

# WOMEN CHALLENGING VIOLENCE

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EXPERIENCES FROM EASTERN AND SOUTHERN AFRICA  
DAR ES SALAAM 1994

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**WOMEN CHALLENGING VIOLENCE - EXPERIENCES FROM EASTERN  
AND SOUTHERN AFRICA**

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## **INTRODUCTION**

Violence against women is still a major concern in the international discussions on Human Rights and Women. In most countries the legal protection of women was so insufficient that the Commission on the Status of Women of the United Nations issued an Declaration on violence against women. For the first time, four decades after the UN Declaration on Human Rights, male generated violence against women in the family and community, economic discrimination and structural violence against women were declared as violations of human rights. This document is a call for action towards the improvement of personal, social and economic security of women. Raising the self-awareness of women and increasing their participation in shaping development are expressing fundamental and irreversible changes in gender roles.

The Friedrich-Ebert-Stiftung is committed to all endeavors which improve the status of women, free them from discrimination and recognise their rights. This publication describes and analyses different forms of violence against women and presents local initiatives challenging them. For this purpose we invited professionals and women's activists from different Eastern and Southern African Countries to share experiences and strategies challenging violence against women. The dimension of violence which is discussed in the contributions shows that neither cultural nor religious and economic principles or practices can be superior to Human Rights. The elimination of all forms of violence against women is the yardstick of progress and development of any country in the world.

**Dr. Ludgera Klemp**

## TANZANIAN CUSTOMARY LAWS OF INHERITANCE - A CASE OF CULTURAL VIOLENCE AGAINST WOMEN

By Monica E. Mhoja; Helen Kijo - Bisimba

It is important at the outset to define the terms customary law, inheritance and violence. Customary law is the body of customs which by usage has acquired the force of law. As such it is constantly changing with changing ways of life.. (Hussein Mbwana V. Amiri Chongwe (1963) unreported).

However, the application of customary law is subject to various qualifications. Firstly, it is applicable only to people indigenous to the locality. Secondly, it must have been previously seen as a customary law, not merely a custom of ancient times. Inheritance is a universal succession which occurs at death. The successor is called an heir. He steps into all the rights and duties of the dead man. He is clothed with the entire legal person of the deceased". (H. Maine 1960: 106-107).

Violence shall be understood to mean any act, omission or conduct by means of which physical, sexual or mental suffering is inflicted directly or indirectly, through threat, coercion, or any other means on any woman with the purpose or effect of intimidating, punishing or humiliating her or of maintaining her in sex stereotyped roles or of undermining the security of her person, her self respect or of diminishing her physical or mental capacities. (Report of the Expert Group on Violence against Women: Vienna 1991).

### DISCRIMINATORY COURT DECISIONS ON THE CUSTOMARY LAWS

As mentioned before, the Declaration, which is the Law of Inheritance, is discriminatory and segregative in nature. It follows that many judgements favour men at the expense of women save for a few judges who have tried to interpret and apply customary laws according to the constitution.

There are cases whereby judges prefer to apply the law as it is and in general they say that if the law is not suitable for the present generation, the people themselves must declare it so and make an improved proposition. The following cases will help to elaborate how cultural practice or conduct cause physical or mental injury or suffering to women whether mothers, wives, sisters, or daughters.

### A WIFE DRIVEN FROM THE HOUSE AND SHAMBA

In the case of Felista Ishekampora versus Martin Banyuka 1968 (H.C.D.) No. 12 Felista was the widow of Banyuka and was childless. Martin was the son of Banyuka but his mother separated from Banyuka before his marriage to Felista in 1954. Banyuka died in 1963. Six months after his death, Felista was driven from the house and shamba by Martin. Scallon, J. held that under Para 77 of the Law of Persons as declared in the Declaration and Para 27 of the 2nd Sch., a widow has no share of the Inheritance of her deceased husband but does have a right to receive a stated percentage of his movable property, and, until she marries or dies, to use his house and receive a stated share of perennial crops and use the stated share of the land. Her share is to be administered by her children. But in this case the woman had no children. Since the Judge decided to follow the law to the letter the woman lost her case.

Likewise in Scolastica Benedict Vs. Martin Benedict (1988): the appellant was ordered to vacate her matrimonial home and the defendant, who was her step son, took possession as part of his inheritance.

### A WOMAN CANNOT INHERIT CLAN LAND

In the case of Bi Verdiana Kyabuje & others vs. Gregory Kyabuje 1968 (H.C.D.) No. 499 the court divided the estate according to Haya customary law. Hamlyn, J. observed that: "although the court sympathized with the appellant's argument that a distinction between males and females was prejudicial to the dignity of women and their equal standing with men, the court had no power to overrule customary law or reject it as inappropriate to modern conditions." This elaborates how customary laws are violent, women are humiliated and their feelings are neglected. They sometimes suffer greatly when deprived of their children as observed in Donatila Exavery vs. Perekinas Twamgabo (1989). "Under the customary rules as far as the custody of children whose father is dead is concerned, the mother does not feature anywhere in that order."

To sum up, court decisions surveyed the following impacts, as far as cultural violence against women is concerned:

- A wife cannot inherit from the estate of her deceased husband. In addition, a woman cannot inherit clan land. She can sometimes inherit in terms of usufruct only until she remarries or dies (Rules 20 & 27). See Clementin Tikegwa vs. Traseas Kabwogi (1978) LRT No. 49.

A daughter can inherit as an heir of the third category (except where there are no sons) However, daughters cannot inherit clan land.

- Sisters are not entitled to inherit; they are taken into consideration only if there are no male heirs to inherit. This is a privilege and not a right for them.

As regards mothers, the declaration is silent. Furthermore, Rule 1 provides that "Inheritance follows paternal lined descendant". Thus a mother cannot inherit from the estate of her deceased son or daughter (except where there is a will).

Although some of the cases cited date back up to 1968, the law has not changed to date. It makes no difference whether a woman is a mother, sister, wife or daughter; they all suffer the consequences of cultural violence. Women have no right to clan land, and they suffer enormously because land is a source of income without which development is prevented. The loss of land in law means not only the loss of soil but anything attached to it, such as trees and buildings. As regards the inheritance of children by clan brothers, psychologically it is believed that as a hungry man will think of food, similarly a mother who is deprived of her children has a low morale and is affected psychologically.

Regarding the cultural norms calling for a widow to live as the wife of one of her deceased husband's brothers (1st Law of Persons of the Declaration), this should be viewed as violence against women contrary to human rights, because it is a kind of a forced marriage. It is always geared to access to property. In actual fact, this cultural practice undermines the security of women's personality and deprives her of the right to exercise her own free will. It is quite clear that this traditional custom has outlived its usefulness, and thus it should not be practised anymore. The whole exercise is contrary to the Tanzanian constitution in relation to Human Rights and Equality of all persons. Consequently, the Customary Laws of Inheritance should be challenged as being contrary to the Constitution. Some judges are sensitized and have interpreted the customary laws according to the Constitution. However, the majority of judges follow the law as it is. This might be due to the fact that this is a male dominated post and the law favours men. It is our view that all magistrates and judges be sensitized to perceive customary law as being inappropriate and a violation of human rights. Thus the use of case law is advocated to challenge this situation.

### **SUWATA LEGAL AID SCHEME FOR WOMEN**

The above mentioned scheme was officially inaugurated on 18 February 1989. The main objective of the scheme is to liberate and enhance women. Women who accept violence and keep quiet on such occasions cannot be said to have been liberated, nor can they develop in any way. As such, the scheme meets its objectives, by raising the awareness of women of their rights. This is done through education by way of rallies, workshops

and written materials, and helping women with legal problems through counselling, writing court documents and legal representation.

In Tanzania, as elsewhere, women have realised that there is a need to challenge violence against them, and to find ways to change the situations which trigger such violence. There are some organizations which are geared to challenge violence generally, and others which challenge specific forms of violence. For example, a committee against sexual harassment, discrimination, and violence against women and children was established under the Tanzania Media Association (TAMWA) to specifically challenge physical violence against women. Generally in Tanzania, the women's organisation (U.W.T.), has done a great deal to awaken women in many aspects, one being in the awareness of their legal rights. U.W.T., under its economic wing (SUWATA), has managed to support the establishment of a Legal Aid Scheme for Women. This scheme is the subject matter of this section of paper, as an example of a Tanzanian women's organisation challenging violence against women.

### **ACTIVITIES OF THE SCHEME**

The scheme is based in Dar es Salaam. Women from Dar Es Salaam are the main beneficiaries, but some come from the nearby regions of the Coast and Morogoro. In addition, women in other regions are helped by correspondence, though this is very rare.

From experience, the women's problems handled are of all forms of violence. They mainly concern marriage, inheritance, custody and maintenance of children and, to a small extent, employment and contracts. Through the weekly legal aid clinics, many women have been helped. In some cases men who are the cause of the violence are called to the scheme, and are also counselled. In many instances the scheme has managed to settle matters out of the court. One inheritance problem suffices to be mentioned as an example.

A woman had been widowed and left with four children. Her brother in law decided to take all the property and money from bank accounts. The brother in law was called and advised to give back the property and he did give it back. The property, however, according to the law, was not for the woman but for the children. Even if the matter had gone to court, the scheme would have had to argue for the children and not for the woman. If the woman had no children then she could get nothing. Some of the problems are not settled at the scheme so they are referred to court. The scheme has managed to help many women get their rights through the court. Such a case is that of Donatila Exavery vs Perkinas Twangabo. In this case, after the death of her husband the woman was

dispossessed of all the property, as well as of her children. The children were all very young. This was done to prevent her from getting anything out of the property. If she was left with the children, she could get some property for her children. The scheme managed to help her argue her case, and after four years she got her children back. The question of property is still pending in court.

There are other problems which the scheme is not in a position to solve, due to the stance of the law. As we have already noted, where there is no will left by a deceased person, the customary law of inheritance applies. Under this law a woman cannot inherit her late husband's property. She can only inherit through her children. One of the cases which the scheme was not in a position to help was that of an old woman of about sixty years of age. This lady was married and lived with her husband for forty five years. For the last seventeen years, her husband was bed-ridden due to an accident. This lady was the only person who looked after him. They had no children. She managed to build a house while her husband was sick in bed. When her husband died, his relatives took charge of all the property, including the house she was living in, and the one she had built for renting. They even took the house rent, and asked the old woman to vacate the house. They wanted to sell the houses, and they told her she would get a small amount of the proceeds. This matter is in court and the regional authorities have tried to help the old woman by stopping the relatives evicting her. She can be helped only through clemency and good will. Through the said law she has no property to inherit. The court can order that she stay in the house until she dies, but she cannot sell the house. This is the position of the law. Following such situations in relation to the Law of Inheritance, the scheme saw the need to create an awareness of this law amongst women, and to challenge it.

### LEGAL AID SCHEME CHALLENGING THE LAW OF INHERITANCE

The position of the Law of Inheritance in Tanzania was seen as a challenge to the scheme. It was agreed that women be sensitized to the weakness of this law, so that they join forces to challenge this law, and make a call for changes.

Tanzania has 25 regions. It is a difficult task to reach all women throughout the country. The scheme planned to begin with some regions first and move slowly as funds and time allowed. A public rally was conducted in each of two districts. The evaluation of these two rallies showed that women did not benefit much as many men attended the rallies and seemed to dominate. This made it difficult for the women to participate as expected. Even where it was true that women were harassed after the death of their husbands, the women present in the rally feared to acknowledge such facts.

It was then decided to change the mode of operation. It was agreed that the scheme should educate a number of women leaders in a certain region who could then educate women

in their region. After this decision, the scheme organized workshops and it has already conducted them in five regions since October 1992.

Among the participants were women lawyers, teachers, nurses, leaders of women's organisations, religious groups and business women. In these workshops, key issues discussed are: Law of Marriage, Law of Inheritance and Children's Rights. The scheme has advised to write about their views to the Law Reform Commission, and to explain what they think the law should be. In each region they have already written to the Law Reform Commission. In addition, women were encouraged to attend meetings called by their representative members of parliament. This could help put forward recommendations concerning the law of inheritance.

### OBSTACLES

The scheme conducts its services on a part time and voluntary basis. All of its five members are employed elsewhere, and call at the scheme on prescribed days and times only. This being the case, the scheme cannot do much due to time constraints. It would have been possible to reach more regions in a shorter time with the legal aid campaigns if the members were full-time.

The scheme in its legal aid literacy campaigns suggests the writing of wills. However, in most cases women show their concern in that they cannot easily make such suggestions to their husbands, even where they are on very good terms or where a husband knows that if he dies his family might suffer in the hands of greedy relatives. In other instances, women argue that if a woman her husband to write a will she is likely to be in trouble as she might be accused of wishing her husband's death. In this case then the only way to protect women is constrained by the bad habit of regarding a will as a death caller. In the meantime the Law Reform Commission is soliciting views from the public on the question of the law of inheritance with a view to changing it. The problem is that the members of the commission mainly meet men when they go to the regions, or they meet with men and a very few women. In this case the outcome of their work will be the men's view. This is not really beneficial for women.

Many women are still insensitive to their rights and to the rights of their fellow women. Some women, especially the elderly, still believe that what customary law provides for them is their worth. For example, in one of the legal campaigns, we were trying to argue that when one of the spouses dies, then the property may be inherited by the other spouse, and the spouse is at liberty to get married. Many women protested, and one said it was blasphemy for a woman to get married and live in the house of her late husband. But it was proper for a man to marry and live in the house of his late wife. These women did not realize that they are equal with their husbands. They still feel owned. Another

obstacle is also the awareness by fellow women in the parliament. Many of the women MPs do not voice women's issues, especially on obvious matters like weakness in the Law of Inheritance. There is also insensitivity among the magistrates and judges dealing with issues of violence against women. Another obstacle to challenging violence against women is the lack of coordination among the relevant women's organizations.

## CONCLUSION AND RECOMMENDATIONS

What has been observed is that the Tanzanian Customary Laws of Inheritance are a case of cultural violence against women. Following the definition of violence given, women affected by the use of this law suffer mentally, and their security as well as their self respect are undermined. We have tried to show some examples of the application of the law and how women are being affected by it. We have also shown how women's organizations are helping women to handle their legal problems, among which is the challenging of the Customary Laws of Inheritance and other laws which seem to undermine the dignity of a woman.

Generally, all women's organisations with the goal of challenging violence against women should coordinate their activities. This will help define strategies geared towards achieving their goals.

## RECOMMENDATIONS

- A serious coordinated campaign should be launched throughout the country against violence against women.
- Awareness campaign should be launched throughout the country against violence in all its forms. This should include the media, educational institutions and law firms.
- Awareness campaigns and lobbying for the change of the Law of Inheritance should be concretized throughout the country.
- Awareness campaigns to sensitize people about benefit of writing wills should be carried out.

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## MY LIFE AS A WIDOW

By Dorothy, N.

Born in 1951 in Kinampanda, Tanzania, Dorothy N. was the eldest in a family of five. Her family was poor and often could not manage to pay her school fees. However, against all odds, Dorothy managed to finish secondary school and afterwards trained as a primary school teacher. In 1986, she completed a diploma course in Home Economics and is currently a secondary school teacher in Dar es Salaam. After the death of her husband in 1991, Dorothy was forced into a series of conflicts with her late husband's family brought about by the Customary Laws of Inheritance which are applied in Tanzania. The story of Dorothy serves to illustrate one of the many forms of human rights abuse, namely discrimination on the basis of gender.

In 1988 I married a District Educational Statistics and Logical Officer. Soon afterwards we built an eight roomed house in Kibiti, where my husband came from. We also bought a ten acre shamba where we planted coconut and pawpaw trees, as well as seasonal crops, such as maize and cassava. Our standard of living was good and so we had to support a wide extended family, including four children from my husband's relationships, two marriages, as well as four of my husband's brothers' children. In addition, from time to time we had to look after my mother and my in laws. All my husband's family appeared to be very charming and really fond of me and it seemed that this love was genuine and would last forever. However, appearances can be deceptive, as I was later to find out. Nevertheless, at that time, I considered myself to be well off socially and financially and thus felt that my future would be secure.

At the time of our marriage, we were both working in Dar es Salaam and were living in our own house there. However, in 1989 we were transferred to Tabora. As our house in Dar needed to be renovated, we packed a few essentials to take with us to Tabora and packed and sealed the rest of our belongings in a container. These were to be sent to Kibiti where we were planning to live after my husband retired in 1993. We had planned that he would look after our shamba and run a stationery business, while I would teach at the local secondary school. Our stay in Tabora turned out to be shorter than we had originally thought. We didn't like the place and it was too far away from relatives. Because of this, my husband requested a transfer back to Dar. This was refused and he was transferred instead to Morogoro, while I went back to Dar with the children to supervise our house renovation. Then in September 1991 my husband suddenly died. This was when my life began to change in a way I could have never previously imagined and I began to suffer from the effects of the present day inheritance laws in Tanzania.





After my husband's funeral in Kibiti, I stayed there, with my children, for a month before going back to work in Dar. During this period, I found that the death of my husband had built a big wall between me and his family. All their apparent love faded away, and the once charming, smiling faces became wrinkled by sharp glances and frowns. I was not wanted in the family, and neither were my children. My husband's brothers stopped my step children from moving back to Dar with me by refusing to provide any money to support them. Eventually the eldest stepson was allowed to come with me to help me and to help supervise the house renovation. As I had become seriously ill after the death of my husband and my hand was paralysed, I needed someone to help me even with every day tasks such as getting dressed and cooking. The day after my return to Dar, one of my husband's brothers arrived and opened the container to check all our household belongings. That same night, he hired a pick up, loaded all the essential items and the next morning drove away with them to Kibiti. On his departure, he ordered my eldest stepson to lock the house in Dar and not to let me or my children enter it again. This meant that I was now homeless. The only people who would help me at that time were my sister and her husband and as I was so ill, I had to rely on them to pay my medical bills and look after me and my children. Even when I wanted to get my official documents and certificates back, I had to get an order from a primary court magistrate to force this stepson to hand over my files. Our house was soon sold by my husband's brothers and all my late husband's belongings were taken to Kibiti.

I was, therefore, left with nothing from my husband. Both our houses and our shamba were taken away from me and I was completely cut off financially from and rejected by my husband's once charming family. My future, which had once seemed so secure, now seemed bleak and to hold nothing but despair for me and my children. When my health improved and I was fit enough to go back to work, I decided that the only way I could get any justice in this matter was to start legal proceedings and only then was I told about the law and inheritance in Tanzania. Prompted by a magazine article, I decided to push the case further, but failed to get any real support for my case. After twice failing to get my case heard, I was advised to contact the SUWATA Legal Aid Scheme. At last I found people sympathetic to my case and I am now able to get counselling and legal advice. Although I feel that I have been cheated out of my inheritance by the system, at least I now have some hope and I don't feel quite so desperate.

**The story of Dorothy, N. is not unique. Many widows have been evicted from the matrimonial home, had their children forcibly taken away from them and been left destitute because of the Customary Laws of Inheritance which are applied not only in Tanzania, but in many African Countries.**



## CAN THE LAW SECURE WOMEN'S RIGHTS? - SITUATION OF VIOLENCE AGAINST KENYAN WOMEN

By Getrude Kopyo

War is only one of the many forms of violence to which women are subjected worldwide. There are other types of violence which affect most women at some point in their lifetime, regardless of their social class, colour, religion or culture, and which can be equally devastating, even life threatening. Everyday, women are battered, sexually harassed, raped and psychologically tortured in the home, the work place and in society. Yet the problem of violence against women has only recently been recognized as a crime and a major obstacle to equality, development and peace. In effect, a fundamental human right has been systematically denied to half the world's population for centuries, irrespective of the type of political and legal systems under which this half lives. A woman's right to be free from danger and fear for her personal safety is likely to be the toughest battle women will wage in the 1990s. Women, however, find themselves in a dilemma in times of armed conflict and even though they have participated in and suffered from wars for centuries, they have been virtually excluded from all stages of decision-making from the commencement of hostilities to the conclusion of peace talks.

According to the Nairobi Forward-Looking Strategies For Advancement of Women in 1985, "Peace includes not only the absence of war, violence and hostilities at the national and international levels but also the enjoyment of economic and social justice, equality and the entire range of human rights and fundamental freedoms within society". This positive and comprehensive definition of peace brings into sharp focus the far-reaching implications of peace for women in that it highlights the need to address structural violence, including economic and sexual inequality, the denial of basic human rights and fundamental freedoms and the deliberate exploitation of large sectors of the population. More importantly, the Nairobi Forward-Looking Strategies were instrumental in creating a consensus that "violence on both the personal and international level is in fact inextricably linked". "The question of women and peace and the meaning of peace for women cannot be separated from the broader question of relationships between women and men in all spheres of life and in the family", it was argued.

At a recent consultative meeting on Gender Violence organised by the International Federation of Women Lawyers (FIDA) Kenya Chapter, a number of definitions of violence came up. What is violence in general? It is a violation of human rights, by using unlawful force. What is gender violence? Gender violence is defined as any form of violence, direct or indirect, physical, structural or psychological perpetrated against a person on account of their gender. More specifically against women, it is the male

dominance of unequal power relations which are perpetuated in a patriarchal system through the roles men and women play. It is further manifested in the socialization process and perpetuated through institutions such as the legal institutions, religion, the media, the family structure, political machinery and some development services. This violence takes the form of rape, domestic violence, institutionalized violence (e.g. in refugee camps), poverty which in turn gives rise to street children and beggars, involuntary pregnancies perpetuated by the man or his family desiring the magic male child, sexual harassment, property rights, marital rape, genital mutilation, practices related to widowhood (e.g. widow inheritance), prostitution and woman to woman violence (e.g. employer against maid).

Violence against women in Kenya takes different forms: direct/actual violence, structural violence and psychological violence. Direct violence for the purposes of this paper will include the physical assault on women by a dominant male. This also includes rape both in marriage and on the street, violation of minors by older men and domestic violence including incest, as well as other forms of direct violence. Under structural violence, there are forms of violence that the existing social and political structures impose on women because of their gender. Such practices as genital mutilation in some Kenyan communities, wife inheritance, economic exploitation, child brides and sexual harassment in the work place will be considered as violence against women that the existing structures either condone or say nothing about. These practices are demeaning and humiliating to women in society.

In Kenya, most communities like elsewhere in Africa, consider a woman as the property of her husband when married. An unmarried woman is public property which can be used for the amusement of any man. This unequal status in society already puts the women in a weak bargaining position before she walks down the matrimonial aisle. Coupled with this is the weak economic base from which most women begin. Women in most Kenyan communities do not have a share in their ancestral inheritance. The woman is expected to get married and be taken care of with her husband's wealth. This means that a woman is dependent on the husband not only for her survival, but also for that of her children. Her relationship with her husband is never of equal partnership, but that of master and servant. As education continues to permeate the society and attitudes and economic realities change to embrace western lifestyles and the Christian view of marriage, the inbuilt biases have not kept pace with the changes. The result has been that women still cannot enjoy their full rights in a marriage. Starting from a point of weakness socially, the woman is disadvantaged further through a biased legal system which discriminates against her. Economically, for example, a married woman cannot negotiate a loan without her husband's knowledge and due permission to secure the loan. Given the socialization process which she goes through while growing up, the woman resigns

herself to the subordinate position to safeguard the matrimonial union. Men, having been socialized to discipline women and keep them in their place carry this into marriage, often with tragic results. This kind of position sets the stage for all manner of abuse both at home and outside the home. Moreover, major decisions affecting the running of the home, the lives of the children and that of the wife are usually taken on their behalf by the husband, without consultation.

The sanctity of privacy within the family is used by the authorities as an excuse not to intervene, and often leads women to deny they are being abused, despite obvious physical signs of brutality which they sometimes attribute to invented self-inflicted accidents. What are euphemistically called domestic disputes, often involving broken ribs and permanently disfiguring facial injuries are dismissed as family matters. Outside the home, in the work place, on the street and in many social places, the woman is seen labelled according to rank, creed, colour and, worse still, age. Single women above a certain age and widows are particularly vulnerable as instruments for the sexual release of men. Often, the men believe that a little monetary inducement will do the trick. Where this inducement does not work, the men apply their physical strength. Bosses in the work place are known to threaten dismissal from employment, mad men on the street scare women into submission, husbands at home threaten divorce or more severe consequences. Caught up in this web, the woman becomes extremely vulnerable and insecure. A woman is not safe anywhere. Not even in a bank!. Recently, it was reported that a woman standing in a bank queue to cash a cheque was rescued by fellow customers when the man behind her tore off her skirt and with his trousers down was ready to rape her.

### **KENYAN WOMEN - VICTIMS OF VIOLENCE**

A brief recap of some of the news-making cases of violence in Kenya in the recent past will underline the gravity of the problem of gender violence on women.

### **PHYSICAL OR DIRECT VIOLENCE**

In October 1990, 28-year old Mary Muthoni had her eyes gouged out by an irate lover who is now serving a seven-year jail sentence. The reason for the heinous act? She had ditched him and was seeing another man. On 13 July, 1991, 19 girls of St. Kizito High School were left dead in a mass rape and murder orgy perpetrated by fellow male students of the same school. In December 1992, the High Court in Nairobi found Wachira Munene guilty of the murder of his wife. He had doused her with petrol and set her ablaze for allegedly having an affair with another man. On 7 February, 1993 in different parts of the country, three women were reported to have been murdered by their husbands. One was shot with an arrow, the other was hit on the head with a walking stick and the

third was beaten severely, until she dropped unconscious. She died on the way to a local clinic.

A school headmistress was threatened with rape if she did not surrender all the money she had in the house. The same month, in a maternity hospital, an enraged husband beat up his wife who had allegedly given birth to another man's child. A gang of men raided and raped the girls of Hawinga Boarding School in the small hours of the morning. On investigation, it was found one of the gang members was the school cook. Police raped two young school girls (under 18) at the Show Ground. The girls were unable to find their way out of the show ground and went to ask the police for assistance. In another incident, two administration police raped a teenage girl in turn in Uhuru Park for the whole night after chasing away her brother. The girl was released at dawn. It was reported that in Eldoret, a 28-year old man raped an 80-year old woman for eight hours.

As the writing of this paper progresses, a newspaper headline reads: "An elderly woman tortured by police". The woman was accused of stealing Kshs.15,000. When handed over to the police for investigation, four policemen ordered the woman to lie down with her legs wide open. In an attempt to find the money, one of the policemen stuck his hand into the accused's vagina. Failing to find the money, as they all watched, he rammed in a soda bottle.

Rape and other forms of sexual violation of minors is reported daily in the Kenyan press. Cases of incest appear in the press with crude and flowery reporting like, "Amorous grand-dad appears in a traditional elders' court charged with raping and impregnating his mentally-handicapped grand-daughter. The grand-daughter gave birth to a baby whom the elders observed bore his features". As is evident in this last case, modern Kenyan law does not see this as a grievous enough offence to be tried under the law. It could only be dealt with by elders who fined their fellow man a fee of KShs.3000 (current equivalent of \$42). The grand-father continues to live with the girl in the same house.

### **STRUCTURAL VIOLENCE**

Some cultural rituals which abuse the body and humiliate women are still practised on a large scale. Genital mutilation is still practised in four districts in Kenya. In spite of the negative side effects and the negative international publicity the issue has received, it still goes on unabated. 98% of the women in Kisii District, 96% in Narok, 91% in Samburu and 73.5% in Meru are known to have gone through the ritual. In this male-

dominated society, genital mutilation has been exposed as one way of suppressing women - controlling female sexual desire. A battle as to whether to continue the practice of wife inheritance among the Luo and the Luhya in western Kenya has been raging in the press with academic arguments for and against. Looked at in the light of the traditional background, the practice could pass for a protective measure rather than violence against women. However, given the abuse that the practice is reported to have undergone, it must be classified as a form of structural violence which the community sanctions without seeking the opinion of women.

Economic exploitation that eventually leads a woman into prostitution is another form of structural violence which is condemned as greed and lust for money on the part of the woman. In actual fact, this form of violence is perpetrated by men to make women look like they are totally dependent on the men's money. Other forms of structural violence are cases where women are sexually harassed by male bosses in the work place. Often, the woman is given the choice of forcefully consenting to a sexual relationship or losing her job. Rarely are such cases reported. If they ever go to court, the legal structure is such that it does not offer protection for women. In the home situations, many cases where the man of the home asserts himself by sleeping with the maid also go unreported for fear of harming the husband's career and "good name". Politically in Kenya, women have played a major role in the system, yet for a long time they have been placed in small boxes packaged as "women's wings" and have been excluded from mainstream politics. This way they are kept out of Parliament so that women's issues can be conveniently ignored. The view of the Kenyan government is to group women and children together because they are considered as one and the same thing. Women who stand for different points of view are normally subjected to public ridicule and insults by the public at large. This is amplified by male politicians, especially in Parliament, and by the press. Professor Wangari Maathai of the Green Belt Movement is one such woman who opposed the Kenyan authorities in the early 1990s. She was abused and humiliated by law enforcement agents and the men of this society. She was forced out of her office premises and barricaded in her house without food. Her crime was that she questioned male authority on a matter touching possible piracy of community property. When called a "wayward" woman by a high ranking government male, she asked to know which part of the human anatomy is used for thinking - below or above the shoulders. She never received an answer.

Kenyan women competing for elective posts during the last national general elections have horror stories to tell. They were subjected to a war characterized by harsh, libelous and slanderous language from their male opponents and their agents, and often with the full support of law enforcement agents. Their main objective was to break the female ego and crush the women psychologically so that they would give up the race to Parliament.

## KENYAN WOMEN CHALLENGING VIOLENCE

In recent years individual Kenyan women and some women's organizations have come forward to deal with the situation of violence against women in Kenya.

### Kenya National Anti-Rape Organization

The Kenya National Anti-Rape Organization was founded in 1990 as a one-women-crusade against rape and sexual violence against women. The founder, Fatuma Abeyd Anyanzwa, has been recognized as one voice in the wilderness of Kenya's passive majority, calling for equality before the law especially in cases of rape and sexual violence. In her crusade, Fatuma herself has also undergone sexual harassment in the hands of law enforcement agents and male chauvinists. Police officers were reported to have threatened to rape Fatuma in police cells and on her way to court to plead for a rape victim. The objectives of National Anti-Rape include the general fight against rape and other forms of real sexual harassment; counselling and accessing medical care for rape victims; liaising and intervening with the law on behalf of rape victims, providing shelter where necessary for rape victims; and above all, campaigning for the rights of women concerning sexuality, rape and related matters, including infection with the AIDS virus.

### The International Federation of Women Lawyers (FIDA) Kenya Chapter

The International Federation of Women Lawyers was founded with the objective of providing legal aid to women victims of rape and domestic violence. Funded by some of the big donors like USAID, DANIDA and the Ford Foundation, FIDA is beginning to make a mark as an advocate for women's rights. FIDA has initiated a dialogue with the Attorney General, the Judiciary and the police on the subject of violence against women and the law. The Federation is also campaigning for women in refugee camps in northern Kenya where there have been many reports of rape and other forms of violence against women. FIDA, as an advocate for women's rights, specifically collects data and monitors the legal process with regard to violence against women, provides a representation in court and creates awareness on gender violence against women through workshops. To this effect, FIDA has a representation on all legal reform committees including the Taskforce on Discrimination Against Women, the Law Reform Commission and others. FIDA insists that all cases of violence be prosecuted in court instead of settling outside court as most of the offenders would prefer. On direct violence, FIDA provides legal counselling to victims of violence, especially the poor who are not able to pay the exorbitant fees that law firms charge. FIDA has also embarked on sensitization workshops to educate society, women, the police, women lawyers, church leaders and

journalists about gender violence. They plan to address myths surrounding violence against women.

### **Mothers In Action**

The focus of Mothers In Action was violence against women, specifically against girls. They were concerned about the different types of harassment that girls go through in schools and the psychological suffering they are subjected to. Girls in high school and at university are seen as sex symbols by their male counterparts. Even in their profession, women are seen as sex symbols. A woman teacher wearing perfume in a boy's school will be subjected to giggles, and teasing. Before the Repeal of Section 2A of the Constitution of Kenya, Mothers In Action started a debate on gender violence. They took a hard line and wrote an open letter to the President concerning poverty caused largely by corruption and the erosion of Kenyan wealth through gross mismanagement in high places. They were also concerned about the role of women in politics, specifically, the worth of the women's vote. In an open letter to the President, they addressed socio-economic issues which amount to the degradation of the woman's role in the society. Shortly after, the Repeal of Section 2A was realised. MIA has continued to oppose violence against women. When male politicians in one of the provinces threatened to rape all the women for taking a view contradictory to theirs, Mothers in Action challenged their statements in an open letter. They have initiated a debate whose fires they keep alive by commenting on issues of violence affecting women in all spheres.

### **Maendeleo Ya Wanawake**

The oldest of women's movements, Maendeleo Ya Wanawake, started in 1952 as a mobilization and empowerment grassroots movement which brought women together to address socio-economic situations affecting women. The movement, which reached women all over the country, grew strong and became an attractive instrument to the politicians. The organisation was forced to merge with Kanu (the ruling party). This compromised their objectives and was at best used as a political instrument for male political achievement.

### **Political Advocates**

There are those women's organizations who, with the re-introduction of multi-party politics, came forward specifically to address political violence meted out to women candidates and voters. This type of violence would be unleashed on women in different forms, the major ones being: physical harassment and maligning during the campaign, vote rigging, buying out the voter with a kilogramme of sugar and cheating the non-

literate voters, many of whom are women. The women's organizations addressed this issue mostly through civic education to prepare women voters. They included, among others, the League of Women Voters, the National Election Monitoring Unit (NEMU) and the National Council of Women of Kenya.

## **POVERTY AND ORGANISATIONS OF EMPOWERMENT**

As explained under structural violence, poverty is a major tool used to violate women's rights, leading to other consequences such as ignorance, dependency, prostitution and destitution, and rape with its accompanying consequences. There are also women's organizations which deal with the issue of poverty and empowerment of women on both an economic and social level. Among these organizations is Gender Sensitive Initiatives (GSI).

### **Gender Sensitive Initiatives (GSI)**

Gender Sensitive Initiatives is a Kenyan registered NGO concerned with poverty as a factor which dehumanizes people below a level of recognition of their own human dignity. In any society, women are much poorer than men. As a result women are subjected to the accompanying consequences of poverty, namely insecurity, prostitution, illiteracy, lack of employable skills, lack of a voice and forum, amongst others. GSI advocates the empowerment of women to access a voice and a platform from which they can air their concerns. A representation at all levels of the social strata is imperative. To achieve this, GSI has embarked on sensitisation programmes using a tool known as participatory evaluation process (PEP). PEP is an a dynamic tool which empowers people to take possession of their development by participating in the decision-making, planning and implementation of development activities. Ownership of the process comes when the community, having identified key-development issues, elects committees to spearhead the development process. Women are empowered by this process. Committees often comprise 50% women.

### **Brave Individuals**

In a country where terrorism against dissenting voices has been a lifestyle, many Kenyan women have bravely braced themselves against the authorities to speak their mind advocating the rights of women regarding the different forms of violence against women. These women include Dr. Wangari Maathai, Dr. Maria Nzomo, Martha Koome, and women politicians e.g. Martha Karua, Agnes Ndeti, Tabitha Seii, Wambui Otieno, among others.

## TOWARDS CHANGE

In the supreme law of nature and humanity and, indeed, of an ideal government, the precepts of good governance pre-suppose that sovereignty resides with the people, who are the real social actors of positive change, and that freedom and democracy are universal human aspirations. The sovereignty of the people is the foundation of democracy. The legitimate role of the government therefore is to enable the people to set and pursue their own agenda. To exercise their own sovereignty and assume responsibility for the development of themselves and their communities and, indeed, to confront any problems, the people must control their own resources, have access to relevant information and have the means to hold the officials of government accountable. Freedom of association and expression, and open access to information are fundamental to the responsible exercise of this sovereignty. Government must protect these rights. People from all countries must work together in solidarity to ensure that government accepts and acts on this responsibility. Those who would assist the people in their development must recognize that it is they who are participating in support of the people's agenda, not the reverse. The value of the outsider's contribution will be measured in terms of the enhanced capacity of the people to determine their own future.

A recent pronouncement by President Daniel arap Moi of Kenya that the government is considering a review of the laws of inheritance is welcome news. However, it raises a number of questions. The first and most important in view of the situation of women is, "Can the law secure women's rights?" In her book, "The Politics of Women's Rights", Dr. April Carter poses two issues. The first, she says, is whether it is desirable to go beyond forbidding discrimination against women to incorporate the principle of positive discrimination in favour of women in order to combat deep-seated inequalities. The second issue is whether it is compatible with claims for total equality with men for women also to ask for certain kinds of special protection under the law.

### Towards a Change in Attitude

Violence is a symptom of deeper social attitude problems. There is a need, therefore, in the Kenyan context to go for a more integrated approach to solving these problems. Attitude and tradition take long to change and their effect may not be felt in a single generation. But a start can always be made. That is why the President's proposition and the eventual constitution of a Legal Taskforce to look into issues of discrimination against women is welcome news. It is a first step in a long journey because individual attempts to use the law without adequate and organized backing and in an unfavorable political and economic context can at best only result in limited success.

A favourable political will and a conducive economic environment are imperative for a maximum degree of success.

The law can be a valuable instrument of change if well framed and enforced. It will strengthen the position of women if it is backed by political pressure and complemented by positive action and general economic and social policies. It is hoped that the newly formed taskforce will have the political backing it so desperately needs to have any effect on the problem of violence and general discrimination against women. A government pre-disposed to support women's rights, or any cause at all, could do a great deal by strengthening the means of enforcing the law in order to set an example. As things stand in Kenya, law enforcement agents stand accused, and indeed are guilty, of heinous offences of violence against women in particular and society in general. The government must first address the issue of a total overhaul of law enforcement agencies, starting with the police, and a complete restructuring of the judiciary before embarking on any reform process. Laws are beneficial because passing a law gives moral authority and the added weight of official government policy to the principle that violence is wrong. It also promises a long-term social acceptance of the right to peaceful existence between the sexes. Legislation is also likely to influence the attitude of the women themselves by making it clear that peaceful existence in a violence-free society is a right, not a privilege or an exception.

### Towards Legal Protection

As an added advantage, legislation provides a means of enforcing a change in social and economic practices. The Kenyan laws against violence should on the whole seek to persuade rather than impose sanctions. This way the people, both as potential victims or perpetrators of violence, can identify with the law and its implications. The effectiveness of law depends in part on legal considerations relating to the wording of the acts and implementation of the rule of law. As far as the wording of the acts, it is hoped that the six women members of Parliament (five in the Opposition) will, using this platform, campaign against, table and support bills on violence against women. It is also hoped that the procedures for hearing complaints will be restructured to prevent victims of rape, sexual and domestic violence from being subjected to further humiliation in police stations and the courts.

## COORDINATION

The challenge of the 1990s for the Kenyan government, advocates of women's rights, men and women is to pull forces together toward the elimination of all forms of violence against women. Integrated programmes with all those concerned must be implemented.

These will include sensitisation of society in general, special awareness programmes for law enforcement agents and the judiciary, and intervention centres, with medical personnel and counsellors. Long-term measures should also be instituted. These will include mainstream equality between men and women and between economic, political and social inequality. In conclusion, the fight against gender violence is a democratic struggle, a fight against inequalities and for broadened opportunities, a civil rights movement. The society must embrace democracy to ensure sustainability. Networking among those concerned is therefore an absolute necessity.

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## STRIVING FOR CHANGE - WOMEN INITIATIVES AGAINST VIOLENCE IN UGANDA

By Robina Gureme Rwakoojo

In Uganda today it is becoming increasingly evident that Ugandan women suffer from violence, particularly physical and psychological abuse. In spite of this, violence is taken for granted, condoned and, in most cases, nothing is done about it. Ugandan society is strongly male-dominated. Traditionally, females were viewed as sex-objects and labourers in the home. Girls were denied education and instead "fattened" for marriage. A large number of rural women are therefore illiterate. Women were regarded as inferior to men and were controlled by them, especially through physical force whenever men felt it necessary. A woman's subordination was clearly marked in marriage. Traditionally, a woman was never consulted over the choice of a husband and divorce was almost impossible for her to initiate because her relatives would have to return the "bride-price". She had to obey her husband in everything by virtue of the "bride-price" that had been paid to her family by her husband's relatives. The payment of "bride-price" entitled men to the woman's labour, her sexual services, and her full obedience, failure in any of which would be disciplined by beating. Men who desired and could afford it practiced polygamy, which is sanctioned by Uganda's customary marriage laws. The numerous wives found themselves under the strong arm of their "husband".

If a woman was divorced by her husband, normally by cruel eviction and departure empty handed, she would return to live with her relatives and her husband had no further obligation to her. Society regarded her as a "failure" and shunned her. Her children, irrespective of age, would stay with her husband. If the husband died, the wife inherited nothing since customarily it was strongly believed that women had no right to own property. Instead she herself would be inherited by other male relatives, being "property" obtained in exchange for "bride-price". Historically, therefore marital violence was a feature of family life and even today, for many women, the primary controlling force in our lives is the ordinary everyday man who shares our home and works alongside us in paid and unpaid employment, education, and with whom we spend our leisure. Today the majority of women are overburdened as they are the major bread winners. Sometimes this has put their relationships into jeopardy, resulting in violence from insecure partners. They face demands from husbands, children, in-laws, society and at work. Many women are unhealthy because of the numerous child births they endure through harsh economic and social conditions. Women are thus disadvantaged and, therefore, form easier targets for the perpetration of violence. At the ideological level men use several beliefs about the sanctity of the family and the inherent nature of women to justify the subordination of women to men. Culturally sanctioned views of women and their role are embodied in



the legal, economic and financial discrimination against women expressed through social institutions and processes such as education, science, health, welfare, police and the military.<sup>1</sup>

Violence may be used by individual men to control or punish individual women who challenge, or are seen to be challenging, their authority. Even if men do not express their power in this way the fact that they can if they so choose inevitably undermines apparently harmonious interactions between those who are not equal. In this way the power of men as individuals and as a sex class can be asserted. These interests are defined as domestic, emotional and sexual servicing in which reciprocity, to the extent that it exists, is a gift that can be withdrawn at will.<sup>2</sup>

Traditionally, in Ugandan society, girls were to remain chaste until marriage, after which they assumed the role of housewives. Sexual assault and sexual harassment were therefore unknown, but arose with changing social and economic conditions, urbanisation, education and employment. Cases of rape, defilement, indecent assault and sexual harassment are on the increase. Several such cases have been exposed by the press. In addition, the Fida Uganda Legal Aid Clinic has received numerous and increasing reports which, was one reason which prompted us to do research in this field. "Violence against women in Uganda", by Wakabi, Mwesigye and Gureme was published in July 1991. In the main body of this paper I shall rely mainly on the findings of our research. Our research aimed at finding out the causes and magnitude of domestic violence, sexual assault and sexual harassment; the way these cases had been handled; the social and legal protection that had been made available to the victims and the adequacy of these forms of protection. The research covered Kampala District in central Uganda which has five political divisions and which then had a total population of 773 - 463 people, 51% of whom were female. The study started with secondary sources, namely Fida Uganda Legal Aid Clinic reports from 1988-1990, police records from four major police stations, four formal court (magistrates) and Resistance Committee court records.<sup>3</sup>

In addition, a semi-structured questionnaire with an informal and conversational approach to interviews was used, thus enriching primary data. Questions were addressed to women respondents. We took the following respondents; 80 housewives, 40 housemaids, 90 from work places, 80 from educational institutions and 84 from the clinic. I shall consider domestic violence in detail, briefly discuss sexual assault and sexual harassment since our findings were based on the same line, then give a general picture of our findings.

## TYPES OF VIOLENCE

Words used to describe women's experiences of violence from men include men's violence, sexual violence, rape, incest, sexual abuse of women and children, woman-battering, woman-slaughter, woman-kicking, women-mishandling, the male-peril, sexual terrorism, outrage, unspeakable horror and sexual harassment.<sup>4</sup>

## DOMESTIC VIOLENCE

In our paper (here after referred to as WMGR), domestic violence is defined as violence perpetrated by a man upon a woman in the home. It encompasses physical assault, sexual assault, severe psychological abuse, destruction and misuse of the victim's property, denial of access to the victim's children and any other behavior which indicates a threat to the victim. However, the definition does not extend to petty quarrels or stern silence where an answer is expected, which is part of the general wear and tear of a relationship. In addition, it did not confine domestic violence to legally married couples, but extended it to couples that were cohabiting and or to lovers that were living apart. It also covered women who were subject to domestic violence from other relatives such as in-laws, where the relationship was non-conjugal.

WMGR findings showed that of the 80 women who were given the questionnaires 50 suffered violence, 20 did not and 7 refused to fill them in. Three of the seven gave no reasons, two were unwilling to disclose family matters for fear of publicity (despite not having to write their names) and the other two on grounds that these days "women are no longer beaten by their husbands". The majority of those violated were between their late twenties and thirties. Further findings reflected a variety of professions and occupations of respondents, implying that domestic violence is not unique to a particular group of women. The study also showed that domestic violence is mostly perpetrated by husbands, boyfriends/cohabitators and in-laws. Of the 50 sufferers, 42 suffered beatings, 3 rapes, 1 destruction/misuse of property, 2 verbal threats, 1 an attack using a gun and 1 sexual assault. Of the 42 beatings only 16 were plain beatings. The rest were coupled with other types of violence. 6 were coupled with chasing out of the house, 3 with denial of access to children, 3 with locking out of the house at night, 8 with verbal threats, 3 with rape, 1 with sexual assault and 1 with indecent assault. One verbal threat was made after chasing the woman out of the room, denying her access to her property and the man bringing a jerrycan of petrol and threatening to set her ablaze. Three beatings were coupled with destruction of property, one of which involved the tearing of clothes and throwing away of shoes by a boyfriend while in a night club, followed by a continuation of the beating at home.

No clear cut explanation can be generalised as the major cause for the women sufferers of violence. However, drunkenness and suspicion of an affair (wife/girlfriend, another woman) were predominant causes for the violence suffered. The experiences show that in Kampala District those who are exposed to public life are more susceptible to violence than those confined to a home environment. Also we got the impression that our society is highly promiscuous, so that most people suspect each other and men can only express their annoyance of this suspicion by beating. The majority of women violated reported the incident to a friend, elders, the Resistance Council or the Police. The high rate of Resistance Council intervention shows their important role in arbitrating family matters and also that victims were looking for an immediate, reachable, practical, social solution as an alternative to the mistreatment they receive at police stations, where this type of violence is considered as a domestic affair. However, the involvement of elders, which is the traditional way of settling family disputes, confirmed our hypothesis that family matters are considered as domestic matters to be settled domestically. Apparently all the interventions managed to bear fruit as the respondents got some relief. However, since most cases were out of court settlements and the police was hardly ever informed, cases of violence were repeated since measures taken were inadequate, offering only temporary relief.

## SEXUAL ASSAULT

Sexual assault encompassed defilement, indecent assault, unlawful detention for immoral purposes, and rape. Such sexual assaults were confined to places outside the home. Defilement is unlawfully having sexual intercourse with a girl below 18 years of age,<sup>6</sup> regardless of her consent, since the law presumes her to be incapable of consenting to a sexual act. Indecent assault<sup>7</sup> is any act or behavior calculated to morally embarrass and/or demoralise a person of the opposite sex. It includes the touching of the private parts, use of obscene words and phrases and any violent sexual attack. Unlawful Detention for Immoral Purposes<sup>8</sup> is a situation where a female person is detained with the purpose of inducing her into a sexual act without her consent. Rape<sup>9</sup> is having unlawful sexual intercourse with a woman or girl without her consent. Few cases of sexual assault were encountered due to the unwillingness of respondents to disclose their experience. For this reason, therefore, we resorted to cases received by the Fida Legal Aid Clinic. FIDA had succeeded in having the defilers arrested and, although they were initially released, they were later re-arrested and two cases pursued resulted in 5 years' imprisonment for each defiler.

## SEXUAL HARASSMENT

The research findings on sexual harassment were gathered from places of work, namely a public Ministry, a parastatal and a private enterprise. House girls and school children

were also interviewed. Sexual harassment may range from trivial and supposedly inoffensive behavior which borders on normal, social intercourse to extremely serious and offensive behaviour including rape. It normally happens within the work place or an educational institution, and by a man in a position of seniority.

Types of harassment included attempted rape, denying promotion, giving a bad written report, constant sexual demands (this was the majority), false reports to higher authorities, indecent touching of the body and locking/detaining women in the office against their will. Most of the house girls were sexually harassed by their bosses and his male relatives in the home, especially when he was a bachelor. Wives of employers and in-laws also violated house girls by beating and mistreating them. The house girls' conditions of work are determined by employers and these servants are mainly primary school leavers. It was evident that they go through sexual harassment, and in some cases, are raped or defiled, to give employers sexual gratification. In institutions of learning 52 out of the 80 respondents suffered sexual harassment, many at the hands of teachers, neighbours and other people known to them, especially so in cases of defilement.

Sexual harassment is a part of the process of learning about masculinity during which girls are objectified and become the focus of fixation and conquest. Research and teacher experience also shows how male teachers react aggressively and with hostility when these issues are raised as a matter of concern. Complaints by female pupils, instead of leading to disciplinary action, often lead to the complainant being regarded as promiscuous and the cause of harassment rather than the victim. Thus the effects of such harassment are trivialist or denied and the boys' behavior effectively condoned as "boys will be boys".

Further findings indicated that a woman is most vulnerable to violence between the age of 15 and 30 and that violence knew no occupational boundaries. Also, husbands were the worst inflictors of violence (77 out of 243 reports), followed by boyfriends and cohabitators. Of the 243 violations, 121 (49.7%) were beatings, followed by sexual harassment, sexual assault, defilement, indecent assault, verbal threats and attempted rape, implying that physical and sexual violence are most rampant.

Most causes throughout the research centered on men wanting sexual gratification, women complaining about their husbands extramarital relations and men being suspicious about their spouses being involved with other men. 21% of the victims were injured and took between one day and five months to heal. The majority resulted from beatings not intended to maim or disfigure but to "discipline". 50% of the housewives reported their violations, while 61.5% of the students and only 37% of the house girl did so, the latter mainly for fear of losing their jobs. This shows the undue influence male bosses

exercise over these unfortunate girls. After the report, matters were investigated and sometimes inflictors punished but in 50% of the reported cases victims merely received consolation and a listening ear, but no police or court intervention. Many times, therefore, this resulted in temporary relief followed by a fresh occurrence of violence.

## FIDA

The research findings showed that women do not accept violence as part of life, but are bitter about it and resist and fight it, unfortunately, in a social context of unequal power. The reluctance of the police and criminal justice system to restrain men who commit violence against women or define its perpetrators as criminals is an illustration of this.

## Strategies

FIDA Uganda's aim of taking the law to the people in Uganda through upcountry legal education programmes in local languages has raised awareness about violence against women. Television and radio programmes targeting urban and rural population and, in addition, seminars and lectures by Fida have also assisted.

## Since its Inception FIDA

- opened a legal and clinic in March 1988 where indigent Ugandan women and children are offered free legal services and where reports of violence are pursued to obtain legal redress for the victim
- conducted research on various areas of the law, such as present article.
- has simplified and translated laws into local languages for use during legal education.
- it has co/operated with the Ministry of Justice, Ministry of Women in Development, Law Society and Non-Governmental Organisations dealing with the law to ensure that women are not abused.
- has conducted seminars to sensitise the press to gender sensitive reporting, and the law enforcement officers (e.g. the police) and the judiciary to gender issues and to violence against women.
- is conducting a pilot will writing project in order to discourage and prevent violence by in-laws in which violations perpetrated by in laws are discouraged and stopped. It is also showing countrywide the film "Neria" about inheritance and injustice.

- has met the Ugandan Chief Justice and requested that defilement cases be heard in camera and not in open court. This was granted but is sometimes overlooked.
- is lobbying for law reform so that violence against women be treated as a crime.

## Obstacles

FIDA Uganda and other related NGOs have met several obstacles in trying to assist victims of violence in the following areas:

### The Police

Very few cases are reported to the Police because many victims have no confidence in them. Most reports of abuse are treated as petty issues or domestic affairs and the responsibility of social workers. Even when the men are arrested many are later released, often due to insufficient evidence, because of laxity in conducting investigations. The police, therefore, only help to uphold male supremacy. Some policemen believe that women are inherently inferior to men and their physical vulnerability justifies male violence and that, therefore, they are responsible for violence because they "nag" and are psychiatrically disturbed<sup>5</sup>.

The police, and later the courts, by their attitude, define which attacks are to be classified as criminal and which not and this demonstrates that the police do not offer unconditional protection to all women against male violence. Instead, they offer conditional help depending on police notions of "deservedness" and the circumstances of the attack meeting their definition of "crime". These notions are inevitably formed by the misogynistic, racist, class and heterosexual bias of dominant social ideologies. Due to police refusal to intervene to assist women, they are effectively legitimizing the use of violence by men as a form of social control.

### The Legal System

There is no specific law outlawing violence against women in Uganda, therefore, we fall back to provisions of the penal code like rape (S.117 and 118), defilement (S.123), indecent assault (S.122) assault (S.217) assault causing grievous bodily harm (S.228), murder (S.183), and manslaughter (S.182). Rape, defilement, and murder are punishable by death. The others are punishable by imprisonment.

### The Courts

The burden of proof demanded in these cases is very high and also questions asked are normally very embarrassing to victims, who are sometimes tried in open court.

### Customary Law

Archaic customary practices such as widow inheritance and the payment of bride price account for a lot of violence.

### The Press

Victims fear publicity and are stigmatized by society. In addition, press reports many times unfairly expose ordeals that leave victims with severe psychological stress.

### Expectations of Personal Gain

In cases of defilement, parents sometimes prefer to settle cases out of court, expecting material benefit, and make a report only where this has failed. RCs sometimes handle such cases, yet they have no jurisdiction to do so, and punish culprits by caning them or fining them. Sometimes victims become involved with the defiler and expect an affair or marriage in return.

### The Victims

Some victims accept violence as a way of life since their mothers were battered. Other reasons for accepting violence are: low self esteem - the victim considers herself a failure and the batterer encourages this feeling; isolation - the batterer has made her lose all her friends; fear of reprisal by the batterer and his relatives, promise of change by batterer; prior lack of serious intervention by family or courts; wanting to keep family together and financial constraints leading to total dependency on the man. Victims also face the pain of having to testify against their loved ones and would prefer a temporary measure and not the imprisonment of the sole bread winner and father of their children<sup>6</sup>.

### RECOMMENDATIONS

Violence against women should be treated as a crime through the enactment of abuse protection laws after discussions amongst researchers, politicians, feminists and policy makers. Reform in the policing of violence against women should be carried out through the sensitization of police and judicial officers. Legal education should be intensified to increase awareness. Women's support networks like women's shelters and crisis centers should be established. Women should be empowered by learning self defence skills and engaging in collective resistance through confrontation strategies. Family courts should be established to specifically handle cases of violence.

### NOTES

1. Hammer, J., Radford, J., and Stanko E. A.(1989): 'Women, Policing and Male Violence. International Perspectives.
2. Ibid, Page 4
3. Resistance Council Courts are informal courts although established by Statute from grassroots level
4. Hammer, J., Radford J., Stanko, E.A. op. cit.
5. Hammer, J. et al. cit. p.79-80
6. See The Training and Resource Manual of the Havard Law School Battered Women's Advocacy Project.

## PAIN SHALL NOT BE OUR WAY OF LIFE - WOMEN CHALLENGING VIOLENCE IN NAMIBIA

By Elizabeth Khaxas

Four years after independence, violence against women and children has become an issue of national concern. Speaking at the International Women's Day celebration in Windhoek in March 1993, the Minister of Justice said that a society that violates and abuses the rights of its weakest members could not be called civilised. The President, in his State of the Nation address before Parliament in March 1994, called for a law to force a man responsible for a teenage pregnancy to marry the girl he has impregnated. What is happening in our society to prompt such strong words from our political leaders? Is violence against women and children a new phenomenon, a growing trend - or is it simply our awareness that is changing? What are our people, in particular our women, doing about it? I will attempt an answer to these questions in the following, beginning with a brief look at the praxis of violence in our history.

### A Long History of Violence

There is little research on the extent and role of violence in Namibian communities, and more specifically in family and gender relations, in pre-colonial times, and to fill that gap is beyond the scope of this paper. I will, therefore, concentrate here on the history of violence beginning with colonizations. In the process of colonizations and Christianisation, violence was one of the main tools used by the German colonisers. A war of genocide was perpetrated against the Herero and the Nama, in which the lives of women and children were not spared. Our history books do not tell us how many of our great grandmothers were raped or forced to become concubines by German soldiers and settlers, but the lighter skin colour many of us have inherited is ample evidence. When Germany lost her colonies our country was mandated to be ruled by white South Africa. The system of ethnically segregated homelands and apartheid in all spheres of life was perfected and maintained through violence. Women and men who resisted the forced removals from the Old Location in Windhoek were shot. We Africans were stripped of our human dignity, our very humanity. The system of migrant labour broke up our families, forcing the men into the mines and factories of the white economy, housed in squalid "single" quarters where alcohol, gambling and prostitution were easy consolation, while women and children were left to survive on subsistence farming in the reserves. As a result of labour migration, many men abandoned their families, or established a second family in their place of work. Fathers became strangers who did not know their own children. Men failed in their traditional responsibility of keeping the homestead and land in good order, and the poor wages did not allow them to bring home much cash either.

Women were kept totally out of the cash economy, becoming dependent on men and therefore more vulnerable to maltreatment. The men often passed the humiliation and maltreatment they suffered under their white employers on to their families. With colonizations, Christianisation, the enforcement of migrant labour and apartheid things started to fall apart in the socio-economic sphere of our people. Black men no longer were kings of their homesteads; instead they became the slaves of the white men. Extended families became scattered, and family ties broke down. Survival became a way of life, and violence a means to maintain control, at least in the domestic sphere. With the struggle for liberation another chapter of violence opened in Namibia: murder, torture and rape were common experiences of our people at the hands of the South African soldiers and their indigenous battalions. Violence was also used by soldiers of the liberation army against detainees suspected of spying against the liberation cause.

### Violence in Namibia Today

With independence and the policy of reconciliation, we had high hopes that the culture of violence would come to an end. Yet violent crimes seem to be on the increase: reports of murder, rape, assault and abuse of women and children have become our daily bread. One explanation put forward is that many Namibians are frustrated after having had high expectations that their socio-economic situation would improve after independence. Men may then vent this frustration on women and children as the most powerless in society. In times of transition towards a more democratic society, old frustrations and humiliations may also come to the fore.

The democratisation process necessarily also leads to changes in gender relations. Our new Constitution enshrines equal rights and opportunities for both genders, and recommends affirmative action to ensure that women and other groups who were discriminated against in the past can now actually take up the opportunities offered. At the launch of the International Year of the Family 1994, speakers hailed the family as the smallest democratic unit in society and men are now under increasing pressure to change their autocratic behaviour in the family.

AIDS is another factor which is changing relationships between men and women in our country. Men in many Namibian communities have become notorious for their promiscuity, and for fathering many children whom they do not support. Now AIDS is challenging the silence of women. Recent statistics show that young women are the most vulnerable group with regard to HIV infection. Women are beginning to demand greater control over their own sexuality. All these pressures may be leading to a backlash of violence. Yet for lack of proper research and statistics, we do not really know whether violence against women and children is on the increase, or whether our awareness is changing and more crimes are being reported. We do know that violence takes place in

all kinds of families, at all socio-economic levels, that it has done so in the past and that men continue to use violence as a means to control women.

### Battering

"I've been married for 15 years and during all this time my husband has been beating me. He beats me for nothing and for anything. This happens almost every weekend. He drinks and comes back late at night, wakes up the children and me, demands food or something else and then starts to hit me. The neighbours are used to the fighting; they don't come anymore to help. The police don't come either." "I am a teacher. I had two children with another man before I married my husband. My husband changed completely after the marriage. He doesn't want my children in our home anymore. He doesn't want me to support my elderly parents. He started to beat me shortly after our marriage. He doesn't drink, he even doesn't smoke, so I don't know why he is beating me."

"I was an assistant nurse but I was retrenched. I married and became a housewife. My husband has been beating me for almost 13 years now. Recently I got work as a domestic worker. Now he beats me for my money. I don't see a cent of his salary. I cannot go to visit my family, or my friends. I can't even go to church or he beats me. I am 46 but I look like I am 60. I heard recently that they want to take back the assistant nurses that were retrenched. But how can I go back like I am looking now? "He doesn't beat me with his fists, he beats me with his mouth. I am nothing in the eyes of my husband. He shouts and screams at me. He is always irritated with me. He will insult me in front of the children and our friends. I think that this is much worse than being beaten physically." Battering has long been an open secret in our communities. Wife beating has become so much part of the marriage deal that in the counselling that takes place before marriage, women are told by their elders to expect battering from their prospective husbands and warned to endure it in silence rather than to expose it or flee from the situation. However, it is only a few years ago that a group called Women's Solidarity finally broke that silence. As a result of their public education campaigns, battering has become a topic of discussion over the radio, in church groups and in schools. There are still no shelters for battered women to flee to. Families and the church are still too often counselling battered women to return to their violent situation and try to save their marriage, but since the taboo of silence has been broken, more and more women's groups are forming to deal with the issue in new ways.

### Sexual Harassment

Sexual harassment of women and girls is a common occurrence at our places of work, in the street and in the classroom. The atmosphere in work places and classrooms is often uncomfortable and threatening to a woman's or girl's awareness of herself as an

employee or a student. "I am a single mother, 27 years old and have been a domestic worker for the past five years. It has happened many times to me and my friends that we were sexually harassed at our work place. At one of the households where I worked, my employer's husband used to come home at odd hours while I was working alone at home. He would try to touch my breasts, telling me he wanted to sleep with a black woman. I didn't want to quit the job because I was paid well and also needed the money very much to take care of my three children. But in the end the man got me fired because I refused to have sex with him."

One third of all women in formal employment work as domestic servants. They are obviously particularly vulnerable to sexual harassment by their male employers. Sexual harassment is also rife in our schools, affecting both women teachers and school girls. There are many incidences of teenage pregnancy, and male teachers are often involved. Girls who refuse sexual advances from their teachers are easily ridiculed and humiliated in front of the class. More subtle forms of sexual harassment are to silence girls by disregarding their contribution in class and by devaluing their achievement. Teenage pregnancy is very common in Namibia. According to a recent survey, almost 80% of women in Katutura, the black township outside Windhoek, have their first baby before they are twenty. The President's recent call for a law forcing men to marry the teenagers they make pregnant can surely not be the answer. If it were enforceable, it would simply lead to a modern version of polygyny. The students' unions are instead calling for sex education in our schools, and even some of the churches have recently supported this call. Changing the male bias in the curricula, and promoting more women teachers into positions of authority, both to serve as role models for girls and to supervise the behaviour of men teachers, will also help to change the atmosphere in our schools.

The Labour Act of 1992 explicitly prohibits sexual harassment, but so far no cases of prosecution have become known, and the Trade Unions have shown no leadership in this issue up to now.

### Rape

Rape adds a further dimension to the violence committed against women in our country. It is still extremely difficult for women who have been raped to speak out, and to take their case to the courts. This is due to the myths surrounding the issue. It is still widely believed that a woman who gets raped must have asked for it, and is, therefore, the actual guilty party. Families prevent women from reporting incidences of rape to the police, feeling that the shame will fall on the family as well. And in so many cases it is our family members, the men we know and trust, who are committing this hideous crime against us: our fathers and stepfathers, our brothers, uncles and nephews. What support can a family

give, from where must the courage come to report rape to the police if women and girls feel too ashamed or afraid even to tell their own mother? In traditional society, a woman's sexuality was seen as belonging to her father or husband. In cases of adultery or rape, it was therefore the father or husband who was compensated through a traditional court for his loss, for example, by receiving payment of a cow. Under the rule of apartheid, the magistrate's courts were racially biased. The punishment for raping a black woman was mild. Men got away with warnings, fines or suspended sentences. If a white woman was raped, especially by a black man, the punishment was severe, and could even include the death sentence. Few black women reported rapes under these circumstances, and those that did faced ridicule by the police and the judges.

Since independence the reporting of rape cases has increased. Are more cases of rape occurring, or are more women trusting in the justice of the courts and the support of the communities? We do not know. But Women's Solidarity, the organisation that was established in 1989 specifically to counsel women who have been raped or battered, believes that the crime is still vastly underreported. According to the organisation's estimates, one woman is raped in Namibia every hour of the day, every day of the year. This is surely a high figure for a country with such a small population. Rape in marriage is not yet a crime according to Namibian law. It is also something we don't speak about, although we know it is a common occurrence in many marriages. "How can we speak of marital rape if we as wives are not supposed to have any sexuality at all? A good Namibian wife is expected to be a sexless object with no desires of her own. Therefore rape in marriage is an unknown concept in many of our communities." "My husband raped me when I was eight months pregnant. He really hurt me, as if he was trying to kill my baby. There was nothing I could do to stop him."

### Child Abuse

In the rural life of the past, all adults were responsible for the children of the village or the community, and the extended family protected the children from violence. However, labour migration has led to the breaking down of our families. Today, 50% per cent of rural households and 38% of urban households are headed by women alone, with the women almost solely responsible for the income and survival of their household. While women are spending gruelling hours in domestic labour, subsistence farming or other meagre paying work, there is often no one at home to take care of the children. Child care facilities are extremely limited and available to only very few of our children.

Some women send their children to farms to the care of their grandmothers, others ask an older daughter or a neighbour to look after their small children while at work. This puts children in a very vulnerable position in terms of abuse. Children are no longer safe in

our society. Last year half of the cases of rape reported to the Women and Child Abuse Centre in Katutura were committed against children under the age of 18. Children as young as two years old are being raped or sexually molested by their mothers' boyfriends, relatives, acquaintances or by strangers. Schools are becoming another dangerous place for our children, many of whom live in school hostels during the term. Just recently a teacher was convicted of sodomizing four boys at their school. Such cases appear to be on the increase, as do rapes of little girls, even infants.

Our Constitution bans corporal punishment. Yet our children are still being beaten at many schools, because this society believes that beating children is the only way to control their behaviour. The Bible is often quoted in support of this claim. At home many children also undergo severe bodily assault as a way of punishment, and usually when the woman of the house is beaten the children are beaten together with her. Sex education is still a taboo topic in many households, and many parents and church leaders do not want it to be taught in schools. Few parents ever talk to their children about abuse, and our children don't have any knowledge of how to protect themselves.

Incest is obviously even more of a taboo topic, but the women I have asked recently admitted that they know someone to whom it has happened, or that they have heard about a case of incest in a family. It is generally believed that incest is committed by stepfathers rather than by the biological fathers themselves. Many myths still surround this issue due to the silence, but we know for a fact that it is happening in our society, and more cases are now reaching the courts and the media. Customs and traditions also make this a very difficult issue to tackle. In some Namibian communities, an uncle is perceived as having a clear right to sexual intercourse with his niece, under the guise of acquainting her with the facts of life when she reaches sexual maturity. Can such cases be considered incest? And if a particular community believes in this practice, who is to protect these children? The children most vulnerable to abuse are our street children - those who have abandoned violent or neglecting homes to struggle for their own survival on the streets. They are exposed to exploitation of all kinds, including child prostitution. The government programmes that have been launched to assist these children are not comprehensive enough yet to reach all those children who are in need.

### Inheritance Laws

"I was married and farming on my husband's land in the North. When my husband died his mother's relatives came and took my home, the furniture, the gifts my husband had given me. They even took the mahangu stores that I planted and harvested myself. Then they ordered me to take my children and leave the land." In some communities, the family of the deceased man may even take the children away from their mother, robbing



her of her emotional ties and her security. The widow is expected to marry one of her husband's brothers. Although a woman has the right to refuse, this leaves her stripped of practically everything she had owned.

For most women it is virtually impossible to fight against these customary laws, which are harshly maintained by everyone involved. At her time of mourning a woman is too vulnerable to stand up for her material rights. Sometimes the in-laws guard a woman during her period of mourning and restrict her movements, even preventing her from showing any expression of her mourning. She is treated as if she had virtually died together with her husband. Such treatment effectively isolates and controls women, giving the husband's family easy access to the property, which is divided up during this time. In most cases widows return to the home of their parents together with their children, losing their status of being a married woman. Women's groups are campaigning against these customary laws on the basis of the new Namibian Constitution, which emphasises equality between women and men. "No person may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion or economic status" (Article 10) and "men and women of full age shall be entitled to equal rights as to the marriage, during marriage and at its dissolution" (Article 14). Recently one of the traditional leaders in northern Namibia told his headmen that they may no longer take land away from widows or charge them for its use, but this information has not yet reached or been accepted by all. Information on inheritance rights is therefore badly needed. The Women and Law Committee established under the Ministry of Justice is presently examining ways in which the constitutional rights of women can be fully instituted in all regions of Namibia.

## WOMEN ORGANISING INITIATIVES AGAINST VIOLENCE

### Women's Solidarity

Women's Solidarity is a feminist organization which started as an anti-rape movement under the name of Rape Crisis in early 1989. The aims are to provide counselling to women who have been raped or battered, to raise awareness about violence against women in our society, and to conduct research on this issue, about which very little was known in the past. In June 1990 about a dozen women started the counselling service in Windhoek. Originally only a telephone service was offered but this was later changed to face-to-face counselling when it became known that many women have no access to telephones or lack privacy to make calls. The group now has an office in premises of the Council of Churches of Namibia, which is accessible for most of the women. The group offers support to any women who has been raped or abused, sexually, physically or emotionally. The approach is to empower women and help them overcome their own

feelings of guilt. Members of the group are available to go with any woman who would like assistance in reporting a rape. They also accompany women through legal trials and give support and assistance throughout the court procedure. In addition, they provide legal advice to women who are seeking to apply for an abortion after rape.

Women's Solidarity is also involved in educational work for local schools, women's groups and church groups. Special workshops are conducted for the police and other professional people who come into contact with survivors of violence. The aim is to sensitise them in their interaction with women who have been assaulted or raped in order to prevent the "secondary victimisation" of women, for example by blaming the women for what happened to them. Educational work is also carried out through the mass media, who often invite members of the group to participate on panels and talk shows.

The organisation has produced a report "A Critical Discussion of Rape in Namibia", which has stimulated a broader discussion of the issue. The proposals made in the report were included in a petition which was signed by most of the local women's groups and organizations in March last year and handed to the government on International Women's Day. The aim is to reform the existing legislation on rape. A first gain was made when a judge referred to the report in his argumentation for overturning the double cautionary rule in the Windhoek High Court. The rule discriminated against the testimony of a single witness, which in a rape case is usually the victim herself. The judge dismissed the rule as unconstitutional and discriminatory against women. Thus Women's Solidarity acts as a pressure group on the issue of violence against women by making sure that violence against women is on the agenda wherever women's or human rights are discussed; by making proposals for legal reform concerning rape to the Namibian government and by putting pressure on the police to take up cases of domestic violence. It also challenges the media when a distorted image of violence against women is given.

The more progressive media have taken up the challenge and report regularly on cases of violence against women and children. The women's magazine SISTER Namibia features background articles going beyond gory headlines by analysing the causes of violence in our society and by encouraging women to take action. Both Women's Solidarity and the SISTER Collective analyse violence from a feminist perspective, tracing the roots of violence against women to unequal power relations between men and women which need to be changed. The issue of violence against women is now uniting women of all walks of life in Namibia and is forming a strong basis for a feminist movement in Namibia.



## Women's Solidarity in Lüderitz

The birth of Women's Solidarity in Lüderitz was caused by the particularly violent situation women were experiencing in that coastal town in the South. After independence there was an increase in the incidence of rape, murder, battery and child abuse. There is also open discrimination of women based on sex. For example, fishing quotas are only given to men, while the employers in the fish canneries employ only women under the age of 30. Eventually the women came together to discuss the violence in their community. They organised a midnight march and stopped to pray at every place a woman had been attacked. In another protest they delivered petitions to the Town Clerk, the Chief of Police and the Magistrate, demanding better protection for women and girls, stiffer sentences for convicted rapists and improved street lighting in the township of Benguela.

The group has linked up with the Windhoek-based Women's Solidarity organisation for training workshops, including the learning of counselling skills. They have developed into a strong support group for women who have suffered violence as well as a vocal lobby for changes in the way perpetrators of violence are treated by the law. White women in Lüderitz have begun to support the cause of the township women following a severe case of incest and bestiality in their own community in 1992.

## Concerned Women Against Violence Against Women

In June 1992 about 250 women came together at the Lutheran Church in Katutura, Windhoek, to discuss problems and solutions concerning violence against women in their communities. The burning issues for women at that time were murder, rape, marital problems, police behaviour, child abuse and unemployment. A committee of 28 women was formed to organise the work of the group. They organised funding and now have their own office at the Lutheran Church in the Katutura Bet-el congregation. Their first public action was to condemn the murder and rape of a number of San people near Tsumeb in June 92. They travelled to Tsumeb to support the relatives of the deceased and to show their solidarity. They attended the court hearings and supported the family throughout their ordeal.

After the rape and murder of a young pregnant woman in Windhoek, the group held a number of demonstrations, including a night march to the night clubs where violence was occurring. They planted a tree at the site of the murder in memory of the victim. The group intends to continue with such public reaction to serious cases of violence in the future, as they see this as a good means for mobilising the community. They believe that such public pressure is also leading to stiffer sentences for the perpetrators of violence.

Drama is another means of awareness raising used by the group. People can identify with their stories showing the ordinary lives of women. The group also uses radio and television to get their message across. The group holds regular meetings with the communities in which they are working to inform them what is happening and what action the women are taking. They have written letters to the managers of the night clubs, and to the relevant government ministries, urging them to address the issue of violence against women more seriously. The group now has a good working relationship with the police. They have held workshops to sensitize the police to the needs of women who have been battered or raped, and have asked police to regularly patrol dangerous areas in the township.

The further big development within the group was the forming of neighbourhood watch groups. Many women have joined these groups because the issue of violence affects almost everyone living in Katutura. Because it is difficult for survivors of violence to discuss their situation in public, the purpose of the neighbourhood watch groups is to provide a smaller group in which information can be shared and supportive action can be discussed and carried out. Neighbourhood watch groups have now been established all over Katutura, and they are proving to be most successful. In discussing their most pressing problems and needs, women are beginning to understand better what oppresses them, and how widespread that oppression is. Men have now also joined the neighbourhood watch groups. The women accepted this because they feel that men must also become involved in solving these social problems, but the women still control the organisation and have kept its name. From the beginning, the women embarked on substantial educational programmes, both for themselves and for their communities. With the help of the Legal Assistance Centre and Women's Solidarity, they have conducted numerous workshops on issues such as human rights, police powers, maintenance, violence against women, and counselling skills. Training to improve leadership and management skills has also taken place. The Concerned Women Against Violence Against Women have travelled to other towns in Namibia to help women organise in a similar way, and there are now eight such groups working in different parts of the country. In December 93 a seminar in Windhoek brought all the groups together to discuss the issue of women's rights as human rights which need to be respected and protected. Knowing that poverty and unemployment contribute to women's remaining in violent situations, the women are now exploring the possibility of establishing income-generating projects through which they can gain greater economic and psychological independence.

## OTHER INSTITUTIONS CHALLENGING VIOLENCE

### The Legal Assistance Centre

The Legal Assistance Centre (LAC) is a law firm with offices in Windhoek, Keetmanshoop, Ongwediva, Rundu and Walvis Bay. The LAC's main objective is to protect human rights. It tries to make the law accessible to everyone in Namibia by providing legal advice and litigation services to people who cannot afford lawyers, and by educating people about their legal rights. It also carries out research and makes policy recommendations on how the law can be used and changed to give stronger protection to human rights.

Violence against women is one of the issues which has been addressed by the LAC. For example, last year the LAC helped a woman who was blinded by her boyfriend to win a case against him for damages. The LAC paralegal workers give advice to women who want information on matters such as how to get a divorce or how to get a legal abortion where a pregnancy results from a rape. The LAC has conducted research on the possibility of imposing a minimum sentence for convicted rapists, and is in the process of examining approaches to the problem of domestic violence in other countries which might work for women in Namibia. The LAC has also prepared educational materials on rape, domestic violence, marriage and divorce, and abortion, which are used as resources for public education by the LAC as well as other NGOs. In addition, the LAC has provided support and training to other NGOs which focus on violence against women, such as Women's Solidarity and Concerned Women Against Violence Against Women.

### The Women and Child Abuse Centre

The Namibian government made history when the Women and Child Abuse Centre was opened at Katutura hospital, Windhoek, in July 1993. The Centre is the first of its kind not only in Namibia, but in the whole Africa. The Centre was established by the Namibian Police, and is staffed by three policewomen, a police protection officer, a detective working solely on cases of abuse, and a social worker. A doctor and a psychologist are also attached to the Centre. It is thus an interministerial institution, following a multidisciplinary approach with regular consultations between the social worker, the psychologist and non governmental organizations such as Women's Solidarity and the Legal Assistance Centre, in order to develop and coordinate counselling and treatment. Since the Centre was opened it has dealt with rape, attempted rape, indecent assault, incest, sodomy, child neglect and abduction. Whereas ordinary police constables are not trained to deal with sexual crimes like rape, the Women and Child Abuse Centre

aims to provide an atmosphere where women and children can feel safe from further victimisation while laying charges and receiving treatment and counselling.

All major Namibian languages are spoken at the Centre, and the privacy of the survivors of violence is respected. In order to further help children to give evidence in court, the Centre is planning proposals for the acceptance of non-verbal evidence such as doll-play in the court. Special facilities are planned to reduce the trauma of suspect identification, which at the moment requires a woman to touch her attacker to identify him at a parade. The Centre is also looking at ways to involve the community in its activities. One way will be to train volunteers to provide counselling especially for battered women. Most women do not want to lay a charge against their husbands or boyfriends, and need empowerment to overcome their fears and inhibitions. The Centre believes that more men will need to be arrested for battering before the majority of men who batter will take note and change their behaviour. The Centre also assists women who wish to have an abortion after being raped. After rape a woman is given the morning-after pill to prevent pregnancy, and is also tested for sexually transmitted diseases such as AIDS. A rapist can also be tested for AIDS if the woman requests it.

The government has recently stated that the Women and Child Abuse Centre is providing valuable assistance to victims of crimes such as rape and abuse, and that its success has prompted plans to establish similar Centres at Oshakati and Keetmanshoop in the near future.

### Conclusion

Four years after the end of apartheid and war in Namibia, the pain of violence is still an integral part of our lives. We are witnessing on the one hand, a growing social awareness of this issue, together with a growing willingness by individuals, groups and institutions to speak out and to take action in our own country. On the other hand, we are witnessing the massive violation of women's rights through the use of violence in many war torn areas of the world. We know that ultimately, national efforts will have to culminate in global efforts to establish irreversible peace and to safeguard the human rights of all of us: men, women and children.

### INTERVIEW WITH NASHILONGO SHIVUTE, DIRECTOR, DEPARTMENT OF WOMEN'S AFFAIRS IN THE OFFICE OF THE PRESIDENT

#### Why does Violence against Women take place in Namibia?

Violence against Namibians as a people was part of our daily life in the past, during the colonizations of our country, apartheid and the long war for liberation. During the time

of the war women were raped, tortured and killed by the South African soldiers as an added payment or benefit from the control they had over our country. It was only after independence that most of us women noticed a particular kind of war, a war aimed at one part of the population: women. It was the organisation Women's Solidarity which did groundbreaking work to open our eyes to the daily violence against women in this country, and to encourage women to begin to speak out. We know that it is not always strangers who are raping and battering us: it is our own husbands, lovers, friends and neighbours. I think that cultural, social and economic factors are playing a role in the cause of violence against women. These are usually also the same factors which prevent women from defending themselves. As long as women have low status in the society, as long as women don't have equal access to education and jobs, men's control of women will continue and with it violence as a means to achieve this power and control.

### Are acts of Violence against Women a clear Violation of basic Human Rights?

Our Constitution makes provision for the enjoyment of the fundamental rights such as rights to life, liberty, property and equality before the law as well as freedom of conscience, association, assembly and movement. In reality, very few women and children enjoy these rights, mostly because of poverty, illiteracy and so on. Some women have been killed by their husbands or lovers; that is a violation of the right to life. For women, freedom of movement is a non-existent thing because we fear for our lives. We have limited access to cultural and economic independence, because culture in many aspects plays an important role in promoting the subservient status of women, which also has a bearing on our access to economic power. I think that the link between human rights and women's rights should be acknowledged and supported strongly by all concerned.

### Can we talk of Legalised Discrimination of Women in Namibia?

Although our country has made constitutional provisions for women's equality under the law, in practice discrimination persists. Law reform is only taking place now in Namibia. Many colonial laws are still in place which discriminate against women, because under the constitution these laws will remain until amended or repealed by an Act of Parliament. Take the marriage law, for example, which treats women like minors who cannot make independent decisions, such as getting a loan from the bank, without the husbands' signature of consent. Or take the customary laws, in which women are dispossessed of land and property after their husbands' death. The rape law discriminates against women and exposes us to further victimisation in the court. This same law also denies the existence of rape in marriage. We have to rectify this position of women under the law, and we also have to educate women to know the law and their rights.

### How should we eradicate Violence against Women in our Society?

The Department of Women's Affairs is planning to establish a national task force which will address societal problems in our country. It will consist of Members of Parliament and other prominent people who will speak out against violence against women, and who will serve as role models in our society. This task force will also undertake research and documentation on violence against women and it will be involved in public awareness programmes. The government has appointed a Law Reform and Development Commission as well as a Women and Law Committee, both of which are looking into how legislation discriminating against people, and women in particular, should be changed. Different Ministries can be involved in addressing violence against women. For example, the Ministry of Education can do a lot in its adult and literacy programmes. As early as Grade 1 children can learn how to solve problems without using violence, and in subjects such as Life Skills children can be educated about violence against women and similar issues in order for them to aspire towards non-violent relationships in their own lives.

The Ministry of Justice can play an important role in educating women about their rights. Right now the Deputy Minister of this Ministry has spoken out about the flogging of the women at /Xam in Bushmanland. The police have also set up a Women and Child Abuse Centre staffed by women police and social workers, who receive and assist survivors of abuse in a very sympathetic environment. We at the Department of Women's Affairs are giving our whole-hearted support to groups like Women's Solidarity, which are providing counselling to battered or raped women.

What message of peace do you have for the people of Namibia and in particular for the women of this country?

We want to create a society in which every member feels safe, at home and in the street. To achieve this it is necessary that violence against women has to become every Namibian's concern. We have to create a network of support for each other. More women and men should become involved in pressure groups to recommend legal changes, provide counselling for everyone, to lobby and raise public awareness. Slowly we are breaking the silence surrounding this issue. The time of healing is coming to our society.

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## WOMEN'S AND PEACE ISSUES IN MAURITIUS

By Rada Gungaloo

Violence against women, particularly domestic violence, has, until recently, been the most hidden crime in society. It was only in the seventies when the women's movement in Western Europe and the United States started addressing the issue that the extent and impact of violence against women was recognised. Besides intensifying their campaign of denunciation, information and consciousness-raising, Western feminists gave active support to victims of violence. They ran counselling services, set up refuges for battered women, rape crisis centers and incest survivor groups. As time went by, African women, too, started integrating the issue of violence against women in their struggles. Moreover, they do not only view the problem of violence against women as a question of justice, a violation of women's human rights, but also as a bar to development, real global human development.

Social, cultural, religious and political values, norms, traditions and interests have greatly contributed towards maintaining and buttressing the culture of silence surrounding violence against women. Family ideology, which hinges around such values as privacy and inviolability of the home, has, for long, inhibited women from talking about domestic violence. Violence against women was considered to be a private matter, a "family affair" or, as commonly known in Mauritius, "ene zafer menaz" which should be kept within the family. Viewed as a private problem, the state and the police, as well as neighbours and friends, refused to intervene. Outside intervention meant violation of the privacy and sacredness of the family. The interests and the safeguard of the family unit had priority over the protection and the defence of women. Indeed, the very concept of the family as a unit often renders women invisible. Family ideology, family structure and its patterns of behavior both reflect and reinforce dominant social and cultural norms and values. Hence, the overall gender inequality prevalent in society is reproduced within families. They are hierarchical units with the man, the husband, as the head, the chief. This model has changed very little, in spite of the fact that the family set-up has been widely challenged by the feminist movement. The man is seen as the head of the household and the main, if not the sole, bread winner, even in double-income households where the woman also works. Such ideas marginalising women's economic roles in the family tend to persist although research has established that a very large number of families would live below the poverty line if women were not wage earners too. Indeed, even the Mauritius social security system, which is based on the British model, is premised on the idea of a male bread-winner, with the woman working for pin money.

This basic gender inequality manifests itself in an unequal distribution of resources, power, privileges, work, leisure and justice. The man - husband or lover - emerges as the

most powerful family member, holding and wielding power over the other members of the family. The Latin root of the word family is familiar, a term referring to the slaves belonging to an individual. Women's struggles internationally have changed the situation and status of women in society, but not drastically. Besides, a very large number of Mauritian women now work outside the home - the majority of workers in the free zone industries are women. Women cannot thus be equated with slaves, yet they are still considered as belonging to their husband or at least "appendices" to him. It is generally assumed that he has the right to make all decisions concerning the family. He has, for instance, the customary, though not always the legal, right to determine whether his wife works. He exercises the same right of control over her relationships with her family and friends, her movements outside the home and the way she spends her time. Moreover, he has an unlimited right to sexual access whenever and however he wants. I do not know of any African country which has made marital rape a criminal offence. It is, in fact, not considered a crime in most parts of the world. It is this unequal relationship, this imbalance of power which is the root cause of violence against women. "I am the boss, you do what I want you to do and the way I like it to be performed or else....." and the violence - verbal, psychological, physical, sexual - sets in, as a means of asserting authority and making the other know who is the boss. The assumption of being the boss, the master, the "mari", as it is said in Mauritius, is apparent when the woman reports the battering to the police. The man is usually shocked and outraged that his wife has dared to seek outside intervention in his domestic affairs. Entrenched cultural traditions consider that once a woman is married, she should not leave her home. She should stay and serve her husband and children till death parts them. So, domestic violence is implicitly condoned. Aware that she will most probably not get any support from her own family, a battered woman finds it difficult to leave a violent relationship. Providing safe and secure places for battered women is now helping them to break the silence. The economic situation of most women further prevents them from challenging violence. Analysis of female employment statistics of most countries show that the low-paid and unskilled jobs are mainly occupied by women. Only a small number of women have jobs which give them economic independence. Mauritian women are also aware that separated women, even those with children, never get more than one third of the husband's salary as alimony. More often than not, the sum awarded is meagre and utterly insufficient for her and her children's needs. Few women own immovable property and there is hardly any country which has adopted a housing policy providing cheap and safe houses for women. Wife battering occurs and is supported by our patriarchal society. Patriarchy which is based on male superiority, power and rights tends to treat women as inferior beings. Feminine characteristics and values are devalued whilst the virility, force and aggressiveness associated with masculinity are considered valuable. Patriarchal cultures thus blame the weak, the powerless and the victims. Theories of domestic violence focussing on the personalities or individual characteristics of either the batterer

or the victim, treating both as equal partners and consequently equalising the responsibility for the violence and implicitly blaming the victim have been vigorously challenged in the Western world by feminist analysis. Yet, such theories are still prevalent in the African region. For instance, Mauritius, unable to continue ignoring the issue of domestic violence, has opted for family therapy. This theory and practice pivot around innocuous concepts such as matrimonial problems. The methodology is one of partitioning responsibility for all problems, including that of violence against women. Shifting or attributing part of the responsibility for violence onto women, contributes towards the feeling of guilt and shame and to their fear of speaking out.

### **Kinds of Violence - Structural or Direct**

Structural and direct violence against women is often inter connected - structural violence being the foundation or support system for direct violence. Most, if not all social institutions, are created and formed by men's values, their visions of the world and their interests which in turn influence male and female relationships. Except during war-time, most states do not allow their officials to kill, maim, beat up or rape women. Yet, by not passing laws and adopting positive policies which would give women adequate and effective protection against domestic violence, rape, incest and sexual mutilation, states, even though they do not directly condone violence against women, can be said to marginalise that violence. No specific offence exists under Mauritian law regarding violence against women, within families. The fact that the assault occurred within the home by a man with whom the woman had an intimate relationship is not acknowledged. Hence, violence against women, rather than being considered as an aggravated offence, is legally an ordinary case of assault. Nor do we have a Domestic Violence Act which gives battered women, even temporarily, the exclusive use of the matrimonial home. The victim of domestic violence who has to run away for her safety or is kicked out of the house does not presently have any legal redress in Mauritius. Similarly, by omission, the Mauritian legal system does not recognise sexual harassment against women.

### **Incest**

Incest is crime committed within the family usually by a father upon his daughter and which has long remained hidden. Recently, however, a slight change is becoming perceptible as an increasing number of incest cases are being reported to the Mauritian police. Although incest is basically an act perpetrated by the adult male member of the family who has power, authority and control over young girls, it is often interwoven in web of conflicting emotions. Love, affection, sweets, gifts and threats intermingle. The little girl is both emotionally and violently blackmailed. She experiences the same fear, guilt and shame as the battered woman. Besides, her mother, the immediate person in

whom she can confide, is also often torn between her husband and her child. Punitive and repressive measures against the aggressors, though necessary, are not enough. Incest victims and their mothers need support, and some may require financial help and alternative accommodation, should they wish or need to move away from the matrimonial home.

## Rape

Rape, a crime of sexual aggression against women and girls and not one resulting from an uncontrollable, instant sexual impulse, is perhaps still the most stigmatised crime. Although it is a very heinous crime which completely shatters and destroys most women victims, it is still the custom, regularly reinforced at the police station and the court of law, that the victim is the guilty one. How often have we been told she must have looked for it or provoked the man by her dress, the time and place where she was or the way she lives? Research has shown that in the majority of cases, rape occurred in the home and by persons well known to the victim. Yet the myth of the provocative and consenting woman persists. As it is for the victim to prove that she had not consented, questions as to her sexual life and/or past intimate relationships with the rapist are allowed. In Mauritius, rape trials are held in open courts, except when the victim is under age. At the police station as well as in courts, the woman has to go over the minute details of the traumatic experience, so much so that victims have often referred to the trials as second rapes. Hence, many cases of rape go unreported.

## Blackmail

It must also be remembered that blackmail, emotional, economic and physical, is a specific and real form of violence commonly used against women. Customs backed by laws give a legitimacy to blackmail as well as other forms of violence. Women are frequently forced to passively submit to their husbands out of fear of being kicked out of the conjugal home and either losing access to their children or being denied financial support for themselves and their children. By refusing to recognise and outlaw marital rape, the state perpetuates traditional patriarchal values about female sexuality. Within marriage, the woman is expected to be sexually available to her husband at all times, whenever and however he wants. Sex cannot and should not be denied to him. Hence many violent, degrading and dehumanising sexual acts against women go unpunished. Moreover, victims of violence do not always get a fair deal in courts of law. The intimidating character and atmosphere of the courts, judges and magistrates, the majority of whom are men, often do not take women's accounts of violence seriously. Domestic violence is not yet appraised as resulting from the imbalance of power between man and woman but rather, as said earlier, as an ordinary case of assault where other issues, such

as alleged provocation on the part of the women, are given equal, if not more weight. The violence suffered by the victim is thus minimised and subdued. Similarly, the church, community leaders, drug and alcohol rehabilitation centers, as well as state institutions put forward drugs and alcohol as the main causes of violence against women. Such types of discourse not only give violent men excuses but render them unaccountable for their acts and behavior. Violence is no longer seen as a conscious, deliberate act but becomes instead an involuntary act resulting from drinks and drugs. Though not advocating violence against women as such, the words and actions of the above groups, by excusing violence against women, in certain circumstances do in fact justify such violence.

## The Muslim Personal Law

The tendency of addressing economic, social and political issues in gender-free terms also reinforces the assumption that there is equality between the sexes and that all issues affect and concern men and women in the same, equivalent way. Such negation of women's specific needs and problems often leads to the violation of women's human rights. It is within this broad context that violence against women by the state is often more diffuse and subtle. It is, nonetheless, very effective as it is entrenched in laws. For instance, by enacting the Muslim Personal Law, the Mauritian state has effectively divided women into two categories. Women are treated differently and unequally in view of their marital regimes. The rights of those who are governed by the Muslim Personal Law are quite minimal, especially in matters of divorce and alimony. Besides violating women's human rights, such laws also pave the way for unjust, unequal and often abusive treatment of women.

## Direct Lawful Violence

There is, moreover, one example of direct violence against women permitted by law. Under section 242 of the Mauritian penal code, a husband commits an excusable offence if he kills his wife and her lover, at the very moment he finds them in the act of adultery. The section, which is based on the French code applies, only to the man. A wife committing the same offence under similar circumstances is not excused.

That particular legal provision originates from ancient Roman law on paternal and marital rights and power. Under ancient Roman law, not only the husband but the father too, had the same right to kill his daughter and her lover. The assumptions could not be clearer. A married woman's sexuality does not belong to her. It is her husband's property. Not only is he entitled to kill her but he can also kill the person who takes away, uses, enjoys that property. It is an attack on his property rights and his honour. Section 242 institutionalises religious and social norms about sexuality. A woman's sexual

needs are construed differently from those of a man. She is, indeed, hardly considered to have needs and desires of her own, but rather must be available for her husband's sexual gratification. On the other hand, a man is supposed to have a very active sexuality and unlimited needs and drives which can be satisfied with any woman.

### Direct Violence

The most common and recurrent form of direct violence against women is domestic violence. Every day, hundreds if not thousands of women are beaten up, raped and/or suffer verbal abuse and degrading treatment within the four walls of their home from the man with whom they have an intimate relationship. Patriarchal values, norms and traditions, as mentioned earlier, make men assume that they have a right to exercise power and control over women. Women are thus slapped, kicked about, stabbed with knives and other objects, and burnt with boiling water. Not only do they suffer multiple injuries from such acts of violence but may die as a result of their injuries, especially when the man has set them on fire.

Verbal violence ranges from insults, swear words, threats, calling names, including incessant harassment and pestering about the women's alleged extra-marital affairs. Verbal violence should be taken as seriously as physical and sexual violence for all types of violence, be they verbal, physical or sexual, humiliate, degrade and dehumanise the woman. She becomes depressed, loses confidence in herself and as a result of social norms and values often blames herself for having not been able to make her marriage work. Many women trapped in violent situations have tried to commit suicide.

### Sexual Violence

Sexual violence includes the mutilation of the woman's genitals, the introduction of objects into the vagina, the burning of the sexual parts with cigarette butts and rape. Give the still persistent taboo attached to sexuality and the norms and values described above, women are even more afraid and ashamed to talk about sexual violence.

### Control

Deciding for the woman whether she should work outside the home or not, control over her income is another subtle form of violence, as it aggravates her dependence and subordination to the man in the family. Similarly, controlling her relationships with friends and relatives and her movements have the effect of isolating her inside the home and cutting her off from outside advice and help. Control is thus part and parcel of the spectrum of violent behaviour against women. Many women are as inhibited and shattered by the control exercised over them as by physical, verbal and sexual violence.

### Police Violence

Police stations and police officers, rather than giving protection to victims, often contribute towards the violence against women. Police officers' postures, language and methods of questioning are overt acts of violence against women. In most police stations, battered women, victims of rape and incest have to face a barrage of uniformed police officers, which epitomises such masculine traits and characteristics as virility, force and power. Many women talk of having been brutalised by the police when they reported that they had been beaten up by their husbands. A few victims of rape have even been raped in police stations. The violence and the abuse gets even worse when the complainant is a prostitute. She is not believed and often told that she must have deserved it.

### Street Violence

Patriarchy has also created and still maintains the dichotomy between the private and the public spheres. The former is for women whilst it is the male prerogative to occupy the public sphere. Such ideas and division of civil society produce direct violence against women. Women are often whistled at and sexually harassed in the streets. The situation gets worse when night falls. Patriarchal ideas and values then become very apparent. The woman is considered to be a loose woman if she walks in the street at night. Hence, either a woman abides by the unofficial curfew imposed on her or faces violence in the streets.

### Violence within the Political Sphere

In spite of the need for women's votes, the political arena is not free from violence against women. Politicians do not, of course, go on the rampage and beat up women but the majority of them use very violent language, words, terms and concepts which not only degrade women but perpetuate violent sexist and misogynistic norms and attitudes. By the incessant use of the terms "mari" to challenge, provoke, abuse, ridicule and threaten political adversaries, Mauritian politicians have reinforced the notion that the man is the boss, the chief with the right of holding and wielding power over women.

### Women's Organisations

S.O.S. Femmes is the only women's non-governmental organisation in Mauritius challenging violence against women. In 1988, a feminist lawyer presented a project for a women's legal advice centre, to the then mayor of her town. After much debate, the project was accepted and the centre was opened in March 1989. Her idea was not only to give legal advice to women but also to find out what sorts of problems women were facing in Mauritius. Hence, she worked with a support group so that the problems



brought to her could be discussed and dealt with accordingly. On the very first day the centre opened, seven out of the ten women who came for advice and help were battered women. The same situation repeated itself week after week, so much so that domestic violence quickly became the major concern of the support group. Reflections and debates centred around it. The limits of a legal advice centre started dawning upon her. Giving legal advice to victims of violence and then sending them back to the same violent environment was most upsetting. Then one day, a woman came to the centre with half of her left breast removed as a result of burns received from her husband. When the story was reported to the support group, every one decided that some action had to be taken to protect and defend women. Hence, S.O.S. Femmes was launched to, amongst other things, challenge violence against women, give them and their children advice, assistance and support and open a refuge for battered women and their under age children. The association thus grew out of a concrete praxis and is well rooted in Mauritian reality.

An increasing number of women keep using the association's services. An average of forty women attend the centre weekly, and since December 1991, when the association finally succeeded in getting a building for the centre, it has given temporary refuge to some two hundred women and forty six children. The association's praxis turns around the empowerment of women. Its motto is "Remettre les Femmes debout". Besides providing battered women with a temporary refuge where they can be safe and secure from domestic violence, the association gives women support and advice and helps them to say no to violence. Its members and staff also strive hard to make women understand the values and norms underpinning violence. Explaining and exposing myths, values and traditions help women to overcome their feeling of guilt, shame, fear and to break the silence surrounding domestic violence. As its strategy is the empowerment of women and the challenging of violence against women at its roots, S.O.S. Femmes hold reconciliation meetings only at the request of the woman and only when she is in a position to voice her feelings in the husband's presence and to denounce his violence. The methodology is not one of partitioning blame and saving the family at all costs. Women are recognised as autonomous and free human beings, and not by eternal reference to the family. Women's interests, rights and the non-violation of her physical, psychological and sexual integrity are at the centre of its action. Hence, at the meetings with men the issue of violence is confronted and challenged. The aim is to change the terms of the relationship and to prevent the recurrence of violence, if ever there is reconciliation. There is then a close follow up of the woman.

Aware that domestic violence will not disappear with the mere setting up of battered women's refuge, S.O.S. Femmes has, since its beginning, launched an intensive campaign in the media and through meetings and conferences, on the issue of violence against women. The ideological, cultural, religious, political and economic basis of

violence has been constantly and vigorously challenged. Its campaign has brought the issue of domestic violence out in the open and has succeeded in placing it on the political agenda. Political, religious and community leaders can now no longer evade the problem. The struggle is, however, far from over. Alcohol, drugs, stress and lack of communication are put forward to explain the violence within the social and family systems whereas patriarchal values and norms still go unquestioned.

On the legal front, S.O.S. Femmes is lobbying for laws which would give women effective protection against violence. On the occasion of the 1992 International Women's Day, S.O.S. Femmes presented a seven-demand dossier to the Minister of Women's Affairs. The main demand requests the passing of a Domestic Violence Act to allow battered women and their children to occupy the matrimonial home and the granting of an injunction preventing the violent man from having access to the woman. The other important demands are the reform of the social security system to entitle battered women, living separately from their husbands, to claim social security benefits in their own right, when in need, and the provision of cheap and safe housing for women. The dossier has been widely circulated but there is not yet a strong parliamentary lobby around these demands. Women's issues, though now recognised, are not yet at the centre of political concern. The Minister of Women's Rights, Child Development and Family Welfare does, now and then, advocate the passing of the Domestic Violence Act but it is anybody's guess when the discourse will be translated into reality.

Campaigning against deep-seated modes of thinking, traditional gender roles and traditional family structures is bound to be a very long, arduous and slow process. Men will not give up or share their power, status and privileges easily. There is thus the inevitable problem of keeping members' motivation and commitment to the long term objectives of the association. Discouragement and despair sometimes set in, especially when violent men threaten to burn down the centre and beat up its members and staff. Challenging domestic violence has become even more difficult with the celebration of the International Year of the Family. As a sort of backlash, the family is being glorified and suddenly the family system has become the panacea for most social ills. Political, religious and even some community leaders, having discovered a ready-made solution, keep talking about the importance and necessity of safeguarding and preserving the system. Such a historical and uncritical approach can only reinforce the status quo and hide the inequality, injustice and violence within families. Euphoria about the family has, once again, swept women's issues aside.

### Rape and Incest

Analysis and discussions of methodological approach, strategies and women's issues is an on-going process within the association. This has made its members understand the



complex web of problems in which women are caught. Domestic violence cannot be dealt with in isolation. There must be an integrated strategy taking up such issues as housing, work, leisure and the feminisation of poverty. Within the context of that global approach, a sub group dealing with incest and rape was set up two years ago.

### Financial Constraints

Besides cultural and ideological barriers, the association has had, since the start, to spend much time and energy finding money for its work. The objectives of giving battered women refuge for a minimum of three months and providing each woman with adequate space for herself and her children, as well as a study corner for children has not yet been implemented due to lack of funds. The association does not receive any subsidy from the government and survives only on donations.

### Recommendation

To end or at least curtail violence against women, S.O.S. Femmes recommends legal, financial, social and cultural changes. It also supports international measures and the setting up of international organisations to deal with the problem of violence against women.

As mentioned above, on the national level and as a priority measure, the association has been militating for the passing of a Domestic Violence Act. Its seven-point demand, annexed hereto, remains the basis of its campaign.

S.O.S. Femmes also participates in both regional and international networks of women and supports demands for the appointment of a special rapporteur on violence against women by the United Nations and the passing of conventions to eliminate all forms of violence against women.

It is also in favour of the setting up of an international court of justice to deal specifically with cases of violence against women.

## VIOLENCE AS PART OF EVERYDAY LIFE - VIOLENCE AGAINST WOMEN IN SOUTH AFRICA

By Anne Vincent

A feminist analysis of violence against women states that "In the broadest sense, violence against women is any violation of a women's personhood, mental or physical integrity or freedom of movement and includes all the ways our society objectifies and oppresses women" (Women 2000).

In South Africa, violence against women takes on shocking proportions; it happens in the streets, in the yards, in the parks, in the hostels, in the schools, in the work place and in the home. South Africa's political violence is well publicised at home and abroad. But the way this violence has impacted upon women and the more common and more endemic violence perpetrated against women by men go unaddressed.

### Rape

Statistics for 1992, show that every day there are 68 reported rapes of women in South Africa (WNC 1993). It is estimated that only one in twenty rapes are reported to the police and that the "real" number of women raped per day is 1068 (ibid). According to the Women's National Coalition, this means that half the women in this country will be raped during their lifetimes. Very few rapists are punished and an enormous percentage of rapes is unreported in South Africa. In many instances, this emanates from the historical position of the police who, in the apartheid era, were the enemies of the majority of people in this country. Generally, the police are seen to be unsympathetic to women who are victims of violence. Other reasons for rape not being reported include shame, privacy of the home, physical safety and economic security. Further, there is no adequate legal and institutional framework, whether formal or informal, to protect victims of violence. The legal system is incapable of protecting a woman after she has laid a charge and women fear further victimization by the perpetrator. Violence against young women by marginalised male youths has increased dramatically in the 1990s with the rise of youth gangs in the townships. A game is played by gangs - "Jackrolling". This game includes kidnapping and gang-raping young women, with the aim of molesting all young women by the age of twenty-six (Russell 1990).

The perpetrators are young males who, due to their marginalisation as a result of rising youth unemployment and alienation from the socio-political mainstream, group together in gangs to give themselves the sense of power they lack in society. They arm themselves and terrorize those in the community who are most vulnerable to victimization: "When

you leave your child along in the house she is not safe. And in the street, she is not safe. And in the school she is not safe. Girls are afraid somebody in a car will stop them and say 'get in'. When they walk in the street, they are raped by men with guns. Sexual abuse happens so much that some students stop going to school" (Ibid).

### **Battery**

Abuse of women by men is also rife, with thousands of women being abused every day. Statistics estimate that one in every six adult women is assaulted regularly by a male partner and, in at least 46% of these cases, the men also abuse the children under the women's care (ANC 1994). According to estimates, 65% of married women are abused by their husbands (ANC Emancipation Commission 1993). Domestic violence is so frequent that it is considered part of the "natural environment". Society regards the home as "private", with the result that relatives, friends, neighbours and police don't intervene. There has been a dramatic increase in domestic violence since 1990 which, it is argued, stems from the social and political dislocation of a society in transition as well as introversion of political conflict (Simpson 1991). Women often remain in violent situations due to the general disempowerment resulting from the social, financial and cultural implications they would experience were they to leave the family abode. The legal and social system is also very insensitive to the plight of victims of domestic violence and women are subjected to negative judgmental responses if they take out legal action against their partners. There are also social implications stemming from a tacit social acceptance that men can beat their partners (ANCWL 1994), and a woman may be rejected by her relatives and friends if she resists or takes action against her partner.

### **Sexual abuse in the Workplace and at Educational Institutions**

Problems of sexism, sexual harassment and sexual violence are widespread in both the workplace and institutions of education. More fearful means are adapted to instill fear, intimidation and manipulation within relationships (Simpson 1991). Men often use force to abuse women, and even demand sex in return for jobs or help. Race and class play a role here in determining the most vulnerable groups. Black women, who are domestic workers, have experienced an increase in violence by white home owners against them, as a result of white South African insecurity in a period of political transition - the "most dangerous" enemy is the "enemy within" (ibid).

### **Witch burning in Rural Communities**

Another very brutal but also very public form of violence against women, especially in the rural areas, is witch burning, which has increased since the mid 1980s. It appears that

this phenomenon is associated with political and economic conflict which leads to scapegoating of vulnerable or marginalised individuals such as women and the elderly (Ritchken cited in Simpson 1991).

### **Political Violence**

In South Africa, political violence has also affected women in numerous and severe ways. In 1991/92, 442 women and 164 children were killed in politically related incident and 542 women and 288 children were injured. While these casualties have, in some cases, been victims of cross-fire, sometimes women and children are specifically targeted by the perpetrators (HRC report cited, ANC 1994). Women are often seen as soft targets who will not hit back. In the Boipatong massacre, 25 out of the 46 were women and children, suggesting that these vulnerable groups were attacked on purpose (HRC report cited, ANC 1994).

There have been numerous other ways women have suffered from political violence, including incidents where women have charged soldiers and police officers with rape in violence stricken areas; where women have been reported abducted and kept in hostels and often gang raped; and where women and children become refugees when township homes are burnt down in political conflicts (WNC, 1993). Further, sex for protection and the sexual abuse of women as forms of revenge by one side against another is prevalent in war ravaged areas (Simpson 1991).

### **THE CONTEXT OF VIOLENCE - CAUSES AND ORIGINS**

An analysis to determine an explanation for violence against women has, in other countries, focused on "a man's individual psychological problems, sexual frustration, unbearable life pressures or some innate urge towards aggression" which also served to hide the truth that men use violence against women to exert and maintain their power over women (Women 2000).

The context of violence against women in South Africa takes on an added dimension. This would also perhaps explain why, in the past, the highest rape statistics in the world were credited to South Africa and Israel. Political oppression was the common denominator in both countries, where men had been undermined and disempowered in their political, social and economic environments. The only place where they could express and hold some power was in the domestic arena. The patriarchal nature of our society has meant that even the most powerless of men have gained their expression of power from direct and indirect oppression of women. It would be difficult to analyze violence against women in South Africa outside the general context of the culture of

violence created by the system of apartheid. Apartheid resulted in a long process of enforced separation and inequality on the levels of housing, education, health care and so on, in order to ensure the "dehumanisation" of the "enemy".

Apartheid created a highly militarized society where violence was used as a means of control: "Power through the barrel of a gun". Violence as part of everyday life meant that violence became more acceptable as a mode of solving conflict. As a result of state violence and armed struggle, men in the main are trained for war. Sexual violence, against both women and men, was also used as a weapon of war by the State against its citizens to further "dehumanize" when torturing them in detention or jail. The use of violence to gain control or "power" over our enemies or circumstances or to resolve a conflict, whether in the political or domestic arena, was entrenched in our culture. In addition, transition and transformation in South Africa have created a whole society in flux, generating insecurity coupled with hostile stereotypes ingrained by apartheid (Simpson 1991). It is believed that this, together with a contracting economy has led frustrated and emasculated men to symbolically reassert their control within the realm they traditionally hold away, that is the domestic arena (Ibid).

The economic conditions created for the majority of people in this country by apartheid created a terrain in which the culture of violence has festered. The majority of people have been forced to live, with poverty, gangsterism, lack of employment and of opportunity, no sports or other recreational facilities and the sustained and systematic stress on racial and ethnic divisions (ANC Emancipation Commission, 1993). Women have been subjected to added danger with poor or no lighting in townships, and with bus and taxi ranks often opposite vacant terrain and far from where people live. Further, long working hours means that women leave and return home when it is dark (White, 1993).

### Sexism, Racism, and Oppression

The result of racism, sexism and economic oppression has meant that women's choices have been limited in dealing with this problem due to their political, social, cultural and economic contexts. The "identity" of the South African women and the power relationships which impact on their lives have been largely determined by race, culture, class, rural/urban status, the economy, religion, and a lack of women's rights. Other forms of discrimination in South African society impact most heavily on women and have played a large role in making women specifically vulnerable to violence. Whilst violence is experienced by women of every race, class and age, acts of violence perpetrated, for instance, on a woman who is black, poor, rural and old, have been rarely challenged. The power of this women to walk away or regain some power over her life will also be limited in order for her, and most often her children, to survive.

### Economic Dependence and Poverty

According to the national census, in 1991 in the rural areas, four fifths of black women had no income at all. Often rural women's partners migrate to the cities to get work, leaving their families behind. Rural women cannot get land, credit or other farming inputs easily. In the urban areas, two thirds of women have no income (Makgetia cited ANCWL 1994). This leaves women very financially dependent on the male breadwinner and is one of the main reasons why women stay in situations where they are violently abused. This also means that the impact of political violence has also rendered women specifically vulnerable when they are forced to flee their homes and become refugees seeking shelter in other areas. Women in these situations are often victims of sexual abuse or forced to provide sexual favours in exchange for shelter and "protection" (ANC Emancipation Commission 1993).

### Custom and Tradition

Whilst there are many gender oppressive practices and norms, many men often appeal to "tradition" in an unfounded manner to justify their abusive actions within the home. What has become historically seen as normative domestic conflict cannot be attributed to "tradition". Various cultural practices have exacerbated this situation and reinforced the perception that domestic violence, which many acknowledge is wrong, is socially and "traditionally" acceptable. One such common practice is the Lobola exchange in many African marriages. This is a process negotiated by men around women's value as assets to the family and may have proprietary implications for how a husband perceives his wife (Vogelman & Eagle).

### Women in Public Life and Political Organisations

The absence of women in the public arena, up until recently, has meant that most issues addressing women's oppression and exploitation have been left off the political agenda. Despite the fact that we now have many more women in the National and Provincial Legislatures since the ANC won the National Elections in April 1994, women are still blatantly absent in other institutions and organs of power in South Africa. The "new" South Africa has to live with the legacies of apartheid, violence, and sexism which permeate every structure of society, whether formal or informal.

### Grassroots Organisations

Political organisation in the 1980s was based on "an appeal to organizational and ideological allegiance, as well as the promotion of a certain kind of morality as the

morality to be adhered to" (Carter, cited in Lucas 1994). In other words, political mobilization was directed at transforming people's understanding of their social and political environment, rather than just eliciting support for a political cause (Lucas 1994). Civic organizers in the 1990s continue to see themselves as effecting social as well as political transformation (Ibid). However, their success and sustainability in both the 1980s and 1990s are questionable. Political organisation in South Africa has been closely linked to spatial dynamics. Organisations have formed themselves in the places people live. The lowest tier of organisation being the street, block or yard committee. The primary objective of the street, block and yard committee were to deal with social relations and disputes within a small community unit. The mediation of disputes included "domestic quarrels, arguments over money, sexual infidelities and anti-social behavior or fights arising from drunkenness" (Lucas 1994). This committee would also deal with the management of the area and ensured participation of the smallest political unit within broader political processes through representation at higher levels of organisation. Another important role was to organise people into defense units, to protect themselves against the police in the apartheid era, and against the IFP after violence erupted in 1991.

The 1980s, due to the illegitimacy of the apartheid system, saw the advent of structures of informal justice, "people's courts". The traditionally marginalised sectors, of women and youth, not only had access to these courts but were key participants. Women reported their husbands' violent treatment of them to the courts, which were run by the youth, who also administered the punishment (Lucas 1994).

Since the late 1980s, the political location of women and youth has increasingly become within their own sectorial organisations, with their own programmes. This has meant they were also away from influencing the political processes of the special localities where they lived. People's courts were also disbanded in the 1990s and dispute resolution became a function of the yard/street committee who are reluctant to intervene in marital disputes (Ibid).

Lucas, in her research in Alexandra township, also found that the nature of leadership changed. Whereas once the leadership were the political activists and freedom fighters, now there's been a shift to moral authority, with the leadership emanating from the "elders" in that specific community unit. This has meant that value systems which go along with the status quo are more likely to be entrenched than challenged, which will not bode well for challenging gender roles and violence against women in the community.

Lastly, many local-level organisations were crushed in the late 1980s by the state. After the unbanning of the ANC in 1990, organisations experienced a shift from resistance to proactivism. Civics are still struggling to maintain grass-root structures such as block committees, mobilization to assert their vision of the world (Vogelman & Eagle), a mobilization message less powerful than resistance and defense. This political process is seen by the individual as being in the hands of the government, industry and liberation movements but beyond the control of the average "person in the street" (Simpson 1991). The re-establishment of street committees and strengthening of the civics is of major importance to the establishment of a new morality where women are free from gender oppression and exploitation.

### Legal and Constitutional Constraints

The UN Declaration on Human Rights states the fundamental importance of eliminating violence against women in public and private life. Despite this, no direct provision in the new interim Constitution was made to work towards the elimination of violence against women. This was the case even though women participated in the negotiation process which drew up the new interim Constitution. In the interim Constitution, violence against women could, however, be challenged indirectly through the charter on Human Rights, under the right to integrity clause and the clause on equality. This channel is severely criticized as now the battle to fully protect women will still need to be fought. Nevertheless, a constitutional battle that the women at the negotiation table did win and which will go some way in addressing the problem, is the whole area of customary law which was thrown out. Further, the issue of non-interference in the domestic arena was also thrown out.

### RECOMMENDATIONS

Violence is a result of the inequalities which are prevalent in the social structures and relationships in our society, which along with a historical culture of violence, ensures its sustainability. It is evident that each form of violence feeds on the others and that, as long as transformation in this country does not address all forms of oppression and social inequities, women will continue to be "battered" and "abused". Various women's organisations together and severally continue to discuss violence against women in an attempt to make interventions in this time of transformation, reconstruction and development of our society as a whole. Points of intervention include legal and constitutional provisions, a welfare system equipped to address both the causes and symptoms of violence against women, and a political system which effects not only political but also social transformation. A workshop attended by a wide spread of women from all over the country on "Women and Reconstruction", which took place in 1993 (ANCWL 1994),

along with recommendations by the Women's National Coalition, called for the following direct interventions, among others:

#### **Victim Aid Services**

It was recommended that services be established which would assist the victims of violence. These services include legal services, medical services, policing services, shelter and welfare services.

#### **Educating Society**

This includes setting up laws to ensure gender equality as well as designing programmes on violence against women for schools, churches, unions etc. Rape culprits should also undergo intensive therapy and gender education as part of rehabilitation.

#### **Legislation on Rape and Battery**

A demand has been made that women and children should be protected by the state against family violence by changing legislation to ensure that women are protected and perpetrators punished, offered affordable and speedy legal aid, emergency gender-sensitive services (legal medical and welfare), proper follow-up structures to court orders, and victim as well as witness protection. Women's rights need to be enshrined in the new Constitution which should also have direct provisions for protecting women against violence.

#### **Policing on Women's Issues**

There should be a visible and effective police presence to act as a deterrent in communities. Good lighting in the townships is needed, as well as policing at bus and train stops. There should be accessible police stations in all communities with police who are well trained and gender sensitive. There should be community policing structures which are accountable to the civics.

#### **Reconstruction and Development**

Aims of the new government as outlined in the Reconstruction and Development Programme, will assist, in the long term, in addressing the causes of violence against women through education, job creation programmes, anti-crime programmes, and a comprehensive welfare system.

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