil law and customary law conflict the chiefs use common sense and the principle of justice to come up with a decision.

According to the honorable members, Botswana tradition has always had great respect for women and their rights. Women had a right to property in the form of plow lands. Women were responsible for the distribution of crops and proceeds from the crops were entirely controlled by women. Although the land belonged to the men women had a right to the allocated land. The home belonged mostly to the women and the kitchens belonged fully to them. Women have always been allowed equal participation in society except for the position of chieftanship but even that is now changing with the inauguration of the first woman paramount chief.

Traditional law has undergone many changes in the recent past. For example, it used to be that if a girl was impregnated by a boy her parents could claim damages in the form of cattle but only one time. Now every man must pay for his own child no matter how many

he has. While traditional law has been evolving in a positive direction the general societal trend has been away from tradition. The members of the court are sad that many young people today do not understand the value of tradition. Adolescents are no longer taken out into the bush and taught to respect customs.

The court of appeals hears many cases from “would-be marriages” – situations in which men and women come from different parts of the country and end up living together and acquiring property together without ever being officially married. When these couples break-up the question of the division of property often sends them to customary courts. Usually, lower customary courts are unable to adjudicate on the matters because the disputants come from different parts of the country and it is unclear whose custom should be followed. In these types of cases the Court of Appeals usually makes its own law. For example, the Court now rules that if a couple lived together for five years and treated themselves as legally married then the property should be divided equally. Additionally, the court hears many cases that have to do with illegitimate children. The members of the court root their decisions in principles of equality. They also read the decisions of the constitutional courts in cases similar to the ones before them.

While marriage can only be annulled in the high Court, all division of property cases in divorce matters are decided by customary courts. Property is divided according to the tradition of the presiding chief. At the Court of Appeal, members try to adhere to the 50/50 concept when dividing property. All customary proceedings are recorded.

The court members are happy about the changes that are occurring in the Botswana High Court, which now has more Botswana citizens on it who can apply the Botswana context to a problem. High Court judges are now required to be able to speak good English and translators can be provided for any other language spoken by the parties involved.

Most women take their cases to traditional courts. They prefer these courts because they are cheaper, easier to access, less formal and therefore more comfortable.

Recommended Reading

Read Roberts, Isaac Shapiro, and Bennett on customary law in Southern Africa.

8/25/03 RCSCA USAID Mission;
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20 members of the Mission were present including Acting Director Anthony Vadraska, Keboitse Machangana – D & G Advisor, John Wooten, Susan Bozman, Marsha Moosey, Cecelia Kope, and Kim Robertson - Regional Legal Advisor.

WLR team made power point presentation regarding the specifics of the projects. Copies of the presentation were made and distributed following the meeting to all SO teams.

Following the presentation a discussion was held regarding possible programming and the best method for obtaining recommendations from the SO teams. It was decided that individual meetings would be held with the SO teams to get further input.

Some comments by team member included a recognition of the FEWS project and the surveys that are being conducted, specifically related to HIV/AIDS. Women are losing title to land as a result of their husband's death and family "grabbing" the land. This will only get worse. There will be additional surveys and these could be used as a focus.

Another team member noted that we need to look at land rights on a country by country basis as traditions vary, even within countries. Women have been "crying" for a survey that shows women are disadvantaged by customary law.

Women's Affairs Office has completed surveys on economic and social impact of DV.

SADC parliamentary forum is trying to ensure gender-neutral laws, organize gender committees and women's caucuses. Civil society organizations should also be a part of the advocacy process in addition to the SADC Parliamentary forum. Weak networking was identified in gender assessment in preparation for Beijing conference. Networks existed but now they have relaxed. Government organized gender units and the CSOs scaled back their work in response. Government budget provides 1 million Pula for gender programs and 10 million Pula for Sports programs.

In Rwanda USAID supported training of police on interviewing methods for rape victims. Some prohibitions exist regarding police training but if it is in the field of human rights it is allowed.

We should look at the DV law and its implementation in South Africa as there have been mixed reactions.

Lawyers need to be trained proactively on constitutional issues.

Agreed to meet again on Friday to present our findings and recommendations.

8/25/03 Emang Basadi – Legal Aid and Counseling Center,
 Ida Mokereitane, Co-ordinator and Silibaziso Mtunzi, Legal Officer
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They have a gender resource center/library with lots of publications and internet access. The NGO has four projects: 1) political education and decision-making 2) the resource center 3) women's economic empowerment in a village 200km from Gaborone with training and small loans and 4) legal aid and counseling center.

They formalized the organization in 1986 but were operating before that. The main goal of the Legal Aid and Counseling Unit is to promote respect for human rights, especially of women and children. They also want to prevent abuse. There are only 2 staff members. They provide counseling services to DV victims and perpetrators and legal aid to women and children. Their civil education component works to sensitize community about DV. They also try to simplify laws for the public. They have a lobbying and advocacy campaign that looks at laws and practices that are discriminatory and try to bring them to the forefront. They are the only legal aid office in the country targeting women and children. They have to limit their services to women with an income of less than 1,500 Pula. They try to work within other family structures to resolve problems. They have so many potential clients that they cannot handle all of them. Normally the psychologist should see no more than 5 people per day and she sees 10 per day. Sometimes they invited extended family members in to try and resolve the issues. If they decide to divorce then they are referred to the legal officer. They receive a lot of referrals from other NGOs because they don't have these services available in their NGO.

These two staff members say they are very stressed out due to the huge work load. They are afraid of getting burned out. They stated that the office could close at anytime and is desperately in need of funding. There is a lot of donor fatigue now. Even though they are implementing government plans the government does not provide funding for them.

According to the Legal Practitioners Act NGOs can't have lawyers representing clients in court. To solve this issue their lawyer is associated with a law firm and they pay the firm. This is expensive because they are basically paying for two offices. From June until March they handled 447 cases of which 244 were divorce proceedings. Men generally aren't willing to pay support and have to be taken to court to get the money for the children. They usually refer cases such as broken marriage promises back to the extended family to handle in the customary system. They prefer to be proactive and strengthen structures. People usually take disputes to the customary courts first. If they don't get the relief they want there then they resort to common law system.

There is a lot of co-habitation now and when someone is thrown out of the home there is a big problem. Courts are not very favorable to this concept and it makes it difficult to then claim ownership of property by those who have only been co-habiting and are not married legally. There are cases where women sue other women for "alienation of affection" (i.e. stealing their husband). The center tries not to get involved in these types of cases. They try to follow through on criminal assault cases in order to ensure that the prosecutors properly pursue such matters. It is possible for them to cite authority from courts in other countries but it is only considered advisory and does not have to be followed by local courts.

Most divorces have a restraining order but enforcement is the problem. Judges will freely issue the order but the police won't uphold them and keep sending clients back to the NGO and their lawyers. Women get frustrated with this process and give up. A lot of police are themselves perpetrators of violence and therefore unlikely to help women. Even getting the police to lodge a complaint is a problem. Usually women have to come

to the NGO and get them to force the police to file charges. Police try to act in a role as reconciler and send them back home to resolve their problems. There is still a lot of work to be done with police. They are trying to conduct some awareness training and teach them appropriate methods for handling these cases. There is a gap at the police academy for this type of training which they are trying to fill now. Police do seem willing to listen and are slowly seeing how this training helps them do their job. Most of the abuse involves perpetrators who are in the army, police, or work in prisons.

They also train social workers in marital skills. They are trying to identify people in all areas such as social workers, voter education personnel, etc. who work out in villages and can reach more people. They conduct multi-skills training for them including paralegal techniques, basic counseling, etc. to serve as “lay advocates.”

The lawyer states that she has not tried to invoke International Conventions in her cases but hopes to do so in the future, particularly in this pending rape case.

They would love to see a regional workshop held so they could learn more about how others are handling these topics. “It can help us to learn from each other.” They are presently working on a concept paper about a regional conference and will provide us with a copy.

They believe the DV law is almost in a final form and will go to Parliament soon and hopefully be passed. This concept and the provisions of the law need to be taken to the people and see what their response is.

The Ministry will take the Married Persons Property Act to Parliament in November. It will remove the concept that men have all the decision-making power inside the marriage. Women’s Affairs Division should have copies of all these laws and can provide them to us.

Recommendations – regional workshop to share ideals; need additional funding to be able to provide legal services and conduct trainings.

8/25/03 The Law Society of Botswana – Sanji M. Monageng, Executive Secretary
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The Law Society has 170 paying members. About 20 or 30 of the lawyers are women. Government members are members of the law society as well. The Society has no jurisdictional authority over them but can invite the police to trainings.

The society has not taken any deliberate action towards women’s human rights. A Women Lawyers Association has recently been formed but it not very active yet due to funding limitations.

The concept of pro bono work is not heavily enshrined among legal practitioners. The state provides legal representation only in capital offense crimes.

Many lawyers today do not want to do criminal work. They want to branch out into other areas such as human rights.

The Botswana Government has ratified the CEDAW protocol. It has also spent a notable amount of resources on identifying all laws that have a negative impact on women.

The judiciary is not gender-sensitive because cultural and traditional beliefs are so strongly entrenched. Judges are not very open to training. The Department of Justice does not provide any time for training. A judge was asked to resign in order to go to training. Two out of eleven judges on the High Court are women. A majority of the magistrates are women.

The Society is new and under-funded. It publishes no materials, not even a newsletter. It has fancy subcommittee names but in practice very few actions are being carried out. The Society recently formed its first task force to deal with legal rights and HIV/AIDS. The annual conference for the Society members will be held on November 29th and 30th. Agenda topics include telecommunications, Botswana stock exchange and privatization.

The Secretariat of the SADC Lawyers Association is in Gaborone. Its goal is to try to harmonize national laws with regional commitments. The organization recently held a seminar in Malawi. The president of the Association is from Mozambique.

The most active law societies in the region are that of South Africa and Zimbabwe. The lawyers in Zimbabwe are working hard on rule of law and human rights issues.

Graduates of the University of Botswana have a 12 month pupillage during which they write articles. If a lawyer comes from the outside, s/he needs to take a bar exam and then undergo pupillage. There is no formal requirement for continued education training.

The Association is talking to the International Bar Association to get someone attached to the office for 12 months but has had no luck so far.

Recommendations

Layers need to be trained on gender issues. Gender sensitive lawyers will want to take on more women's cases. Lawyers would be interested in creative lawyering through the use of CEDAW and other international conventions. The members of the organization could benefit from a 2 day seminar on human rights

8/26/03 SADC Lawyer's Association- Godwin Kunda, Administrator;
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He is an economist and is the administrator of the organization. It was formed in 1999. Includes Angola, Botswana, Swaziland, Lesotho, Mozambique, South Africa, Zambia, Zimbabwe, Namibia, and Seychelles. Tanzania has been a part of their work but has not yet formally submitted their paperwork. They are working to involve DSRC. They are based in Gaborone and open to membership by anyone in SADC countries. They also cooperate with the International Bar Association and have applied for full membership. The IBA has been attending their workshops and assisting them.

Their membership fees vary by country and are highest in South Africa at \$1,000 per year. They have received funding from SIDA (Swedish organization) to operate their offices. They also received funding from the British for the Swaziland conference. OSIASA (Open Society Institute for South Africa) gave them funding for office equipment. They are heavily dependent on donations.

They want to publish a newsletter but for the time being are using their internet site (www.sadclawyers.com). They plan to collect relevant issues from newspapers and publish something similar to the weekly IBA newsletter. They hope to have it in circulation by the end of September. They do not have a library but discussed the need to do so at their annual meeting. They want to develop a database of judgments from around the region. They have had some book donations.

They have access to approximately 5,000 lawyers through their association. Approximately 1/3 are women. The percentage of women varies from country to country with more in Botswana and South Africa and fewer in Zambia (though Zambia is very active). South Africa also has a Women's Committee within their association. At the SADC association council meetings they request that each country have women representative but some do not send the female representative. South Africa has responded well and sent two women. They want to put a link in their Web site to search for lawyers in the various countries who specialize in certain areas.

They encourage members to provide pro bono service but some countries, like Botswana, do not have this concept. The law society in Botswana is considering going to court to force government to provide legal representation to the poor. The Namibia law society created a fund to handle these types of cases. The first recipients were treason cases in 2000. The government has now enacted a law to pay for indigent defense. The South Africa bar association offers a certain number of hours per year by each lawyer for pro bono services.

Their overall objective is to promote the rule of law. They also promote human rights, especially for women and children. They also work to foster and promote unity in the legal profession within SADC. They also want to promote peace through mediation and arbitration. Their main focus has been on the rule of law. They had a rule of law workshop

entitled “challenges to the rule of law” and it was held in Swaziland/. Judges from the Constitutional Court from South Africa and High Court Judges served as speakers. The morning of the workshop the chief justice was demoted so he attended but did not speak. They are dealing with rule of law and good governance issues in Swaziland. They tried to meet with the king there but he has so far avoided them. They are also working on good governance in Tanzania.

In May they held their annual general meeting in Malawi. At that meeting they issued a declaration asking Swaziland to respect the Rule of Law. They also looked at the situation in Zimbabwe with the Mgabe government.

They want to increase their presence and be seen on the ground including more visibility in the media as promoting the rule of law.

On 9 August in Pretoria the Executive Committee looked at the issue about signing an agreement with the US not to extradite people to the International Criminal Court. They decided that this would undermine the rule of law.

They want to improve legal education and organize workshops for students. They held one on client counseling in Durban in April and now want to hold it here for students. They also want to educate women about their rights, particularly related to property, land title, divorce, and the legal system. They plan to organize workshops targeting women.

It took them a long time to organize the Secretariat due to problems in the registration process. They are not government sponsored but rather an independent NGO using SADC as part of their name. Immediately after they were organized they held the workshop in Swaziland. They are now trying to work on issues in Angola. There is a lot to be done there with a great need to strengthen civil society including capacity building and educating women and children. They work closely with the Angola Bar Association. They feel there is a great need for elections as the last ones were held in 1992 so they plan to be an advocate for new elections.

They want to organize more workshops and plan to hold one in November in Zimbabwe in order to send a message to the government that civil society is united. Will have simultaneous break out sessions there for people to pick and choose what they prefer to attend.

He feels that radio is the most effective means here to get your message out. You can have these in the local language. Printed materials are also good and TV is the last possibility.

Recommendations

They have just completed their strategic plan and will form committees, including a women’s committee, to look at various issues of importance to them. They prepare project proposals. They want to embark on education of women’s legal rights and we

could help with those workshops. We could also assist by providing experts to speak about a specific topic at a workshop. We could provide assistance in organizing lobbying workshops and in publishing and distributing their newsletter. He can e-mail us the draft of the education proposal. They hope to work with other groups such as WLSA. They will utilize local institutions to get out their materials and to hold meetings.

8/26/03 Women's NGO Coalition – Mmamosweu Vivian Gunda, Coordinator;
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The organization began in 1993; Vivian began work in 1999. The organization started in preparation for the Beijing conference. It was very successful for them to pool their resources and focus on areas of concerns. Initially it was a loose organization and then a decision was made to formalize it and monitor areas of concern and conduct lobbying and advocacy as a group rather than separate NGOs. They officially registered as an NGO in 1997.

They have very ambitious programs. They have funding restraints due to the fact that in 1996 Botswana was classified as a middle income country and many donors left. They only have 3 staff now. They try to utilize volunteers but that doesn't work so well because they only come in when they feel like it. They have made progress in women's legal rights and there are now 6 or 7 organizations doing work in this field. They have been able to get amendments to some laws as a result of their work.

Most gender-related International, Regional and sub-regional laws/treaties have been ratified but they have not "domesticated" these laws. Feels we could develop some programs on land issues. Most women do not have access, or if they have access, they have no control over the land. Many women marry in "community of property" where land is held in the husband's name. Even if they marry out of community of property, unless you state that you are excluding "marital power" the property can still be registered in the husband's name.

If they work as a team, even from 1 or 2 countries, it is better. They started making a lot of noise after Beijing and people didn't understand what they were trying to do so they had to do some gender sensitizing. Men do appreciate what they are trying to do.

They have done some work with the judiciary but a lot more needs to be done. There has been an increase in the number of women in the judiciary. There is one in the Industrial Court and three at the High Court. Feels they could improve the judiciary through exchange visits in the region. Zimbabwe has copied a lot of their laws and the women's movement there has now started to lobby. Zimbabwe has a sexual offense law and which was fully supported by women judges. Police need to be included in training as they have to prosecute and often don't have any basic understanding. In the recent "marital rape" case the magistrate asked, "Why are you here? You know you can't have marital rape in

Botswana..” They tried to explain to the magistrate and then she decided to step down and give the case to someone else. Afterwards the prosecutor decided to withdraw the case claiming insufficient evidence.

Civil Society Organizations, especially in Botswana, need to start research for them to be successful. Government wants to see statistics and empirical data. Parliament has asked them for this in support of amendments. Research on customary laws is needed as there are lots of different ones from many different tribes. Some customs are good but others we need to move away from. NGOs tend not to know when to intervene in the process. They wait until the end when it is too late. The need capacity building to know how and when to intervene.

Public awareness is very critical. The media is critical to all of their activities. Vision 2016 program acknowledges that people do not know their rights. Laws are written in very difficult language. They are not “friendly” law and it is difficult for the average person to understand. The executive branch particularly does not understand. She likes to hear the debates in Parliament as you can tell from the comments that they do not understand.

A CEDAW report was started in 1999 in cooperation with government and it is still not completed. She has just received another draft last week and hasn't yet read it to see what recommendations have been added.

Poster and pamphlets are good for awareness raising. Drama groups also work well. Videos are useful. They have used shirts and caps but people seem more interested in getting them than in the message.

They had the 16 Days of Activism Against Gender Violence program and before one of the workshops a drama group went out and performed, at bus stations and train stations, to let people know about the workshop. They did the same with the launch of the WHO World Violence Report. A drama group performed, and even though this was a world report it brought the issue home and people were touched. The police chief recommended they try this technique in other regions and not just in Gaborone.

Most of their programs are local but they do network with others in the region. They have been working with Zimbabwe and South Africa. There are areas where they used affirmative action. It definitely would be useful to have a regional workshop. This morning they had a call from Namibia looking for someone to speak at a conference.

They held a workshop with Chiefs, government officials, parliamentary members, and a participant from Tanzania and the commonwealth on gender based analysis. They appreciated bringing in others from the region to share their experience. They are now trying to get a case decision from the UK to use in their “marital rape” case to support their arguments.

Recommendations

Land issues should be a priority; exchange visits for the judiciary; training of police to understand violence, particularly sexual violence; gender research to support advocacy efforts by NGOs; capacity building for NGOs, particularly on how to be successful in the legislative process; regional conference to exchange experiences.

8/26/03 Women and Law in Southern Africa Research Trust (WLSA) – Minkie Bokole, Program Officer for Marketing;
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The organization is an action-oriented research and education trust that operates in seven countries of Southern Africa: Botswana, Lesotho, Malawi, Mozambique, Swaziland, Zambia and Zimbabwe. The Trust contributes to the sustained well being of women through (a) collaborative and strategic action research in the socio-legal field and (b) lobbying for legal reforms and policy changes on laws and practices that disadvantage women. The organization is currently in its fifth research phase, which deals with women and HIV/AIDS. Previous research phases dealt with (1) maintenance, (2) inheritance, (3) role of the families, and (4) violence against women. Each research phase informs the next and lasts three years.

WLSA currently does not employ a lawyer and has to rely on other organizations for legal assistance. Lawyers are usually unwilling to work for the amount of money WLSA is able to offer.

WLSA has publications with data on violence and inheritance rights matters. It upholds a good relationship with the police. The organization's recommendations to the police are usually taken up. WLSA has put together rape kits to help the police compile evidence in rape cases. The rape kits are color coded: a pink box with an ostrich is for the women and a blue box with a lion is for the men. These kits will soon be available in all police stations.

Recommendations

Much still needs to be done. Mindsets need to be changed. People think of gender as related to women and see it as a city phenomenon. Rural people don't feel the pressure to change. Gender training for parliamentarians is also necessary.

8/27/03 Botswana House of Chiefs – Kgosi Kalosen, Deputy Chairman
Kgosi Lotlamoreng of the Basolong; Redman Josiah, Senior Translator;
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03

The House of Chiefs acts as an advisory body to the Parliament of Botswana prescribed by Section 85 of the constitution. It is made up of 15 members: the hereditary chiefs of Botswana's eight traditional tribes as set out in the constitution (Bakgatla, Bakwena, Bamalete, Bamangwato, Bangwaketse, Barolong, Batawana and Batakwas) and seven elected members. Four of the seven elected members come from the four areas where other tribes are the majority (Chobe, North east, Ghanzi and Kgalagad). The other three members are elected by the previous 12 from among people who have not been actively engaged in politics in the last five years. Currently there are two women in the House and by January there will be a third. The body hopes to expand to include 25 members by January 2005.

The House of Chiefs must be consulted when the Constitution is being reviewed, and when consideration is being given to the law on customs, family and personal law and the system of land ownership. Members may also address any other issue they believe to be relevant.

The Chiefs have been briefed by the minister about Botswana's accession to the six main international treaties, including one Human Rights Treaty on women and children. Botswana is a signatory to all the UN Human Rights treaties and the principles and elements of those treaties have long been enshrined in the Constitution and in the culture.

The current crop of chiefs are very learned and educated and easily listen to complaints about human rights. Part of the problem is the media because it just wants to criticize tradition. If you approach chiefs in a friendly manner and not with a spirit of confrontation they will be very open.

Recommendations

Conduct seminars on human rights to other chiefs who are not part of the House of Chiefs. If you want to spread human rights, you need to train all the chiefs in the country. People go to customary courts presided over by chiefs because they are cheaper and more accessible. Need to try to harmonize culture with human rights.

8/27/03 Justice J. Nganunu – High Court of Lobatse

We were not able to meet with Justice Nganunu due to scheduling problems. However, he called and spoke with Project Director, David Vaughn, expressing his regret for not being able to meet and extending his support for our program.

8/27/03 CIVICUS – Morongoe Ntloedibe Disele, Conference Manager in Botswana; CIVICUS House, 24 Pim Street, Johannesburg, 2135, South Africa; Tel: 267-395-1453 and 267-7-148-0654; Fax: 27-11-833-7997; Web: www.civicus.org

Founded in 1993, CIVICUS is an international alliance of civil society organizations from 65 countries. The organization has five main programs:

Civil Society Watch – intended to mobilize quick, principles and helpful responses to events that threaten citizen action and civil society rights, freedoms and existence. This program has recently done a lot of work in Zimbabwe.

Legitimacy and Transparency – intended to enhance the legitimacy, transparency and accountability of CSOs, as well as public trust in CSOs, by improving their individual and collective governance. The program builds on past CIVICUS commitments and engagements to promote ethical practice and agreed codes of conduct for CSOs, including functional and effective CSO boards and other oversight mechanisms.

Participatory Governance – designed to improve the quality and quantity of engagement between civil society and national governments, international agencies and the private sector by fostering exchange of ideas, experiences and lessons between those countries where the process of civil society, state and business sector dialogue are advanced and those where it is emerging.

Civil Society Index – an action-research project that assesses the state of civil society in countries around the world, with a view to creating a knowledge base and an impetus for civil society initiatives.

The World Assembly – this biennial CIVICUS conference serves as a primary venue for CSOS and other stakeholders to exchange information about their achievements and challenges. The 2004 World Assembly will be held from March 21st through March 24th in Gaborone, Botswana. The theme of the conference will be “Acting Together for a Just World”. Plenary sessions and capacity-building workshops will focus on the following sub-themes: a) fueling civic energy, b) keeping the peace or fanning the flames, c) democratizing power, and d) livelihood insecurity. The assembly is expected to bring between 400 to 600 CSO practitioners and stakeholders from around the world.

Aside from the five main programs CIVICUS also has three cross-cutting themes: HIV/AIDS, Women, and Youth. Members debated between using the word “women” or the word “gender” for the second cross-cutting theme and after a day of deliberation agreed that “women” would be a more accurate and appropriate term to use.

Recommendations

Raising legal rights awareness for women. Women need to know what kind of legal instruments they can utilize in certain situations. Oftentimes women find themselves in helpless situations such as not being able to convince their husbands to use condoms so as not to transmit HIV/AIDS. To prevent this, women need to be aware of the legal instruments in place and confident in their effectiveness.

Utilizing “web-like solutions”. Many issues relating to gender and women’s legal rights are often times interlinked. Any program design must take this into account and must address linkages across issues and on local, regional, national and international levels. This kind of “web-like” mandate would be appropriate for WLR as many NGOs are overwhelmed with existing work and do not have the capacity to think through or administer solutions to inter-related problems.

NGO Capacity Building. All workshops for NGOs must be practical and hands on. For example, a “how to access funding” workshop should ask participants to bring in one written idea of a project their organization would like to implement. This idea would then get developed into a proposal during the course of the workshop with the help of the facilitator and the other participants. Upon proposal completion, facilitators should invite potential donors to come and review the proposals and give feedback on why certain proposals would or would not be funded. Such an approach may even lead to actual fund appropriations by the donors. Two day workshops are not effective. No course less than a week long will be sufficient.

One area in which NGOs need training is accessing private sector funds and pushing for corporate responsibility. For example, in Botswana the private sector is very small. The few big companies that do exist are constantly inundated with proposals from all the NGOs in the country. One solution to this problem might be to train NGOs in cross-border corporate social responsibility advocacy. For example, many of the companies in Botswana are subsidiaries to larger companies with headquarters in South Africa or other advanced countries and are therefore unable to make the big decisions on NGO project funding. Meanwhile, the parent companies tend to fund the organizations that are closest to them oftentimes using the profits of their subsidiaries in other countries. CSOs need to be trained to lobby companies not headquartered in their respective countries for their share of the funding. It would be useful to bring NGOs and the private sector together in a forum to discuss under what conditions do different companies fund projects. This was already done two years ago but many companies have since come up with full social responsibility programs and it would be useful to educate NGOs on what they are.

Another area in which NGOs desperately need training is multi-skilling. Many of the organizations complain that they are under staffed and do not have the capacity to do as much as they would like to do. However, given the fact that not a single NGO in Botswana has the ability to fully pay the salary of even one employee adding more staff is not really a viable option. Instead, each employee within an organization needs to be trained how to perform a wide variety of skills. The director should not be the only person who feels comfortable representing the organization in official meetings, as is often the case. Additionally, organizations need to be trained in designing deliberate programs for using volunteers. Currently, many of the organizations do not utilize their volunteers effectively nor do they have good management or leadership systems in place. Examples of effective use of free labor may include: a) having business school students teach women basic business skills, b) having law school students do the background research for cases being taken up by legal aid clinics, and c) using retired civil servants and other experts for

counseling and training. Skills Share International is a good company for general leadership training. It currently has a very good course which is taught in three modules: 1) looking at self (introspection), 2) looking at leadership theory, and 3) translating theory into practice. CIVICUS runs a similar course but focuses it on community based organizations.

World Assembly. Support the world assembly through funding and participation (can have a booth or run a workshop).

Morongoe promised to share her thoughts with regard to “web-like solutions” via e-mail soon.

8/28/03 Valencia K D Mogegeh, Private Consultant;
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She is a development consultant and was part of the gender analysis report prepared recently by DevTech. She has worked with government, as a teacher, in curriculum development within the Ministry of Education, as a Peace Corps training director, as the Director of Women’s Affairs in the Ministry of Labor and Home Affairs, as a Gender Director for the Commonwealth, with UNDP, and now as an independent consultant in Gender and Development.

She is currently a consultant on the SADC initiative for capacity building. It is an early stage and then they have concrete results of the study she will share it via e-mail with us.

Almost all SADC countries have ratified CEDAW; Swaziland being the last after long negotiations. SADC also has gender and development framework which all have signed. It requires domestication but this has not happened in all countries. Many countries are trapped in a political game where they sign but do not implement or enforce these instruments. All of the countries are at different stages. Botswana ratified CEDAW in 1997 but they can’t claim any results of this. Government raises people’s hope and then aren’t prepare to follow through with the protections of the treaties/laws. There have been some positive moves here since ratification. The momentum from Beijing also helped to improve and facilitate the exercise of women’s rights. It is her impression that International Law is not given as much weight as national law. A DV bill has been around for 4 years. It went to Parliament as private members bill.

In South Africa when you are driving women’s rights you shouldn’t appear to be creating a problem for men. In divorce provisions the law may be more favorable to women. There should be a fine balance of empowering women while not losing sight of gender and development.

Judicial Sector capacity – there has been a bit of effort at awareness raising in gender for Judges and magistrates. There is some groundwork but need to find longer term projects. Skills for gender analysis in law are needed so they understand the implications.

NGO Capacity – There is the most vibrant bit. There is some evidence of results from their work. The NGOs need capacity building. Staff retention for sustainability is a problem. Resources are limited. People get attracted by other jobs and leave. Recommends strengthening the networks so programs don't stay with one person only. If one person leaves then there is a team of managers who share this vision. NGOs are very outspoken whereas government at the end of the day has to support projects if they are to be sustainable. Should be a dialogue between government, NGOs, and the business sector for better implementation.

Awareness raising is very important. If people are not aware doesn't matter if you have a good legal framework. They need different packaging of information for different groups. NGOs are on ground working with people and it is just as important for them to communicate with those people as it is for them to communicate with government and donors. What do we do for those who can't read or write? This is a game everyone needs to be involved in. When you talk about law people automatically think of lawyers but this affects all people and their lives so information has to be broken down in a form where people can understand their rights and use that information. Radio is a good medium that can reach many communities. TV is also OK. Winning the hearts of decision makers is the key. We need to make sure they understand the issues. You should partner with all of the legal structures and have them involved from the onset. If you wait until later in the process they feel they are on the outside.

Department of Women's Affairs, in 1997, did analysis of laws that affect women's rights. No one in the department is providing legal advice to implement their reports so they lose their effectiveness. There is a gender focal point in AG's office but she has other responsibilities and may not have enough time to devote to this issue.

It is just a matter of time before the DV law passes. NGOs were pushing it but there was not good cooperation with government or it would have passed.

There is law on statutory rape and now schools report to police if there is a "pregnancy dropout" so it can be referred for prosecution without the family having to push the issue.

Recommendations

WLR should conduct stakeholder analysis to create a network of drivers and at some time create a cross-pollination of ideas. Even people working in the same field often don't exchange information. We should try to realign them with a common theme. This program is a very timely exercise that is needed. We need to apply it on a practical level (i.e. What does it mean for me on a daily basis? Should bring together gender focal points from the regions for hands-on training. Need to start with gender awareness in Parliament.

8/28/03 SO Group for Competitiveness and Rural Livelihood at RCSA USAID
Mission: Scott Allen, Senior Policy Advisor, Lisa Whitley, Cecelia Khupe

From a gender perspective they are looking at training for women entrepreneurs. They have a focus on the textile industry. Want to make sure that women have access and can increase their business opportunities. Would like to see a cross-cutting program. In the area of competitiveness it is more of a second tier problem. IT is not the laws themselves that actively discriminate but the practice. NGO capacity is an issue. They are looking for good women's groups as partners. Women generally feel they don't have the same access to information that men do. Their general experience with legislation hasn't been very successful. Lip service is paid by National leaders and Regional agencies to gender issues.

Public awareness is very important in rural areas where women don't know their rights. Setting up impediments to women is hurting your economic capacity. Need to highlight the economic impact on women. Even in Swaziland there are dynamic women as 70 percent of small business are owned by women. There is a Botswana NGO for Women in Finance.

Radio is the number one source of information. There is a very dynamic HIV/AIDS program on Radio that has been successful. Drama/theatrical productions have also been very successful. A group of men recently formed an advocacy group against violence towards women. Some of the members are CEOs of companies.

Property issue is a big problem resulting in lack of collateral for women to obtain financing. The problem is not in registering a company but when they try to get a loan they need their husband's signature to do so. Also the HIV/AIDS issue means that the chance of a woman dying in the next 3-5 years is high.

Public sector officials are overextended and need to identify strong NGO partners.

Focus countries for competitive include South Africa, Botswana, Lesotho, Swaziland, Mozambique, and Zambia.

Recommendations

Possible collaboration on legislation related to policy and regulatory framework. Need to help women identify constraints to their operating businesses; watchdogs are good. A bottom up approach is needed. Hands on training and mentoring would be more effective with a focused approach on certain groups in certain countries.

8/28/03 SO Water Group, RCSA/USAID Mission
Deborah Kahatano- TBNRM Activity Manager and
Oliver Chapeyama

National Resources Management program started off as a community based resource management program in mid 1980s. There are a number of protected areas including national parks, game preserves, etc. where community groups live either in or adjacent to. Water rights and land allocations were a problem in these areas. Women were short-changed by this. There was increased pressure to use those regions. This was also seen as a conservation paradigm and programs grew from this. This is a very successful example of how the areas benefited from this. They organized themselves into groups as they realized the benefits. Usually men got the money and pocketed it. Women were marginalized even though they are the ones who access the resources (i.e. by gathering timber, water, growing crops) because they did not own the land or receive the benefits from it. Women starting demanding proceeds and using it to benefit the community.

They have programs that benefit and transcend boundaries, such as eco-system programs. Countries come together to look at areas outside of park but still in the conservation area. Government wanted to collaborate and so they worked together to resolve these issues. The new challenge is an environmental plan. People live in or near the parks due to the need to be near water. They worked with Mozambique to leave people in the parks but manage the resources and protect nature. The National Resource Based Enterprise program provided small grants to NGOs for forestry building, fishing camps, and for producing and marketing crafts.

It is amazing how similar things are in this region; the borders are artificial. However, national legislation does differ. They are working to standardize laws in the region; not in an attempt to have one law but to harmonize provisions. These laws talk about communities but how do you define that? We need gender neutrality and sensitizing to the fact that women need attention. Majority of population in this area still live on and make their living from the land. Women should have access to land. When people have rights over land they tend to take care of it and we need to ensure that is what happens.

Women are the larger percentage of the population in rural areas. Women are beginning to take responsibility for their own livelihoods. NGOs are battling for their survival but they need to be encouraged and supported as well as sensitized to this issue.

NGOs need to be advocates. Women tend to sit back and wait and they need to work to demonstrate their capabilities. People expect devolution of power from the government and this will not happen. Women often sit back and wait for men to handle things that they can do themselves.

There is a concept of freehold land where you actually purchase the land and title reverts to the survivor on death of one of the freeholders. Access to land can also be affected by wills which have generally been avoided but the concept is now starting to catch on.

Recommendations

Important to foster public-private enterprise partnerships as women benefit in the process. Laws and practices regarding access to land and financing are hindering women and need to be changed.

8/28/03 Marcia Musisi-Mkambwe, Private Sector Advisor, RCSA/USAID

They are presently in a transition phase as they are full force into the new strategy planning. They are not working in the SO areas now. A lot of technical people won't be in those positions after the transitions. A number of people will lose their jobs so there is a lot of uncertainty for them. All of the current projects end in September 2004 if not sooner.

Presently cannot work with SADC due to US Policy reasons regarding Zimbabwe, so working with SADC gender is not an option; though the Parliamentary Forum program is an option.

The Rural livelihood, competitiveness and water projects have a policy component. They need to have a gender sensitive policy in these areas. They expect women's legal rights to appear prominently in the new strategy.

8/28/03 Management of Selected River Basins SO Team – Deborak Kahatano,
TBNRM Activity Manger
Oliver Chapeyama

Natural Resource Management started off with community-based NRM in the 1980's. The water legislation at the time touched on the issue of land allocation and in that milieu women found themselves short changed. As protected areas began to come under more and more pressure from the outside to open up, the government came up with an innovative approach to allow community groups the benefits that flow out of resource exploration. From that basis, programs grew across the region. There were numerous successful examples of communities benefiting and managing their resources. But even in this process women were losing out. Women were the ones who used the resources and they were the ones to tend the crops but they did not own the land where they were supposed to grow their food. Then, women tried to take matters into their own hands by asking the men for the profit money and using it for the needs of the community. So the view was toward the benefit of the whole community and not divided into men, women and children.

The group is working in the Great Limpopo Conservation Area of Malawi, Mozambique and South Africa. They are helping to establish the management plan for the park and aiding the government in developing a policy for people inside protected areas. The plan is to support the development of natural resource base enterprises and foster the

community private joint ventures to establish businesses. Women need to benefit from these.

There are now many different types of land ownership. People are starting to write wills.

Legal Framework: Borders are artificial, languages cut across borders but the national legislation differs. There is a need to work toward standardizing legal provisions in all the countries in the area. Women get short changed in peripheral laws. When governments standardize laws, they need to make sure that women's rights are taken care of.

There are still some laws that discriminate against women. Marital laws inhibit the rights of women by demanding that a man must approve credit etc. Swaziland presents an interesting case; at a certain age women can register a company and they don't have to pay taxes. So what often happens is that men register their companies under the names of their women relatives in order to escape paying taxes.

Judicial Level: Judges need to deal with the allocation of land because it is a primary resource for productivity in the region. Land distribution should be according to the most economic and most productive form of utilization.

NGO Capacity: Women are beginning to assume greater responsibility for their own livelihoods. NGOs are often times fighting for their own survival. They need to be encouraged and sensitized that 52 percent of the population are women.

Public Awareness: Don't expect governments to willingly give up power. Women need to demonstrate that they can do certain things. Men find it easier to give something over to a woman who is capable than to a man that is capable. Women need to organize themselves for greater visibility in development.

Recommendations

Getting down to the ground level is the key to success. In order to help men feel less threatened, need to work with local partners.

Idea of identities – Batswana are Batswana because of their own practices; if everything is harmonized, what's the point of having borders?

8/28/03 Legal Clinic, University of Botswana – Geoffrey M. Kakuli, Director;
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The clinic started in 1987. Previously legal education curriculum included 2 years at the Botswana campus, 2 years in Edinburgh, and then a final year back in Botswana. They chose Edinburgh because it is a continental system more closely related to their own. He started managing the clinic without any prior experience. He went to Ontario to

Winston University for six months to learn how to operate it. He is a graduate of Harvard and drew a lot from their clinics. The clinic has matured but there are a lot of difficulties. The first is funding—the university provides some staff, USAID provided some computers, and a Danish organization provided some additional funding.

Students couldn't appear in court until recently when the Industrial Court decided to allow it. The jurisdiction of the Industrial Court is labor law but not cases in which the government is a party.

They have a lot of cases. They use the clinic to teach students and to provide legal aid for poor people. They handle all types of cases except for criminal. Most of their cases are divorces and the majority of the divorce clients are women. There is a means test for clients and 500 Pula per month (slightly over \$100USD) is the threshold. Every day he has an average of four divorce matters. A lot of men default on maintenance (child support/alimony) and the law now allows them to resort to prosecution. They have a lot of these types of cases. Divorce cases all go to the High Court. The High Court has been very helpful and given them special consideration. A lot of the divorce cases involve violence. The divorce statute is fault-based and the grounds include adultery, behavior, desertion for two years, or by consent if the parties have lived apart for two years.

Last week they had a case with a woman from Zimbabwe who had been beat up and went to police but they wouldn't help her. When she came to the clinic he called the police and "spoke harshly" with them and told them to file a case for her and they did. There is a phobia about Zimbabwe citizens.

They only deal with customary court when it has gone to the appeal level. Sometimes it is very frustrating to see how the customary court has messed up a case and they can't do anything about it until it gets to the appeal level.

After four years of directing the clinic he turned it over to someone else because he is Kenyan and wanted to ensure its sustainability after he leaves. Then he was called back.

There are approximately 110 students in clinic. All 4th and 5th year students are required to attend and they get class credit. They must come from 4 to 6 p.m. to see clients. They also conduct seminars on ethics, interviewing, and other necessary skills for lawyers. They also have to complete 8 weeks in the courts and law firms and write a report about that work. The clinic also has moot court and mock trials.

He is the only professor working exclusively in the clinic but he brings in other professors for moot court and mock trials. There are 21 professors at the law school with only two women. A number of the professors are foreigners. There are approximately 300 students with women comprising more than 50 percent. The top students for the past several years have been the women.

Students interview clients by themselves with the assistance of questionnaires he has prepared. He reviews their interview notes and requests additional information. The

students draft documents which he reviews before filing at the court. The clients themselves file the documents in the High Court. Sometimes it is difficult for the client to afford the 20 Pula filing fee. There is a waiver process but it is so long that people don't bother. They have to go to the Registrar and then to their Chief and back to the registrar, etc.

He gets post graduate students from social work involved in the clinic so they can refer matters that are not legal but social to them. Lots of clients are older and don't want to tell their problems to these young people, especially intimate details. They require students to dress "like a lawyer" in order to inspire confidence.

Public interest law is not very developed here. It is difficult to get lawyers to provide pro bono service. There is no indigent defense system unless it is a murder case. Access to justice in this country is not easy. Human Rights body has been lobbying for indigent defense but has not been successful.

He will be here until the end of next year. He will be attending a Congress for Procedural Law in Mexico soon.

8/28/03 Kim Robinson; Regional Legal Advisor, USAID/RCSA; Plot #14818
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Use of present law is important. Civil society doesn't appear particularly energized or capable. Gaborone is a new city and people came here from the regions. There hasn't been a liberation struggle here. Society appears more sophisticated than it is and there is no sense of urgency in Botswana. Almost every week a woman is killed. HIV/AIDS is all about gender.

The U.S. is not presently committing funds to SADC due to Zimbabwe. Not impressed with them as an implementing partner. However, they should be prodded to do the right thing. They are strapped for funds now due to EU and US Sanctions.

There is a Rape Crisis center in Cape Town that we should visit. Justice Kathryn O'Reagan is a critical woman on the South Africa Court. There is a Community law Center in Belville, Cape Town (021) 9592950 that we should also visit. Jo Ann Fedler is a woman in South Africa who has done a lot of work on DV.

Recommendations

If you empower women it would make a real difference. Get more men involved and not just those at high levels.

8/29/03 Women's Affairs Department, Ministry of Labor and Home Affairs –
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Comments by Elsie Alexander:

They are battling with law reform and advocacy. The National Council is a new structure designed to promote advocacy structures. They have been in existence for three years and have followed areas of priority. The Beijing process created partnerships between NGOs and government. They went there very prepared as a country and as a region. They identified the following areas of priority: Power sharing/political process; violence against women; education and training; capacity for access to economic opportunities; health/reproductive rights; HIV/AIDS; and the Girl Child. They tend to focus on women and children but also emphasize a gender approach and include men.

Gender based violence is a priority for the Council. On almost a daily basis you see reports in the Newspaper. A lot of work needs to be done with the judiciary. They are working on various pieces of legislation including the Married Persons Act. They are struggling with economic empowerment and are taking a rights based approach. A lot of work needs to be done in this area. Women are the basis of the economy in rural areas and they operate on subsistence level. They do not have access to credit. How do we uplift the status of women? The answer is linked to women in politics and power sharing.

Tomorrow is a milestone with the installation of the first woman as a Paramount chief. They still need to push harder and advocate for women's political and legal rights.

Comments by Marty Legwaila – Director of Women's Affairs Department:

Women's Affairs Department has a mandate to coordinate and facilitate all work related to women. The government should do more though they are doing fairly well comparatively

in the region. This is now a full fledged department. Even in decision-making positions you see women. The Governor of the National Bank is a woman. They have completed a study of where women are at in positions of power and hope to be able to give us a copy soon.

The following laws were all amended after the publication of their report on the Status of laws affecting women in Botswana in 1997:

Public Service Act of 2000
Affiliation Procedures Act
Penal Code of 1998
Criminal Procedure Code
Deed Registry Act
Employment Act
Citizenship Act.

This department is terribly understaffed. They are encouraging the council to push for more resources for them.

They have submitted a Cabinet memorandum on the CEDAW protocol. They are a member of AU, SADC, and Commonwealth. Botswana is a party/signatory to a number of regional and international instruments. They work closely with UNDP and have a program that ends next year whereby the government contributes 75 percent and UNDP contributes 25 percent. The program has really helped them to move forward. One activity includes gender mainstreaming in the ministries. The four ministries they have worked with include: Labor and Home Affairs; Finance; Local Government; and Trade and Industry. They helped them develop gender policies but have not been able to monitor or follow up on progress due to lack of resources.

They have four focus areas of which gender is cross-cutting including HIV/AIDS, governance, poverty, and the environment.

Comments by Ms. Moroka - Gender Focal Point for AG's office:

Will highlight the shortcoming and achievements they have made.

The major problem is the marital power and common law position on that. At marriage women lose all power to men. Rape law looks as though it covers everyone (i.e. law states "any person") but other laws don't recognize women. Women have no capacity to contract without consent of husband. They are reviewing Married Persons Property Act to try and get rid of marital power. They are also trying to amend the maintenance law to get more money. Most people don't write wills and women don't inherit land and livestock. There is no DV legislation. Even when they file assault cases the women often withdraw them. Women/victims need more education on DV. Police are doing a good job but the public doesn't understand the process. It is very difficult to get an abortion as it is only allowed for rape, incest, and danger to the life of the mother. There is no law on co-

habitation and customary courts do not recognize such relationship. Men often kick the woman and children out and they cannot get any relief from the courts. The Deed Registry Act protected women by requiring consent of spouse (either one) but it didn't abolish the marital power. The Sexual Offenses Act of 1998 provided for longer sentences and in-camera hearings.

She is in legislative drafting division and on a sub-committee on violence.

Capacity of NGOs to advocate here is low, especially since they don't have attorneys on staff. They also don't understand the legal issues. She states that the judge and prosecutor had no choice in the "marital rape" case due to the law and that NGOs don't understand that. Another handicap for the NGOs is the Legal Practitioners Act which prevented attorneys from working in NGOs. This act was passed as a result of lawyers stealing money from clients. It was an attempt to regulate the professionals; NGOs were not considered during the drafting process. Lack of understanding by NGOs also prevents them from getting involved at the appropriate time during the legislative process. They did not make any comments during the drafting of this law.

There is also a lack of capacity in the judiciary and the AG/prosecutor's office. Lack of legal aid is a problem as some women cannot afford to get a divorce. Access to the High Court is a problem due to the costs and its location.

There is a plan to present the CEDAW report by the end of the year. It was compiled two years ago but never finalized and is now being updated.

Comments by representative for WAD in Ghantsi (Northern part of Botswana):

There is a lot of cohabitation in the northern region. People are not accustomed to formalizing marriages. They have a lot of children and then often the husband leaves and goes to another woman and refuses to support his children or the first "wife". There are a lot of neglected spouses. A lot of women in the region do not know about the amended laws and their rights. There are no NGOs in the area. They are trying to bring in the laws at gender sensitization workshops.

There is considerable activity with regard to women's rights in the urban areas but not much is being done in the rural areas. Some NGOs are trying to branch out but have limited resources. They need more in depth education and advocacy. WLSE completed a study on maintenance law which found that the customary court process is more acceptable to people because the magistrate court system is foreign to them. The Customary courts have also changed. They respond to the people and issues on the ground. You have to take into consideration the cultural diversity here.

Comments from a WAD Project Officer:

They provide assistance to CSOs with grants in 6 critical areas. They accept proposal and a committee reviews them. Some groups, especially in the rural areas, are not

registered and don't understand the registration process. They have to be registered in order to receive funding. Distance is also a problem for access to information. They have helped the women's shelter with a grant.

More comments by Elsie Alexander:

Legal education here is a dire need. Should review existing activities to see the approach and determine what works and where the problems are. Approach and methodology need to be defined. A base has already been created. Need to decide whether workshops really work and whether pamphlets and literature recognize the literacy level of the audience.

They have had education on violence for ten years and haven't seen much change.

A lot of donor agencies have left because the country is considered rich. CSOs have tried hard and accomplished a lot. There is a need to put pressure on the government for change. The NGOs are the grass roots part of this process. Programs need to reflect the stakeholders and utilize the various roles.

There is a conference on Africa in Washington, DC in September that she may attend and will contact us if she is in town.

Comments by Carolyn Davis, Gender Advisor-WAD:

They have a centralized system to facilitate and coordinate women and gender issues. Francistown and Ghanzi have branch offices but they are practically closed. Human Resources are the main constraint. Other government departments are de-centralized with professional staff in the districts. UNDP program is ending in September and this is a major problem for them.

They have a very positive relationship with NGOs and community based organizations. They complement each other. Classification of Botswana as a middle income country has had a negative effect on NGOs. Only two have legal aid. One is in Maun – Women Against Rape. Emang Basadi has legal aid but is in a crisis for funding now.

They have 10 professional staff within the office to handle the entire country. They don't even have the capacity to utilize the funds available because of the lack of human capacity.

Comments from a Program Officer:

She offers her thanks for our visit. They have the will to work but some matters are beyond their control. On behalf of Botswana she is glad they were chosen as the "pilot." It is a vast country which is sparsely populated making it difficult to reach everyone. They are willing to work with us.

Recommendations

Brainstorm with stakeholders on potential activities; reviewing prior work/approaches and determine what works and what doesn't; capacity of judiciary is obviously a problem that needs to be addressed given the recent response to the "marital rape" case; need a sustained gender sensitization program; need to find a way to wisely use their resources and branch into the private sector.

MOZAMBIQUE

9/3/03 National Institute of Gender, Alcinda Abrcu
Rua V. Namuali, 296, Maputo, Tel: 258-41-47-26; Fax: 258-49-63-70;
Mobile: 258-8-230-2257; E-mail: www.gelide@tvcavo.co.mz

They are dealing with gender equality through an equity approach. First NGO to deal with Women's Human Rights was Muleide and she helped create that NGO in 1991. In 1990 there was a revision to the constitution and after that more NGOs started working on Human Rights. Before that time there was a National Institute for Legal Institutions. They have community court, in addition to district courts, which are required to respect the constitution. Within the justice system there is written law but there are also customary practices that affect the administration of justice. Judges don't have training about gender issues. Within the community courts you can find some women representatives who work to defend women's legal rights.

Courts system includes a Supreme Court, below that are specialized courts (juvenile, labor), and below that are the district courts. According to the constitution women have equal rights. The Ministry for Women and Social Action was started in 1994. Before that time there were women's organizations that had responsibility for these issues but there was not a ministry. There is a Parliamentary committee on Gender, social issues, and the environment. More than 20 NGOs are now working on women's rights. There has been growth in the women's rights movement creating pressure on the government. During a recent Congress, farmer women spoke in their own local language (not Portuguese) and went to the president and asked "don't we have a rights to sit on those chairs?" Leadership was all men at that time.

There was a lot of discussion among women about whether they wanted to have their own ministry. Some thought it was necessary so that women's issues could be taken to Parliament. Now women's representation in Parliament is 30 percent. There are two main parties in the parliament. There is still a lot of work to be done in this area. In 1997 the representation level of women was 12 percent, then it went up steadily (17 percent, 22 percent, 25 percent) until reaching 30 percent. They are happy with this success but women are still behind. There are elections in 2004 and they are not sure what will happen. There are approximately 33 percent women at municipal levels. Women aren't as well represented because these are appointed positions and men are the ones making the appointments. There is a women mayor in Maputo province but she is the only mayor out of 11 regions. The provincial structure includes districts with the provinces and

administrative posts within those districts. There are 12 or 13 women administrators. There are 3 women ministers (Planning and Finance, Women and Social Action, Science and Technology) and 5 deputy (or vice) ministers who are women. Each ministry has a gender unit. Things are moving very slowly for women in Mozambique, however. The Ministry of Women and Social Action leads a group for the advancement of women. They are supposed to monitor and follow up on whether the rights of women are being protected. This program is implemented based on the principals of CEDAW. Reports are prepared and sent to this committee.

There is a Women's NGO Forum that includes representatives from NGOs and ministries, and government. They make a lot of noise, hold workshops, and discuss reports. In terms of human rights they have an association on human rights and development that prepares a report that might be useful to us.

The African Studies Center completed a study on Domestic Violence and compiled data on Femicide; looked at women in prisons for killing abusive husbands.

Domestic violence is a very serious problem. There have been campaigns against it by government and NGOs. There are some publications on this issue at the Women' Forum. Family law was passed (generally) in last session of Parliament. There has been a lot of discussion on the Family Code at the civil society level since 1986. There are lots of different positions on it. There was some discussion of domestic violence but it was not included in the law. The Labor Law provides maternity benefits. They have ratified CEDAW. A committee was set up to review legislation and it produced the family law. This committee was not within Parliament and had NGO representatives. The Muslim society has been critical of the family law. The NGOs do advocacy work. Most of their campaigns are conducted by community radio.

There will be a gender equity and health program next year with a study at the community level to see why there is discrimination and find out how to overcome it. In some communities women cannot go to the hospital without the husbands' approval. If he happens to be away from home and their child gets malaria the wife cannot take the child or if she can then she is only able to spend a limited amount of money (usually amounts to cents).

The link between human rights and the cultural traditions is interesting. They are doing a baseline study with 12 communities. After obtaining the outcomes they will discuss at roundtables. The first roundtables will be with groups of men, women, and community leaders separately and then with mixed groups.

Recommendations

There are gaps in legal services. They are very expensive and women need more access. Men and women both are confined to the use of local courts due to costs and distance. People don't know the law. Women in particular don't know their rights when they divorce. They need to have more information.

9/3/03 National Institute of Legal Assistance (IPAJ) –
Mario Seuane, Director
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Mario Sewane has been the director of the Institute for three years. He is a lawyer. Most of their work is for indigent clients and they don't make any difference between men and women. Several laws were in force that discrimination against women but this was overcome in 1990 with Articles 66 and 67 in the Constitution that prohibits any kind of discrimination. From 1996 they have been trying to conform to International law which they have ratified. Any new law they pass takes into account the principle of non-discrimination. In principle there is no discrimination against women but in reality this is not so. There is a lot of illiteracy and lack of access to institutions. The culture and tradition is discriminatory. Family law says that the head of the family is the man. You can actually sign a document designating who is the head of the family. For women to have a business they must have the consent of the husband. If he refuses or later wants to revoke his consent then she can't have the business. According to the constitution this is invalid but it happens. The new family law has been discussed and accepted generally. Now the Parliament has to review it. International principles will be respected.

Based on his experience as a practicing lawyer the judicial system has many delays in its procedures and lacks the capacity to meet demands. Part of the problem is the lack of lawyers. There are 240 lawyers for 18 million people. Staffing is another problem as they do not have enough people in the courts. There are no time limits set for a judge to consider a case. Court rules set a certain number of cases per month that a judge should handle.

There are many NGOs who perform advocacy work, even in rural areas, but there are still not enough. In some places people have no access to justice. Their offices are a state institution with branches in all provinces and districts where there are courts. They provide free services to indigent clients. They have legal assistants with a 10th or 11th grade education who have a 6 month basic training course in law. These legal assistants work in the regions to represent people. They have credentials with the court. This system works well due to the low number of lawyers. In each court there are two of these assistants. The judges appoint them to cases. There are a total of 120 legal assistants; 250 technical assistance (law student interns); and over 200 lawyers.

A low percentage (less than 30 percent) of their clients are women most likely due to a lack of awareness not a lack of need. Most of their cases are divorce, particularly regarding property division. They also handle a lot of theft cases and labor issues. There are more men who are working so this may also account for why they have more male clients. Police tell people about their services and the bar association also refers clients. They average about 2,000 cases per year. They help all people who are qualified to receive their services.

Some of their typical work includes, for example, assisting a father whose son has been jailed in order to get him credentials to visit the prison and get information about the case. They issue a power of attorney so they can proceed to work on the case. In divorce cases they try to do some counseling and discuss with the client that all families have problems and try to determine whether the marriage is beyond reconciliation. They have two types of divorce including contested and uncontested (i.e. consent and contentious/litigious). Most cases are settled by conciliation. They always try to find a mutual agreement.

There are filing fees but indigent clients can go to the district court and get a waiver, though you have to pay a fee to get a document saying you are poor!

They need an increase in their budget, more autonomy for their institution, a “bonus” per cases of 50,000-70,000 (3-4USD) in addition to their fixed salary, training and more books/materials, and capacity building. The Legal Assistants in particular need additional training. The state budget has limitations and can’t provide all their needs.

He was selected to participate in the working groups for advancement of women so he is interested in this subject area.

Recommendations

Publications on women’s rights would be helpful. There is a lot of illiteracy and traditions are negative to women.

9/3/03 Mozambican Women’s Organization (OMM) – Paulina Mateus Nkunda,
Secretary; Rua P. do Lago, 147, Maputo, Mozambique;
Tel: 258-49-34-37; Fax: 258-46-18-21/49-26-65

The organization began in 1973 during the national struggle. At the beginning it was set up for women’s emancipation. By this time it should have been integrated in a number of fronts. After independence it became nationwide. Currently their organization works at all levels throughout the country. During the peace agreement they were the only women’s organization involved. They work in legal, education, social areas of women’s rights. They have organized other groups to defend women’s rights and have conducted public awareness. Today women have access to a lot of areas.

The activities of their organizations include lobbying government so women can participate in all areas of life. When there are elections the winning party is required to integrate women into positions at all levels. At the central government they lobby the ministry for appointment of women. There are 16 district administrators and 2 post administrators who are women.

Most women are illiterate. Priority in education has been given to men. They are now trying to promote girls in education. Also adult education is being promoted in the rural areas. They conduct it in several languages. They have training centers for women

throughout the country. The education program is partially funded by Ministry of Education and partially by the NGOs. They also conduct work in the area of health. Women are mothers and wives and are also working. They lobby for laws to protect working women during pregnancy and for maternity leave. Women need adequate health care. Vaccinations for children are needed as well as training for pregnant women about how to care for themselves and their children. They also need to be taught about HIV/AIDS and the importance of revealing if they are positive when they visit the hospital. There is some support for orphaned children and family care. They also work with the Ministry of Health on malaria to provide pamphlets for the community.

They work on legal rights with Ministry of Justice. They provide technicians to train our activists.

In 1992 they transferred this office into a legal office and today they provide legal assistance. Not all cases go to court and many matters can be handled in the office. They try to work with families on reconciliation. If they can't reconcile the parties they will file a court case. They try to sensitize couples at the local level to try and solve their problems. They have funding from WiLDAF to work with community activists. There is a shelter for women (Cabo del gada province) to stay if the husband kicks her out. It is funded by Australia. Nampula province has a new shelter funded by SIDA.

They lobbied to get the family law passed. It has been passed generally by Parliament and now they must discuss the specific provisions. They cooperate with the Ministry of Justice on the "All Against Violence" program. Since Beijing they have been united against violence throughout the country. In Maputo province there are six areas with 22 women who take their message to the communities.

Women often claim they fell or were injured in some other way in order to hide the fact they were beaten. Teaching women they have rights to complain about this is important. Women are accused of being witches. They are trying to help women defend themselves. A women lawyers' association provides legal services. Women often have no economic power and can't afford lawyers.

Recommendations

Training with materials to support the issues; trainings for teachers; extending projects to other provinces; financial support; communications support(country is very big and there are long distances); and leaflets on violence that have pictures.

9/3/03 Association of Women Farmers of Imbuzine, Educardo Mondlane Cooperative, Maputo Province OMM, First Ladies Secretariat Maputo – Edna Namitete, Representative;
Av. Namaacha, 58; Tel: 258-72-06-91; Fax: 258-72-06-91;
Mobile: 258-8-230-4408

They conduct capacity building in the rural areas. The OMM is the mother organization in the country and works with women all of all distinctions (race, religion, etc.) in the struggle for the improvement for women and children. Try to promote women in sustainable projects.

Edna noted that in terms of civil society, women at the provincial level are very prepared to work. It is difficult to analyze and interpret their work because of low level of education. 70km away there are 60 women who are well organized with good outcomes but due to low education they don't get the revenues they should. Agriculture issues can be linked to legal ones as women don't know their rights (i.e. how to form a partnership). Low level of education is a major problem.

Artemisa (lawyer) stated that the family law is not updated. They are still using the one from the colonial civil code. There is a new draft amendment at the parliament. During last term they discussed it generally and will now discuss the specific provisions in the next session. This law focuses more on women. DV is not legislated as a crime. 80 percent of marriages are traditional marriages that aren't recognized by law so the woman doesn't get any benefits if the husband dies or leaves. This gap creates conflicts for women trying to claim their rights. The Constitutions says there is equality but making this happen in practice is difficult. They have ratified CEDAW but not the protocol so the enforcement is a problem. Barriers to women's legal rights include a lack of education and training. There is now adult education in the districts.

Women are the ones who lead the family. A lot of men are working in the mines in South Africa. The war also left many widows. The HIV/AIDS situation is leaving a lot of widow/ers and orphans. Women feel limited by a lack of education.

Several organizations are working on DV including the Ministry of Women. There is a working group on this issue. The police stations now have women to try and handle these cases. Women, Law and Development are trying to support the police.

NGOs have not pushed the government to file their CEDAW report.

Women from the cooperative stated that they learned, through these education programs, how to respond in meetings such as this one. They have no tractor and no water pump and have to carry water in buckets. It is 500km from the river. If they had access to water they could produce sugar cane. There are 60 hectares of land owned by the cooperative. They hold title to the land which was set up as a cooperative (i.e. "field for the people") and then when unification happened there was a chance to apply for its use. It was difficult for them to get the land as people say women have no rights.

The property laws are a major constraint for women and due to lack of knowledge women seldom have title to land. Women work clearing the land and farming it then end up losing it to those who know the law. One of the major tasks they are doing is to sensitize women to the need to obtain legal title to the land. They had a meeting today with the district secretary trying to sensitize them about the need to register land in women's name.

Recommendations

Getting information to women in the provinces. Radio is the number one source of information and should be used in the local languages. Workshops at grass roots level.

9/3/03 Maputo City Court – Maria Benvinda Delfina Levi, Chief Judge
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It is not an easy situation for women in Africa. The legal framework is there. Our laws are beautiful and women are protected according to law but in practice things become complicated. Problem is that culture is very strong with a distinction between men and women. They have ratified a number of international conventions.

People don't often go to court when their rights are violated. People have to claim their rights but they go to the police and the police send them home. By the time people actually approach the police the family structure has failed and they need assistance. In some police stations there are police women working on these issues but not in all stations. You can find them in the big hospitals. The police have been placed there because that is where women usually go first. Women try to hide the fact that they were beaten and often withdraw cases they do file. There is a cycle of violence. It is the rare case that comes before the court and even when they do the women don't want the man to go to jail. WLSA-Mozambique conducted research on homicide/femicide and found that women had been violated many times before they ever reported it. They found that those who had killed their husbands had been victimized many times and were usually acting in self defense. Women themselves can be the first barrier. There are many NGOs involved. They need sustainable means for women to get out of the situation and survive.

Sexual violence research shows that women are not reporting because they feel ashamed. Most cases have not been reported to the court even though they were reported at the hospital—less than 30 percent. Violence against women is seen as a cultural issue that can be minimized rather than as a human rights problem. Civil society is active but not as much as they should be. There are two organizations dealing with women victims of violence. Work of the organizations should be to try and breach the silence.

Politically we go forward but on a practical side we don't. We are waiting on family law legislation. When it went to the parliament they tried to include all international norms but

people said culture doesn't allow this and that. How did we ratify these international conventions and yet still have these problems exist? They have along way to go. The issue is not just about women; it requires a lot of help from men.

In terms of court Structure the Supreme Court is at the top and then there are two levels at the provincial level and two levels at the district level which is below the provincial courts. The community courts are outside the system. There are four courts in Maputo including juvenile, traffic, Maputo Province, and this one, the Municipal court. There are 16 sections in the Municipal court and one for criminal filings. Within 48 hours of arrest the file should be compiled in a criminal case. There are more judges in this province than in the rest of the country at the provincial level. There are 24 judges with 11 women in this court. This is the largest percentage of women judges in the country. Overall there are less than 15 percent women judges. There are four areas for the court including Civil, Commercial and Family issues; Criminal section; criminal detention; and labor. The police are now handling juvenile matters and there is a separate administrative court. Their caseload is increasing every year. They have 1,600 pending cases with 16 new cases per week. There are 3,500 case per judge in the labor division with 40 new cases per week.

The judicial training center was created three years ago for judges and court staff. They had 20 trainings this year – 10 for judges and 10 for staff. There are 7-10 day trainings. There is also a course that lasts for a year before the judge comes to the bench. There are 24 students in this program now and they hope that 18 pass. Gender issues are dealt with in the trainings.

She graduated law school at 22 and took a judge's course and then was appointed in the district court 12 years ago. Now the minimum age is 25 years old.

In civil cases litigants should have a lawyer. The court can appoint lawyers. In Maputo there are enough legal aid lawyers but not in the regions. There is a two-year intern program for licensing of lawyers.

It is possible to get a restraining order in a violence case but very few women ask for one. Many don't know their rights and the culture barriers also prevent use of this technique.

Most judges are gender-sensitized. When they had training some judges said this is a women's issue and did not want to attend. Should be dealt with vertically.

Recommendations

Some people are shocked when you talk about "gender." Using case studies that include gender aspects may be a better way to deal with the issue.

9/3/03 Association of Mozambican Women Lawyers (AMMCJ) – Latifa Ibrahimo, President; Av. Romao Fernandes Farinha 567, Maputo, Mozambique; Tel/Fax: 258-1-40-82-32; Mobile: 258-8-231-7307

Maria Lando, General Secretary
Talin Rosa, Legal Aid Attorney
Ama Cristina Monteiro, Member of Management

They have 91 members with offices in 3 other provinces including Manica, Zambezia, and Nambula. They were formed on March 8, 1995 and their members include lawyers, judges, prosecutors, registrars, and law students. They provide legal assistance to vulnerable groups including victims of violence and indigent women. They also conduct research on the legal framework and collaborate with government on legal reform.

In 2002 the family law was submitted to Parliament. In 1999 they got involved with this process and they hope it will pass soon. They have advocacy programs on the radio and workshops in the provinces. They also work on labor law issues and handle these cases in their legal aid program. They would like to have more radio programs but it costs a lot for radio. Every Wednesday at 2:30 they have a program and people can mail in letters with questions for them to answer. Television doesn't have as large an impact as radio. They ask their clients in a registration form how they found them and the most common response is "heard about it on the radio."

Worked with program TCV – "All against violence" from 1992 until 2002. The main purpose was to provide legal assistance. They had a place in police station to meet women. Initially police claimed this is a private issue but now the police send them cases. There is a draft DV in process now as part of the Women's Forum initiative. There is no reliable data on the prevalence of DV.

They had had training for their own members and also with trade union leaders. Were part of the 16 Days Against Gender Violence campaign in late November/early December. There were trainings for doctors and police. In some regions people say it is a sign of love to hit a woman.

They have 6 permanent staff and 6 legal aid lawyers. They have a minimum of 5 cases per day and a maximum of 15. The types of cases they handle include divorce, division of assets (common law marriages), guardianship, maintenance for children (child support), inheritance, paternity, birth registration, child violations, incest (few), and adoption. They get donations and funding from partners, and special project grants.

Health and reproductive rights are a big issue here because if women don't have access and information they cannot negotiate with their partner and we can't have a balanced society. There is an issue of early pregnancy and often it is by the teachers. Women being fired due to their HIV/AIDS status is an emerging problem.

Recommendations

Make women aware of their rights; workshops, pamphlets, radio programs in local languages. Women often show up with a 10 year old child who has no birth certificate because they never realized they should record the birth.

9/4/04 Mozambican Association of Family Development (AMODEFA) – Maria dos Anjos Vasco Machonisse, Executive Director
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USAID has been their long term partner. They promote sexual and reproductive rights for women, youth and men. They provide information and services. They try to complement activities of the government. They have three areas of work. They train youth as community activists, work in school, and provide counseling and psychological support. Youth who are out of school are also trained to conduct counseling. Support at government level as well as level of their organization. They have community based services including the distribution of contraceptive, counseling for pregnant women, and discussion of these issues at the community level taking into account the cultural constraints. Women are not protected and do not have the power to make these decisions. They are trying to involve men in the subject. They are trying to implement a way to reduce poverty. HIV/AIDS prevention and home based care is a part of their efforts and those in which they work with government. They have campaigns to train community leader and provide psycho-social support for HIV/AIDS sufferers. They are pioneers in these fields.

They were founded in 1989. From 1995 they added the area of HIV/AIDS. AT that time it was not as serious as it is now. They started in the Maputo hospital and expanded to other areas. They work was successful and they formed a new association for people living with HIV and their friends. When HIV/AIDS became serious they lobbied the government to be more concerned. It is rewarding to see from their work that there are new organizations working and people concerned.

There is a problem of discrimination of people with HIV/AIDS. What we have learned is that women are suffering the most from this discrimination. In the family the wife is the sufferer as men often run away. When men die their family comes and takes the property and accuses the wife of being a witch and killing him. The result is that the women suffer with the children. There is a need to address the inheritance issue. Husband's relatives are usually unaware of the wife's rights and in some cases even believe a male relative

must marry the widow. There is a problem of access for women to HIV/AIDS services. There are clinics where there are no nurses and services are not available in many rural areas. The issue of contraception is also a decision-making/power issue for women. In customary law women don't have much power. The power belongs either to the husband or the mother in law. Rate of contraceptive use here is very low. Men usually think that having many children is a sign of wealth. They want them to work on the farm and disregard the need for schooling and for other aspects of women's health. Lack of information is the same problem for the youth. Children have preconceived notions that reproductive issues are only for girls. They are working to change this mentality. Barrier for reproductive rights are more traditional than legal. They have legal framework but if they don't solve the problem at a lower level they cannot succeed.

Elected leaders are often also the traditional or inherited leaders. They play a good role as they are trained for these positions. Most NGOs are in Maputo. Their organization has field offices in the province. At the district level they have full time nurses. They have 1 vehicle in each provision and the supervisor at least has a bicycle. They are trying to give more capacity to the community. They train in this area so others can take over and they are just supervisors. They use hospital and clinics as a place to reach people. They do use radio and TV at the Maputo level only. It is too expensive. Community radio is also used to get information out. Programs with community leaders are recorded and played back on radio.

Even though the constitution defends equality there are other laws that make the man the head of the family. There is a belief that if a family member takes the wife she is purified. They are trying to move this role to the traditional healers. They are also trying to make local rules that would avoid this situation. There are agricultural/livestock associations of women at the community level. They work with these groups to get the HIV/AIDS message out.

Recommendations

Disseminate information to regions. Give priority to training of women and make them feel they are part of the initiative and then they can mobilize other women. Use local languages. Most posters are in Portuguese but there are many other languages. Involve community leaders and women who have influence including traditional healers. Most of them are women and can help get the message out. Use drama, singing, dancing to relay message. Work at the community level to enhance women's decision-making power. Enable them to make decisions and train them to look at sexual issues in a new way and prevent STDs and HIV/AIDS. Increase women's rights about property, especially when the husband dies and make her realize she doesn't have to have an attitude of submission.

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They are the Association for Women, Law and Development and were founded in December 1991. Most members are women and include all professions such as doctors, lawyers, and workers. Their programs include legal assistance through volunteer lawyers and women and health programs including HIV/AIDS and reproductive health. Their volunteer lawyers are both women and men. They are lots of HIV/AIDS related legal issues now. The health program involves “peer educators” mostly outside the city who operate at paralegals.

Their present family law is from 1966. They are involved in the new draft. They have delegations in Sefela, Beta, Bambi (south, center, and north). In Beta and Chapagali they have legal assistance with no charge for these services. HEVOS (Netherlands) is providing funding for the legal aid. They try to solve problems within the family because court cases take a long time.

The priority is the legal framework. It is heavily bureaucratic and doesn't give results. Lacks mechanisms to make laws work and that is why they are trying alternatives. They are working with the MoJ and AG and lobbying them. They have managed to get a focal point in the AGs office as a point of contact (however, they could not give us the name of the person — they said it had recently changed).

The legal framework for HIV/AIDS is not there. The husband finds out the wife is positive and leaves her. Women are more likely to get tested than men as they tend to be more conscientious. Many workers are being fired for being positive. There is no legal framework to protect women and children or to require testing of the husband.

The administration of justice is too slow. They need a coalition of NGOs to work in the legal area. In parallel with the state coalition they need to sensitize students in the law school and judges/staff in the judicial training center to gender issues.

They have lots of cases involving violence. They have one case where a woman's ears were chopped off. Police filed the case but aren't actively pursuing it.

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The Secretariat is currently researching to find which areas need priority attention. Many difficulties exist because there are two parties. The country has two models of thought and they are still in the dialogue phase. The dichotomy of the dual party system reflects negatively on the lives of women. They would like to be more involved in the legal issues but due to the political situation and other work they are not able to.

The Family Law has been discussed in Parliament and passed on a general basis. Many CSOs participate in the drafting process. There are two lines of thought about the Law – those who defend polygamy and those who defend monogamy. There is also a difference of approach in the cities and in the rural areas. There is no use to pass a law if people in the rural areas do not comply. In rural areas it is considered that the more women a man has, the more wealthy and powerful he is. If and when the family law is passed, there will be a need to go to the rural areas to spread and discuss the law. Funding will be needed for this undertaking.

Mozambique has ratified many international treaties but the implementation is a problem.

In terms of public awareness, the country does not have all the structures in place for that yet. One of the provinces is only now starting the public-level interactions.

People are not yet used to the idea of defending their own rights. They do not have the initiative yet. In Niasa, there are no schools and parents give their daughters away for marriage at 14. A woman does not have anything of her own; girls are educated only serve a man. Before marriage girls work on their fathers' land and when they get married they work on their husbands' land.

The Secretariat is currently cooperating with the Ministry of Education to enact compulsory education up to a certain level to provide incentive for girls to stay in school. There used to be a program of scholarships for girls that had the same goal but the money was given directly to the students who would then use the money to buy such things as bicycles for their boyfriends so that they would marry them. Now the system has been changed and the money is given directly to the school.

Recommendations

On the issue of domestic violence, police, medical staff and judges are not yet sensitized. All of them need training.

There is a need to run public awareness campaigns on women's rights and make the laws known.

A good activity would be to train female members of parliament (there are 74), so that they could go back to their villages and discuss issues such as the Family Law.

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Ana Loforte, Gender Technical Advisor – National Directorate
of Women

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This is a small newly-formed institution created in 2000. The National Directorate of Women was also created along with the agency. The directorate functions as two departments that work in parallel; Women and Family and Department of Gender and Development (deals with legal aspects).

Mr. Salamao is the head of the Department of Gender and Development. He contributed to the founding of this department. The department of Women and Family works on the issue of HIV/AIDS and empowerment of women.

They are working on the CEDAW report. They are also working on the AU Charter on Human Rights report. It is in the final stages of deliberations now. They are also working on the family law and participated in its review. They are lobbying for its approval in Parliament. They cooperate with civil society and are now working on a DV law in cooperation with the Women's Forum. The law is being drafted now. They also have a National Plan for Action for the Advancement of Women. They are now working on an implementation strategy. They worked with UNFPA to develop this strategy. They are now in deliberations over a National Policy on gender.

Mr. Salamao noted that besides the family law there is a study on inheritance. The work is coordinated with SADC Gender unit. SADC has a commitment to draft DV laws. Mauritius was the first and they are following them. Drafts are going around. They want it to be treated as a separate crime. They want laws that will enforce the National gender Policy. DV includes violence against children also. AT SADC region there is concern over trafficking of children. They are very concerned about this as there are daily reports about it occurring. Very slowly things are changing due to International conventions they have ratified. The law required women to have husband's permission to open a business but this has been changed.

They feel that DV is the number of issue in the country. The family law and inheritance law as well as national gender policy are additional priorities.

They are working with the MoJ on these laws. The National plan of action is based on the Beijing Platform. They are waiting on its approval by the council of ministers. There are also provincial plans but only 3 provinces (Capa de lago, Sufada, Zambezi) have completed them due to lack of funding. They are waiting on approval from the Council of Ministers for the CEDAW report so they can present it at the UN. There is a lack of funding to finalize and also to prepare the second report. They have a plan to disseminate the provisions and provide training about it if funding is available.

It is important to make the public aware of their rights through local language using radio, brochures, dramas, etc.

Recommendations

Technical assistance/advisor; community level awareness for DV; getting access to information from other countries; public awareness of rights in local language.

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The Women's Forum was founded in 1992, even before the end of the war. The purpose of the Forum was for NGOs to rationalize human, material and financial resources to best help women who were most affected by the war. After the war, the first area of action was land law because at that time (1995) land belonged to the state but the World Bank was pressing to privatize the land. The Forum lobbied to have the land be kept by the state on the premise that privatization creates more poverty. In 1998 Forum members lobbied the government to follow CEDAW in its labor law with regard to issues such as maternity leave and sexual harassment.

In 1999 the government of Mozambique took the initiative on reforming the Family Code and the Women's Forum has since been very involved in the process. Members of the Forum shared with WLR a CD ROM that contains all the versions of the family law, including the latest one. The CD also contains many articles that argue for and against various statutes within the family law. Old posters can also be viewed on the CD. When the law is approved another CD ROM will be made.

Today the Forum deals with a multiplicity of issues that affect women's rights. One of the most prominent is domestic violence. After Beijing, all of the women's rights NGOs

divided up tasks within the sphere of domestic violence. The duty of the Forum is to maintain communication on the issue through newsletters and other means.

All the NGOs have recently been working on the issue of Family Law. They have now succeeded in getting the general approval of the Parliament for the Law. One lesson learned is that it is important to work with the government but one needs to look at things with other eyes. In the middle of the discussion on the Family Law is the issue of polygamy. More than half of the households in Mozambique are married in common law. Polygamy will probably be banned. Some countries have dual law but Mozambique will probably adopt only one. The Forum has published all the versions of the Family Law on a CD ROM, including many articles for and against the Law. The Family Law is currently being translated. It should be ready in October. When the Law is approved another CD ROM will be made.

There is a serious lack of information about laws for women. The country is big and the infrastructure is abysmal. These factors make getting rights information out to women in the villages very difficult.

Difficulties with regard to women's rights include a lack of information about the laws. Mozambique is a big country and it is hard to spread the information on law and rights.

Another difficulty is the judiciary. WLSA has decided to tackle the judiciary and train it on women's rights. WLSA's policy is that every training in the center should include a gender module. The organization runs courses for both magistrates and prosecutors and trying to change their attitudes.

The government has released very few reports about human rights. No CEDAW report has yet come out.

On the issue of regional networking, Southern Africa published a series of books entitled *Beyond Inequalities: Women in Southern Africa*. They are now in the process of being updated.

After the Family Law, Forum priorities will include tackling the Inheritance Law, which will deal with the situation of AIDS orphans.

When the Land Law was passed, the Forum located one lawyer in each province to support Land Law and traveled the country to educate people about it. It took two years.

The Forum has also put computer centers in some villages thereby helping to educate women. Now women are finding out what the prices of goods are in Maputo, which helps them with their work.

Recommendations

More work needs to be done with the media because it has the power to influence society. The Forum has a module on gender and the media has been trained before on both gender and corruption (USAID finances the corruption part) but more can still be done.

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The purpose of the law clinic is to help clients who do not have enough money to consult a lawyer. The law clinic is held every Friday and around 10 cases are heard each time. A total of 20 students take part in the program with many more wishing to participate. The students are supervised by faculty lecturers who are attorneys. The clinic has only been in existence for two years. It plans to contract one sociologist and one psychologist to help with the work. The clinic does not yet have the capacity to help everyone who seeks assistance. The practice is to speak to all the clients and then decide on whom to turn away.

Common issues include problems at work, child support and, most frequently, domestic violence. Most women who come to the clinic with domestic violence cases have already been to the police but they are very frustrated because the police always take the side of the husband. There are no shelters for battered women to go to and even their own families do not take them back saying that they need to reconcile with their husband.

The legal clinic has a partnership with a regional organization called OSISA. OSISA is planning to send experts to help with women's legal education and to train lawyers to litigate in the area of human rights. The program is currently in the design phase. One of the areas of concentration could be women's legal rights.

The law school has 1, 138 students undergoing a five-year program. A two-year masters program is also available. There are 24 full-time and 35 part-time professors. Currently the academic calendar starts in August and goes until December and then again from February until June. This schedule may be reversed such that the school year would start in February.

Recommendations

Domestic violence is a priority as well as family law and reproductive rights. Public awareness is another urgent need. Women don't know their rights. They need legal education. One idea is to teach the issues to the law students who then go back to the provinces where they are from and teach the people there.

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There are 260 members in the association. Women constitute 25 percent of the members. The association is independent from the government. There are 500-600 lawyers in Mozambique. Most of them are in Maputo. Those lawyers who work for employers do not have to register. After graduation, each lawyer is required to be a trainee for two years. There is no bar examination yet. The association feels that it is not yet time to create barriers for people trying to get into the profession because there are so few of them.

The association has a new program doing some capacity building in the area of human rights. The plan is to train lawyers to deal with human rights issues and then to update them on a regular basis. CSOs as well as the Human Rights League do this in general terms (not specifically dealing with women and children).

The judicial system in Mozambique is still weak and subject to influences. Judges do not have enough academic training and experience at the district, provincial or supreme court level. Judges often make the wrong decisions due to a lack of training.

There is almost no enforcement of international norms. They are just pieces of paper. Association members attended a few seminars on international law but they did not prove to be very helpful because the laws are not being used.

The level of poverty in the country is very high. On average women are poorer than men and therefore have less access to lawyers. Most of the cases that women bring to court have to do with domestic violence. Domestic violence is a very big problem, not only legal but also cultural. Most women do not even report instances of domestic violence to the authorities because very little is done to punish the offenders. Instead of putting perpetrators of domestic violence in jails police try to reconcile the parties. There is no law dealing specifically with domestic violence. Other cases that women bring to court have to do with child support and inheritance rights. Special problems with regard to division of

property often arise in cases where a man and a woman lived together without being officially married and then separate. If the new family law is passed, it will address this issue.

Mr. Cauio also serves as the president of the SADC Lawyers Association. The SADC association just had a conference in Malawi with participants from the Canadian bar Association and the International Bar Association. There was also a recent conference dealing with the rule of law in Swaziland. The next conference will take place in Lesotho. Each conference has between 50 and 60 participants.

Recommendations

More exchange of information among regional and other international partners as well as access to databases would be helpful. Make international law useful to more lawyers. The International Bar Association might be a good partner for a training. The Mozambican Bar Association would be willing to host a conference for SADC countries on the issue.

9/5/03 Committee of Women Workers (COMUTRA) –
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The committee works on providing working women with capacity and labor legislation. It also works on issues of AIDS and provides other trainings that are important to working women. Since many women work in the informal sector, the committee works in that area as well. The committee is cooperating with HOMENET to organize those women who are at home. There are no pensions provided for women who stay at home but the government is now also starting to pay attention and make laws for the informal sector.

There are 15,177 women who are members of the union; 292 of them lead unions at national and provincial levels. According to statistics from October 2002, 42 percent of the work force in Mozambique is comprised of women. The majority of women work in the textile, food and cashew nuts industry. Men and women get the same pay and pension in Mozambique.

The legal framework is not an issue that the committee deals with on a regular basis but right now it is working on amending the law with regard to maternity leave. While many other countries have amended their legislation on the issue, Mozambique still only allows women 60 days for maternity leave. The committee has involved the Women's Forum (of which it is a member) to talk to the law reform committee in Parliament about amending the law but no result has yet been achieved.

Women have a lot of responsibilities as workers, mothers and wives and it is important for society to relieve some of this load through such instruments as good labor laws. Unfortunately, many employers think that the laws are already too favorable. This, however, is not the case and they need to be educated as to the reasons why.

Recommendations

Public awareness and training are priorities. Train the trainers workshops have worked well in the past. With aid from Denmark the committee trained women in unions throughout the country. It trained the trainers in subjects such as labor law, labor legislation, gender equality, leadership, sexually transmitted diseases and domestic violence. These trainers then trained union members in the provinces. There are 15 unions who are members of the central union. In each union there is a women's committee. Each leader of this committee went through the train the trainers workshop. The committee now has 56 instructors throughout the country on national and provincial unions.

Train women in the informal sector on how to manage businesses and how to make them profitable.

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Fernanda works in the area of civil society strengthening. She has previously worked with USAID in areas of democracy and governance as well as monitoring and evaluation. She has worked with a number of women's organizations but is not a specialist.

The judicial system is very weak. There is a great lack of qualified personnel. The courts are understaffed and underfunded and it is difficult for rural people to gain access to them. There are as little as five lawyers in some provinces. Gender sensitivity is very low.

Two main problems in Mozambique are poverty and HIV/AIDS. The majority of the poor people are women and they are also the ones who carry most of the burden that comes with HIV/AIDS. HIV is most widespread in the central region of the country where one in five and sometimes one in four people are infected. HIV is much less of a problem in the North. The government's previous HIV/AIDS strategy did not include married women as a target audience when in reality they are the most vulnerable group. They have no protections.

The Mozambican culture is not very women-friendly and there is not much push to change the status quo. A majority of Mozambican civil society organizations do not have a clear vision and strategy in mind. If one were to ask them what they really want to achieve most will have no clear answer.

The situations in the countries in southern Africa are very different but common themes abound. South Africa has an important role to play in the development of other countries

because it has the resources and the expertise. Unfortunately, many activists react very strongly against South Africans who often are not able to adapt their experience to the context of the countries they are helping.

Recommendations

WLR should concentrate on the legal protection of women regarding HIV/AIDS. Additionally, much needs to be done with regard to the rights of AIDS widows to inherit after their husbands. Magistrates, prosecutors and lawyers need to be trained on these and other gender issues. WLR should help the judicial training institute step up its gender activities.

It would be highly beneficial to bring together NGOs in the provinces. Fora and networks need to reach out to the leaders in the regions. Coalitions must be created around specific issues, not just general principles. In Maputo there are too many individual opinions. NGOs are too dependent on their leaders. There needs to be more mentoring for the younger people within these organizations. Mozambique needs a new generation of activists. NGOs need help in thinking deeper about the issues they are advocating. Currently all they do is receive funds, implement an activity and report up to the donor, not the beneficiaries. This is not the most effective strategy for development but it would be very time consuming to change the system.

Women need to be educated about their rights and why they are important in the first place. Grass roots education is the surest way to overcome existing cultural barriers to women's equal participation.

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Only 40 percent of the population can read and write in Portuguese. The rest, only know their local languages. The majority of the people from the three provinces in the north of the country speak Macua. The four central provinces speak Ndaou and the three southern provinces share the Shangana language. In order to achieve any significant progress in educating women about their rights the teaching must be done in local languages.

Recommendations

HIV/AIDS should be the priority. Communities do not have enough information on the disease. More precisely, WLR should work in the areas of domestic violence and

inheritance rights through the lens of HIV/AIDS. Domestic violence and inheritance rights are region-wide problems and HIV/AIDS is the main cross-cutting issue.

Help fund the creation of a newspaper which would print women's news in three local languages.

SOUTH AFRICA

9/8/03 Constitutional Court of South Africa – Justice Johann Kriegler;
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The ANC is committed to full recognition of women's rights in the political and economic context. CEDAW is alive and well in theory but it suffers from a lack of resources, both human and material. Because of the country's past, the political elite is very much gender conscious. The gender equality and the gender non-discrimination provisions in the constitution are taken seriously. South Africa has a competitive number of women in the ministries. None of them are incompetent. They all carry their own weight. The next president may be a woman. She is currently the Minister of Foreign Affairs. However, one only needs to go outside the main urban conglomerations in order to find women in the same positions they were in hundreds of years ago. South Africa, therefore, is still very much a society in transition.

The justice does not think much of the Gender Commission. It suffers from a lack of funding and is also in an awkward position ideologically. Any kind of human rights structure should stand facing government but it is largely facing big business. It seems that the commission is a little confused in its direction.

South Africa adopted two domestic violence statutes in rapid succession. The second one has more teeth than the first. It provides for prohibitory injunctions that can be obtained informally and for short cut procedures that cut out many of the extensive legal processes. Justice Kriegler thinks the legislation is solid but societal and governmental institutions are not yet well trained to use it. For example, the police still think that domestic violence is a private matter. There is a real educational task to be performed in the police but the police needs to learn a lot of other things first such as how to catch criminals. The police is understaffed, underequipped and unmotivated. It has a bad public image.

South Africa has good employment laws to ensure equity in the workplace. Sexual harassment legislation is effective. Enforcement is good in the sense that it provides cheap, quick and informal access to structures of authority. Labor law is a territory of its own. Disputing parties go to compulsory arbitration as a first step in the process. Additionally, the Law Commission is now looking into codifying much of the law relating to sexual violence against women. Part of this process will be to redefine rape and do away

with the concept of consent. South African law now recognizes marital rape. A marriage license is not longer a free pass to intercourse. It is also important to admit that from time to time the system has failed women but this happens in all countries.

Currently work is being done to extend the concept of mitigation in spousal murder. When tried, men have tended to get lesser sentences because they usually use immediate violence and claim to have acted out of rashness or craziness while women act in a more calculated manner.

The capacity of the judiciary is improving but there is still a long way to go. There is a single judiciary throughout the country but a horizontal line exists between the magistrates and the judiciary. The magistracy is less exposed to new trends. No more than 10 percent of the magistrates have even heard of CEDAW. The representation of women in the judiciary is getting better. Ten years ago the magistracy was 90 percent male and 75 percent white. Thankfully, these statistics are changing. Criteria for selection are heavily weighed in favor of previously disadvantaged groups such as women and blacks. Over the last few years there has been a conscious effort to promote the introduction of more and more women from outside the government. The percentage of women in the judiciary has increased by a factor of several hundred percent. Currently, 30 out of 170 judges are women. The next deputy chief judge in the Johannesburg High Court is likely to be a woman. Women are no longer ashamed of being women on the bench; they don't have to be more guy-like than the men anymore. More than 90 percent of the high court judges are still former members of the practicing bar. In order to get more of a gender balance within the judiciary women had to be brought in from outside the bar. It is hard to come into a judgeship from outside. Out of the 30 women judges, only a dozen are recognized as being able to pull their weight.

Judicial nominations are put forth by the Judicial Service Commission – a multi-party, multi-disciplinary body. The Commission interviews nominated candidates and makes its recommendations to the parliament. The parliament, in turn, makes its recommendations to the president. The president can strike down all nominees but cannot appoint judges from outside the nominate pool. In general, the Judicial Service Commission is considered to be too political.

Women comprise 30 percent of the South African Bar. Law faculties are nearly 50/50. In the big law firms the glass ceiling still exists, more so for women than other disadvantaged groups.

Training for magistrates has assumed major proportions. There is a Justice College within the Department of Justice, which is financed by the executive. The magistrates and the prosecutors are trained separately within the college. Training is conducted at a central institution in Pretoria and also on a decentralized basis.

In the High Court more education is sure to follow. For many years it was argued that judicial education is inconsistent with judicial independence. This notion was recently rejected. At the last High Court conference the judges unanimously accepted the idea that

continuous judicial education is their duty. So the idea of judicial independence has been accepted in principle. Part of Justice Kriegler's job will be to run lunch time seminars for judges on various new case law problem areas. The problem with training judges is that courts need to keep running. The case loads are simply too large to allow judges to pursue long hours of professional judicial education.

CEDAW is now being used in the Constitutional Courts. A couple of cases each reference the convention. CEDAW is no longer a strange, Martian-type document. The South African Constitution is maximalist in nature. It obliges the government to have regard for international law.

Section 35 of the South African Constitution makes provisions for legal representation. Legal representation is guaranteed in all High Court criminal trials but these comprise less than 5 percent of all the cases heard. At the regional level most of the cases heard have legal representation. On the other hand, 70 percent to 80 percent of the cases heard at the district level are unrepresented. The state is moving more and more towards utilizing public defenders but these are only present in major urban areas and towns.

There have been some rumblings on the need to reassess inheritance rights. However, Judge Kriegler believes that the ANC has been wise to put the traditional vs. modern argument on the back burner. He thinks that discrimination based on tribal traditions is dying away.

The government has recently declared that gay and lesbian partnerships are entitled to the same protections as enjoyed by other partners. Many statutes now recognize that the formal blessing of a priest is not that important. What matters most is consensual cohabitation and recognition. There are three lesbian judges on the High Court but it is much easier for a homosexual to be appointed to the High Court than to lower courts.

Justice Kriegler does not consider property grabbing as linked with HIV/AIDS to be a big issue in South Africa. In most circumstances dealing with HIV/AIDS there is very little property to be grabbed. Poverty is the biggest problem in South Africa; poverty and what goes with it. One of the biggest challenges faced by the government is taking care of families where 8 or 9 year old children are heads of household because their parents have died from AIDS. There is still a high degree of social disapproval and denial of families that have been affected by HIV/AIDS.

The NGO sector has suffered a serious systemic depression following the emergence of the new South Africa. The NGOs were overfinanced during the days of Apartheid opposition. Since the advent of democracy much of the funding has dried up. Ten years ago there was a great deal of talent and know-how in the NGOs but most of it has now "atrophied at the finger tips because the blood supply has been cut off."

Recommendations

A great deal of money has gone into Africa and there is pitifully little to show for it. Consult locally; get as close to the grass roots as possible. Think long and hard about the actual project design.

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www.genderlinks.org.za

Gender Links is a regional organization which focuses primarily on the transformation of gender relations in and through the media. The organization conducts research and produces training tools for the media thereby improving the gender balance in terms of representation and portrayal. It recently completed a regional study on how women and men are portrayed in the media.

The organization has trained media on covering gender violence in all countries in the region. The training focused on getting people to understand gender violence as a human rights issue. Gender Links also trained NGOs on communications. The organization organized a massive campaign on violence against women around the 16 days of activism from the 25th of November to the 10th of December of last year. There are four important dates during this period. November 25th is International Violence Day. December 3rd is Disability Day. World Aids Day is on December 1st and Human Rights Day is celebrated on December 10th. The campaign was focused on South Africa but was linked on a regional level through WILSA. During each of the 16 days SABC, the most widely-watched news station in South Africa, ran stories on gender violence. Gender Links put on an active internet and web site based campaign as well. The high profile campaign even included heavy involvement by the president of South Africa who went around the country on a Peace Train speaking in schools and giving out whistles. The campaign inspired many innovative ideas. One township, for example, had a display of shoes that belonged to women who were killed as a result of domestic violence. The challenge now is to keep the momentum going year-round.

Recently the justice minister in South Africa announced that gender violence was one of his top priorities and the Minister of Finance subsequently allocated R 40 million to the cause. The government has set up pilot centers for domestic violence around the country. These centers are meant to be one-stop-shops for victims of violence where they can file a police report and get medical help and counseling. The centers are proving to be effective because they have raised the level of conviction for violence crimes. In general terms the level of conviction for rape in South Africa is still only 7 percent.

The Ministry of Justice is also contributing to legal education by having open court days when people can come in and learn about how the court works. These sessions allow women to access structures that they previously knew very little about.

Gender Links is also active in the area of women's empowerment. It is currently conducting research on the impact of women in politics and how to best empower women legislators in the region. One of the chapters of the book looks at the impact of women parliamentarians on legislation.

There have been a number of CEDAW campaigns. WiLDAF has produced simplified versions of CEDAW and has taken them around. Many countries have not yet domesticated CEDAW. Namibia is the only country that automatically domesticates international treaties.

It is very hard to work on a regional basis but Southern Africa is one region where in spite of diversity there is still a degree of central coherence. One can undertake activities in one country and then see effects elsewhere. Adoption of laws in the region also has cascading effects. If one SADC country introduces a law others will often follow. Domestic violence is one law that has been adopted by a number of countries in the region and is being debated in the parliaments of others. The shortcoming in women's legal rights is becoming more a question of implementation and legal education, not actual legislation.

Recommendations

It is good to get stakeholders together on a regional basis but it is more important to get down to the country level. WLR needs to think about issues regionally but cascade them down to the country level. This approach is less expensive, more effective and more relevant to the specific circumstances within a country.

The burning issue in need of attention is the link between gender violence and HIV/AIDS. For example, South Africa is the only country that has an automatic provision of antiretroviral drugs for rape victims. Rape is no longer just a violation of women's bodies. It is also a death threat.

The region needs more research and advocacy on HIV/AIDS and property rights. Lesotho and Zambia, for example, have very weak provisions on the issue because it is a matter of customary law. South Africa is the only country that gives precedent to constitutional law should it come in conflict with customary law.

There is a great need for innovative legal rights education. WLR should make use of local culture and drama. It should send educators to speak in town meetings, at train stations and in trains, at bus stops and on busses. It should simplify language (WILSA has done some of this) and make use of audio-visual materials. For example, the project could make simple audio cassettes and give them out to mini bus drivers to play while transporting people. WLR should also work with local media because it has power within communities. Community radio stations are easy to link up with because they are always looking for content. In the immediate context radio is the most effective means for

advocacy. Another potential entry point is through working with women legislators because they go back to their constituencies and can bring the information down to the ground. An area that must be explored further is working with the local government.

The key is to move away from the “broad brush stuff” and move into key strategic areas. For example, one issue that WLR could do a campaign on is registration of customary marriages. It is important to pick up a particular issue and bring it down to the people level while at the same time drawing out from it in different directions. The 16 day campaign, for instance, was very successful in its own right but it also spawned other good action.

Elections are a very good time to give profile to women’s rights issues. There will be nine elections in the region in the next two years. South Africa’s elections will take place next year.

It may also be wise to work not only with NGOs but also with CBOs (community based organizations) which are often more effective vehicles for reaching desired audiences. There is a great deal of talk about the need for NGO capacity building but little is said about the CBOs which also need to be developed, especially with regard to management capacity.

Careful thought must be put into how to go about training. It would be wise to step back and talk to the women about what they need and how they can fit it into their schedules.

A regional program design must balance activity at the top and at the bottom. The best way to do both is to work with groups at a regional level but have hands and feet on the ground through other organizations. Regional organizations are places where information is centralized but still reaches down to the ground. WILSA is the most active regional NGO. It is also the most relevant one in Botswana.

9/9/03 South Africa Court of Appeals – Justice Harms, Host

Justice BJ van Heerden, Cape High Court
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Justice Lex Mpati – Deputy President

Comments by Justice Lex Mpati:

In terms of the constitution, South Africa has done a great deal to improve women’s rights. Justice Mpati recently had to prepare a speech for a women’s function and in the process he realized how far South Africa has come in terms of women’s rights as well as how far it still has to go. He delivered this speech to the “100 Club” women’s organization and was sad to see that all the faces in the room were white.

There are still customary law practices that need to be developed to be in line with constitutional dispensations. The justice still has sleepless nights about a judgment he had to deliver two years ago in which he had to deny a child the right to inherit her deceased father's house because she was illegitimate and therefore ineligible to inherit under customary law. The court found that it could not by the stroke of a pen draw a line through the customary rule of succession. The court also decided that there was no discrimination on the basis of sex because male illegitimate children were also not eligible for succession. The case demonstrated how unfair the primo geniture system was and the court recommended revisions to the legislature. Thankfully, an act allowing illegitimate children to succeed has since been passed to override the customary code. A critical analysis of the judgment can be found in an article written by Professor Kerr. Justice Mpati would like to see a move away from primo geniture because women never benefit.

Customary law is now moving closer and closer toward common law. In the past women were not allowed to be heads of households and could not own property. With many men going away to the cities to work, this set of beliefs is now changing. Women are being given plots of land. The changes prove that customary law is not static. It can evolve for the better.

There is little in terms of application of customary law in the villages. People tend to bypass the customary authorities and go straight to the towns. Only the ordinary traditional occurrences are dealt with at the level of the chief.

Not many women's rights cases come before the High Court. These cases are mostly handled at the provincial level.

International human rights law is applied mostly through the constitution of South Africa. If a certain issue is not addressed in the constitution, the constitutions of countries with similar provisions, such as Canada, are then referenced.

There is a lot of authority on the issue of legal representation and legal aid. If a person cannot afford legal representation and if the lack thereof can lead to prejudice the state will provide an attorney. However, there are many obstacles to getting legal aid. An indigent person may not be able to get an appeal simply because s/he cannot afford to buy the record of the original trial.

Lack of awareness of legal rights is a general problem but one that is more widespread among women. The Eastern Cape, where the justice is from, is yearning for the type of work that WLR seeks to undertake.

Recommendations

Much remains to be done in the area of public awareness. Women need to know what rights they have and how to enforce them. Justice Mpati would also like to see more empowerment of women's organizations. In this regard, the first port of call should be the

provincial governments. The justice is well acquainted with the premier of the Eastern Cape.

Comments by Justice BJ van Heerden:

Justice Van Heerden used to be a professor of children's and women's rights. She shared her contacts with the team.

The problems with regard to women's legal rights do not stem from the lack of a legal framework but from the lack of implementation backed by the lack of resources and training.

Numerous groups in SA focus on women's rights. The Women's Legal Center in Cape Town, headed up by Michelle O'Sullivan, pioneers a lot of women's legal rights work. The gender unit at the University of Cape Town participates in the Canada-Africa Judges Linkages Program and has made some excellent videos for judicial training. The Center for Applied Legal Studies at Vitz University undertakes advocacy training for NGOs, judicial training and community awareness campaigns.

The South African Parliament has adopted a new act on Recognition of Customary Marriages. Same sex relationships have now been recognized and a new law exists on Joint Adoption of Same Sex Marriages. The Children's Code is being redrafted and will be debated in parliament later this year. It has already been debated by all stakeholder NGOs. The redrafting has been prompted by the AIDS orphans. There is also a new Juvenile Justice bill.

Recommendations

Obtain a copy of the report on Project 110, report on the Recognition of Muslim Marriages and a discussion paper on Domestic Marriages from the law commission.

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The Commission is a statutory body that does legal research with a view toward reform. It is chaired by Justice Y. Mokgoro. There are 17 full-time researchers on staff and four more will be added soon.

The Commission applies a three-stage process to any issue it takes up. First, researchers write and disseminate an issue paper announcing the topic. Then, they write a discussion paper that includes a comparative survey of laws and proposed draft legislation. The discussion paper is circulated among various stakeholders for comments, which are then incorporated in the final report. The commission submits the final report to the justice minister who has the prerogative to introduce the law in Parliament.

The current research program of the Commission contains the following topics relevant to WLR: Customary Marriages Act, Customary Law of Succession, Review of Aspects of Law of Divorce, Review of Aspects of Matrimonial Property Law, and Trafficking in Persons.

Customary Marriages Act: The Act gives recognition to customary marriages and will be published soon.

Customary Law of Succession: Women don't inherit under customary law and do not sit on traditional courts. The Law Commission is attempting to change these age-old practices by drawing up legislation that will supercede custom. All law schools teach customary law.

Aspect of Law of Divorce: The issue paper is currently under development. Dalleen sent out questionnaires and found out that in general mothers struggle to get the maintenance and fathers struggle to get access to their children. Matrimonial property will be a separate investigation which will focus on looking at the processes and not so much the legal framework.

Trafficking: The researcher is still at the start of her research. South Africa has no anti-trafficking legislation. Different pieces of legislation can address different aspects of trafficking but this becomes too cumbersome. There is no proper system to provide protection to victims of trafficking. The South African government automatically deports victims without investigation or testimony and as a result the trafficker cannot be caught. Victims are also being arrested for offenses committed as a result of trafficking. South Africa is mainly a country of destination. Persons are trafficking for the purpose of removal of body parts for sale to witch doctors. (The difference between a witch doctor and a traditional healer is that the former uses body parts in his concoctions while the latter uses herbs.) Mozambican women are trafficked to South Africa and sold as wives to men working in the mines.

Spousal rape has been an offense since 1993.

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There are three programs within the DG unit: (1) civil society, (2) local governance, and (3) rule of law and criminal justice (includes violence against women). Women's development and empowerment is integrated into all the programs.

Speaking as a recent widow, Nomea pointed out how mind-boggling are the practical problems with receiving inheritance given the legislation. The inheritance process is ten years behind. Nomea had to get a male relative on her husband's side to approve the inheritance. Many men die without wills, which enables the relatives of the husband to take away property from a widow.

Police integrity and enforcement is a big problem in South Africa. The level of cooperation between police and prosecutors is very low. The country is working on an integrated case management system but his process is taking a long time. Prosecutors put the blame on the police saying that investigation is the weak link in most cases. According to one study 68 percent of cases involving rape of children under 15 were lost.

Line prosecutors who work in magistrates courts are poorly trained and overworked and therefore not gender-sensitive. Even the judges in the sexual offenses courts may not be gender sensitive because they have not been specifically trained to analyze sexual offenses from a gender point of view.

Access to justice is a real problem. USAID used to support community justice centers but no longer does and they are dying.

There are a few civil society organizations that have good monitoring ability but most do not. There is no good understanding of monitoring. There is a great need for harmonization of monitoring standards so that comparisons can be made from region to region. Many civil society networks are falling apart.

It is hard to measure results on public awareness raising. NGOs ran awareness campaigns on rights about two years ago. USAID estimates that about 50 percent of the people in South Africa are aware of their rights. The problem is in accessing the mechanisms.

Swaziland has done a good deal on harmonizing CEDAW with local laws.

There is a donor network on violence against women. The Sexual Offenses Law keeps being pushed back. Swaziland and Botswana need more help than South Africa because they do not even have the legal framework for violence against women in place. In South Africa, Ulian Arts is the only organizations doing serious research on the implementation of the Domestic Violence Law.

There is no big private sector support for gender issues. The support is more focused on crime. Some banks and foundations (Nelson Mandela Foundation) have resources for development. USAID is not trying to set up a holding company to manage the money from the private sector.

Recommendations

There is a need for a sustained way of keeping domestic violence and other gender issues in the public eye. The 16 days DV campaign had a high profile but now there is nothing to keep the momentum going. One good way to get the women's rights message out to the public is by utilizing public transportation systems. For example, many people use the public mini bus service for transportation. Making audio tapes on issues related to women's legal rights and playing them in the vehicles could prove to be an effective way to educate the public. Other ideas include a law day during which judges and prosecutors can visit schools and talk with students and an open court day.

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The Center runs four programs focused on (1) socio-economic rights, (2) local government, (3) children's rights, (4) gender.

The core activity of the Gender Project is research. Two staff work on the program full-time and contract research portions out when needed. The project is looking to appoint another full-time researcher. Focus areas include violence against women, reproductive rights, rights of vulnerable women (i.e. sex workers), and general outreach to raise awareness of women's issues and build CSO capacity. Additionally, the project has developed an undergraduate course in gender and the law. It also introduced for the first

time a masters module on gender equality and women's rights with an emphasis on practice-oriented education.

The Project's current main focus is on the Sexual Offenses legislation, which is an uphill battle. There is a major preoccupation with costing and the Project is drawing a lot from international human rights law to tell the government to put its money where a commitment has been made.

Additionally, project resources have been committed to a three-year initiative monitoring bail in rape cases. Often there is a breakdown of communication between different law enforcement actors and victims are not informed of the judicial process. The initiative is first looking at the criminal justice side and then the perceptions of victims.

The Project is also working on the Domestic Violence Act in collaboration with prosecutors, police and CSOs. It provides domestic violence training for police from 12 SADC countries as well as publishes a newsletter on domestic violence and other related issues. It has published a plain language booklet on the Domestic Violence Act. Additionally, researchers have launched a regional initiative looking at the intersection of gender-based violence and HIV/AIDS. The Project has done a great deal of networking in the African countries around domestic violence.

The University of Cape Town trains judges. Cooperation between police and prosecutors in South Africa depends on the area of prosecution. There is more cooperation in the specialized courts. For example, South Africa now has specialized sexual offenses courts in which expert units on either side make good effort to cooperate.

Networks are hard to sustain because they are based on the personalities driving them. When the leaders leave, the networks break down.

There is an Africa-wide network looking at reproductive and sexual health rights, which includes topics of violence against women. The network brings together not only African activists but also participants from around the world.

The Washington-based IWLA is planning a project that will look at linkages between domestic violence and property ownership. The organization has already done a similar study in South Asia.

There are 1,500 students in the law school. The law school shuts down at the end of November and starts up again in early February.

Recommendations

One lesson that the Gender Project has learned is that the arguments for and against domestic violence laws are the same in most countries in the region. It would therefore be useful to gather all the best practices and lessons learned from the struggles to pass domestic violence and sexual assault legislation and to make them available for activists

in other countries. This resource should cover such topics as the arguments in passing domestic violence legislation, the historic circumstances that allowed for the passage of the law, the use of international law in the process and problems and successes with implementation. The Institute of Criminology at the University of Cape Town would be a good partner in researching issues of implementation.

It is useful to try to focus on one particular area because many of the issues (i.e. domestic violence) are very broad.

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The focus of the clinic is legal education. It does not concentrate on precedent-setting cases. The goal is to change mindsets and to focus on quality, not quantity (of cases). The legal clinic is not state based but receives its funding from the Association of University Law Clinics.

Thirty law students work at the clinic. They not only process cases but also attend women's rights marches and draft brochures. During break students provide administrative support in domestic violence courts. This constitutes good practical learning since the majority of the cases brought to the clinic deal with domestic violence. Students also help with research on issues of women and property.

From January to June 2003 the clinic handled over 700 gender-related matters, 70 percent of which were divorce cases. Many women want to sue their husbands for infecting them with HIV/AIDS but they often do not have the financial resources.

There are no men on the chair of the South African law society.

Divorce is the only subject on the South African bar exam with respect to gender. There is nothing on the exam about public legal interest.

Recommendations

It is important to have good legislation on women's rights but it is more important to design a program that changes mindsets.

9/12/03 Law, Race, and Gender Unit, University of Cape Town,
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The Law, Race, and Gender Unit at the University of Cape Town (UCT) is involved in training judges, magistrates, and courts staff from throughout Southern Africa on women's legal rights issues. This includes experience based workshops, peer training, and training videos, as well as publication of a quarterly newsletter for magistrates. UCT also has a judicial certificate program in conjunction with Justice College, the government entity responsible for judicial training in South Africa.

ANNEX B

Interviewee Recommendations

SOUTHERN AFRICA REGION						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Keboitse Machangana, Democracy Advisor and Program Development Specialist, USAID/RCSA	August 20, 2003	<p>Support the Engendering Parliaments Project of the SADC PF in training parliamentarians on women's legal rights with the aim of developing a critical mass of legislators in the region who can advocate and lobby for women's legal rights from an informed position.</p> <p>Equip parliamentarians with skills to ensure that gender is</p>		<p>Build up capacity of CSOs to transition in terms of leadership. Develop mentoring and training programs for junior staff. Train NGO staff in multi-skilling and designing programs for volunteers.</p> <p>Work with regional networks that can demand implementation of established norms and standards.</p>	<p>Support legal literacy initiatives within communities through supporting regional organizations that have national chapters.</p>	<p>Support research on women's legal rights issues related to HIV/AIDS.</p> <p>Support those areas of the SADC Gender Unit's plan of action that seek to promote women's legal rights.</p>

SOUTHERN AFRICA REGION						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
		mainstreamed in the budgetary processes and that national gender machineries are adequately resourced.		Support organizations that provide legal aid to women and children whose rights have been violated. Support advocacy and lobbying campaigns for governments to establish legal aid for people who cannot afford legal fees in the open market.		
Mission members, USAID/RCSA	August 25, 2003	Conduct a survey to show that women are disadvantaged by customary law in land rights issues.	Train lawyers on constitutional issues.		Help women identify constraints to their operating businesses.	Use a bottom up approach for programming. Get down to the ground level. Hands
Competitiveness and Rural Livelihoods SO	August 28, 2003				Get more men	

SOUTHERN AFRICA REGION						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Group Water Group SO Management of Selected River Basins SO Kim Robinson, regional legal advisor		Review the implementation of the domestic violence law in South Africa as there have been mixed reactions.			involved and not just those at high levels.	on training and mentoring with a focused approach on certain groups in certain countries will be most successful. Work on changing laws and practices regarding women's access to land and financing. Foster public-private enterprise partnerships.
Godwin Kunda, Administrator, SADC Lawyers' Association	August 26, 2003		Conduct workshops on women's legal rights for lawyers.			

SOUTHERN AFRICA REGION						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Minkie Bokole, Program Officer, WLSA	August 26, 2003	Provide gender training to parliamentarians.			Conduct public awareness campaigns on gender issues in the rural areas. Change mindsets.	
Morongoe Ntloedibe Disele, Conference Manger, CIVICUS	August 27, 2003			<p>Conduct practical and hands on workshops for NGO capacity building.</p> <p>Train NGOs on how to better access private sector funds and push for corporate responsibility. Bring NGOs and the private sector together in a forum to discuss under what conditions</p>	Raise legal awareness for women by conducting campaigns that help them know what kind of legal instruments can be utilized in certain situations.	Utilize web-like solutions by addressing linkages across women's legal rights issues and on local, regional, national, and international levels.

SOUTHERN AFRICA REGION						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
				companies fund projects.		
Colleen Lowe Morna, Executive Director, Gender Links	September 8, 2003	<p>Educate women legislators who can influence laws and bring the issues down to the ground level.</p> <p>Work with local governments.</p> <p>Give profile to women's rights during the 9 elections that are due to take place in the region over the next two years.</p>		<p>Conduct research on HIV/AIDS and property rights and help CSOs advocate based on the results.</p> <p>Work with WLSA.</p>	<p>Provide innovative legal rights education. Make use of local culture and drama. Send educators to speak in town meetings, train stations and buses. Make laws available to the public in simplified language. Make use of audio-visual materials.</p> <p>Work with local media (radio) because it has</p>	<p>It is good to get stakeholders together on a regional basis but it is more important to get down to the country level.</p> <p>Thin about issues regionally but cascade them down to the country level.</p> <p>Address the burning issue of the link between gender violence and HIV/AIDS.</p>

SOUTHERN AFRICA REGION						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
					<p>power within communities.</p> <p>Conduct a campaign on registration of customary marriages.</p> <p>Work not only with NGOs but also with CBOs. Build CBO capacity.</p>	<p>Move away from “broad brush stuff” and move into key strategic areas.</p> <p>Balance activity at the top and at the bottom when designing a regional program. Work with regional organizations that have hands and feet in the ground through their partners.</p>

BOTSWANA						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Keboitse Machangana, Democracy Advisor and Program Development Specialist, USAID/RCSA	August 20, 2003			Build up capacity of CSOs to transition in terms of leadership. Develop mentoring and training programs for junior staff. Train NGO staff in multi-skilling and designing programs for volunteers.		
Athalia Molokomme, Justice, Botswana High Court	August 21, 2003	Address the legal framework in its entirety instead of chipping away at little parts of various discriminatory	Provide training to the government on understanding, complying, and reporting on international laws.	Build CSO capacity to: (1) address issues of sustainability, (2) lobby for changes in legislation, (3) understand	Undertake a review of everything that has been done in the area of awareness raising and compile a state of the art/best	Address practical needs. Work in the field of domestic violence.

BOTSWANA						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
		<p>laws. Work more with CSOs and not the government on this.</p> <p>Put forward model legislation. Draft laws.</p>		<p>women's legal rights.</p> <p>Provide training on enforcement of international laws.</p> <p>Design a project to strengthen the NGO-government partnership.</p>	<p>practices document to disseminate to stakeholders.</p>	<p>Best way to work on a regional basis is through regional NGOs.</p>
<p>A. Tafa, Attorney General, and Robert Molefhabangwe, opposition member, Law Reform Committee, Parliament of Botswana</p>	<p>August 21, 2003</p>	<p>Provide information to the parliament on what other countries and regions are doing with respect to women's legal rights.</p>		<p>Build CSO capacity. Provide technical and financial resources for existing projects.</p>	<p>Conduct intensive public awareness campaigns on marital rape, especially in rural areas.</p>	<p>Provide technical resources for the Women's Affairs Department.</p>

BOTSWANA						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Banyana Monyena, Parsons, Director and Oratile Kidd, Economic Empowerment Officer, Kagisano Society – Women's Shelter Project	August 21, 2003		Train police and prosecutors on how to handle domestic violence cases. Support legal aid initiatives.		Conduct public awareness campaigns on domestic violence.	
Unity Dow, Justice, Botswana High Court	August 21, 2003	Strengthen legislator knowledge on how the laws impact people and each other.	Train lawyers on women's legal rights through the Botswana law society.		Work on changing attitudes and mindsets on women's rights issues. Get men involved.	
Ida Mokereitane, Coordinator, and Silibaziso Mtunzi, Legal Officer, Emang Basadi – Legal Aid and Counselling	August 25, 2003			Conduct a regional conference to facilitate the sharing of best practices and lessons learned.		

BOTSWANA						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Center				Provide additional funding to ensure the provision of legal services.		
Sanji Monageng, Executive Secretary, The Law Society of Botswana	August 25, 2003		Provide gender and human rights training for lawyers. Train lawyers in creative lawyering through the use of CEDAW and other international conventions.			
Mmamosweu Vivian Gunda, Coordinator, Women's NGO Coalition	August 26, 2003		Facilitate exchange visits for the judiciary. Train police to understand violence against	Conduct gender research to support advocacy efforts by NGOs. Provide NGO		

BOTSWANA						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
			women.	<p>capacity building on how to be successful in the legislative process.</p> <p>Facilitate a regional conference for NGOs to exchange experiences and best practices.</p> <p>Support the CIVICUS world assembly through funding and participation.</p>		

BOTSWANA						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Kgosi Kalosen, Deputy Chairman, Botswana House of Chiefs	August 27, 2003				Conduct seminars on human rights for traditional chiefs. Work on harmonizing culture with human rights.	
Valencia Mogogeh, Private Consultant	August 28, 2003	Start by conducting gender awareness training in the Parliament.		Build NGO capacity in areas such as staff retention. Strengthen NGO networks and create better dialogue between NGOs, government and the private sector.	Conduct public awareness campaigns with different packaging of information for different groups. Simplify laws for the general public. Use radio to reach those who can't read.	There should be a fine balance of empowering women while not losing sight of gender and development. Try to drive women's rights without appearing to create a problem for men. Conduct a stakeholder analysis to create a network

BOTSWANA						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
						of drivers.
Marty Legwaila, Director Women's Affairs Department, Ministry of Labor and Home Affairs and Elsie Alexander, Botswana National Council on Women	August 29, 2003		Provide gender training to the judiciary. Need a sustained gender sensitization program.	Facilitate CSO – public sector interaction.	Conduct public awareness campaigns on domestic violence and on recently amended laws that affect women's rights. Reach out to rural areas. Evaluate what methods of raising public awareness are most effective.	Gender-based violence is the priority. Brainstorm with stakeholders on potential activities; reviewing prior work/approaches and determine what works and what does not.

MOZAMBIQUE						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Alcinda Abrcu, National Institute of Gender	September 3, 2003		Enable more access to legal services for women.	.	Conduct legal education campaigns, especially with regard to divorce rights.	Work on the issue of domestic violence.
Mario Seuane, Director, National Institute of Legal Assistance	September 3, 2003		Provide gender and skills training to legal assistants. Provide books and other materials that help legal assistants give better advice.		Conduct public awareness campaigns on women's rights that take into account the high illiteracy rate in the rural areas.	
Paulina Mateus Nkunda, Secretary, OMM	September 3, 2003			Provide training and materials to support legal rights issues. Fund extension of existing projects to other provinces.	Conduct public education campaigns on domestic violence; distribute leaflets with pictures for the illiterate.	

MOZAMBIQUE						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Edna Namitete, Representative, Association of Women Farmers and Educardo Mondlane Cooperative.	September 3, 2003				<p>Conduct public education campaigns on women's legal rights via radio using local languages.</p> <p>Conduct legal education workshops at grassroots level.</p>	
Maria Benvinda Delfina Levi, Chief Judge, Maputo City Court	September 3, 2003					
Latify Ibrahimo, President, Association of Mozambican Women Lawyers	September 4, 2003				Conduct legal rights awareness campaigns through workshops, pamphlets, and radio programs in local languages.	

MOZAMBIQUE						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Maria dos Anjos Vasco Machonisse, Executive Director, AMODEFA	September 4, 2003				<p>Disseminate legal rights information to the regions. Use local languages. Involve community leaders and women who have influence including traditional healers. Use drama, singing, dancing to relay the message.</p> <p>Work at community level to enhance women's decision-</p>	

MOZAMBIQUE						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
					making power in sexual issues. Increase womens' awareness about property rights.	
Celeste Nobela, Vice President, MULEIDE	September 4, 2003	Work on the legal framework with regard to HIV/AIDS.				
Women's Secretariat of the Assembly of the Government of Mozambique	September 4, 2003	Train female members of parliament so that they could go back to their villages and discuss issues such as Family Law.	Sensitize police, medical staff and judges on domestic violence.		Make the laws known through public awareness campaigns.	
Sansão Burque, Deputy Director, Ministry of Women and	September 4, 2003	Provide a technical assistance and/or advisor to the			Conduct community level awareness campaigns on	

MOZAMBIQUE						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Social Action Virgilio Elias Salomão, Chief, Department of Gender and Development		Department of Gender and Development. Provide best practices information from other countries.			domestic violence. Conduct legal rights campaigns in local languages.	
Teresinha da Silva, Director, Women's Forum	September 4, 2003				Provide gender training to the media, which has the power to influence society.	
Lúcia da Luz Ribeiro, Director, Legal Clinic, University of Eduardo Mondale	September 4, 2003				Conduct public awareness campaigns on issues of domestic violence, family law and reproductive rights. Teach women's issues to the law students	

MOZAMBIQUE						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
					and then have them go back to the provinces where they are from and have them teach the local people.	
Carlos Cauio, President, Mozambican Bar Association	September 5, 2003		Train lawyers how to use international law. Willing to host a conference on the issue. Provide access to legal databases.	Facilitate the exchange of information among regional and other international partners.		
Cesta Chiteleca, Coordinator, COMUTRA	September 5, 2003				Conduct legal rights awareness and training. The approach of training the trainers works well.	

MOZAMBIQUE						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
					Train women in the informal sector on how to manage businesses and how to make them profitable. ‘	
Fernanda Farinha, Private Consultant, Development Specialist	September 5, 2003	Concentrate on the legal protection of women regarding HIV/AIDS.	Help the judicial training institute set-up its gender activities.	Bring together NGOs in the provinces. Create coalitions around specific issues. Set-up mentoring programs for younger staff within NGOs. Help NGOs think deeper about the issues they are advocating.	Educate women on their rights and why they are important in the first place. Grassroots education is the key to overcoming existing barriers.	

MOZAMBIQUE						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Palmira Velasco, Coordinator, Association of Women and Social Communication	September 5, 2003				<p>Provide education to communities on domestic violence and inheritance rights through the lens of HIV/AIDS.</p> <p>Help fund the creation of a newspaper that would print women's news in three local languages.</p>	

SOUTH AFRICA						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
Johann Kriegler, Justice, Constitutional Court of South Africa	September 8, 2003					Consult locally; get as close to the grass roots as possible.
Lex Mpati, Justice and BJ van Heerden, Justice, South Africa Court of Appeals	September 8, 2003	Cooperate with the South African Law Commission on proposing new legal rights legislation for women.		Work with local government to empower women's organizations at the community level.	Educate women on what rights they have and how to enforce them.	
Venda Modise, Rule of Law Specialist, Nomea Masihleho, Civil Society Unit Leader, Joan Feldman Lawrence, USAID/South Africa	September 10, 2003				Design a program that that keeps the issue of domestic violence in the public eye in a sustained manner. Raise public awareness on women's rights by making audio tapes	

SOUTH AFRICA						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
					<p>and giving them to mini bus drivers to play for the public during transport.</p> <p>Make use of law day and open court day to educate the public on women's rights.</p>	
Nico Steyler, Director and Heléne Combrinck, Senior Researcher for Gender, Community Law Center, University of Western Cape	September 11, 2003	Gather best practices and lessons learned from the struggles to pass domestic violence and sexual assault legislation and make them available to activists and legislators throughout the				Focus on one particular area because most issues are very broad (i.e. domestic violence).

SOUTH AFRICA						
Name, Title, Organization	Date Interviewed	Recommendations and Suggestions				
		Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness	Miscellaneous
		region.				

ANNEX C

WLR Recommendations

SOUTHERN AFRICA REGION			
Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness
<p>Support the SADC Parliamentary Form Engendering Parliaments Plan of Action to eliminate discriminatory laws and policies by building the capacity of parliamentarians to demand accountability for implementation of National Gender Policies, budgetary processes and ensure that national gender mechanisms are adequately resourced to carry out their mandates</p> <p>Build the capacity of parliament gender committees and women's parliamentary caucuses to ensure the passage of gender sensitive laws in all sectors thereby addressing a broader aim of developing a critical mass of legislators in the region who can advocate and lobby for women's legal rights from an</p>	<p>Conduct a training on the use of CEDAW as an international human rights tool for the judiciary.</p>	<p>Work with regional networks of NGOs to advance the women's legal rights agenda in the region to provide the impetus for greater demand of implementation of established norms and standards, including holding governments accountable for the implementation of regional declarations and international treaties such as CEDAW.</p> <p>Build the capacity of existing networks to plan and execute sustained lobbying and advocacy campaigns of women's legal rights. Support cross-border advocacy on women's legal rights through the use of ICT and research on the impact of HIV/AIDS on women's legal rights. Support organizations that provide legal aid to women.</p>	<p>Support NGOs in conducting legal literacy campaigns that will increase public receptivity and societal receptivity to women's legal rights.</p>

SOUTHERN AFRICA REGION			
Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness
informed position.			

BOTSWANA			
Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness
<p>Ensure that the impact of HIV/AIDS is mainstreamed into all legislative initiatives.</p> <p>Document the increased discrimination against women and girls due to the increase in HIV/AIDS, particularly in customary and traditional law, to ensure that practices that conflict with national and international law are redressed.</p> <p>Train parliamentarians to design constitutional advocacy litigation strategies.</p>	<p>Train the judiciary on the implementation of CEDAW and other international human rights treaties.</p>	<p>Provide resources for capacity building and leadership for the NGOs/CSOs dealing with all areas of women's rights.</p> <p>Facilitate a roundtable with NGOs and donors to promote funding and sustainability.</p> <p>Train the NGO sector on CEDAW to promote its advocacy including the use of an assessment tool, the preparation of alternative reports and the use of international human rights instruments.</p> <p>Train NGOs on evidence based advocacy.</p> <p>Provide assistance to NGOs/CSOs to address violence against women.</p>	<p>Support public awareness campaigns on violence against women as part of overall assistance to NGOs/CBOs to address the problem.</p>

MOZAMBIQUE			
Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness
Include the members of the Women's Secretariat of the National Assembly in WLR's regional Engendering Parliaments activities.	Provide technical assistance to legal and judicial professionals to ensure implementation of the Family Law.	Enhance the institutional capacity of CSOs/NGOs that provide legal services to women, particularly in rural areas.	Conduct a legal literacy campaign in partnership with existing CSOs/NGOs on the Family Law and other laws that impact women's legal rights.

SOUTH AFRICA			
Legislative Framework	Judicial Enforcement	Civil Society Enforcement	Public Awareness
<p>Augment innovative tools that already exist within women's NGOs with training on evidence-based advocacy and the strategic use of data collection in partnership with the Gender Project at the Community Legal Centre at the University of Western Cape and the University of Cape Town.</p>	<p>Train legal and judicial professionals as well as advocates on implementing and enforcing national law as well as international law, including CEDAW and other human rights treaties and laws as tools to protect women.</p> <p>Work with the Law, Race and Gender Unit at the University of Cape Town to design and implement a regional training program on domestic violence and women's legal rights for legal and judicial professionals.</p>	<p>Provide technical assistance to local organizations on ensuring effective implementation of domestic violence legislation.</p>	<p>Partner with the Gender Program at the University of Western Cape to undertake a regional research project on best practices and lessons learned in confronting domestic violence to be used for advocacy on the issue and for drafting domestic violence legislation in SADC countries.</p>

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