

**For**

# **Social and Gender Justice**

*African feminists search the experiences of  
African women for humanist alternative paradigms  
of human well-being and social development*

**An**  
**Anthology**

*Edited by*  
**BENE E. MADUNAGU**

**for**

**DAWN** **Development Alternatives  
with Women for a New Era**

*With the support of*  
**African Women Development Fund (AWDF)**

DAWN  
DEVELOPMENT ALTERNATIVES WITH WOMEN FOR A  
**For  
SOCIAL AND  
GENDER JUSTICE**

*African feminists search the experiences of African women for humanist alternative paradigms of human well-being and social development*

An  
**Anthology**

Edited by **BENE E. MADUNAGU**

for **DAWN**

**Development Alternatives  
with Women for a New Era**

*With the support of*  
**African Women Development Fund (AWDF)**

## **DAWN**

**DEVELOPMENT ALTERNATIVES WITH WOMEN FOR A  
NEW ERA**

UNIT 7, 9 FORSTER STREET  
SUVA, FIJI ISLANDS

Tel/Fax: 697 314770

e: mail: admin. @ dawn. org. fj

Website: www.dawn.org.fj

### **DAWN ANGLOPHONE AFRICA**

44 Ekpo Abasi Street,

P. O. Box 3663. UNICAL P. O.

Calabar, Cross River State - NIGERIA

Tel: (234) 87-230929

Fax: (234) 87-236298

e-mail: gpi-hqcal@yahoo.co.uk

**DAWN** is an international feminist network from the global South that promotes critical perspectives on development alternatives for social and gender justice.

Published by

**CLEAR LINES PUBLICATIONS**

*and*

**DAWN - ANGLOPHONE AFRICA**

44, Ekpo Abasi Street,

P. O. Box 3663,

UNICAL P. O. Calabar, NIGERIA

Tel: (234) 87-230929

Fax: (234) 87-236298

e-mail: gpi-hqcal@yahoo.co.uk

**All rights reserved**

**ACKNOWLEDGEMENTS**

All rights reserved. No part of this book may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording or any information storage or retrieval system without prior permission of the copyright owner, **DAWN - ANGLOPHONE AFRICA.**

**ISBN: 978-36720-0-2**

**FIRST EDITION  
2003**

*Published by*

**CLEAR LINES PUBLICATIONS  
and  
DAWN - ANGLOPHONE AFRICA**

*Printed by*

**CLEAR LINES PUBLICATIONS**

12 Bassey Duke Street, Calabar  
NIGERIA

All rights reserved

## **ACKNOWLEDGEMENTS**

In 2001, DAWN Africa Region published the report of the **DAWN Africa Regional Consultative Meeting**, held with other African Networks, in Zanzibar (February 21 - 25, 2001). The present documentation is a follow-up to the agreements by the collaborating networks to deepen African feminist perspectives for social development strategies.

My thanks therefore go to **several people and organisations** particularly the following: The African Women's Development and Communication Network, FEMNET; African Partnership for Sexual and Reproductive Health and Rights of Women and Girls, AMANITARE; Women's International Cross - Cultural Exchange, ISIS - WICCE; Multi-disciplinary African Women's Health Network, MAWHN; Shiba Sisters Foundation and Tanzanian Media Women's Association, TAMWA for their collaborative efforts in identifying African women feminists to be engaged in the research and documentation of this publication.

The entire process was made possible by the funding support I received on behalf of DAWN Anglophone Africa from the African Women Development Fund (AWDF). Fatma Alloo, the DAWN focal point for East Africa and Fatou Sow,

DAWN - Francophone Africa coordinator, have both been of tremendous support throughout the duration of this work. My thanks also go to the DAWN Steering Committee and DAWN's General Coordinator, Claire Slatter, for giving us the challenge and serving as the catalyst for action-oriented research, documentation and advocacy, reflecting regional priorities, but linked to DAWN's global research themes.

My sincere gratitude goes to the African women contributors and the male contributor to this work who found space in their busy schedule to respond to this call to help promote gender justice in Africa. They are Patricia MacFadden, Cesnabmihilo Dorothy Aken'ova, Salma Maoulidi, Maria Musoke and Victor Osehobo. I gratefully acknowledge the tireless commitment of my comrade and partner, Edwin Madunagu, a leftist, pro-feminist writer, and journalist in helping to pull together and co-edit the materials for this publication. He also wrote the Foreword.

**BENE E. MADUNAGU**

**January, 2003**

## FOREWORD

### Reflections on the women's question

Until quite recently, the subject I found most difficult to write on was the discrimination which women suffer. I am embarrassed not only because the phenomenon of women's oppression is so real, so pervasive and ever-present, but also because, as a Marxist and humanist, and one engaged in conscientising men against sexist prejudices, I should really not find the subject of oppression of half of humanity difficult. I think there are three main factors - among several others - responsible for this personal problem which I am sure, several other people - or more specifically, other men - share with me. The first is that Marxist politics, in particular, and leftist politics, in general, have really not paid adequate attention to women's oppression. We inherited a revolutionary tradition that essentially ignored the problem in practice and had been abstract in its theoretical appreciation and analysis. Marxist politics is today paying dearly for this historical neglect as it is paying for its near-neglect of the forces of religion and ethnic nationalism.

The second reason for this embarrassing difficulty is that the oppression of women is so integrated into our daily lives, so internalised, that most human beings - male and female, radical and conservative, rightist and leftist - regard it as natural, as normal. I recall the strange behaviour of a Romanian professor of Mathematics who was one of my teachers when I was a graduate student in Lagos University in the early 1970s. I observed that from time to time the professor would step back from the blackboard to the other

end of the classroom to read the mathematical argument he had written. One day I asked him if this forward and backward movement was part of the demonstration of the argument. I was shocked when he said "yes", adding, in the little English he knew, that one cannot see well while standing close to the blackboard. A teacher, he said, has to move back from time to time to see and reason well. I have never really forgotten the professor's statement; and I remember it particularly now that I am discussing the question of women's oppression: you don't clearly see the oppression of women and cannot reflect well on it because the phenomenon is so close. Unfortunately, there is no way of "stepping back" to look at it, or think of it, because you always carry it with you.

When radicals and revolutionaries are accused of perpetrating sexist oppression, discrimination or prejudice, they run into angry and vociferous self-defence. But very often their very denials confirm the charge. This reminds me of an encounter I had several years ago with a female comrade. When she raised the question of male Marxists, including myself, oppressing their wives, girl-friends, concubines, daughters, colleagues, subordinates, mothers and even female comrades, I went into a rage. I told her that in my own house, I took part in domestic work, including cooking, washing and cleaning. To nail the question and put the comrade on the defensive, I announced - truthfully, I may add - that I sometimes washed my female domestic assistant's clothes. The comrade looked at me with something like a mixture of pity and condescension, and then replied: "Comrade, whenever you take part in domestic work, or wash your domestic assistant's clothes, you do it because you feel like

doing it. On the contrary, your wife and domestic assistant do domestic work and wash your clothes, not because they feel like or want to do so, but because they are compelled to do so. That is the essence of women's situation, my situation and your comrade wife's situation". I felt deflated, humbled and humiliated.

The third factor is a more personal one. I happen to have a wife whose main preoccupation, mental and physical, in the last 22 years has been the women's question - the human rights of women; violence and discrimination against women; women's reproductive and sexual health and rights; women's empowerment; women and the democratic transformation; etc. As this spouse is more knowledgeable than I am on this question and as she is also my friend and comrade (a spouse is not always and everywhere a friend or comrade, mind you!) she has tended to relieve me of much of the duty I owe the women's question in writing and public speeches. I have also almost been relieved of the responsibility of thought and reflection on this question. I don't know how many men are in my position. Worse still, I don't know how many such men are struggling, as I am doing, to overcome the situation.

In an article published about 20 years ago in **Marxist Today**, a European female feminist, Vickki Seddon, articulated three mechanisms that maintain the power of men over women: "These are the financial dependence of women on men; men's control of women's sexuality and fertility; and violence, and fear of violence exerted on women by men". I agree completely with Seddon. To solve a general problem like that of women's oppression, you must formulate it

correctly; and to formulate it correctly you must uncover its roots and history and give it abundant illustration in time and space. This is what six African feminists - five women and a man - have tried to do in this anthology. It is, in my view, a powerful attempt; and I am pleased to write this foreword to it.

I turn my attention to the family system since the family is the site of the worst forms of discrimination and violence against women. The modern family system - which cuts across races, nations and cultures - has been described as patriarchal where patriarchal institutions are defined as "systems of social relations by which the old dominate the young, men dominate women, and those at the centre of male descent lines dominate outsiders who marry or are adopted into the lineage." The essence of patriarchy, this definition continues, is that "girls and women have little control over the circumstances under which they work, the returns for their labour, their sexuality and the timing and number of their children." Then the insightful statement: "But patriarchal institutions interact with institutions of caste, class, and ethnicity within historically specific settings to produce diverse patterns of productive and reproductive behaviour." I am struck by this statement just as I have learnt a lot from the present book.

I can see two broad strategies for the struggle against the oppression of women. The first is the intensification of the current national and international struggle by women's groups and feminist organisations for the human rights of women, for gender-sensitive social development, for self-determination, for personal freedom and the conditions for

personal freedom. This is the categorical imperative, the permanent and unnegotiable human responsibility: to struggle against all conditions under which humanity or fractions of it are oppressed, cheated or humiliated. Although women, as victims, will have to be in the forefront, this is a struggle for all humanity as has been argued for ages. As such, men, the state and traditional institutions must, more and more, be educated and persuaded to join. Men, in particular, should be made to see that the "paradise" they dream about cannot come to pass so long as they hold down half of human kind. The second strategy is a long-term one. It is the intensification of the analysis and criticism of patriarchy under which women and children are exploited and, in particular, under which a woman, or a group of women, and their children are enslaved to a man, called "husband", "father", and "head of family", however inhuman or stupid he may be.

I must quickly draw attention to the difference in the modes of engagement advocated in the first (minimum and permanent) strategy and the second (maximum and long-term) strategy. The first is the intensification of the continuous struggle against all forms of discrimination and violence against women. This struggle is categorical, unnegotiable and permanent; but the second is intensified analysis and criticism of patriarchy as a means of revealing and understanding its oppressive ideologies, contents and structures. No substantive gender-sensitive or humanist, social, political, economic or cultural transformation can take place without this understanding.

**Edwin Madunagu**

Calabar, Nigeria

February 2003

x

## INTRODUCTION

**DAWN** - Development Alternatives with Women for a New Era, is a network of feminist scholars and activists from the economic **South**, working for equitable, sustainable and gender-just development. DAWN's vision of feminism has, at its core, a process of economic and social development geared to human needs through wider control over, and access to, economic and political power. DAWN's mission is to provide a forum for **South** feminist research and analysis of the global environment - social, economic and political - as it affects the livelihood of people, especially poor women in regions of the **South**. Through its research, analysis and advocacy work, DAWN seeks to generate a process that will support women's mobilisation, within civil society, to promote equitable social, economic and political relations at global, regional and national levels.

From about 1996, DAWN's research, analysis and advocacy work has been focused on the following themes:

- a) Political economy of globalisation;
- b) Sexual and reproductive rights and gender justice;
- c) Political restructuring and social transformation.

The fourth theme, Sustainable livelihoods, has just taken off.

This project is an attempt at linking these themes by utilising the contributions of African women, through their life experiences, to create alternative paradigms to the present neo-liberal policies of globalisation. The phrase "Feminisation of Poverty" was a popular slogan during the Fourth World Conference on Women (FWCW), Beijing 1995. It expresses the overwhelmingly female face of poverty that

continues to limit the opportunities of women particularly in Africa. It has been estimated that 70 per cent of girls and women in Africa live in extreme poverty with an income of less than US \$1 per day. Girls and women in Africa are still faced with unequal power relations between them and their partners in the spheres of decision-making, opportunities, rights and other life chances for self-actualisation and high quality of health. Girls and women continue to face constraints and barriers in accessing health services, good education and other essential services to improve the quality of their lives. While the unequal gender relations in the household and in the community at large place particular burdens on girls and women, they in turn still spend their energies and intellectual capacities to cater for and sustain their families and communities.

While we admit that some aspects of poverty and exploitation are shared by women and men of the lower class, many aspects are gender-based, being specific to women. Women face greater socio-cultural discrimination on the basis of their sex. The implementation of structural adjustment policies of the eighties through cuts in subsidies on health, education, transportation and even food, fuel and potable water, increased the disproportionate burden on women as family and community carers. Increasing and widespread inter and intra-armed and ethnic conflicts have gender dimensions. Majority of displaced people in conflict situations are women and children. Women and girls suffer gender-based sexual violence and other forms of exploitation which men do not experience in conflict situations. The HIV/AIDS pandemic has greater devastating effects on girls and

women not only because of their disempowered situation in female-male relationships and because of the anatomy of their reproductive system but more so because of their role as mothers and carers of family members and friends who suffer from HIV/AIDS. Women are also marginalised from both traditional and modern political structures of decision-making, as well as from economic activities. Women and girls are negatively exposed to cultural intolerance and harmful traditional practices. In many situations, religious and cultural norms and practices limit the control women have over their sexuality and their very lives.

In spite of the commitments made in the programme of Action of the International Conference on Population and Development (ICPD) Cairo, 1994; the Platform for Action of the Fourth World Conference on Women (FWCW) Beijing, 1995, the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), and other similar documents, affirming the rights of women to access health services, their right to control their fertility and to have the highest possible standards of basic health services, high maternal morbidity and mortality and sexual and reproductive health problems persist in most African countries. We are inspired by the undaunting strengths of poor African women who in their life experiences in coping with the impacts of the harsh neo-liberal policies of globalisation, coupled with gender discrimination and all kinds of limitations, have proven themselves as agents of social change. By their diverse, vibrant struggles to sustain their families and communities in the face of limitations from all fronts, they have developed alternative paradigms to the bastardized imperialist democracy

of oppression executed, in part, through the Bretton Woods Institutions.

We have learned from the life experiences of Africa's poor women that inequalities in economic opportunities, marginalisation of women in decision-making, violations of the rights of women and the general subordination of women in all processes and institutions of human development, gender stereotyping and negative socio-cultural attitudes cannot be eliminated without the empowerment of women. Furthermore, we are convinced that the empowerment of women is the precondition for gender and social justice and hence for the elimination of poverty.

This is why this publication was initiated to advocate a fundamental transformation in social relations and hence a movement towards gender and social justice. The beginning of this process is the instituting of fundamental changes through major policy reforms, enactments, reviews and changes in laws and regulations that limit popular participation and the reallocation of resources to address issues of social services and specific needs of the people from a gender perspective. This contribution made by DAWN through the research efforts of four women: Patricia MacFadden, Cesnabmihilo Dorothy Aken'ova, Salma Maoulidi, Maria Musoke and a man, Victor Osehobo, is intended to increase public debates for the evolving new paradigms of development, political economy and popular democracy that will engender sustainable livelihood, gender and social justice.

**BENE E. MADUNAGU**

January 2003

# TABLE OF CONTENTS

Acknowledgements	iv
Foreword	vi
Introduction	ix

## CHAPTER ONE

SEXUAL HEALTH AND RIGHTS FOR AFRICAN WOMEN <i>by Patricia McFadden</i>	1- 10
---	-------

## CHAPTER TWO

BECOMING POST-COLONIAL African Women Changing the Meaning of Citizenship <i>by Patricia McFadden</i>	11-34
--	-------

## CHAPTER THREE

INFORMATION AND WOMEN'S HEALTH Reports from Rural Uganda <i>by Maria G. N. Musoke</i>	35 -102
---	---------

## CHAPTER FOUR

WOMEN'S STRUGGLE IN THE NIGER DELTA Oil Companies Asked to Ensure Clean Environment and Provide Employment <i>by Victor Ofure Osehobo</i>	103-122
--	---------

**CHAPTER FIVE**

**WOMEN AND HEALTH**

Case Studies in Nigeria and Ghana

by *Cesnabmihilo Dorothy Aken'ova*

123 -184

**CHAPTER SIX**

**WOMEN, LAW AND VIOLENCE**

Case Studies in Nigeria and Ghana

by *Cesnabmihilo Dorothy Aken'ova*

185-232

**CHAPTER SEVEN**

**JUSTICE DELAYED IS JUSTICE DENIED**

Judicial Activism and Women's Rights in Tanzania

by *Salma Maoulidi*

233-262

**CHAPTER EIGHT**

**BATTLING FOR SPACES IN TRADITIONAL  
STRUCTURES**

The Case of Muslim Women in Tanzania

by *Salma Maoulidi*

263-345

Notes on Editors and Contributors

346 - 350

1

## **SEXUAL HEALTH AND RIGHTS FOR AFRICAN WOMEN**

**Patricia McFadden**

**F**or a while, it seemed that the issues of health and rights were relatively straight forward, in terms of their re-definition in relation to the changes that were occurring at the global level, particularly in the aftermath of the Vienna, Mexico, Beijing and Cairo conferences held in the latter part of the 20th century.

However, once the underlying elements of a varied discourse, influenced mainly by the struggles for sexual equality in the North, began to impact on the consciousness of Southern women thereby changing the content of their demands, the world seemed to turn over on its head. The crisis of sexuality, for so long shrouded beneath the guise of taboos and mystification, seemed to explode onto the international and national scene, in the 1990s, accompanied by a strange sense of amazement and sometimes hostility on the part of humans who have engaged in sexual activity for as long as the human memory can recall. It is this peculiar public reaction to the issues of sexuality that I would like to begin exploring in this presentation.

Among African activists - both feminists and developmentalists - new fissures seem to have emerged which are premised on an often unclear contestation over what terms like sexuality, reproduction, reproductive health and reproductive rights actually mean. The tension is further exacerbated by the political imperative which emerges out of this new engagement with these critical notions: how to translate this new consciousness about their reproductive and sexual rights into the politics of their lives, as activists and scholars, causing their personal identities and life-styles to change dramatically.

### **Women's health is about sexual or reproductive health**

One reaction has been to insist that the notion of reproductive health does not encompass the total health of African women, and that because of its narrowness and restriction to the birthing and nurturing functions which women perform, it cannot be used as the framework within which women's overall health is discussed. This is a fair criticism, only if reproduction and health are kept locked in a traditional association with the physical and related social processes of birthing and socialization. These processes have traditionally not constructed women as having any specific needs of their own, and for the better part of known social history, women have been subsumed into the categories of 'mother' and 'wife', which reflect the premise of traditional notions of reproduction and health. The woman is still largely perceived

as the means through which health is provided for all, without any real focus on her, the woman, as someone with rights within this process.

Therefore, a reaction to the construct of reproductive health in its narrow definition is welcome. However, the discourse on reproductive health has long since moved beyond the definition of reproduction in its traditional sense, and has come to encompass the issues of sexuality and rights - a fundamental transformation of the perception and meanings of health for all women globally. Consequently, I do not think that separating reproductive health from health as a broad category necessarily helps us move the discourse forward. Nor does such fragmentation of frameworks facilitate a better understanding of the issues at hand in relation to women's health. What it does, instead, is to create a disjointed view of women, which in turn perpetuates the traditional biases and prejudices against women in health, economics, politics and other social spheres. We cannot have two, or three, or four concepts of health for women. We have the ability at both the conceptual and practical levels to put in place a holistic framework, which would enable activists to see women in the fullest light possible.

However on the other hand, the very notion of women's health is in itself problematical, because it homogenizes women into a very troubled and undifferentiated category. The impact of variables like class, race, ethnicity, age, social status, differential access to resources like education, legal

structures, information, wealth - all impact on the term 'woman' in different ways, within specific family, community, national and international contexts.

Therefore, whilst it sounds more acceptable to insist on a notion of 'women's health' - and in populist politics this is very difficult to counter - the actual translation of such broad, amorphous notions of women can lead us down a dangerous, slippery slope that can have serious conceptual and policy implications. It is in this regard that I would like to turn the controversial issue of sexual rights.

### **Claims relating to sexual rights in African culture**

The notions of sexual health and rights emerged from an expansion of reproductive health beyond its bounded imprints on women's physical abilities to reproduce the human species. By recognizing that sexuality is a central part of human identity and behaviour (all humans are born with a sexual capacity -it just depends on how that capacity is structured and named), and, most importantly, considering that for most women heterosexuality, which is compulsory and anchored in patriarchal male privilege, the significance of sexuality as a health concern for women has become an urgent issue among health activists globally.

In Africa, most activists and scholars still tend to separate the notion of health from issues of reproduction and sexuality. Sexuality then becomes susceptible to meanings which are essentially heterosexist and homophobic (i.e. the

association of sexuality with homosexuality, as though heterosexuality is not a sexual 'preference') and the right to sexual preference becomes something which 'those perverts' do, but is not considered a concern for all humans who engage in sexual and erotic behaviour and practices.

I think that this strange representation of sexuality as a phenomenon restricted to 'abnormal' people (lesbians, gays and bisexuals) is linked to several reasons, both historical and gendered, which we need to pay greater attention to. Although activist and policy responses to the HIV/AIDS pandemic in most African countries have begun to thaw the ice around issues of sexuality and disease, a wider and more comprehensive discussion about the linkages between sexuality and violation; between notions of the sexual and forms of mutilation (both genital and more general); and the opposing correlation between sexual pleasure and the erotic have still to occur at a broad enough level in most communities.

### **Heterosexuality as the norm**

Firstly, the very issue of sexuality has become so hegemonised by heterosexuality as a male defined, male privileging form, that the term sexuality is treated as a misnomer by most heterosexuals. For many Africans in particular, the closure on any discourse about sexuality as a public or private issue, and the silencing of any debate about heterosexuality as a socially constructed and culturally imposed sexual form, has

led to an authoritarian appropriation and normalization of heterosexuality to the point where only perverts are sexual. It is truly amazing that whilst heterosexuality has become so 'normal' and so central to the very identity of Africans, most Africans still resist, with a fierce passion, any discussion of sexuality, let alone the deconstructing of heterosexuality as a compulsory socialization. Even the initiation of a discussion within the confines of a private dinner party or within a small informal group still elicits looks of disapproval and a body language that speaks to deep-seated sexual repression.

Secondly, by hegemonising the meaning of sexuality and imposing a sexual sameness on all women, patriarchy has succeeded in collapsing women's sexuality and rights into an essentialist definition of womanhood which is linked to breeding and wifedom. Domesticity has become a controlling ideology that interfaces male/female relationships in the private. Without sexual health and sexual rights, African women remain within a status quo - mainly in the heterosexual family institution - as the means through which men reproduce themselves socially, culturally and sexually. And, when we are able to **step out** of our subjective embeddedness as African women, and to leave behind, even momentarily, the centuries of patriarchal socialization and propaganda about what and whom we should be, we immediately realize that sexual health and rights are not a matter for white Northern women. In fact these rights lie at the heart of African women's most fundamental human rights. If we stand back and take a closer look at ourselves, using the intellectual and critical feminist

lenses available to us all, we are confronted with an uncomfortable fact - that of having to disentangle our sexual identities and rights from the narrow, repressive notions of African heterosexuality, even as we declare that we are unthreatened by the different sexual choices and orientations of our sisters and peers.

I know that this issue remains highly controversial and needs a wider and more carefully navigated discourse for it to lead to transformative strategies in order for it not to get stuck in our individual subjectivities. However, I shall persist with my contention that unless we are willing to un-package the very things we so passionately cling to as our African-ness, we run the risk of undermining our own future and the future of many women who will come after us.

Thirdly, because most African women activists have not yet taken the time to re-define their sexuality vis-a-vis their rights, and in relation to their reproductive roles as bearers and nurturers, they often encounter great difficulty conceptualizing the interconnection between these three critical realities (of being sexual beings, in whose existence the notion of rights derives fundamental meaning, and having the capacity to reproduce the human species), and the implications of this in relation to power.

Therefore, this remains an urgent task, which African feminist intellectuals and activists need to take seriously. We cannot avoid a critical appraisal of the traditions and cultural systems that have shaped and in many instances, constrained our progress as women.

Fourthly, the central issue of rights for African women remains largely unexplored in its specific contexts. Whilst on the one hand, African activists are using the broad notions of rights (as defined within CEDAW in particular), to put pressure on the state, we have only just begun to consider what these international instruments imply for the re-definition of the African identity, and for the identities of African women in particular. On the one hand, our acceptance of such conventions bonds us more closely with the international community, around issues of justice and peace, while on the other hand, it requires that we re-conceptualize the very meanings of our uniqueness as women and as individuals. These are serious issues which we must pay closer attention to, and I suspect that some/much of the reaction against notions like 'reproductive rights' stem from a resistance to reconsider our positioning vis-a-vis the issues encompassed by universalizing constructs.

### **Reproduction is necessarily about rights, health and sexuality**

An acceptance of the argument that reproductive health encompasses the three central elements which define women in new and different ways (in terms of sexuality, health and rights), is, I think, an important starting point for a much-needed discourse on this matter. We reproduce ourselves through physical and social processes. We exercise our rights through choices. We express and enjoy our sexuality through orientation as well as through pleasure. These are the critical

components of sexual and reproductive health, a framework which, to my understanding, is not tied to the literal meanings of birthing and medicine.

Once the words, reproductive health begin to signify much more than a narrow category of health needs that are linked to women's reproductive activities, then we begin to understand the political implications of such a construct. We are able to see the interconnection between a woman's ability to decide to birth or to decide to terminate an unwanted pregnancy. More significantly, we are able to extend either decision to the terrain of her right to make a choice either way - and not be rewarded or punished.

The ability to exercise a choice - through the instrument of rights, reflects the third critical element for women - that of sexuality. For as long as a woman's sexuality was tied to/ conflated into a pro-natalist ideology which insisted that she must have a fertility and not a sexuality, women had no rights nor choices in this regard. Making a choice to terminate an unwanted pregnancy was /still is defined as a crime (legally) in most African societies, and it is perceived as the violation of a moral precept (within organized religions). For as long as women's rights and choices, women's sexuality and consequently their health, are regulated by patriarchal definitions of morality and obligation, we remain trapped in a tragic reality that is daily played out in the shocking rates of maternal mortality and morbidity in all our societies. Millions of women are dying because of the absence of a human right to have a sexuality that is unfettered by moral and criminal

hypocrisy.

I have used the example of abortion because it goes to the heart of the meaning of empowerment for women. For African women, the critique of heterosexuality and its supposed inherent situatedness within a notion of African-ness must become a critical political issue for all activists. In my view, the above conceptual tools provide a key to women's freedom to think about sexuality in new and empowering way. We need not be locked in a time-bound notion of African womanhood that is represented by babies on our backs and baskets of food on our heads. The appropriation of African woman-self through representations that silence and erase continuously our voices of difference and individual aspiration is deeply problematical to me.

How can women exercise their power as human beings without the instruments through which power is formulated and realized in human society? Without rights, without a personhood, without bodily integrity and without systems of health which are structured in ways that enhance women's dignity and choices, we find ourselves back in those dark and dangerous places which tradition and culture have so often entrapped us and taken our lives.

Sexuality, Health and Rights are integral to each other, and we cannot make a difference in our own lives or in the lives of the women with whom we work/for whom we struggle, if we do not use this new conceptual tapestry to usher in a different meaning of living and future for African women across the numerous differences and rich diversities that contour our existence on the continent and in the wider world.

## 2

### **BECOMING POST-COLONIAL**

#### **African Women Changing The Meaning of Citizenship**

Patricia McFadden

**A**s we step into the 21st century, we are confronted with the reality of neo-colonialism collapsing and by the imperative urgency of having to craft new social and political systems that will respond more effectively and with greater durability to the needs and exigencies of millions of African people, who by and large, were excluded from the benefits of independence, especially within Eastern and Southern Africa. While my paper will focus on Southern Africa (Zimbabwe in particular), because it provides an excellent example of the transition to a post-colonial society, and, I can safely extrapolate many of my arguments to the realities of women (and poor Africans) in the societies of so-called sub-Saharan Africa, with minor distinctions.

I would like to dwell briefly on the significance of Zimbabwe and South Africa for the elucidation of the notion

of post-colonial politics that I am trying to pursue. I will be using the notion of post-coloniality as a movement that reflects the coalescence of a series of historical relationships. I will also link this notion to the emergence and unfolding of particular class configurations and struggles within societies like those of Zimbabwe, and their interface with the larger global environments. I position women's resistance agency at the centre of this notion, because I think that women's struggles for rights and entitlements, and their engagements with the state, provide the new cutting edge of a different politics on the continent.

In the early 1980s, Zimbabwe was held up as a nation that held the promise of a resolution to the difficult and seemingly intractable problems of 'de-colonization' and stability in Southern Africa. A deal - the Lancaster House Agreement - had been reached between the settler elite and the emergent black ruling class that would ensure the continued privilege of a tiny white minority while catering to the attendant interests of an emerging but impoverished black ruling class. Masquerading as a constitution, this agreement entrenched the interests of white settler farmers and industrialists, while also further institutionalizing the exclusion of the majority of Zimbabweans from the possibilities that this moment of change provided. At the core of the compromise was the issue of land - the most critical resource in the social and political reproduction of Zimbabwean society, and stability was defined in direct relation to the maintenance of classed and raced interests

within the region - and on the continent generally.

While the neo-colonial dispensation that followed did afford most Zimbabweans limited social, educational and economic benefits, the changes necessary to shift the society from one that was embedded in exclusionary state and legal practices to one that facilitated for all citizens to live wholesome lives would require a much more fundamental transformation at the level of the relationship between individuals, groups and communities with the state and with the most critical resource in the society - arable land. The opportunities that neo-colonialism provided for various groups within that society were both temporal and unsustainable.

For the white commercial farmer, whose lifestyle remained largely untouched by the continued marginality of millions of poor Zimbabweans on the edges of his numerous farms (sometimes running into hundreds of thousands of acres), the assumption that he could continue to live as though black Zimbabweans had readily given up the memory of brutal racist repression and murder, and the indignities of having had to live under white dominion was in, and of itself, a stupid self-delusion. But this is what most white settlers wanted and thought they got through British intervention in 1980. Consequently, they continued to exploit the labour of hundreds of thousands of black farm workers, most of whom were considered outsiders by the Zimbabwean state and were not protected by any labour legislation nor were they allowed to register as citizens of the new state. Among these hundreds

of thousands of displaced people, who were stranded on white farms - were large numbers of women and children, whose unpaid labour remained critical for the maintenance of a luxurious lifestyle for the white settler family. The collusion of white farmers with the neo-colonial state in the exclusion of black farm workers from the protections and entitlements of citizenship in Zimbabwe is only one of several critical issues that must be factored into any analysis of the current crisis wrecking that society. White farmers continued the practice of indentured black labour and child labour up until recently when they were forced off their farms. The rape and plunder of the bodies of black workers and their daughters/wives by rampaging radical nationalist militias, and the marking of black workers as traitors to the Zimbabwean nationalist vision, is a brutal expression of the further exclusion of a community of people whose vulnerability was intimately tied to the privilege and continued wealth of white commercial farmers in that country.

During the intervening years it was not uncommon to hear whites in Zimbabwe exclaim that they had never had it so good, and that if they had known it would be so easy, they would not have gone to war in the first place. Many returned from South Africa where they had fled, unsure of their future as that country headed towards independence in the 1990s.

For the emergent middle classes who entered the state at independence without a farthing to their names in most cases, accumulation and a restructuring of the relationship between

Africans and private property became the most immediate imperative. They used every possible opportunity to accumulate wealth, within the state as well as in the private sector, faced with the deep-seated resentment and resistance of white entrepreneurs who used every trick in the book to keep black competition out. In the 1990s, the state opened up the banking sector and supported various indigenous business initiatives in an effort to expand the base of the black middle classes. The tensions and contestation over sources of accumulation and the control of national resources intensified as SAPS programmes undercut the rural and urban base of the ruling class and the neo-colonial project began to falter - exacerbated by recurrent droughts and the impact of globalization on Zimbabwe's agricultural production.

With the end of the Lancaster House Agreement moratorium on state-led acquisition of land in 1990, and as a result of the increasing pressure from a burgeoning civil society for the state to restructure its relationship with the citizenry on all counts - the Zimbabwean state went into crisis mode, and the issues of land, identity and national consolidation became the cutting edges of a new political discourse within that society. Ten years of a stalemate on settling the land issue between the ruling class and the settler minority resulted in the land invasions and an implosion of the legal, economic and political systems. As the Zimbabwean ruling class moved across its national boundaries in search of new fields of accumulation by repositioning itself militarily within the increasingly regionalizing state process (SADC),

it became trapped in the conflict within the Democratic Republic of the Congo (DRC) where it vied with the equally determined ruling classes of Rwanda, Uganda and Angola over the immense wealth of that wretched country - thereby adding to the already explosive mix of unresolved national issues in Zimbabwe. The scene for a crisis driven transition had been set.

### **Where and when women enter the contestation over citizenship**

The dominant notion of citizenship within the Zimbabwean and African context generally is one that is derived largely from the colonial practice that attached the status of citizenship to whiteness, maleness and to the ownership of property. Qualified suffrage (based on the ownership of property) was a compromise that was considered for certain groups - including white women and persons of mixed-race (Coloureds)- while the majority of Africans remained outside the legal and political reality of this notion. Colonial historiography attests clearly to the systematic exclusion of Africans from even the most limited meanings of citizenship as an imagined status, and the use of extra-legal mechanisms to ensure that black women in particular remained confined in the privatized rural spaces of the colony. This was the most blatant example of these exclusionary state policies. Black men often participated in the 'bounding' of black women to the rural spaces that were defined as 'authentic' African spaces, nominally controlled by chiefs and elder males. In

the urban areas, black women could only traffic publicly under the 'auspices of a recognized black male - as a wife - and women who could not produce a husband' - were labelled prostitutes and socially stigmatized. In Kenya, women who fled to the cities were 'repatriated' to villages by male relatives where they were spat upon and humiliated as 'traitors', a practice that clearly aimed at ensuring that young women remained within the boundaries of such communities. Yet women left for the urban spaces, expressing their resistance to patriarchal surveillance through 'flight'.

The anti-colonial struggles provided a unique opportunity for black women to become political and to embark on the path towards citizenship - to becoming autonomous subjects, with a consciousness of rights and entitlements that enables one to demand protections and obligations from the state. The engagement of women with African and European patriarchies during the struggle for independence is widely reflected in the historiography of the region - something that even the most radical left intellectuals (most of whom were white males) did not deem worthy of inclusion. The closest black women came to mention in most of the historical and political texts about southern African resistance was as the mothers of great men or as prostitutes. Feminist contestations and rejections of such racist, patriarchal representations have led to an increasing acknowledgement that black women were more than glorified breeders and victimized sex slaves. It is an important intellectual and

political leap forward in terms of the formulation of a more inclusive left epistemology.

While the colonial state attempted to limit the entry of black women into the public - a contradictory stance, given that one of the most important policy outcomes of the immediate independence period was the availability of universal primary education which meant that little girls could enter the public world of knowledge- the entry of black women into the modern public spaces of neo-colonial society marked a dramatic turning point in their unstoppable sojourn towards the status of citizenship and entitled individuality. Education provided black women with the possibility of crafting a new identity- beyond that of motherhood and wifhood - and acquire a consciousness of entitlement that would impact on their relationships with males at the family, community and society levels. Zimbabwe has one of the most educated female populations in the southern African region, and access to education has become a critical wedge in the struggle for rights by women across classes within the African Women's Movement. The contestation over higher education and issues of affirmative action at the University of Zimbabwe speak dramatically to the tremendous tensions between young Zimbabweans over educational spaces and the social resources these are endowed with, and make visible the emerging consciousness of women about the possibilities they have to become active, engaging citizens.

Expressions of patriarchal resistance to women's occupancy of spaces of learning showed themselves in the

gang rape of female students and the stripping of any young woman who dared to step any further - by wearing a mini skirt or refusing to conform to the expected 'traditional' decorum of a 'decent' woman - the latter being ironically an artifact of colonial (Victorian) invention. The surfacing of authenticating discourses within the Zimbabwean academy, disguised as attempts to maintain standards of an imagined 'national culture', controlled and determined largely by young (and older) African males, reflected the struggle over a site that had been critical in ensuring white privilege and the reproduction of a racist ideology during the period of colonial domination. The battles on the university turf spoke volumes for women's challenge to African patriarchy and its impact on the hegemonic notion of citizenship. In the mid -1990s when Zimbabwean women were able to make amendments to the 'Constitution' by insisting that women, as citizens, had the right to marry foreign males, who should automatically accede to all the rights that come with such marriage for Zimbabwean men, the state re-structured that clause of the Constitution to limit the rights of foreign spouses, rather than extend the full rights of citizenship to the spouses of Zimbabwean women. As I will try to show presently, the contestation over the meanings of citizenship within the Zimbabwean context has reflected the deep-seated gendered character of constitutions as juridical instruments and as politicized texts within that society and across the region.

Access to health care (primary and reproductive) also meant that women could invest more of their time in the

business of economic activity; they could enter waged labour and compete with males for a pool of jobs that brought in a limited but critical income and other resources that in turn began to change the character of family relationships and power relations at all levels of the society. Women began to enter the middle class in their own right - as bearers of various types of property - mainly in the form of intellectual property and skills. The emergence of the women's movement also provided a critical resource base for women's entry into the middle classes, and while this feature of the movement has severely undermined its political viability and effectiveness as a movement, it has also created new sources of identity for women in the public, further destabilizing the patriarchal relationships between heteronormative genders. Social mobility based on educational expertise enabled women to enter the public as individuals who could engage with the market, albeit constrained by cultural and social taboos and value judgments that limited their ascendancy and relegated most women to lower level professions and lower pay. Nonetheless, some Zimbabwean women broke through the barriers that the colonial state has imposed upon their social and physical mobility. Most significantly, black women could, for the very first time in known African history, confront the state as individuals who understood that they had rights and entitlements by virtue of being members of that society, regardless of their status on the basis of ethnicity, class or social location. The colonial state had refused to even acknowledge the existence of black women as persons,

relegating them instead to the permanent custodianship and control of males within what were designated as 'African families.'

This social restructuring of the middle class has had important consequences for the character of the state and for any analysis of the social character of Zimbabwean society. Middle class women, who are at the forefront of the women's movement in that country, (and all over the continent) portray the most obvious representations of modern identity and culture within their societies. Their embrace of modernity - largely through the articulation of notions of political and human rights that invoke old traditions of bourgeois equality and liberty - have become the archetypal rejection of deeply embedded myths within western anthropology and African nationalism about the 'true' African female persona. Faced with the demands and threats of African men that they conform to an outdated notion of womanhood - upon which the imaginary authentic African identity is premised - and that they not disrupt the cultural and social base of male rule - in the public and private spheres, middle class African women are defiantly re-defining themselves as citizens who make choices increasingly as individuals, based on their access to and control over critical social and material resources within their respective societies. All these tensions and contradictions coalesce around the increasing demand by middle class (as well as other) classes of women that they have a right to own and control private property. This is the crux of the matter in relationships between women and men

and between the women's movement and the state. I shall return to this issue in my conclusion.

Suffice to say that as Zimbabwean (and South African) society has entered the period of transitional crisis (for me crisis presents historically unique moments of opportunity to transit to a new place - for individuals and societies), the women's movement has also come into its own - representing a broad spectrum of women's organizations and structures: a collective political agenda, which is continuously negotiated and contested over, especially with regard to issues of sexuality and integrity/choice, and a new tradition of resistance against the state and the various institutional locations of patriarchal repression and violation. The stage is set for a new political culture to finally emerge. I think that the Zimbabwean Women's Movement (like women's movements in various countries of the region and the continent - to varying degrees) is poised to lead that society into a new political future, together with other critical civic players, and the issues of full citizenship for women lie at the core of this new political ethos.

How is this possible? If we look at the past twenty odd years of civil society activism, it is very clear that the women's movement has become increasingly pivotal in shaping and directing engagements with the state over the most critical issues facing all citizens in that country. In fact, there is no social movement that is as well organized and as politically and socially effective as the women's movement in national and international terms. The women's movement was the first

expression of women's demands for an autonomous identity, when women rejected the persistence of colonial laws that restricted their mobility, particularly in the cities, and marked them as prostitutes - interlopers who represented a real and present danger (to borrow the jargon of the extreme right - with caution). The backlash against women's entry into the public domains - where rights are situated as the social, political and legal outcomes of group and national struggles - was instantaneous and uncompromising in the immediate years after independence. Black men argued for the 're-domestication' of women who had been active as combatants against the Smith regime, and the battle over national culture and the subservience of women within Zimbabwean families rages to the present time.

As the movement separated itself from the state-sponsored initiatives of the early 1980s, and became more autonomous in the manner that it expressed the construction of political issues - from the safe issues of children's rights and empowerment for poor women to the radical demand for the decriminalisation of abortion and the provision of safe termination with information; the insistence that women have an inalienable right to the ownership of private property, in particular family property - the battle over the ownership of the movement has come into being. The influence of more moderate elements within the movement in the first decade of neo-colonial rule, reflected the continuing influences of nationalist ideology and an uncritical relationship with the neo-colonial state, and meant that the women's movement in

Zimbabwe as well as in the region remained largely mainstream and unthreatening to the state. However, as women became more active in regional and global women's activities at the UN level in particular, the consciousness of such women began to change. The UN Women's Conferences were a perfect ground for the acquisition radical political perspectives. They were learning new strategies of engagement; hearing about the struggles of other women in the South as well as in the North; learning from the traditions of resistance that had worked and considering the strategies what other women's movements had used in their relationships with other movements like the environment movement for example. This has a tremendous impact on the political character of women as individuals and as leaders of the movement.

The liberation of South Africa and Namibia opened up additional opportunities for women from Zimbabwe, Tanzania, Zambia, Botswana, Kenya, Uganda and Mozambique to work together at the regional level - partly in response to the regionalizing tendencies that had begun to emerge in the state (SADC) and partly as a consequence of the energies that the movement was garnering from collective activist practice. By the mid-1990s the Zimbabwean Women's Movement was reflecting the dominance of a radical, highly critical political tendency within it, and had shifted the manner in which women were relating to the state. The discourse of reproductive and sexual rights was driving women's demands for state intervention into the crisis of HIV/AIDS and the

exploding levels of sexual violence against female children and women of all ages. The connections between domestic violence (in the private) and structural, state-sponsored, patriarchal violation - embedded in the maintenance of social status laws that allowed sexual impunity and misogynist practices in the name of 'cultural preservation' came under uncompromising challenge by women of all classes and social locations. Women demanded the amendment of clauses in the Zimbabwean constitution that protected black men from prosecution because their behaviour was constructed in terms of cultural licence. Women marched on the courts and demanded that magistrates who were blatantly biased and unfair in their judgments be removed from the bench and or be sent for gender sensitization courses.

In terms of structural resources, the women's movement undertook extensive training of women lawyers in the use of gender analysis and feminist approaches to women's rights, and Zimbabwean women were critical in the formulation of the African women's charter (within the African Human Rights Charter) and in the formulation of women's rights as human rights at the global level. At the national and regional levels, Zimbabwean women played a key role in the creation of research institutes and undertook studies on women's rights and entitlements in many of the southern African countries under the aegis of Women and Law in Southern Africa. The Unity Dow case in Botswana became a touchstone for the demands of women across the region. Women realized that their citizenship status was contingent upon a fundamental

restructuring of the law and the legal instruments that men in the society were using to exclude them and or to maintain the bifurcation of the law into 'traditional customary law' and 'civil' law. By positioning women outside the generalized law - which promises every individual a fair hearing and access to a jurisprudence that proclaims equality for all - women could be controlled and owned by black males through a deployment of exclusionary cultural discourses. It was a battle to get women in the movement to even consider the rhetoric of radical feminist demands, caught as they were between the familial pressures to be wives and decent women - in accordance with tradition - and the view they had glimpsed through the window of opportunity that education and global activism had provided.

Several key co-confrontations with the state occurred in the 1990s that related directly to women's aspiration to the ownership of their bodily integrity and family property, which served as turning points in terms of black women's consciousness as individuals within a resistant patriarchal neo-colonial state. Besides the poor response on the part of the state to actively respond to rising rates of femicide and brutal sexual violation of women across the class spectrum, Zimbabwean women faced off with the state on the issue of inheritance of family property. The culturally approved plunder of family resources at the death of a male spouse brought women to the point where they demanded the protection of their property rights by the state. They appealed to the state president and in a televised episode were warned

by Mugabe that in no uncertain terms would the neo-colonial state approve of the ownership of family property by women. If they wanted to be married women, he said, as required by custom, then they should not demand the right to own family property. After all, he reminded the women, the families of their deceased spouses would take care of them in true African tradition.

Women were flabbergasted by such outright denial of their rights as the reality of blatant state collusion in their dispossession and exclusion hit home. At the end of the 1990s, a notoriously conservative black judge of the supreme court of Zimbabwe assembled a full 'rainbow' bench of right-wing judges, and ruled that black women could not inherit family property over their brothers, even if they had been designated as heirs to their fathers' wills. The unjustness of the Magaya case echoed through the silence that crushed the confidence of the women's movement and marked a moment when Zimbabwean women began to reach out to other critical players in the local and national political scene in order to formulate different strategies of state engagement. Based on the passage of the Private Voluntary Organizations Act passed in 1995, the Zimbabwean state armed itself with legislation that aimed at muting and or crushing civil society movements that had become powerful contestants with state-based groups over power.

In the late 1990s, the women's movement entered into politically strategic alliances with a national movement that had emerged in order to demand a new constitution for that

country. The Lancaster House Agreement would become defunct after twenty years, in 2000 and Zimbabweans wanted a real constitution - a text that would reflect their political and legal interests and statuses as individuals and groups, and the National Constitutional Assembly set out to do just that. The women's movement formed itself into a coalition, drawing women from across the differing political ideologies that make up the movement, and producing a Women's Rights Charter which began with the statement: We the citizens of Zimbabwe. It was a profoundly significant moment for radical feminists like myself, who had worked for twenty years to bring the movement to this place - where women were articulating a consciousness about themselves as autonomous individuals who claimed their rights from a position of understanding that naming themselves differently would mean a qualitatively different political and social agenda for the movement as a whole.

The alliance with the NCA moved women's politics to a more centrally visible position within Zimbabwean politics, but it also revealed the fractures and underlying differences between individual women in terms of their specific relationships with the state. The women's coalition was very active in the educational work that the NCA undertook, collecting the views of poor working people across the society in the period leading up to the national referendum. The people voted resoundingly against the state-sponsored draft constitution, resulting in the re-institution of the defunct Lancaster House Agreement (with amendments) as the

constitution of Zimbabwe. The stalemate spoke dramatically of the shift in the political leverage that civil society was able to exert upon the state and its functionaries, and the women's movement had positioned itself on the side of an alternative discourse about the rights and entitlements of the emerging citizen in that country. At the end of the 2002 Zimbabwean presidential elections, the women's coalition published a statement that was scathingly critical of the states' denial of women's and poor people's rights to vote safely and with dignity. Among the many issues raised, was the "Amendment of the Zimbabwe Citizenship Act which dispossessed women of their right to vote because of the laborious and expensive process required to renounce either their foreign citizenship or their parent's foreign citizenship. Most rural women had no access to information on the new laws and no access to resources."

The statement ends: "We take great exception to statements applauding the patience and resilience of Zimbabwean voters who waited in queues for hours on end. Such statements suggest that it is acceptable for Africans to be inconvenienced and subjected to these levels of discomfort. It is for all these reasons that the Women's Coalition concludes that the elections were conducted in an unsafe, unfair and unacceptable environment for the women of this country." No other group expressed such radically defiant and uncompromising sentiments on behalf of the wider Zimbabwean community. It is because women's public politics espouses such clear, inclusive principles and visions

that I would like to argue that women's movement, especially in the Zimbabwean context, represents a new political ethos - a cutting edge to a different kind of politics for African societies. It is a daring but refreshingly optimistic vision to embrace.

The women's coalition has continued to express a radical and often defiant stance in relation to the violation of human rights in Zimbabwe, especially with regard to the violation of girls and women on the captive farm worker communities, which have been decimated by the land re-settlements and the wide spread manifestations of impunity and a disregard for human rights. The very notion of human rights within Zimbabwean society has become heavily contested, as white farmers claim one definition of the notion and black, landless, angry state-sponsored militias proclaim a totally oppositional meaning. Caught in between these two raging masculinized camps are the millions of black women who wait for the opportunities that this battle might present to push their claims for land as the signifier of inclusion into the new Zimbabwean citizenry. The Women's Land Lobby, which was formed by the state in response to women's demands that there be an instrument within the state to ensure that women received land if and when it is distributed, has argued that while there is affirmative action in the civil service and affirmative action in school enrolment, when it comes to land, the government has dilly-dallied because land is such a powerful thing. It gives someone a degree of 'independence' (Abigail Mugugu).

The state is fully aware of the implications of allocating land to all and sundry - for its relationship with poor people, especially women, and for the continued control over party politics by ZANU PF. Throughout the 22 years of independence, the state has held onto the colonial (and pre-colonial) policy that enables it to claim that it holds the land in trust for the people. This has given the ruling class a powerful weapon to wield in terms of electoral politics - when rural people are warned that voting for anyone else can mean expulsion from state-owned land. More recently, the Zimbabwean government has dismantled all village level structures (public spaces where people could express their views) and has re-instated chiefs as the authorities in all the rural communities. The South African government has also institutionalized these pre-capitalist, feudal systems at the local and parliamentary levels, glorifying them into a lower house that plays a gatekeeper role over the claims and demands that women and poor people try to insert into parliamentary political spaces - all in the name of 're-inventing' South African culture. It's a dangerous farce and the South African women's movement will pay dearly for allowing it.

Zimbabwean women and millions of African women across the continent have made the critical connection between the construction of citizenship as a fundamental status, and its significance for individuals and their communities in the drive for greater access to, and control over resources of all kinds, and, the imperative of changing property relations as

they were constituted under colonial rule because it is through the hegemony over private property and the institutions of the state, that black and white men are able to wield power and subvert the notion of citizenship in our societies. The right and ability to construct an identity that is not tied to one's father or ethnic legacy, and the protected entitlement to be treated as an autonomous person, with choices and preferences that might differ from those of one's family and community, has become a critical part of the discourse of women within their movements continentally. Through active citizenship, expressed in the continued contestation over all facets of what it means to be a citizen - a life free of sexual and physical violence; the ability to travel and be identified as an autonomous being; to be registered and acknowledged as a rightful heir to familial and public resources; to engage in political practice and have access to the key institutions of the society in order to restructure them in more inclusive ways - these are among the many tenets of a modern citizenship that Africans want and which they have been denied by successive regimes almost without exception.

In conclusion - which for me is really only the starting point of an exciting and tremendously important discourse for Zimbabwe and the continent as a whole, the possibilities of a new and different political tradition and practice lie at the intersection of women's and poor people's demands and claims for full inclusion into the sites and spaces of institutionalized privilege and rights in our societies. Africans do not want to be pitied: we don't want to be studied and

interrogated as victimized subjects whose agency is so rarely acknowledged let alone politically supported at the global level. What we have wanted for the past half century since independence is the opportunity to craft our own future and to define our own destinies - as women, groups, communities and nations. Cleaning up the mess of the last three hundred years of supremacist rule in the region cannot be an easy or pleasant task. Political struggle for rights is always costly for those who want to hold onto privilege as well as for those who aspire to a new dispensation, and the manipulation of people's desires for a more secure future is also often unavoidable. However, becoming post-colonial through struggles for justice and a more equitable distribution of the social and material resources of our societies has become an unavoidable imperative for the people of the African continent. It is an opportunity that women are making the most of, which is changing our lives forever.

e-mail address is: [mcfadden@sol.com](mailto:mcfadden@sol.com)

## REFERENCE

1. Nira Yuval-Davis & Pnina Werbner (eds) (1999)- Women's Citizenship and Difference, Zed Books, London
2. Pumla Gqola (2001) - 'Ufanele Uqavile: Black women, Feminisms and Post-Coloniality in Africa' in AGENDA, No. 50.
3. Desiree Lewis (2001) - 'African Gender Research and Post-Coloniality: Legacies and Challenges', CODESRIA, Senegal,
4. Lynn Walker (2002) - A Study of Child-Headed Households on Commercial Farms in Zimbabwe, Farm Orphan Support Trust of Zimbabwe
5. Statement of the Zimbabwe Women's Coalition on the 2002 Presidential Elections, in Zimbabwe Election Report, FAHAMU - Learning for Change, [www.fahamu.org](http://www.fahamu.org)
6. Nicole Itano - 'Despite Promises: Zimbabwean Women Not Given Land' - FAO Fact Sheet, [www.fao.org](http://www.fao.org)
7. Terri Barnes and Everjoyce Win (1992) - *To Live a Better Life*, Baobab Books, Harare Patricia McFadden's e-mail address is: [mcfaddenpt@aol.com](mailto:mcfaddenpt@aol.com)

### 3

## **INFORMATION AND WOMEN'S HEALTH**

### **Reports From Rural Uganda**

**Maria G. N. Musoke**

#### **Summary**

**A** qualitative study was recently conducted in rural Uganda. The main aim of the study was to investigate the accessibility and use of health information in the lower echelons of Primary Health Care (PHC). Women, as PHC providers in an African family, were interviewed. A model of information access and use emerged inductively from the qualitative data. The model highlights the value and impact of information as the driving force in the various information activities reported. The study clearly indicates the meaning of information to women, its significance and role in their lives as they perceived, experienced and reported it. For example, information was valuable in the prevention and detection of diseases, management of illnesses, improving knowledge and health, decision-making, behavioural change, overcoming misconceptions and community support.

The most important sources of information were radio, health workers and the local authority. The character of information sources that influenced that choice included accessibility, reliability or credibility, interactivity and relevancy. The study confirmed the importance of providing timely information. This was particularly so in critical incidents and during epidemics. It was difficult to access the required information or information source at the right time in rural Uganda, which sometimes resulted in loss of lives. Unmet health information needs therefore remain a challenge to the health of Ugandans.

The major constraints to health information access and use were socio-economic. The economic constraints affected access to information sources, as well as underpinning other factors, e.g. communication, staffing of health units and transport. The social factors, e.g. culture, gender and language also played a role in constraining women's access and use of information. However, through interpersonal interactions and the repackaging of information, some constraints were overcome or reduced, thereby enabling women to access and use information.

The need for and value of information in rural Uganda led to the institution of an informal mechanism of health information provision. It was, therefore, recommended that the local capacity/potential should be built or strengthened to enable it to sustain health information provision. A participatory and multi-sectoral approach involving all stakeholders was suggested. Other recommendations included

the need to address the constraints identified, more repackaging of information to suit the needs of women, more health education, and the need for health workers to provide more information to patients.

**Introduction**

Uganda had a population of 20.4 million people in 1998, with a female/male ratio of 100/96. Over 80% of the population live in rural areas; hence Uganda is one of the least urbanised countries in Africa. The table below has some relevant statistics.

Table 1: Population, literacy and health statistics

Indicator	Figure
Total population in 1998	20.4 million
Population annual growth rate in 1970 - 1995	2.8%
Urban population as a % of total, in 1995	14.4
Land area	241,138 sq. km.
Life expectancy at birth in 1996	50.4 years
Adult literacy in 1995 -	Females - Males 61.8% 50.2% 73.2%
Population without access to safe water, 1990-96	52%
Infant mortality rates per 1,000 live births, 1996	88
Total fertility rates, 1995	6.9
Births attended by trained health personnel, 1990-96	38%
Maternal mortality rate per 100,000 live births, 1996	506

Source: UNDP (1998).

Access to information is an essential component of development; it is a human right, and it does bring about

sustained development and socio-economic progress. The available literature shows that rural women's information activities have not attracted a lot of research. This study, therefore, attempted to bridge that gap.

Many studies in the developed world have focused on information systems and retrieval (Vakkâri, 1999; Spink, 1999). However, the interest of an information researcher in a rural African setting can hardly be on such topics. Rather, the attention is on information in every day life. In a post-civil war situation of an African rural area, can the use of available information make a difference to the lives of rural people, knowing that many diseases can be prevented by information/awareness of what to do or avoid, or where to go? Is information important to people anyway, or are people aware that information is important? Is the provision of information by health workers to rural people or by information providers to health workers and rural people important? Is it important to health planners and policy makers or does it become an issue only in times of epidemics? Does the notion 'prevention is better than cure' still hold true in these situations? These thought or questions inspired the researcher into this study. Having compiled several bibliographies, the researcher had identified a gap in existing studies on health and rural Uganda. The main aim of the study was therefore to investigate the accessibility to, and use of health information among women, who form the base of Primary Health Care (PHC) service delivery in rural Uganda. A fundamental requirement for information acquisition is that

some source of information should be accessible. Hence, the study focused on sources of information, needs for information and access factors. Furthermore, it was observed by Wilson (1997:567) that information use, which reflects the needs experienced by people, "was an under-researched area". This is indeed true in Uganda as hardly any studies have been carried out on this topic.

An investigation of access to and use of health information in rural Uganda is, therefore, an applied piece of research, the purpose of which is not to produce statistical data, but rather to understand or gain insights into the perceptions and experiences of rural women insofar as the issues being studied are concerned. This will generate potential solutions to human and societal concerns or problems. The research is to contribute knowledge that will help planners, policy makers, development agencies, information workers, health workers and society itself to understand the nature and sources of a problem so that human beings can more effectively access and use health information for the betterment of their health.

### **Literature review**

As health providers in the family, the care or treatment provided by women at home is very important because it is the first response to an illness episode. Hence, its success or failure can affect the course and eventual outcome of the illness. Given the problems of accessibility to health units/health workers, care provided at home has become central to

many people's lives, even though it seems not to be fully recognised by policy makers.

Hammad (1995) lamented:

“How much more could women contribute if they had more information on how their bodies function and on the origins of disease... to recognise opportunities and use each and every one of these for better health?” (p.4)

Literature on information needs and information-seeking behaviour within the field of information science has extended into several thousand reports and journal articles (Wilson, 1997). Generally, there is more and better conceptualisation in the field. Although user studies have grown tremendously in quantity and quality within the last two decades, this literature review highlights significant gaps in the understanding of information access and use in a rural African setting. Furthermore, no similar user study has been traced in the available literature on Uganda.

Several unpublished KAP (knowledge, attitude and practice) studies on AIDS, STDs and family planning, as well as mass media campaign evaluation studies on the same topics were identified in Uganda. Elsewhere in sub-Saharan Africa, consumer studies have focused on information needs, information-seeking, sources of information, and considered variables such as education on information seeking. Most studies used a questionnaire method of data collection. The majority were general studies, but the data was gender

desegregated.

Several women and health studies about topics such as factors affecting immunisation, family planning, carcinoma of the cervix and AIDS in Uganda were reported in *Tropical Health* (1993) issues 1 and 3. Although all these studies were carried out by health professionals, they all recommended improvement in the provision of information as a way of reducing the health problems studied. This gave confidence to the researcher that her study topic was important.

The researcher noted that it is now almost impossible to study information without touching Information and Communication Technologies (ICTs) since they appear in the 'product' and 'process' life history of information (Wilson, quoted by Adem (1997)). Other authors, however, observed that information and IT are distinct analytical entities. For example:

"Indeed, many treatments which promise to be about information are on a close reading about technology exploitation. Now, no serious treatment of information or IT can fail to take account of the inter-relationship and interdependence between the two, but there is a need to treat them as analytically distinct categories in order to examine such relationships." (Mutch, 1999: 535)

Another recommendation was made by Mutua (1997) who suggested that resources that are appropriate to the changing environment and are increasingly IT-dominated, but urban-based, need to be investigated. Their impact on rural

communities need to be assessed and taken into account within the overall information framework.

These recommendations were taken into consideration. Among other things, ICTs and information share in common 'the information user' who is the focus of this research.

Assessing information theories or models is a formidable task. Dervin (1999) observed that user studies or information research has recently attracted diverse and sophisticated treatments. There is no single theory which dominates the whole of information studies. This is because of the multidisciplinary approach to information studies, but also the multidisciplinary nature or backgrounds of information researchers coupled with studying human behaviour, which is in itself multi-faceted. A single theoretical perspective, therefore, can hardly cover all these aspects.

In information science, no relevant women-specific information model was identified. The closest study was by Ngcobo (1994) who pointed out that:

"This was a descriptive study on the health information seeking behaviour of women in rural Swaziland...The findings of the study showed that rural women encounter health problems which in turn result in their search for information. The findings on information needs have revealed an index of the health information needs of the rural women which can be summarised as questions that refer to: what? when? where? who? why? and how? of the health problem. This model can be used as a guide for predicting the health information needs

of the women" (pp. 162, 165).

That model was too simplistic to represent a whole phenomenon of health information access and use in a complex rural African setting.

There have been some studies on women's access to information in rural Africa (Nginwa, Ocholla & Ojiambo, 1997; Uhegbu, 2000), but these studies confirmed the need for conceptual and/or methodological improvements in research. Mutua (1997) for example, recommended that:

"Further investigation is required as to how women's groups might provide the information structure for the community as a whole... Information professionals need to research the use of the various forms of communication, look at existing social structures and their use as a means of conveying information, and get away from conventional means. They need to adopt an approach which is an integral part of the way of life, not alien to it" (p. 74).

Although topics such as information needs, sources and information-seeking seem to have been well researched in some parts of the world, this was not so in most African countries and particularly Uganda. Consequently, recommendations were still being made for such studies:

"There is a need for a nation-wide needs assessment to establish the real health information needs of women in Uganda so that appropriate information materials can be produced and suitable information accessed to the users" (Kigongo-Bukenya, 1999: 134).

Given the above situation, there was a need for a deeper

understanding and conceptualisation of information issues. Hence, the timeliness of this study which attempts to conceptualise and explain the issues concerning information access and use in a rural African setting. This can best be done by employing qualitative research methods to understand people's experiences, perceptions and perspectives; to answer not only the 'what' but also the 'how' and 'why' questions; and to go beyond our usual a priori conception of information behaviour and processes.

### **Methodology**

As the literature review has indicated, a qualitative research methodology was most appropriate for this study because its purpose and objectives required a detailed inquiry to ascertain people's personal perspectives and experiences. Previous studies underscored the need for qualitative approaches to obtain data that are rich and to explain the issues to be studied. Hence, a holistic inductive paradigm was deemed to be most suitable. It is described by Patton (1990: 40) under themes of qualitative inquiry, as follows: a holistic perspective is when "the whole phenomenon under study is understood as a complex system that is more than the sum of its parts; focus is on complex interdependencies not meaningfully reduced to a few discrete variables and linear, cause-effect relationships."

The study took a holistic approach because its focus was on information access, which involves the interdependencies and

relationships between information sources, needs and use of information as a whole phenomenon. Information-related behaviour was also considered from a holistic perspective, and not solely limited to active seeking behaviour.

Furthermore, an inductive strategy was adopted in preference to logical deductions from set hypotheses. This was because quantitative measurements could hardly lead to an understanding of how people perceived, understood and interpreted the information they accessed, since a number of these important issues could not easily be quantified. Only through close and direct interaction with the people in an open-minded inquiry and inductive analysis could this study shed light on the phenomenon of information access and use in rural Uganda. According to Patton (1990), an inductive approach is the

“immersion in the details and specifics of the data to discover important categories, dimensions, and interrelationships; begin by exploring genuinely open questions rather than testing theoretically derived (deductive) hypotheses” (p.40).

Within interpretative research, the type of qualitative analysis that was considered to be most compatible with a holistic inductive approach was grounded theory. Indeed among the qualitative analytical approaches, grounded theory was chosen because of its ability to generate theoretical models systematically through the constant comparative method whereby data, emerging concepts, categories and their

properties are constantly compared as elaborated under analysis.

### **Sample**

Although the study took a holistic inductive perspective with a grounded theory approach, it differed from the grounded theory as originally defined by Glaser & Strauss (1967) in that it did not adopt a theoretical sampling strategy. The sample was determined by the PHC set up, and followed a purposeful sampling strategy as described by Patton (1990). In the PHC set up, it is noted that

“A person is first offered care by the family... Following the care offered by the family, a person can seek subsequent professional care from any level in the PHC service delivery”, (Kigongo, 1997:67).

In an African family, it is the women who provide the care as pointed out by Bantebya (1997: 311)

“illness management is primarily a woman’s responsibility. Women are the key decision makers, determining and defining the symptoms, what actions to take, who to consult and where treatment is sought... In managing illnesses, women draw their source of power, first of all, from the culturally constructed gender division of labour, that allocates health care, among other things, to the women’s domain”.

Information-rich cases among rural women in a sub-county were selected from those on the Local Council (LC) executive committee, executive committee members of women councils,

women's groups/clubs and/or religious organisations. These are grassroots women leaders. They can also be referred to as information gatekeepers. The strategy used to select this purposeful sample is that of 'critical case sampling' which permits logical generalisation and maximum application of information to other cases. Critical case sampling strategy involves selecting (or sometimes avoiding) cases that are, for some reason, particularly important in the community or scheme of things; for example, the sample included women leaders of different groups/organisations in order to tap the different aspects of community life.

Forty-eight women leaders were interviewed. This was a non-statistical sample. In this study, in-depth information from a relatively small number of people, who were information-rich, was considered to be more valuable than less depth from a larger sample. Patton (1990: 184-5) pointed out that:

"there are no rules for sample size in qualitative inquiry. Sample size depends on what you want to know, the purpose of the inquiry, what is at stake, what will be useful and what can be done with available time and resources... The validity, meaningfulness and insights generated from qualitative inquiry have more to do with the information richness of the cases selected and the analytical capabilities of the researcher than with sample size

## Data collection

In the initial phase of this study, an interview guide was used by the researcher to pilot the research instruments in one of the study areas. However, because different interviewers were involved, the interviewer's flexibility in wording and sequencing questions highlighted the shortcomings of this method. Hence, an interview guide method proved unsuitable to use in the main study which had to employ research assistants. Consequently, a semi-structured design evolved as the best alternative in this situation.

Primary data were, therefore, gathered using a semi-structured interview schedule, with open questions. The interview schedule focused on the two major issues this study set out to investigate, namely: accessibility and the use of information. The questions were designed to study women's experiences, behaviours, knowledge and opinions. Interviewees answered the same questions, which enhanced the comparability of responses (and facilitated cross-case analysis), while the open nature of questions allowed further probing into the responses, which greatly enriched the data collected. Furthermore, the interview schedule included a question on critical incidents. Interviewees described these incidents in detail, which highlighted a number of issues including how the information satisfied a need or solved a problem.

Although the interview schedule was designed in English, it had to be translated into the local languages spoken by the women. This is because Uganda has no national

language; there are as many languages as ethnic/ tribal groups. Another issue was that the word 'information' does not exist in vernacular; knowledge, news or happenings are used to refer to information. Hence, to put information in the right context and not to confuse it with ordinary news for example, one had to phrase a sentence to that effect. This influenced the wording or phrasing of some questions in the interview schedule.

While in the field, both real time notes and tape recording were undertaken. During the analysis, one of the records was used as a back up of the other.

### **Analysis**

As already indicated, the qualitative data collected in the study were analysed using a grounded theory approach. While the descriptive data were quantified using simple summations and frequencies; the bulk of the analysis was interpretative to enable the researcher to discover concepts and relationships in the raw data. This provided an insight and understanding of health information access and use in rural Uganda.

The grounded theory approach is a method that uses a systematic set of procedures to develop an inductively derived theory or model about a phenomenon. In this method, one does not begin with theory and then prove it; rather, one begins with an area of study and what is relevant to that area is allowed to emerge (Glaser & Strauss, 1967; Strauss & Corbin, 1990). Hence, the method of grounded theory data analysis is compatible with the holistic inductive paradigm

used in this study.

Since a semi-structured open-ended interview method was used to collect data, it was preferred to do a cross-case analysis for each question in the interview schedule. This involved grouping together answers from different women to common questions.

The analyst/researcher then identified categories or patterns for which the women interviewed did not have labels or terms. The analyst developed terms to describe these inductively generated categories. "...they can add more meaning to the analysis than in vivo codes. They add scope by going beyond local meanings to broader concerns. They have much analytic ability" (Glaser, 1978: 70). In this study, this approach generated the core, main and sub-categories. However, lower down, some in vivo concepts were used in addition to the inductively generated ones.

After deciding to do a cross-case analysis for each question in the interview, and to use inductively generated categories, the researcher/analyst proceeded to do open coding, which was described by Strauss & Corbin (1990: 61, 74) as:

"the process of breaking down, examining, comparing, conceptualising and categorising (or classifying) data... Open coding in grounded theory method is the analytic process by which concepts are identified and developed in terms of their properties and dimensions. The basic analytic procedures by which this is accomplished are: the asking of questions about

data; and the making of comparisons for similarities and differences between each incident, event, and other instances of phenomena. Similar events and incidents are labelled and grouped to form categories”.

Open coding proceeded by dealing with question by question, as already pointed out, noting key remarks, concepts, or categories on sheets of paper, cross referenced to interview occurrences (interviewee number(s), interview question(s) and field notes page), which as described by Ellis (1993: 477) “represented a kind of item-on-term approach”. Cross-case coding of each question in the interview schedule meant that all the data in each question and from each interviewee were thoroughly covered, which led to analytical exhaustivity.

The original Glaser & Strauss (1967) version of the grounded theory was used because of its open approach to analysis. The analysis closely followed the stages highlighted by Turner (1981) and Ellis (1993), which are based on the constant comparative method of analysis, that is central to the grounded theory approach. The method of comparative analysis enables the analyst to generate theory

“that is integrated, consistent, plausible, close to the data - and at the same time is in a form clear enough to be readily, if only partially, operationalised for testing in quantitative research” (Glaser & Strauss, 1967: 103).

Open coding was, therefore, followed by selective coding, which is “selecting examples from the abstract features of

the model" (Ellis, 1993: 478). Indeed interpretation of data must include the perspectives and voices of the people, because interpretations are sought for an understanding of the actions or patterns of actions of the individuals being studied. However, those who use grounded theory procedures accept responsibility for their interpretative roles.

Data analysis was handled manually. It was a slow but sure process that brought the researcher very close to her data. Several authors (Patton, 1990; Tesch, 1990; Bryman & Burgess, 1994; Coffy & Atkinson, 1996; Strauss & Corbin, 1998) are realistic about the limits of computer software programmes and point out that they cannot substitute for the researcher's imagination that is a necessary ingredient for qualitative analysis. They stress that the human factor is the greatest strength of qualitative inquiry and analysis.

Some interviewee responses are given in the findings. These are based on verbatim records, translated from vernacular to English, and are quoted in italics. Each quotation indicates the interviewee number.

### **Findings**

The analysis and interpretation of qualitative data consolidated into a model of health information access and use in rural Uganda. The model, that was inductively derived from data analysis, had emergent and root categories, which formed five preliminary sub-categories. These are:

- Sources of information
- Information needs

- Constraints
- Moderators, and
- Value of information.

The last three categories emerged through grounded theory analysis; while information needs and sources were root categories, which the researcher took into the field. These root categories originated from previous studies as highlighted under literature review. However, what came out of the root was derived inductively from data.

Further thought and abstraction led to an 'Interaction-value' model with one core and two main categories. The 'value of information' is the core category, while the two main categories are: 'moderation of constraints' and 'interaction with sources for latent and apparent needs.

Although previous models of information behaviour tend to give prominence to information needs (Wilson, 1999), in this study, the 'value of information' emerged as a core category and a driving force in the various information actions reported. In the model, 'access and use of information was interpreted as a series of processes that depended on the value and impact of information to overcome or reduce constraints'. Although constraints appeared to be dominant in the data, the value of information triggered off various actions which impacted on a number of constraints, thereby enabling people to access and use information. In a few situations, however, constraints intervened and consequently overwhelmed the value of information. The model, therefore, consists of a set

of related categories that, taken together, can be used to explain the phenomenon of health information access and use in rural Uganda.

The model presents a process of human information behaviour, involving cognitive, affective and contextual factors. However, some authors have argued that to speak of a behaviourist paradigm or framework in user studies can be misleading

“because there is a growing body of research which focuses on users’ experiences or sense-making practices and sees these as the essential phenomena to be explained (e.g. Kuhlthau, 1991, 1993). These could be called in-between approaches; approaches which are constructionist, but not explicitly social constructionist. They differ from the tradition of behavioural science which explains information behaviour within a model in which independent variables influence dependent variables causally through particular mechanisms (if A, then B)” (Talja et al, 1999: 759).

Since users interact with sources (of various types: human/oral, visual, printed, electronic, etc) and make meaning or sense out of the interaction, what Talja refers to above as “in-between approaches” could be termed ‘interactionist approaches’. In this study, the interaction emerged from the analysis and interpretation of users’ experiences as reported in the interview situation. Furthermore, although the study did not have causal approaches, the interaction that emerged

from the data is clearly part of information behaviour.

The next section presents the evidence on which the model is based. This is presented under two major headings, which make up the core and one main category, namely value of information and moderation of constraints respectively. The second main category (information sources and needs) will not be discussed under findings because of the size limitations of this paper.

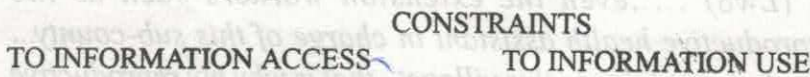
**Moderation of constraints**

This includes the constraints and moderators sub-categories.

**Constraints**

These are obstacles which (a) prevent a person from accessing information when they occur between an information source and the person; (b) intervene to prevent information use i.e. they intervene after information acquisition and processing, but before information use, hence stopping the information or knowledge to be put to use. Two types of constraints emerged from the data: constraints to information access and constraints to information use. They are summarised in the figure below.

Figure. 1: Diagrammatic representation of the constraints category



- | Concerning specific sources | Socio-economic | Socio-economic   |
|-----------------------------|----------------|------------------|
| - health workers            | - economic     | - socio-cultural |
| - printed information       | - social       | - attitudes      |
| - audio visual              | - personal     | - economic       |
| - seminars                  |                |                  |
| - libraries                 |                |                  |
| - general                   |                |                  |

### Constraints to information access

As figure 1 shows, constraints to information access were subdivided into: i) Constraints concerning specific information sources; and ii) Socio-economic constraints.

Constraints concerning specific information sources: The most commonly reported constraints were related to health workers, printed and audio-visual sources, seminars, libraries in that order. Some examples:

Women reported that health workers' absence in rural areas constrained their access to information. This meant that women had to go to health units which were, in most cases, located far away. There was also a problem of failure to deliver timely information especially concerning disease control.

*"There are no health workers in this village or nearby ... (Lw8) . . . even the extension workers such as the reproductive health assistant in charge of this sub-county... she does not come to this village..., that is why my reproductive health questions remain unanswered (Bw 1); they don't make*

*an effort to reach rural areas especially to advise us about disease control... they wait for epidemics e.g. cholera, and start rushing when it is too late... by the time such problems are reported, people have already died."* (Bw6).

The major problems concerning printed sources were unavailability and expense of books and newspapers. Posters, on the other hand, were free of charge, but unavailable to a number of interviewees who reported that they only see them when they go to health units, seminars, etc.

*"There is no printed information such as magazines, pamphlets, books or newspapers but we see posters at the church. Sometimes when I tell people issues concerning health, they ask me 'how did you know about it'? If I had some source e.g. a magazine or booklet, I would just open the page and show them, but without an authentic source, it is difficult to disseminate information. People want to see the source to believe you. Sometimes I show them my seminar notes and they get convinced about what I tell them ... In this village there are 52 adult women, and only 10 can't read or write, so the rest of us can benefit from printed information if it was available, and it would make our work as community leaders and mobilisers a lot easier; in any case, we who are literate would read and pass on the messages to others"* (Mw 10).

The above findings agree with those of Carter (1998) who reported that "When groups with no literate members were asked if printed information was seen as important, they stressed their desire to obtain materials: 'The school teacher

or our children can read for us' ... Print is a well trusted source of information . . . it is a relatively permanent method of sharing information."

So, to the rural people, the issue was availability of printed information rather than illiteracy. Furthermore, expense and lack of accessibility of newspapers was a problem.

*"I only get newspapers occasionally when my husband brings a copy home, usually they are old by a number of days and sometimes only few pages are brought home... I can't afford them myself (Lw)], I rarely read newspapers because I don't get them ... I can't afford. I last read a newspaper about three months ago and I found an interesting article about sanitation" (Mw9).*

Even when the newspapers were available, they were not affordable *"there is a newspaper vendor just two miles away from here, but the problem is money ... with all the family needs, one can hardly have any money left for newspapers" (Mw5).*

Some interviewees (31%) reported that they had never accessed newspapers and therefore had not read any. However, some consoled themselves and added that

*"We listen to radio and get the main news reported in newspapers" (Mw8).*

Furthermore, there were no libraries in the eight rural sub-counties studied, and a number of interviewees reported that

*"It is difficult to get information in books because there is no library nearby" (Bw 7).*

The majority of the rural women interviewed were, therefore, constrained to access printed sources of information.

**Socio-economic constraints:** These included economic, social and personal constraints. Analysis revealed some overlap and interdependencies between these constraints e.g. personal and social (mainly gender and culture). The most constraining factors were economic, followed by social and finally, personal issues.

**Economic constraints** mainly concerned financial limitations as they affected access to information or information sources. For example, consultation or access to medical advice was constrained by limited finances. Lack of money to buy newspapers, TV sets and to attend seminars which were not fully funded was also a problem:

*"I was invited to attend a seminar about 20 miles from here, but I don't have money for transport; so, I missed... Seminars which are nearby are easier because one can just walk there" (Mw)].*

If financial hardships could be mitigated, through sustained economic growth, other things being equal, a positive chain reaction would be created to enhance information availability, accessibility and use.

Other economic related constraints were spatial/

geographical and communication. These were generally a result of the country's economic situation. Spatial factors were compounded by poor transport and lack of communication facilities in rural areas. These factors affected invitations of rural women to seminars in town, which were sometimes delayed or lost. The study confirmed that women in sub-counties nearer to the district head office generally had easier access to information sources than those from sub-counties over ten miles away from the district head office. This was mainly because of transport to and from rural areas, which made it difficult for the women to reach information sources and the health workers to reach remote rural areas as reported below:

*"This place is not easily accessible and public transport is scarce, difficult and expensive. In rainy seasons, there are usually floods, so we get cut off (Mw 7); areas with bad roads and those that are far from town, hospitals and other health units rarely get health workers, newspapers, drama groups, etc." (Bw1).*

**Social constraints** included time and heavy workload, gender/culture/religion, leadership, educational and language factors in the order of importance.

**Personal constraints**, on the other hand, included emotions, attitudes, character and perceptions, which sometimes constrained women's access to information. Examples of attitude and emotion:

*"If we, as rural women, are to improve our access to health information, we need to be vigilant and stop feeling inferior, incapable or incompetent (Lw5); stigma... and also fear of the public to know that I have 'slim'... Although I know that I could get valuable information from TASO, I have not gone there; I fear to meet people I know at the clinic... this actually stops me from asking openly those who know about the disease" (Bw4).*

### **Constraints to information use**

As observed by Wilson (1997), the fact that sources of information are available and accessible and information is processed (i.e. incorporated into the user's framework of knowledge, beliefs or values) is no guarantee that the information will be used (i.e. lead to changes in the user's state of knowledge, behaviour, values or beliefs). In this study, although some information was reported to have led to changes in the user's state of knowledge, a number of constraints intervened to stop some users from putting the knowledge into practice. The most important constraints to information use were sociocultural, followed by personal factors namely, attitudes and perceptions, and finally economic issues.

**Socio-cultural constraints to information use** included mainly gender issues and, to a less extent, other social constraints.

The main gender concerns arose from Family Planning (FP) contraceptive use, hygiene, STIs and condom use. In such cases, husbands stopped women from putting their knowledge into practice and/or they did not co-operate as reported:

*"The information I got from the FP clinic made me aware of the dangers of giving birth to too many children, and that it is important to space even the few children one plans to get; however, I have not been able to utilise that knowledge because my husband insists that he still wants children and he has stopped me from going back to the FP clinic and from using the pills I got; yet my current interest in FP is for spacing, rather than stopping births, but he doesn't understand and he is not even willing to"* (Lw8).

**Some women made recommendations, e.g:**

*"If health information is to be utilised by rural women, men should first of all be made aware that they have a responsibility and a big role to play in promoting the health of a family especially in our society where men marry more than one woman which may lead to AIDS and other STIs, yet women are expected to continue being submissive"* (Lw1).

The study found out that in a few situations, however, women's own values or perceptions constrained their information use. For example, some women reported that they felt insecure about stopping child birth:

*"Although I would prefer a permanent birth control method, because I have five children already, I fear to stop"*

*giving birth completely because my husband might start looking around for other women to give him more children” (Bw12).*

Attitude, views and perceptions also constrained information use. Some women reported, for example, that there were still some unanswered questions about the health benefits of immunisation, but more so about the safety of the vaccine.

*“There are many rumours that the vaccine is lethal ... it was contaminated with the AIDS virus or other lethal chemicals, and could be responsible for the recent deaths in children... but health workers threatened us that un immunised children will not be treated when they fall sick ... When we go to health units, we have to show the immunisation chart first ... So, I took my children for immunisation, but some women didn't they said that they will use other health units where such demands don't exist” (Mw9). “Although I have heard that immunisation protects children from polio, etc., I am not sure what it actually does because my first born who was immunised still got polio - she limps; I have no explanation for this! ... As if that was not enough, my four-year-old daughter who was immunised last September (1997), fell sick and passed away in April (1998)... You never know what these immunisations do!” (Bw1).*

Hence, although information about polio immunisation was accessed by all the women interviewed, such views seem to have affected the use of that information to the extent that

some people did not take their children for immunisation.

Economic factors also constrained information use. Some women reported that due to limited financial resources, they were not able to use some of the information they accessed.

*"In one of the seminars I have attended, I learned about the composition and importance of a balanced diet . . . . However, I don't have the means . . . I give my children the proteins that I grow, but I can't afford animal proteins as regularly as recommended"* (Mw 10).

### **Moderators**

These are factors, structures, organisations and/or individuals that enhance or support information access; they regulate, reduce or intercept the constraints to information access and information use. They therefore act as a buffer.

The analysis revealed a relationship between the constraints to information access and the moderation by individuals, organisations and structures that reduced or intercepted the constraints and led to improved information access. For example, the problems of limited access to information caused by having few or hardly any health workers reaching some rural areas, lack of time for the women to attend meetings, listen to the radio, lack of access to the radio, etc., led the local council (LC) executive committee members to take on an information dissemination role (for the benefit of their communities) either by inviting health

workers to give talks in LC meetings or by the LC executive members moving door to door to ensure that information reaches every member of their community. At a slightly higher level of abstraction, this relationship seemed to be one in which the value of information, the need for information access and use, and the prevailing constraints in rural Uganda had led, among other things, to the institution and flourishing of an informal mechanism of health information provision.

Nuijten (1992) observed that such local practices or initiatives are often denied their due importance and labelled as 'disorganised', 'traditional' or 'indigenous' in development studies literature. These debates, however, remain far removed from the everyday practice of the people as this study has demonstrated.

Moderators, like constraints, were divided into two: i) Moderators of constraints to information access, and ii) Moderators of constraints to information use.

Moderators of constraints to information access were subdivided into:

leaders: local, women and religious; personal and interpersonal attributes; rural outreach projects and programmes, e.g. FM radio stations, national events; educational, e.g. seminars, literacy and formal education, periodic health education; social e.g. family support, religious beliefs and practices; economic e.g. income generating activities; geographical.

There were also interdependencies between factors and collaboration between the different moderators.

Data analysis showed that leaders were the most important moderators. These included local councils, women and religious leaders.

Under the Local Council (LC) structure, women raised the issue of 'supportive government policies' as a moderator. They pointed out that Ugandan government's support to women and the affirmative action put in place e.g, the 30% representation by women on all the local councils from village to parliament had given women a chance to participate in local and national politics and in decision making. Furthermore, the general sensitisation was reported to have encouraged some men to allow their wives to participate actively in community and national leadership activities, which gave them a chance to access different types of information including health.

(ii) The Local Council officials e.g. the Secretary for women's duties and responsibilities include to mobilise and sensitise women primarily, and other members of the community about different aspects of life; the Secretary for rehabilitation was responsible for health on the LC structure. In addition, the Secretary for information and all other executive committee members were responsible, among other things, for mobilising, informing and maintaining good health and welfare of the communities they served. They held meetings, organised house to house visits, drama, film shows, etc. Women also reported that

*"The vigilance of LCs makes a lot of difference in the provision of health information to rural areas ... where the LCs are active, rural areas get health workers to run seminars on prevailing health problems; LCs also disseminate information during social gatherings e.g. funerals" (Mw3).*

It was reported that active female leaders collected information, which would otherwise not have been accessible, and disseminated it to women and other members of society. Active women's groups or clubs were reported to organise meetings, talks, seminars, etc. about different aspects of health:

*"We share the information we get on radio, from seminars, etc. with our members... we hold discussions and learn a lot from each other (Bw1), Dembe women 's group is also a drama group, comprising 15 women and 8 men, and we have recently staged plays about hygiene and sanitation, and the importance of using health units instead of traditional practitioners, which reached the national level. Here at the village, the shows are free because we are rehearsing and also for awareness raising, but outside we charge reasonably... Women's turn up is very good: about 70% probably because it is a women's group involved. We, members learn a lot about the topic we are focussing on because the script is written or edited by health workers" (Iw 7).*

Oxaal & Baden (1996:27) noted that women's organisations can serve a number of purposes: they can

educate women about health and risk signs, giving women the information needed to make decisions.

The role played by religious institutions/leaders in moderating information access was greatly commended by the women interviewed in the study. This was in relation to both the direct provision of information, and to the shaping of beliefs, attitudes and behavioural change which led to health promotion. For example:

*"While condemning superstition, the church encourages people to seek advice or treatment from health workers whenever they or members of their families fall sick; hence, religious leaders are a key in mobilising the masses to use health facilities and in changing or influencing their health-seeking behaviour"* (Mw3).

*"The priests always preach about current health problems such as AIDS, nutritional deficiencies and cholera, and highlight ways these problems could be prevented; for example, adultery could lead to AIDS and other STIs... The message is very clear; so, one can't miss it"* (Lw4); *"they also organise regular films and drama shows on different health topics, and these are free of charge, which makes this channel accessible to both the rich and the poor"* (Bw8).

Collaboration or 'cross-fertilisation' - to use the exact word used by a primary school female science teacher - between LCs, health workers and the church was reported by Mw3 to have greatly enhanced health information dissemination.

**Personal moderators** included attributes such as being active, practising what is learned, and openness or interest in sharing. A number of women gave the example of being elected on LCs or other leadership positions, and pointed out that these gave them opportunities to attend seminars and other meetings where information was disseminated. To be elected requires one to have been active in the community, they added. Furthermore, personal attributes were reported to have moderated some negative characteristics, which changed through experience and enhanced information access.

*"Attending seminars regularly and participating in various community activities has given me confidence ... I can now stand in public and talk confidently; I am no longer shy ... This gives me a chance to be selected on committees where I attend more meetings, seminars and interact with more people and learn more"* (Mw12).

**Educational moderators:** Literacy and formal education, school children, seminars/meetings/workshops, and health education in clinics all moderated information access in various ways. Oxaal & Baden (1996: 21) pointed out that women's social status, self-image and decision-making powers may all be increased through education, which may be key in reducing their risk of maternal death, resulting from early marriage and pregnancy or lack of information about health services.

Women reported that education and literacy moderated their access to information greatly. They were able to access information in printed sources, record seminar proceedings for future reference, and the professionals reported the advantages of their professional training which moderated some of the constraints that had been reported by other women.

*"Ability to read, write and understand helps me a lot in collecting information for myself and my community wherever I go... in accessing printed information from newspapers, books, magazines, etc. (Bw7) ... even when I miss seminars, my friends send me their notes or handouts to read and I write some of them for future reference (Mw5); Being a teacher gives me a chance to get printed information which I read and understand... My professional training inculcated confidence in me ... I am not shy, I can easily ask questions and get the information I need" (1w5).*

### **Others have benefited from functional literacy programmes**

*When the adult literacy programme started, some people didn't want to be seen that they were illiterate; for me, I joined and learned reading, writing and counting. I did stages one and two, I am now at the advanced stage. Literacy helps me a lot in seminars. The programme also provided me with a book 'Amagezi bugagga' (amagezi means wisdom; bugagga means riches) which includes, among others, health issues e.g. nutrition, child care, hygiene and AIDS. I read and keep*

*referring to it and also lend it to friends to read" (1w 7).*

School children also act as moderators to reduce the illiteracy problems among parents or family members. They moderated information access by providing information through concerts staged at schools or in other places, and sometimes on radio or TV. Their literacy skills and school books also moderate information access.

*"School children help to read or even translate for parents who are not able to; the school health project has been disseminating information to parents through children (Bw5); The presence of schools in the area which organise concerts and other health related activities e.g. science fairs by school children every term... These provide information on topics such as AIDS, hygiene and sanitation, which is very good. School children also inform us, parents, about the health issues they learn at school (Lw?); when I read my children 's books... I find useful information on first aid, hygiene, nutrition, AIDS, etc. " (Mw6).*

While promoting the cohesion of society, social factors moderated information access in a number of ways. Several women (Lw1 1, Mw6, 1w3 & 5) reported social gatherings and functions e.g. weddings or burials as one of the easiest ways they accessed information. This was confirmed by information providers who reported that they target these functions because they know that many women attend them. Other women reported the role of their families and religious beliefs and practices as moderators to information access.

**Economic moderators:** As reported under constraints, many health information access factors revolved round money; for example, to buy batteries for the radio, to pay for video or drama shows, consult health workers, buy newspapers, and transport to attend seminars.

*"Financial capability or economic well-being enables a family to buy television, radio and other sources of health information (Mw3)... to meet transport costs to seminars or meetings" (Lw8).*

*"With the little money I get from my simple projects, I am able to save and buy batteries for the radio ... I do this myself because I enjoy listening to radio; batteries are cheaper than newspapers which have to be bought daily yet with batteries, I can go on for about two weeks" (Mw3).*

Income Generating Activities (IGAs) such as occupation, projects, as well as the loans enabled women to access health services and information.

Finally, the above findings have highlighted a close collaboration between individuals or interdependencies between various moderators, which have enhanced information access directly or indirectly by reducing the constraints. Furthermore, the provision of information in different formats to cater for the different capabilities and interests of people moderated its accessibility. This was well demonstrated by information about immunisation and AIDS, which had been accessed from various sources by all the interviewees.

**Moderators of constraints to information use**

The major moderator of constraints to information use was the value of information itself. This made people moderate information access and in the process, they moderated information use. For example, when information providers translated and simplified the information they provided e.g. during health education talks, seminars, pamphlets, drama and what is preached in church, they, in effect, repackaged information and put it in a form that was not only accessible, but also usable by the women. The quote from Bw6 below about the LCs is another good example. Furthermore, it was reported that the Ministry of Health (MoH) provided information which had been simplified and translated in vernacular so that women could understand it and be able to use it for composing songs or plays to disseminate the information further. Hence, besides its value, the quality of information and the supportive infrastructure moderated information use. For example, the quality of information received assisted in overcoming misconceptions or negative views, which led to information use. Clear and complete information which was easy to understand, and the full explanation by the providers of information led to changes in the user's knowledge, behaviour, values or beliefs.

*'I heard about polio immunisation on radio, but since last year's (1997) bad experience of children who died after the immunisation exercise, I had not made up my mind ... I still had questions about the safety of the vaccine (unmet information needs). However, when the LCs came here, they*

*explained to me fully and allayed my fears that the deaths were due to malaria, but not the vaccine; I then decided to take my kids for immunisation" (Bw6) [the researcher found her taking her children].*

The provision of information alone, without the necessary infrastructure hardly changes the situation. Women accessed the information but would not be able to put it into practice if they did not have the necessary resources, support from the family or the infrastructure. Health workers vividly demonstrated this issue:

*"The presence of safe water in the area where we conduct health education sessions about, e.g. water-borne diseases has greatly facilitated these sessions ... It is easy for the women to implement because each parish now has 2 - 3 bore holes or protected springs, and we see the effect already because diarrhoeal diseases have greatly reduced. In the past, before the rural water project improved access to safe water in rural areas, we used to carry out health education sessions, but diarrhoeal diseases were rampant!" (A clinical officer).*

Hence, the presence of safe water enabled women to use the information they had received from health education, which reduced water-borne diseases. Women's interest in implementing what they learned was highlighted under 'personal moderators' to information access. The presence of the necessary infrastructure coupled with this interest moderates information use.

## **Value of information and actions**

This was the value attributed to information as perceived, experienced and reported by the interviewees. The value of information triggered off a number of actions. For example, when women received information, they carried out various information dissemination sessions both formal and informal. These information dissemination activities were driven by the value of information, and most of them involved face-to-face interaction with individuals, groups and communities. Therefore, those who had been constrained to access information in one way, accessed it in another way (and the series of processes of information access and use went on, as value-added information led to further interactions). Hence, the 'interaction-value' model that emerged from the findings.

Women reported that most of the information they had accessed was very valuable and they used it in the prevention and treatment of diseases, to know the causes of illness, to improve health or to keep healthy, take decisions, make choices, overcome constraints and misconceptions, cope with illnesses, support the community/self-help, change behaviour, change attitude, participate in information dissemination/awareness raising, and for general health knowledge. All the women interviewed reported that most of the information they used was also passed on to others; hence, participation in information dissemination ranked first, followed by prevention of diseases, then treatment or management of illness came third and others followed.

The value of information, therefore, refers to what the information was perceived to mean, its role and significance in women's personal and family lives, and in their activities as leaders. Most of the concepts that emerged from the analysis of information use were similar to those that emerged from information needs. This is consistent with what Wilson (1981: 5) observed that "information use ought to point most directly to the needs experienced by people".

Some examples of the value of information are:

Information was valuable in the prevention of illnesses through knowing their causes. Knowledge of how diseases are caused and transmitted was reported to have led to control of disease vectors, water-borne diseases and health promotion in general.

*"I learned that malaria is transmitted by mosquitoes, so I do everything possible to keep this home free from bushes and stagnant water where mosquitoes breed, and to close windows and doors before dark... Since I started doing this, my household members take long to suffer from malaria; actually, we may spend almost a year without an attack, yet in the past, it was frequent problem in this home" (Bw2).*

*"It is better to prevent cholera because one may never get a chance to be cured ... cholera patients die in a very short time (Bw10)... We were very fortunate because we got very good, simplified and timely information about cholera; that is why it didn't reach this area (Kagango sub-county) everybody- young and old- is aware and vigilant (Bw1).*

*"Having a crippled child is not a joke... the messages on TV and on posters which show children playing football while a crippled child is looking on, are very touching and moving (Lw3), "When I heard about polio, I was very interested in the topic because I am lame ... I listened attentively and concluded that my problem could be due to the fact that I was not immunised I then hurried to take my children for immunisation so that they don't suffer like me. I have also encouraged friends and people around to do the same, giving myself as a live example; this has convinced them to have their children immunised" (1w2).*

In these cases, therefore, the quality of information received coupled with the fear of diseases, death and/or disability enabled people to use the information. They were different from those whose information needs, e.g. about the safety of the vaccine remained unmet, which constrained them from using the information, as reported under constraints.

Information that was used to prevent diseases was also reported to have had some economic benefits.

*"I learned about the importance of immunisation and my children got immunised. Since then, they have been a lot healthier... This reduces our medical expenses because they no longer get diseases like measles which used to disturb them" (1w5).*

Interviewees also reported that the information they received assisted them in the treatment of diseases and

management of patients. Treatment included self-medication, appropriate doses of medicines and general management. After getting information about antimalarials, for example, and the importance of completing the full dose, several women (Bw2; Lw3; Mw7) reported that they had noticed that when the guidelines are followed, malaria gets properly cured.

*"We used to take aspirins for malaria but now I know that anti-malarials such as chloroquine are the ones that treat malaria ... We were also not sure about the doses but after the seminar, I know that medicine is given according to age: babies, children and adults; and that for effective results, a full dose has to be taken ... you know there is a tendency of stopping medicine as soon as one feels better... I make sure that my family members complete the prescribed dose, and now I see that malaria attacks are not frequent."* (Mw7).

Information was valuable in improving health and enabling women to keep healthy personally, as well as maintaining the health of their family members. This mainly focused on diet and hygiene. A number of women (Bw1, 8, 10, 11; Mw4, 10, 12; Lw1, 2, 4) reported how information had made them knowledgeable about diet/nutrition using locally available foods, which greatly improved the health of their families especially children.

*"I learned what food value(s), e.g. proteins, carbohydrates, calcium, vitamins and minerals, are found in the local foods and what each does to the body or what its absence could result into. I also learned about the growth of*

*children, care and feeding e.g. solid food starts at 6 months, the dangers of early weaning and how proper feeding protects children from preventable diseases. I asked questions in the seminar and understood clearly what I didn't know e.g. the importance of a high protein diet for children, and the value of millet porridge. After the seminar, I put my 7-year-old son on the recommended diet for about six months now ... the boy, who was a weakling has now gained weight and strength and people ask me already what I give him because the difference is so visible, yet I feed him on simple things which we all have here in the villages" (1w 1).*

The findings of this study, therefore, agree with Wallman (1996) who reported that the general impression she got from talking with women was that:

"They have a certain amount of pride in their medical knowledge and effectiveness as health-care providers in their homes. We have noted that part of being a good mother (and by extension a good woman and a good neighbour) is maintaining one's family's health" p. 150.

It was noted that the quality of information received and the interpersonal moderators played a significant role in overcoming misconceptions.

Information was valuable in disproving concepts and/or overcoming beliefs and attitudes about family planning, immunisation and other medical practices. Once these were overcome, women made decisions to use contraceptives, take

children for immunisation or use medical instead of traditional practices/services. Hence, 'overcome misconceptions' triggered off various decisions. Some decisions were taken as a direct result of overcoming misconceptions, while others were taken as a result of value of information in general.

Overcoming misconceptions concerning immunisation and deciding to have children immunised were influenced by a number of factors. These included the fear of disability as already reported, and the quality of information received which enabled people to overcome doubts and fears, and in turn met their information needs about the safety of the vaccine and/or the effectiveness of immunisation, as expressed below:

*'I really had doubts about the polio vaccine until I watched a video film where I saw 'Maama Janet' (President's wife), the Vice-President, the Minister of Health and other government officials taking their children or relatives for polio immunisation... Then I realised that the exercise was safe... This dispelled the rumours about the safety of the polio vaccine and made us take our children for immunisation, as well as mobilising others (1w3).*

Similarly, women reported that information enabled them to overcome misconceptions about family planning.

*'At first I had feared using contraceptives because of the stories I heard, that is why my children are poorly spaced... I had heard that one could get cancer and other complications ... but my friends, who are using FP, shared their experiences*

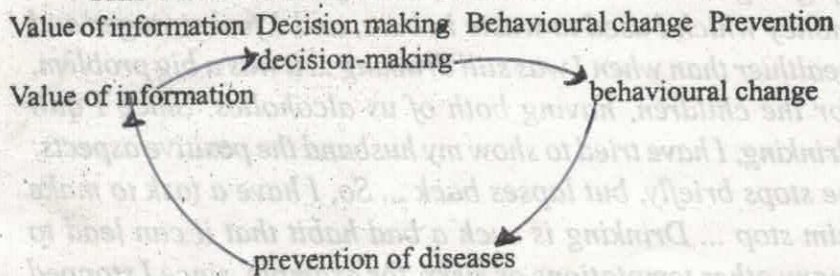
*with me and convinced me that it is okay; I made up my mind and used an injection method. .I am okay” (Bw6).*

The information women got, therefore, empowered them to make decisions about what to do or avoid, where to go, which treatment to take, etc. Making decisions included behavioural change, treatment choices and other decisions. This agrees with what Gray (1991: 281) pointed out:

“Our behaviour is governed by our knowledge. We respond not so much to physical reality as to our understanding of it ... the processes by which we understand the world and use that understanding to guide our actions.”

Some women reported that the information they received made them take various decisions, for example, to change behaviour in order to prevent diseases such as AIDS.

This can be illustrated as follows:



*“Information about AIDS transmission and prevention has helped me personally... I have to guard against ‘sleeping around’ anyhow... I have to be faithful to my partner hoping that he will do the same (Lw1); The information I receive from different sources keep reminding me about the presence*

*of AIDS ... To avoid it, I tell myself that every man has it except my husband... So, I have to do serious 'zero grazing' with one partner, my husband, and forget all about 'side lines' but whether my husband does the same, I don't know! I talk to him about AIDS and the problem of extra marital relations... anyway, for me I am doing my best" (1w8).*

Women living with HIV also reported that information enabled them to make decisions concerning sexual relations because this could prolong their lives. Besides AIDS, women reported to have made decisions to change habits e.g. drinking which, to some extent, could expose one to AIDS. These changes had various social and economic benefits.

*"After learning about the dangers of alcoholism, I gave up going to clubs to drink ... This helps me to save time and money which I used to waste in bars, and I feel stronger and healthier than when I was still drinking ... it was a big problem, for the children, having both of us alcoholics. Since I quit drinking, I have tried to show my husband the positive aspects; he stops briefly, but lapses back ... So, I have a task to make him stop ... Drinking is such a bad habit that it can lead to many other temptations or risks, for example, since I stopped drinking I also reduced the temptations of having extra-marital sex ... actually staying in bars long exposes one to risks such as rape which can easily infect one with AIDS" (Mw4).*

This study found out that awareness about AIDS was quite

high, in fact the highest of all the health topics reported. If this high awareness could be translated into behavioural change, the spread of AIDS would be greatly checked in Uganda. Reports from the XIII International AIDS conference, July 2000 in Durban, South Africa, indicated that "For the first time in Africa since the beginning of the AIDS epidemic, one country - Uganda - is experiencing a decline in new HIV infections among its adult population... Rates fell ...from 7.2 new infections per 1,000 persons in 1990 to just 3.3 in 1998... this gives hope to countries like ours that epidemics can be controlled by effective behaviour interventions."

These findings, therefore, differ from some studies such as those cited by Ginman (2000) which typify a gap between wealth of information and desired behaviour in developed countries. One of the examples cited is women's knowledge about cancer and their actual behaviour and lifestyles. Furthermore:

"A similar inconsistency between wealth of information and behaviour is common in people's attitudes towards food compared to their eating habits ... An intensive information campaign does not always seem to lead to the desired knowledge or the desired behaviour." p.12.

In the AIDS conference report cited above, the Ugandan national AIDS awareness programmes were credited for the decline in infection rates. These included government, NGOs, religious leaders and the media.

Information was used to overcome various constraints, e.g. gender. Women reported that the advice they received enabled them to convince their partners about the use of contraceptives or AIDS test, for example. This was valuable given the number of women who reported this problem under constraints and information needs.

*"Following the advice given by the FP association, I managed to convince my husband and we both joined the association ... then I started using pills and our children are well spaced: 9 and 5 years. (Lw 1); I have used the information I got to convince my husband to go for an HIV test ... he did and we were both negative ... to be able to maintain this status, both of us have to be faithful to each other" (Lw3).*

Information was valuable in enabling interviewees to cope with various diseases and emotions related to the disease, particularly long-term illnesses e.g. sickle cell anaemia, asthma, hypertension and HIV/AIDS.

*"I use the little information I get to take care of myself and reduce getting attacks, e.g. I was advised to always keep warm and to have a balanced diet as much as possible ... Whenever I learn something that can improve my life as a sickler, it gives me hope and courage to face the next day," (Lw5).*

**Actions:** These were activities, behaviours or processes that were triggered off by the value of information; in other words, the value of information acted as a stimulus to these actions;

some were a consequence or a by-product of information use.

Actions had the following sub-categories:

- participation in information delivery or dissemination and awareness raising
- community support
- making decisions (already discussed).

After accessing information and using it, all the interviewees reported that they had passed it on to other people, hence participating in information dissemination and awareness raising. As women leaders, interviewees should be commended for providing a scarce commodity, information, in rural areas. 'Commodity' in a sense that information tended to gain value as it passed along the information production chain, which agrees with one of Braman's (1989) conceptualisation of information. The findings also agree with the 'two-step' flow model of communication in that information moved from source to women leaders, who then passed it on to others whom they inevitably influenced.

The various information dissemination activities moderated constraints to information access and use. The examples given below were taken from a large set of similar quotes, which illustrate the range of ways that interviewees disseminated information or carried out awareness raising. These were subdivided into formal and informal methods of information delivery.

**Formal dissemination included meetings and feedback**

sessions at LCs, in church, etc; songs and poems; posters; and teaching of pupils in schools and other people. These were held within the community to ensure that information reached as many people as possible. Some examples of meetings/health education or feedback sessions are given below:

*"As a women 's representative at this village (LC1), I pass on the information I get, e.g. from the seminars I attend or from radio, to the community members during the bimonthly village meetings... We discuss, they ask questions, and in some cases, I have to follow them up house- to-house to check whether they have put in practice what we discussed; for example, removal of mosquito breeding sites like stagnant water"* (Bw1).

*"Every month, we conduct one day seminars at the parish level to sensitise the community about different health topics using the information we (members of the LC3 task force) get from various sources. Whenever I have urgent information to disseminate, I request the priest to announce it after church service. Furthermore, as the chairperson of women LC3, I also hold meetings of women councils twice a year for two days each and these are funded by the LC3 (sub county) budget. When they go back, women councillors disseminate the information further (1w3)."*

Besides using posters, drama and meetings to inform people, some women disseminated information in their professional activities such as teaching, and held demonstrations to their

women's groups.

*"I also use the information I get about AIDS and other topics in teaching my pupils at school as well as members of our women's group ... I use the information to do some counselling too (Lw9); I pass on the information I get to my pupils and I also tell them to pass it on to their parents, for example, the importance of drinking boiled water, immunisation and prevention of malaria (Mw2); Since I learned how to extract milk from soya, I hold talks and demonstrations for other women to learn" (Lw1).*

Although some women did not disseminate information formally, they all reported to have disseminated information on various health topics informally to family members and other relatives, neighbours, friends and the community where they lived and worked. They used informal means to encourage, inform, sensitise, counsel, educate and create awareness as indicated in the examples below. These means, though informal, demonstrate active processes of information dissemination.

*"I got information about FP quite late after I had stopped child birth; so, I didn't use this information personally, but my daughters have greatly benefited from it ... I cite my bad experience of producing many and poorly spaced children and I strongly encourage them to use FP methods... They have well spaced children after taking my advice" (Lw7).*

The above finding agrees with Wilson (1981; 5) who noted that information "use may satisfy or fail to satisfy the

need and, in either event, may also be recognised as being of potential relevance to the needs of another person and, consequently, may be 'transferred' to such a person.

As reported under Moderators, informal health information provision moderated various constraints identified in this study. Other authors e.g. Haythornthwaite (1996) described how informal communication networks are formed and reformed as needs and the environment change, resulting in a constantly emerging network. Thus informal information exchange routes develop based on local needs. The ability to locate these routes, and to define groups and roles that arise to respond to these needs, is important to a study of access to health information in an African rural setting. This is because the current proliferation of new ways of accessing information in the developed world using Information and Communication Technologies (ICTs) such as the Internet or even the basic sources e.g. libraries and information centres are almost non-existent. In social networks or informal communication, information is made useful and its value grows by being forwarded to others.

The above also show that although women mainly accessed information passively, they passed it on actively to their social networks. They can therefore be described as passive recipients but active disseminators at the same time. Hence, passivity was generally limited to the initial stages of their information process, which highlights the dynamic nature of women's information behaviour.

The value of information also stimulated support for community health needs. These included rehabilitation of water sources, identifying the sick in the community and encouraging them to go to health units, mobilising parents to take children for immunisation and trying various things women learned. Some of these have been reported under 'Causes and Prevention' and 'Improved Health'. Others were:

*"I identify pregnant women in the community and talk to them about the risks of delivering in villages and hence the importance of using health units, and attending ante-natal clinics during pregnancy. People appreciate this advice and some come back for further information" (Mw 7).*

*"I have learned a lot of things from seminars and other sources which I am trying to implement so that our area's health can improve. As a leader, I must give a good example; so, I try out these things first ... Recently, I learned how to make an improved cooking area which is less smoky to protect women's lives who spend a lot of time in kitchens... I have mobilised women to have these and I follow up to see the implementation" (I w3).*

This section has presented women's experiences, perceptions, expressions, and information behaviour which were recorded during the interviews, analysed and interpreted as constraints and moderators; and actions and value of information. The value of information to women and rural communities was summed up by one of the interviewees:

*"Provision of health information to rural women is an asset to rural health... it helps us (women) to improve*

*personal, family and community health, and to reduce the incidences of disease. Although health problems are many, I think I could solve a lot of these problems if I had the required information because so far, I have been able to solve some using the information I have received; for example, I have managed to control malaria in my family by keeping our home free from mosquito breeding sites, and we all have mosquito nets" (Lw 11).*

### **Discussion**

The findings of this study have clearly demonstrated the value of information in the prevention of diseases and promotion of health. This study argues that the value of information, rather than needs or constraints, was the driving force behind the information processes reported. The various actions (see findings) that resulted from the value of information were reported to have promoted health in many ways. This agrees with some health reports:

*"Both the public health and the personal care interventions have contributed to reversing the urban - rural differences in health status; before health among urban populations is due more to the application of improved knowledge than higher incomes in cities" (WHO, 2000: 10).*

It therefore, follows that although rural areas had low incomes, they could enjoy better health if they accessed information to enhance their knowledge. Hence, factors which negate information access and use in rural areas need to be addressed

in order that rural communities may reap the benefits of improved health knowledge.

The major constraints reported in the study were socio-economic. Women generally identified the immediate or basic factors, which constrained them from accessing and using existing and potential health information facilities. The basic socio-cultural factors or constraints seem to have affected women a lot and to have influenced their values, needs, and practices. Women tended to conceptualise these basic constraints not in isolation, but in terms of their relationships and interactions with the family and community.

Informal or social networks and the value of information were the major moderating factors identified. Through interpersonal interactions and the repackaging of information, various constraints to information access and use were moderated, thereby enabling women to access and use information.

An 'interaction-value model' finally emerged from the findings. Among other things, what is novel about this study is its qualitative focus on information use, which is a step beyond information seeking and acquisition or retrieval where many information science studies have been stopping, as Wilson (1997) reported. The study revealed value of information as a driving force in the model resulting in actions that impacted on all other categories.

## Limitations

Some limitations were identified. These included the problem of lack of a common language in the study areas, and the slow manual analysis of an enormous amount of information generated by open questions. Some interviewees reported 'research fatigue', that is fatigue about being the subject of research with hardly any tangible personal benefits accruing at the end of the exercise. Others complained that they neither got to know the results nor see the impact of studies in which they participated.

Despite these limitations, the findings were very rich and managed to provide what Glaser (1978) referred to as 'thick description.'

## Conclusion

The author concludes this work with a quote from one of the women interviewed:

"In my view, I feel that improving the provision of health information to women would be the beginning of a better life for a rural community because women provide care for everybody in the family" (Lw2).

The quote sums up the study quite well: first, it has confirmed that the main concern of the study was not to quantify data, but rather to understand issues surrounding access and use of information in rural Uganda, and how women perceived and interpreted these issues. Secondly, it has demonstrated that in an African family, women nurse and care for the sick, hence

targeting women in information provision could have a multiplier effect. Thirdly, the quote has highlighted the value attributed to information in the betterment of rural health. This value has been demonstrated in the study to have driven and sustained the various information processes. Finally, it shows that there is a need to improve information provision.

The study has therefore succeeded in giving an in-depth view of access to and use of information by women in rural Uganda. We have progressed from knowing about the sources of information to what that information actually does once it is accessed, and how valuable it is to the lives of women and those in their care. The value of information elaborated upon in the study and the actions that proceeded from it, have shown that a successful information process leads to an active contribution to health care. While it is not strictly possible to generalise the findings from this purposive sample to all rural areas, it is likely that the issues identified in this study will apply to other lower levels of PHC in rural Uganda.

### **Implications**

The study has several implications for information provision. However, given the economic situation in Uganda, it may not be feasible, achievable or sustainable to propose new services altogether. What is important is to address the constraints and to strengthen the existing moderators/enhancing factors and sources that this study has revealed to be effective in providing health information to rural Uganda. For example: A participatory and multi-sectoral approach

involving front-line health workers, the Local Authority (LCs), the Church and other religious organisations, women's groups and other development NGOs is an example of effective provision of information to women. The detailed methods by which effective services should be delivered can vary according to local conditions but the common principle remains. The provision of health information, particularly to rural areas, in a readily accessible and usable form, should be an area of significant activity to health information providers, including the relevant sections of the MoH. More information needs to be simplified, translated in local languages, illustrated for those who are not able to read, and presented in audio (through radio), printed, visual, through drama or popular theatre, and other formats e.g. seminars, as the findings have shown. The social networks that have proved both valuable and effective as moderators and sources of information also need to be utilised more.

Health education focussing on the specific health problems of a particular area is crucial. The benefits of effective health education have been clearly demonstrated in this study especially during the cholera epidemic. If 'prevention is still better than cure', there is no need to wait for epidemics. Furthermore, the results of the AIDS prevention campaigns have been well documented. Other killer diseases such as malaria, maternal problems, diabetes and cancer need such effective health education programmes.

Information provided by health workers to patients was generally considered insufficient. The findings of this study

have shown, for example, that while the majority of women interviewees preferred to get more information (monitors) about their long-term and life-threatening illnesses or the illnesses of those they nursed, two women reported that information would make them more worried and hence, worsen their situation (blunders). It is therefore important that health workers assess patients' general orientation to information so that the monitors are provided with as much appropriate information as possible to assist them to cope with the illnesses. Health workers have been reported to provide too little information to people, something that needs to be addressed. On the other hand, the blunders, who may not need information at all or who may need some information but not all, should have their choice respected.

Finally, it is noted that the provision of an effective health information service is fundamentally an issue of political will and support. The proposals made for improvement require that scarce financial resources be allocated to the provision of health information services in Uganda.

### **Areas for further research**

A good research product is not just one that is said to be valid, it is also one that is productive in terms of generating new ideas and stimulating further research (Giddens, 1997). Several areas for further research were identified in this study; for this paper, only three are presented:

1. Coping and information behaviour: The findings of

this study have shed some light on the information behaviour of people with long-term illnesses, e.g. HIV/ AIDS, sickle cell anaemia, asthma and paralysis. These findings just emerged from the interviews. There is therefore a need for further and more specific research on coping and information behaviour in Uganda. Baker (1995) also observed that because very few studies have focussed on people with chronic diseases, information about monitoring and blunting behaviour in the face of long-term stress remains relatively scarce.

2. There is need for a study to focus on the public library's role in the provision of information to rural areas, particularly to the socially disadvantaged groups such as the women, patients, the elderly and the disabled.
3. Since hardly any research had been dedicated to health information access factors as well as the use of information by the population investigated in the study, more extensive research on larger samples should be undertaken to test the individual elements of the model that emerged from the qualitative data in this study. The model could also be applied to other rural areas in sub-Saharan Africa, or to upper levels of PHC and/or to urban Uganda, and indeed to other parts of the world.

## REFERENCES

- Adem, L. (1997). *The Impact of Information Technology in Sub-Saharan Africa with Particular Reference to Ethiopia*. Ph.D. thesis, University of Sheffield.
- Baker, L. M. (1995). "A New Method for Studying Patients Information Needs and Information Seeking Patterns", In: Lloyd-Williams, M. (editor), *Health Information Management Research: Proceedings of the First International Symposium*, 5 - 7 April. (pp 67 - 75). Sheffield: University of Sheffield, Department of Information Studies, Centre for Health Information Management Research.
- Bantebya-Kyomuhendo, G. (1997). *Treatment Seeking Behaviour Among Poor Urban Women in Kampala, Uganda*. Ph.D. thesis, University of Hull.
- Barton, T. & Wamai, G. (1994). *Equity and Vulnerability: A Situation Analysis of Women, Adolescent and Children in Uganda*. Kampala: Uganda National Council for Children.
- Bosompra, K. (1989). "Dissemination of Health Information Among Rural Dwellers in Africa: A Ghanaian Experience", *Social Science & Medicine*, 29 (9), 1133 - 1140.
- Braman, S. (1989). "Defining Information: An Approach for

Policy makers", *Telecommunications Policy*, 13 (3), 233 - 242.

Bryman, A. & Burgess, R. (1994). "Reflections on Qualitative Data Analysis". In: Bryman, A. & Burgess, R. (eds). *Analysing Qualitative Data*. London: Routledge.

Coffey, A. & Atkinson, P. (1996). *Making Sense of Qualitative Data: Complementary Research Strategies*. London: Sage.

Dervin, B. (1992). "From the Mind's Eye of the User: The Sense-Making Qualitative-Quantitative Methodology". In: Glazier, J. D. & Powell, R. (editors), *Qualitative Research in Information Management* (pp. 61 - 84). Englewood: Libraries Unlimited.

Dervin, B. (1999). "On Studying Information-Seeking Methodologically: The Implications of Connecting Metatheory to Method", *Information Processing & Management*, 35, 727 -750.

Ellis, D. (1993). "Modelling the Information-Seeking Patterns of Academic Researchers: A Grounded Theory Approach", *Library Quarterly*, 63 (4), 469 - 486.

Giddens, A. (1997). *Sociological Theory*. (3rd edn), Qxford: Blackwell Publishers.

Ginman, M. (2000). "Health Information and Quality of Life",

- In: Dowd, C. & Eaglestone, B. (editors), *Health Information Management Research: Proceedings of the Fifth International Symposium - SHIMR*, 12 - 13 June (pp 9 - 19). Sheffield: University of Sheffield, Department of Information Studies, Centre for Health Information Management Research.
- Glaser, B. (1978). *Theoretical Sensitivity*. Mill Valley, CA: Sociology Press.
- Glaser, B. G. & Strauss, A. (1967). *The Discovery of Grounded Theory: Strategies for Qualitative Research*. New York: Aldine de Gruyter.
- Gray, P. (1991). *Psychology*. New York: Worth Publishers.
- Hammad, A. (1995). "Improve our Health, Improve the World", *World Health*, 48-Year Special issue, 4.
- Haythomthwaite C. (1996). "Social Network Analysis: An Approach and Technique for the Study of Information Exchange", *Library and Information Science Research*, 18, 323 - 342.
- Kigongo-Bukenya, I. M. N. (1999). "Women and the Right to Reproductive Health Information Services in Uganda", *East African Journal of Peace and Human Rights*, 5 (2).125 - 138.
- Kigongo, C. (1997). "Primary Health Care: Role and Functions", *The Uganda Health Information Digest*,

- 1 (1), 65 - 68.
- Mutch, A. "Information: A Critical Realist Approach". In: Wilson, T. D. & Allen, D. K. (editors), *Exploring the Contexts of Information Behaviour: Proceedings of the Second International Conference on Research in Information Needs, Seeking and Use in Different Contexts*, 13 - 15 August. London, Taylor Graham.
- Mutua, E. (1997). "How Rural Women Communicate in Kenya", *Focus on International & Comparative Librarianship*, 28 (2), 73-74.
- Ngcobo, Z. G. (1994). Health Information - Seeking Behaviour of Women in Rural Swaziland. Ph.D. thesis, University of Pittsburgh.
- Nginwa, P., Ocholla, D. N. & Ojiambo, J. (1997). "Media Accessibility and Utilisation by the Kenyan Rural Women", *The International Information & Library Review*, 29 (1), 45 -66.
- Nuijten, M. (1992). "Local Organisation as Organising Practices: Rethinking Rural Institutions". In: Long, N. & Long, A. (editors), *Battlefields of Knowledge: The Interlocking of Theory and Practice in Social Research and Development*. London:Routledge.
- Oxaal, Z. & Baden, S. (1996). *Challenges to Women's Reproductive Health: Maternal Mortality*. BRIDGE

report 38. Brighton: Institute of Development Studies (IDS).

Patton, M. Q. (1990). *Qualitative Evaluation and Research Methods*. London: Sage Publications.

Saracevic, T. & Kantor, P. (1997). "Studying the Value of Library and Information Services", *Journal of the American Society for Information Science*, 48 (6), 527-542.

Spink, A. (1999). "Towards a Theoretical Framework for Information Retrieval in an Information-Seeking Context". In: Wilson, T. D. & Allen, D. K. (editors), *Exploring the Contexts of Information Behaviour: Proceedings of the Second International Conference on Research in Information Needs, Seeking and Use in Different Contexts*, 13 - 15 August. London, Taylor Graham.

Strauss, A. & Corbin, J. (1990). *Basics of Qualitative Research: Grounded Theory Procedures and Techniques*. Newbury Park: Sage Publications.

Strauss, A. & Corbin, J. (1998). *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory* (2nd edn.), London: Sage.

Talja, S. et al (1999). "The Production of Context in Information-Seeking Research: A Metatheoretical View", *Information Processing & Management*, 35.

Tesch, R. (1990). *Qualitative Research: Analysis Types and Software Tools*. New York: The Falmer Press.

Turner, B. (1981). "Some Practical Aspects of Qualitative Data Analysis: One Way of Organising the Cognitive Process Associated with the Generation of Grounded Theory", *Quality and Quantity*, 15, 225- 247.

Uhegbu, A. N. (2000). "Information Communication Networking in Rural Communities: The Case of Women in Imo State, Nigeria", *Journal of Information Science*, 26 (1), 51 - 59.

UNDP. (1998). *Uganda Human Development Report*. Kampala: United Nations Development Programme (U7NDP).

Vakkari, P. (1999). "Task Complexity, Problem Structure and Information Actions: Integrating Studies on Information-Seeking and Retrieval", *Information-Processing & Management*, 35, 819 - 837.

Wallman, S. (1996). *Kampala Women Getting by*. London: James Currey.

Wilson, T. (1981). "On User Studies and Information Needs", *Journal of Documentation*, 37(1),3- 15.

Wilson. T. (1997). "Information Behaviour: An Interdisciplinary Perspective", *Information Processing & Management*, 33 (4), 551 - 572.

WHO (2000). *Health Systems: Improving Performance*. Geneva: The World Health Organisation (WHO). (The World Health Report 2000).

# 4

## **WOMEN'S STRUGGLE IN THE NIGER DELTA**

### **Oil Companies Asked to Ensure Clean Environment and Provide Employment**

**Victor Ofure Osehobo**

#### **Introduction**

**T**he report focuses on the peaceful protest by women in oil producing communities in Nigeria's Niger Delta, against oil companies over environmental degradation, failure to provide social amenities and absence of employment opportunities for their children.

There are hundreds of oil-producing communities located in swamps on the Atlantic coastline in the Niger Delta. They are mainly of the Ijaw, Itsekiri and Ilaje ethnic nationalities.

This report came as a result of a visit to Escravos, the main operational base of such oil companies like Chevron and Shell, who own the many oil flow stations in the communities. The communities are accessible only by boats or canoes.

We met most of the over 3000 women who participated in the August 8th, 2002 protest and they told us why they went on protest.

The report thus dwells on issues surrounding why it was only women who participated in the protest, which communities they come from, how they were mobilized, how their leaders were chosen, their demands, how they planned and executed the protest, why they ended the protest and the gains therefrom.

### **Background**

In June 2002, the women in Escravos met and resolved to write Chevron an American oil company a letter stating the effects of oil exploration activities on their environment. They said they could no longer fish on the neighbourhood rivers on the many creeks because oil exploration activities have driven the fishes and crayfish further into coastal waters.

For a people whose livelihood centres on fishing, this was a disaster. It meant they have to sail into the high seas to catch fish. Yet, they do not own the boats. As a result, feeding had become a very expensive ordeal.

Farming of food crops have long been endangered because of oil spills and acid rain from gas flaring. In addition, men and children could not secure jobs in the oil companies. The women, united by their common plight, resolved to invite Chevron with the letter asking for a clean environment and employment for their men and children.

The letter was never acknowledged by Chevron. The women then met again and resolved to barricade Chevron oil installation. On July 6, 2002, over 3000 women "invaded" the Chevron platform at Escravos and brought work there to a standstill.

### **Location**

Oil communities in the Niger Delta are mainly rural settlement. Years of oil exploration activities have rendered them underdeveloped and poor. The people have thatches made of palm fronds for roofing in living apartments. There are no roads; transportation is only by water in canoes made from wood. There are also no health centres, no schools, and no potable water supply facilities.

The communities are in endless daylight because at night, the gas flared ensures a lighted scenario.

The protesting women were from such Ijaw kingdoms as Gbaramantu and Egbema. Among the communities here are Kiagbene, Oporoza, Benikruku, Opuama, Tsekelewu. Others came from such Itsekiri communities as Aruntun, Ugborodo, Igidigben, Aji- dagbo, Imaghaho, Madagbo and Ayala.

From the Ilaje communities also came women: Eburon, Igo, Kekere, Ubale, Nia, Oretan, Eke Kekere Makin, Odion Oyibo, Ogungbeje, Beko, Uba Jire, Yorubu, Itioka, Okoro and Ile-Titun and Alaka.

All these communities are on the Atlantic and cover three (3) of Nigeria's coastal states: Ondo, Delta and Bayelsa.

### **Human rights in oil communities**

The right to live and survive well as human being, free from pollution, oppression, economic strangulation, domination, degradation and the freedom to choices are inviolable rights of all humanity. Humans residing in oil communities are entitled to these rights. Even non-human things like lakes and rivers, trees and animals have had cases of enjoying their rights. There are treaties, which protect some animals and plants in certain areas.

Article 24 of the African Charter of Human and Peoples' Rights gives all Africans the right to a satisfactory environment favourable to their development. The charter is a law in Nigeria, recognized by the Constitution.

Those who live in oil communities live in the environment. Their livelihood is dependent on the environment. Because they live and depend on the environment, they know they must protect it and defend attempts to destroy this environment, for their existence depends entirely on it.

### **Issues the women protested against**

Oil exploration activities by Gulf Oil began in 1964 around the Escravos area in Delta State. But six years ago, these activities were taken over by Chevron. Chevron has many flow stations and oil wells in one of the largest oil producing communities in Nigeria. Staff of Chevron live in habitations complete with roads, water and electricity far away from the

oil communities.

### **Why only women protested**

Over the years, men and youths led protests over the effects of decades of environmental degradation. But many of them have been shot dead, maimed or sent to jail leaving families without heads. The women felt, out of pity and the general belief that women are weaker sex the oil companies may listen to them.

According to Fanty Warijal, an Ijaw woman from the Gbaramantu kingdom:

“We know that the men and the youths have tried. They usually come to tell us that they have signed Memorandum of Understanding (MOU) with the companies and so on. None of these things come into existence.”

Mrs. Warijal said that the women's fight for justice is not gender-based.

“I do not need my husband to come and engineer me to go and fight for a cause that will bring some assistance to me, my children and even my husband.”

Chief Eyinoluwa Mabiaku, an Itsekiri leader from Ugborodo says the women took over the protest “because with the men and children, they are all in the same community and they are suffering degradation together.”

Elizabeth Ebido, an Itsekiri fish selling woman, explains why the protest was mainly undertaken by women:

“We cannot rely on our husbands anymore for this fight

because they are not giving us the desired results.”  
These desired results are jobs for the men and their children,  
good schools, roads, health centres and pipe-borne water.

Rose Junigbe, an Ilaje woman from Ile Ititun corroborates  
the reasons why the women seized the initiative:

“They (the men) have been fighting without success  
and we said it is the time for we the women to fight,” even  
though there were a few men in the protest march. These  
were the boat drivers, the bus drivers and those whose wives  
were absent due to ill health or were recently delivered of  
newborn babies. But they were seen not heard.

### **How the women were chosen**

Local community unions and associations of fishing women  
- some of who meet weekly- were contacted to reach out to  
their members. Leaders of these groups addressed rallies of  
women in each of the oil communities to sensitize them on  
the demands.

In the end, to demonstrate their commitment to the  
cause, women were asked to voluntarily pay some  
undisclosed amount. Both those who could and could not  
pay this amount went to the oil company facilities in boats,  
buses, chartered for the purpose.

There were no inducements or incentives to get the women  
to participate but the information that such a mass rally could  
elicit positive response from the oil companies and bring the

much desired improvement into the lives of the people soonest.

Crayfish, fisher- women, vegetable sellers, hot drink makers, palm oil and palm kernel marketers were all in the lot.

### **Leaders**

Those who led the protests were leaders of the groups earlier mentioned. Their duties were to ensure that the women in their groups attended the rally, stayed at the venue and received their water, food or medication while the 10-day protest lasted.

### **The demands**

Rusty roofing on shacks that go for living apartments are covered by soot and acid rain on the narrow streets around many of the oil communities. There are stretches of mainly soil and oil stained ponds, oil film floating on the coloured water. Marine life has been truncated while withered tree stems lonely, seem devastated by events around them.

The demands were that the oil companies:

- \* Stop the destruction of arable land by controlling oil spills which spread into such lands. They called for replacement of oil installation fittings soon as they go faulty.
- \* Check the pollution of the fishing waters, creeks and rivers by taking drastic steps to stop gas flaring and mopping up of spills, soonest.

- \* Sink boreholes to provide potable water, since fresh water sources have become polluted by seawater due to dredging activities.
- \* Provide jobs for their husbands and children up to managerial levels where decisions are made.
- \* Provide schools for children and staff quarters equipped for teachers who often resent deployment to remote rural areas. Also, to provide cash backing for scholarship awards to children from oil communities.
- \* To provide neighbourhood health centres with doctors who are conversant with diseases peculiar to oil communities such as typhoid, malaria, cholera, etc.
- \* Provision of electricity by extending transmission lines from oil workers' quarters or through the national grid.
- \* Construction of roads and bridges to facilitate linkage between fishing and farming communities and urban centres to sell their produce.
- \* To provide jetties and water transportation facilities at subsidized rates. The women themselves shed light on the demands.

One Ijaw woman, Queen Uwawa from Escravos said that:

“For 37 or 38 years now that Chevron has been taking oil from here, there has been nothing to show for it: No development — we cannot bear it again.”

Uwawa amplifies the impact of oil exploration on the food situation: “When we plant things in the farm, nothing grows, at times the (oil) wells from which Chevron takes oil spill into our farmlands and destroy our crops.”

Dorothy Irene, an Ijaw woman said: "Nobody is happy, even the babies, we all feel being cheated. Such cheating cannot bring peace. What we want is justice, so we can live well."

Augustine Rameri, is an Itsekiri man who works as a ferry hand. He is also a university graduate with a first degree in economics: "What pains me most is that in a company like Chevron, we don't have youths working there: no Itsekiri man holding good (top) position in Chevron."

Christiana Ulewe, an Itsekiri woman from the Ugborodo oil community speaks of the situation as it relates to health of the population.

"We drink rain water, no clean water for us. Before we had oil, people lived to be 100 years, now people are dying before their time ... we don't even have a hospital."

On educational facilities, Alice Oyahe, an Ilaje woman said: "Many children are useless in the town — we have no money to educate them. How can one live without being able to educate one's child?"

For Elizabeth Ebido, another Itsekiri woman, "When Chevron gave our children scholarships, they do not pay for their school fees ... it is only on paper."

Fanty Wanijal, an Ijaw woman said that: "If they are building a school, they should be able to build staff quarters and facilities that will make teachers stay and according her, on matters of health, "usually, we have our local ways of taking care of the sick people, but right now, the activities of

the oil companies have destroyed most of our herbs.”

For Ibisusan Ebuwonjumi, an Ilaje woman, “The entire environment has been destroyed — Chevron is insensitive to our plight.”

### **Executing the plan**

In June 2002, over 700 women met at Escravos to brainstorm on their demands for clean environment, employment opportunities and development of infrastructure in their communities.

These demands were articulated in a letter to Chevron. But a month later, as the letter was not acknowledged, the women met again. This time they decided to move en masse to the Chevron installation, barricade the entrance and demand audience with the head of the oil company.

Each woman paid an undisclosed amount to rent the boats and buses that took them to Chevron facilities. Part of the monies also went to buy food, water and medication for the sick.

The women anticipated a long stay at Chevron’s so they came prepared. Edjere Ereku, an Itsekiri, a widow aged 62 and mother of 7 said: “We did not carry sticks or guns.”

Chief Mabiaku an Itsekiri tribal chief from Ugborodo said:

"It was a very peaceful demonstration. They damaged nothing but made it impossible for Chevron to operate."

However, if the women expected a peaceful reaction, it was not to be. The Chevron boss, Mr. Fieldgate had spoken to the women on July 6, 2002 appealing to them to vacate his premises. He was with them from 6am to 10pm drinking only coffee.

The women said they never understood a word that he said — he spoke too fast. Infuriated, one woman made to take the coffee cup, and security operatives moved in.

Alice Ukoho, an Ilaje woman noted that "tear gas canisters were thrown at the women, who began to run back from the securitymen at the gate. The armed men followed the women into the waterlogged area around the premises."

Edjere Ereku, the widow recounted "I fell down when a (mobile) policeman chased us from the Shell gate at Ogunu to the swampy area." The women said their plan was to enter the compound and occupy the premises until their demands were met.

Kate Ajagbawa, an Itsekiri, mother of 5 said "Chevron brought soldiers and police to threaten us when we were at Chevron yard. If Chevron wants to kill us, we are no longer afraid." and Rose Okpodo, an Jjaw woman noted, "Let their soldiers kill us with their gun, it is good — let us die and go

away. Instead of our children suffering in our presence, let us all die."

Austin Rameri, the ferry hand also observed: "This shows that these people are really intimidating us. They have something to hide that they do not want the world to know about."

Justifying the siege on the defenceless women, Harrison Oyoyo, an official of Shell said: "Did people expect us to keep quiet and not inform the authorities when our premises were taken over by the women?"

Sola Omole, a Chevron official said the involvement of security operatives was to forestall violence on the part of the women: "The company evacuated all its regular and contract employees from the facility just before the occupation to avoid a hostage situation."

Fifteen of the protesting women were yet to return home weeks after the demonstration. While the women said they missed their families and feared being drowned when they fell into surrounding swamps, the police and oil company officials said this was not true. Sola Omole noted, for example: "There is no iota of truth in this allegation. In spite of the fact that the security agencies based in Warri had already denied the report, we aver that the women did not enter our office premises."

If the women are missing, he said Chevron has no hand in it

and Harrison Oyofa of Shell also said, "They said some women were killed by security operatives. We have gone everywhere and no one has shown us a family, relative or anyone or any town distraught at the loss of a family member."

### **Why the protest ended**

The demonstration lasted 10 days during which the women sought dialogue on their demands. They were beaten, brutalized and driven off the Chevron facilities by armed security operatives. For fear of being shot and killed or maimed, the women ran for their lives.

### **The gains**

Unknown to the women, Chevron had drawn up a Memorandum of Understanding or MOU to be discussed between their leaders and Chevron officials. The objective of the MOU as articulated by Chevron was "to guide and regulate the relationship between the company and the communities in respect of the operations of the company, its contractors, sub-contractors and agents within the swamp area of our western operations".

The MOU commits Chevron to among other things:

- i. Build cottage hospitals for the people,
- ii. Increase scholarship, bursaries to indigenes of oil communities,
- iii. Provide capital to finance micro-credit schemes for the women,

iv. Employ at least 10 persons from each of the oil communities over a 5-year period.

But the women said they were not aware of this agreement. However, Chevron officials included a clause, which said the provision of jobs was dependent on "the availability of vacancies." In addition, they wrote that: "Nothing in this agreement is intended to supersede the laws of Nigeria and internationally accepted standards of business and civil conduct."

Chevron reiterates that its core values are to, "support sustainable community development, local business development, training and other development activities to enable the communities to take advantage of business and development opportunities.

We learnt that the agreement was between a select government-sponsored group of women who agreed that its implementation will be over the next months.

### **Conclusion**

The women are concerned that there has not been any contact between their leaders and oil companies officials since they were dispersed by armed security at Chevron premises. They have resolved to act again and again until action on the part of the oil companies is visible in their communities.



*Escravos: Sept. 14th 2002*

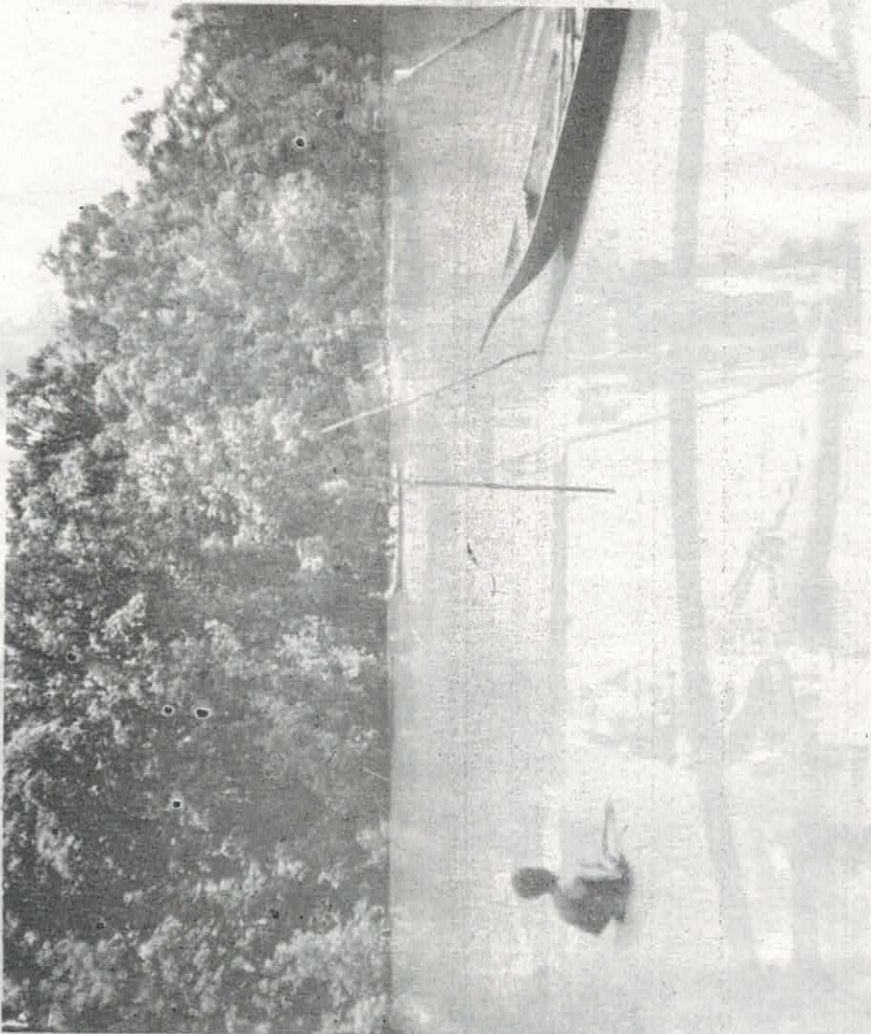
*Ibimisan Odogun, she is less than 32 years old and has four children. She received gun shots in her right breast*



*Escravos: Sept. 14th 2002  
Women protesters after their siege on  
Chevon oil installation at Escravos*



*Opuama, an Ijaw community near Escravos:  
August 9th, 2002*



*Benin River: August 9th 2002*

*Playing and swimming o the Benin River is a favourite  
pastime of many people in Escravos.*



*Agbabu: August 9th, 2002*  
*Shallow waters polluted: Agbabu near Escravos*



*Escrvos: Sept. 13th, 2002*  
*Kate Ajagbura Ijaw; showing her wounds*  
*... says she was repeatedly raped by the security operatives of*  
*Chevron*

# 5

## **WOMEN AND HEALTH** **Case Studies in Nigeria and Ghana**

**Cesnabmihilo Dorothy Aken'ova**

**T***his research was being conducted through review of documents from Ghana and Nigeria and some of which are national surveys, small scale studies by NGOs and other research institutions in the two countries, journals, newsletters, newspapers clips, UN reports and reviews, publications from outside the two countries, interviews, group discussions, observations and personal experiences. Resident in Nigeria, I had more access to materials on Nigeria while the documents I used to get information on Ghana were fewer. I had discussions with a few Ghanaians all of whom occupy policy making positions in their government, in the UN and in NGOs.*

### **Introduction**

The World Health Organisation (WHO) has defined health as a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity. The implications of this definition to the assessment of women's

health are that all health issues must be addressed including those conditions that could affect men, such as malaria, hypertension, diabetes, etc. In this study however, we have focused on those health conditions that are found only in women either as a result of their reproductive anatomy and physiology or as a result of the interaction between gender and biological and genetic differences resulting in health conditions, situations and problems that are unique to girls and women.

Women's health in this context first gained the world's attention as a priority developmental tissue during the International Conference on Population and Development (ICPD) in 1994. Sexual and reproductive health were clearly defined and discussed in the rights perspective (reproductive and sexual rights and health) in the outcome document of the ICPD and their provisions well spelt out.

Reproductive rights included "the right to make decisions concerning reproduction free of discrimination, coercion and violence..." and reproductive health as "a state of complete physical, mental and social well being and not merely the absence of disease or infirmity in all matters relating to the reproductive system and to its functions and processes". ICPD POA therefore provides for everyone to have a satisfying and safe sex life and to have the capability to reproduce and the freedom to decide if, when and how

often to do so. It also calls for full attention to be given to "the promotion of mutually respectful and equitable gender relations."

Governments and other stakeholders, including NGOs were called upon to carry out intervention activities in response to identified women's health needs. It was also in this document that adolescent health issues were addressed in an unprecedented manner.

The provisions in the ICPD POA were endorsed in the Fourth World Conference on Women (FWCW) in Beijing in 1995, leading to a strong outcome document, the FWCW Platform For Action (PFA). Women and health was identified as one of the critical areas of concern and the life cycle approach brought about the inclusion of the girl-child as a separate critical area of concern in the FWCW PFA. The FWCW defined five objectives towards improving women's health. Promoting research and disseminating information on women's health was one of those objectives.

This study has used the principles outlined in the ICPD POA, the FWCW PFA and the Convention on the Elimination of all Forms of Violence Against Women (CEDAW) to guide the situation analysis of the status of women's health in two Anglophone countries in West Africa, Nigeria and Ghana. Known to have a lot in common in their history and socio-cultural situations, the countries also have significant differences. While Nigeria is an acclaimed patriarchal society, Ghana is known to be a matrilineal society.

The study has appraised the policy environment concerning women in the two countries with the girl-child (adolescent sexuality and health) and gender as cross-cutting issues. The study has also initiated dialogue on similarities and differences in the perception of women's health, women's rights and ways of (dealing with women's health needs and gender-based violence in the two countries. Policy implications and lessons to be learnt have also been discussed.

## Policy environment

### GHANA:

Total population year 2000 (in thousands)	19,306
Population ages 0-24 (% of total population)	62%
Population ages 10 — 24 (% of total population)	34%
Annual population growth rate	2.2%
Average births per woman 15 — 59 (TFR)	4.55
Births to women ages 15 — 19 (as percentage of all births)	15%
Births to women ages 20 — 24 (as percentage of all births)	27%
Percentage of 14 — 24 year-olds ever married (female/male)	13.2% / 48.9%
Young married women 15 — 19 using any method of contraception	(%) 19.2%
HIV prevalence in females	15 — 24 2.4 — 4.4%
HIV prevalence in males	15 — 24 0.8 — 2.0%

Ghana has a good reputation for being the first country in sub-Saharan Africa to commit itself to progressive policy

changes. This pacesetting attitude is especially visible and consistent in the stance Ghana adopted during the United Nations General Assembly Special Sessions of the ICPD +5 and Beijing +5 when negotiations for language in the outcome documents was in progress.

Ghana made its first attempt at policy entirely focused on Family Planning in 1962, which was raised by the National Population Council in 1992. The revised policy, as is currently, provides for a broad range of youth issues including teenage pregnancy, early marriage and gender equality. The institutional framework through which the policy will be implemented has been considered the most impressive part of the document in many quarters.

Ghana also has a National Reproductive Health Service Policy, which was completed in 1994 soon after the ICPD. This policy makes it mandatory for all Ghanaians with no age restrictions, to be given comprehensive reproductive health care, including counselling and sex education. It outlines provisions for adolescent reproductive health and calls for the active discouragement of Female Genital Mutilation (FGM).

Ghana produced a National Youth Policy in 1996, which addresses reproductive health.

The third Ghanaian country programme of 1996 — 2000 initiated a population planning and family life education programme for in-school and out-of-school adolescents. This

policy environment provides for adolescent issues to be tackled at various levels and across various sectors providing for vocational skills training, literacy and agricultural development in addition to reproductive health.

Abortion is legal in Ghana and the law allows registered physicians in government hospitals or certified private hospitals and clinics to induce abortion.

**NIGERIA:**

Total population year 2000 (in thousands)	115 million
Population ages 0-18 (% of total population)	59%
Population ages 10 — 24 (% of total population)	
Annual population growth rate	2.8%
Average births per woman 15 — 59 (TFR)	5.9%
Births to women ages 10—19 (as percentage of all births)	16%
Births to women ages 20 —24 (as percentage of all births)	
Percentage of 14 — 24 year-olds ever married (female/male)	
Young married women 15 —19 using any method of contraception (%)	8.9%
National HIV prevalence rate	5.4%
HIV prevalence in young people ages 20—24	8.1%

Nigeria is well known for its controversial stance on population issues during international meetings. Nigeria has always been on the conservative side, and negotiating against progressive issues and language, even where those issues and language being debated feature aspects of well-articulated

and progressive policies currently being implemented in the country.

Nigeria is signatory to the International Conference on Population Programme of Action (ICPD POA), the Fourth World Conference on Women Platform For Action (FWCW PFA), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Social Economic and Cultural Rights, the Convention on the Rights of the Child (CRC); etc. Nigeria has only ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC) and domesticated none. In the Nigerian Constitution, it is clearly stated that treaties between Nigeria and another country do not automatically become a law unless the House of Assembly passes it into law.

In the new era of civil rule and attempt at democratisation, Nigerian lawmakers have been working with civil society groups to pass bills. Bills on Violence Against Women, Trafficking in Women, the Bill on Abortion are in the works. Some states have legislated against Female Genital Mutilation. National Reproductive Health — policy and strategy, National Policy on Women, have been signed. Before this remarkable effort, Nigeria has had the following policies:

- The 1988 National Policy on Population for development, unity, progress and self-reliance and recognises

the need to minimise teenage pregnancy and proposes measures to be adopted in reducing child marriage, and promoting adolescents rights of access to reproductive health information and services. This policy has been recently revised conforming to the principles of the ICPD and CEDAW and taking into account emerging issues in reproductive health and setting realistic bench-marks for its implementation but is still going through the usual bureaucracy before it becomes operational.

- In 1995 Nigeria developed a National Adolescents Policy. Nigeria drew up strategies for the implementation of the National Adolescent Policy at an unprecedented national conference of 300 participants, including relevant federal ministries and parastatals, NGOs, and other stakeholders. In 1998, the National Council on Health ratified the National Strategic Framework on (Adolescent Reproductive Health) ARH.

- 1998, the National Council on Health ratified the National Policy and Plan on the elimination of FGM in Nigeria.

- In 1999 the 46th session of the National Council on Education approved the integration of sexuality education into the school curricula. This was followed by the adoption of the Comprehensive Sexuality Education Guidelines for Secondary Schools.

- The National Policy on HIV/AIDS. It recognises the high level of vulnerability of adolescents; and addresses the issue of the rights of people living with HIV/AIDS and their rights to the best available medical care and understanding.

- The Nigeria criminal and penal codes have laws protecting the sexual rights of adolescents. These include laws on defilement, rape and indecent assault.

Nigeria has a peculiar demographic profile where the indicators for development in the North of Nigeria are so poor that when compared with some states in the South-East or South-West, it appears the locations are not in the same country. Northern Nigeria experiences the highest MMM, lowest age at marriage, lowest contraceptive knowledge and use, highest TFR, lowest school enrolments, etc. The 1999 NDHS and Sentinel Survey on HIV/AIDS and STIs conducted by the Federal Ministry of Health confirm this, and so does the monograph on Youth and Adolescents, prepared by the National Population Commission in collaboration with the UNFPA (Yet to be published).

### **Sharia law**

Some states in the Northern region of Nigeria were declared sharia states by their democratically elected governors.

The process of translation and implementation of the Sharia have received wide criticism because the processes

were not participatory and the implementation is highly discriminatory against women. This has created absurdity in our policy environment.

Death by stoning or flogging of women as a result of pregnancy related to so-called sexual offences has become common place in Nigeria. In the past one year, more than six women have been judged and four condemned to death by stoning, while 2 were flogged in public.

*"We are witnessing more and more women being condemned to death because they became pregnant out of wedlock, and this is interpreted having had sexual intercourse outside marriage. Even though these sentences have not yet been executed, but the fact that women are condemned to death by stoning with the single proof of pregnancy is an emerging concern in addressing maternal mortality and morbidity."* -Dotty in a community dialogue on MMM and women's sexual rights violations, Minna, 2002.

## **WOMEN'S HEALTH CONCERNS IN NIGERIA AND GHANA**

### **Sexual and reproductive health information / education**

Interviews and anecdotes reveal that women of all ages and all walks of life and especially adolescent girls, women with disabilities, sex workers, lesbians and bisexuals, out-of-school girls, etc, have poor knowledge of sexual and reproductive rights and health issues.

The culture of silence on issues of sexuality and reproduction cuts across most cultures in Nigeria and Ghana. This tendency continues to gain ground as a result of international campaigns by conservatives that have bastardised the terms "sexual" and "reproductive rights". They have pitched camps in most countries of the world, Nigeria and Ghana inclusive. These campaigns have reinforced negative and sometimes confrontational attitudes among Nigerians towards policies, information/education on sexual and reproductive rights. They have sometimes harassed civil society groups working in the area of sexual and reproductive health services and have been seen taking to streets to demonstrate against policies or project initiatives seeking to address reproductive and sexual health concerns. An example of this was the Catholic Bishop in Umuahia who mobilised women and took to the streets in protest against the Bill on abortion which was presented at the National Assembly.

These campaigns have been especially successful as a result of the close ties of the fundamentalist North of Nigeria with these conservative international groups and states. This manifests in the allies and the stance of Nigerian government at global fora, national policies and life styles at the grassroots level. The North has been in power and continues to dictate the agenda for most of the period Nigeria has been an independent nation.

In Nigeria as in Ghana, information on sexuality and reproduction is governed by the culture of silence. Parents

and adults share every other value but that of sexuality and reproduction is kept away from children. The responses to children's question are silence, lies, caution, accusation, punishment, etc. A parent came to INCREASE, an NGO in Nigeria for help:

*"My daughter walked up to me and showed me a word on her palm asking for its meaning. The word was 'seduce' I asked her where she found the word and she said in a book that is in her elder brother's school bag I asked for the book and discovered that it was a pornographic magazine. I slapped her. And now, I don't know what to do with my son."*

Discussions with parents and other adults reveal that this is so as a result of fear of experimentation and early onset of sexual activity outside marriage. This results in strong denial and resistance towards sexual and reproductive rights issues even where the 'silence' fails to yield the desired results, parents and other adults continue to deny and resist suggestions for a change in behaviour.

As is evidenced by the Ghanaian IPAC report, women of all ages have inadequate information on sexuality and also on the laws that have been promulgated to protect their sexual and reproductive health. The worrisome teenage pregnancies, the unsafe abortions, and the unfair numbers of girls and young women infected with HIV/AIDS in the face of low use of contraceptives also confirm this.

### **Women's sexual health**

In both countries, women's sexuality continues to be defined along reproduction and this dictates the kind of services that are available for women. In Nigeria, sexual health concerns are yet to be mainstreamed into healthcare service provision.

Services, including counselling, healthcare services on sexual pleasure, sexual dysfunctions, congenital malformations, contraception, and care after sexual abuse, rape, especially is hard to come by. Sexual pleasure, a fundamental right, continues to elude many women because their partners do not think it is right for women to enjoy sexual intercourse. Women who have the "guts" to complain about lack of sexual satisfaction to their partner or their family are scorned, called names, stigmatised.

Sometimes women do not enjoy sexual intercourse with their partners because they are tensed because they do not want to be pregnant but have not been allowed to use any method to prevent pregnancy and have no one to discuss this with. Fear also stems from the knowledge of the fact that the partner has other partners pre-disposing them to infections, including HIV and yet these women have no say on the sexual behaviour of their partners and, or lack the skills to negotiate for the use of condom for protection.

Significant number of older women, especially those in the rural areas, are denied sexual activity once they reach menopause on the pretext that it would cause them illness or weaken the male partner who carries on with his sexual life

even when he is older than the woman. For those few who continue to be sexually active, they do so with a lot of pain because of the reduction in vaginal secretion. They often cannot understand what is happening to their body, they have no one to recommend the use of lubricants for them. In some cultures in Nigeria, the older woman would marry a younger girl for her husband for the purpose of sexual satisfaction for her husband while her own concerns are completely unrecognised or ignored.

Women often do not have someone they could go to; someone who would listen to them and be non-judgmental... Today, many service providers do not know how to detect if a woman has been sexually abused, and where cases are reported to the providers, they do not know how to manage them, even fewer know about dysfunctions in women and how to manage them. In Nigerian country programme that ended 2001, the UNFPA provided training for selected health care providers in the 12 UNFPA states in the provision of sexual health services for adolescents, including care of the women who have been raped. This programme is at its initial stage and the numbers trained so far are grossly insufficient.

### **Policy implications**

There is need for programmes to:

Provide accurate information, education, skills and services for women of all ages

- Use the right approach in packaging the sexual and reproductive rights and health information
- Provide skills for dialogue for men and women, especially on issues of sexuality that are the least discussed using effective strategies to develop the comfort level of participants, at discussing these issues
- Develop low literacy IEC materials that will improve on the way sexual rights and health information is packaged to make it accessible to those in the rural areas, the out-of-school girls, etc
- Start to give the information on sexual and reproductive health and rights at an early age for girls with a package on skills-building as opposed to life skills information as has often been the case in current interventions
- Mainstream gender into sexual and reproductive health information, skills-building and services for all ages.

### **Fertility among women**

In Ghana, fertility has declined among all age groups. For women under the age of 35 fertility declined by 25% between 1988 and 1998 bringing the births per woman to an average of 4.6 children during her reproductive years. Similarly, in Nigeria, in the last decade, TFR has declined from 3.2 to 2.3% (NDHS 1999), but remains high at 5.2 children per woman. In the northern region, it is reported at 6.8 for northeast and 6.5 for the northwest.

Ironically, it was discovered during the 1999 NDHS survey that the ideal number of children was lower than the actual TFR recorded. Also worth of mention is the finding that men desire larger mean ideal number of children than women. This is a cause for concern in a setting where the decision on the number of children and the decision to use contraceptives rest with men. In some healthcare centres, particularly in the North of Nigeria, women are given a slip and are required to obtain a consenting signature of their husbands before they are served. Some women find a way around this by getting someone or by themselves sign the slip and submit to the providers. This often has implications on what methods the women can use as they opt for hidden methods even where these were found inappropriate for them upon medical examination.

### **Policy implication**

- \* Messages need to be designed for all ages of the male population in addition to increased lobbying, aiming towards greater male participation in matters of fertility and other aspects of reproductive and sexual health.
- Improve gender power relations by addressing those socio-cultural factors which put women at a disadvantage
- Build negotiation, assertiveness skills and self-esteem in girls and women starting from an early age
- Design special interventions for married and out-of-

school girls who have been grossly marginalised in on-going interventions

### **Use of contraceptives**

Despite the fact that there is a high level of sexual activity beginning at a very young age in both Ghana and Nigeria, there is very little knowledge on contraceptive. Granted that the knowledge and usage levels have somewhat improved over the years, but it is still low. In the NDHS 1999 report on Nigeria 62% of women knew of modern methods while only 9% were actually using any of these methods. This is as a result of several barriers because there is an unmet need of 8% one out of five pregnancies were reported as mistimed. There is an unmet need because women of childbearing age wished to space their next birth (15%) while some wanted to limit childbearing (3%) yet, they did not use any family planning method. High abortion rate also points to the unmet need in contraceptive use.

The reasons for persistent low use of contraceptives in Nigeria are similar to those found in the study in Ghana (Ayaga Agula Bawah et al, Impact of Family Planning on Gender Relations in Northern Ghana — Studies in Family Planning Vol 1(1 Nii 1 Nlarrh 1 999). It was reported that contraceptive use was low and that men often resorted to physical and/or psychological abuse of their partners in order to restrain them from the use of contraceptives. The North of Nigeria is particularly notorious where the culture is anti-women's sexual rights. In most parts of the North, women's still require

the written permission of their husbands to access family planning services.

The Women's Health Organisation of Nigeria, an NGO, which works with women's groups at the community level, initiated projects with women's groups in 6 states of Nigeria among which were Sokoto and Kano States, established drug stores and gave the women's groups seed stock. The drug store in Minjibir, Kano state, was launched and all the stakeholders were present and made beautiful speeches, but the drug store remained shut after the launching for a year. After much inquiry including under-cover investigation, the programme persons discovered that men in the community had gone to persuade the State Secret Service, Kano branch, to lock up the drug store because daily leofeminal pills and male condoms were available on the counter by demand. Findings of the probing showed that the men feared that their wives could go there and obtain FP services without their permission or without their knowledge. The men also feared that the women managing the drug store would not abide by the consent slip method used by the state's health care centres had it been introduced and easy access to contraceptives would promote promiscuity and infidelity among women. The drug store only became after the contraceptives were removed from the store.

The cost, fear of women's autonomy, infidelity, and the failure to perform what is perceived in the community to be women's obligation - giving birth to children - account for the low

contraceptive usage among some women in Ghana and Nigeria.

### **Policy implications**

- Build negotiation, assertiveness skills and self-esteem in girls and women, starting from early age.
- Design special interventions for married and out of school adolescents who have been completely marginalised in on-going interventions
- Provide sexual rights information and effective communication and counselling skills training for service providers
- Make services available to everyone who needs them without discrimination
- Promote dual protection in our BCC interventions.
- Intensify research effort to evolve alternative contraceptives for males.

### **Maternal mortality and morbidity**

*Fertility does not come without a price to women in Nigeria and Ghana. Sometimes, they pay for it with their lives.*

Efforts have been made by the Nigerian government to

manage fertility-related problems, especially deaths resulting from pregnancy-related complications as seen in the section on Policy Environment. This is expressed in the Safe Motherhood Initiative.

There have been attempts in the various sectors of health ministries, institutions and establishments and among civil society groups to support government in the implementation of national policies and international policies and treaties to which Nigeria is a signatory. The impact of these efforts on maternal mortality is yet to be felt as the rates have more than doubled since the ICPD Cairo 94 and FWCW, Beijing 95 to date.

Nigeria's Total Fertility Rate (TFR) is very high and varies greatly among states. In two thirds of the states, TFR is greater than 6 (Nigerian Population Census Analysis — Gender and Sustainable Development, 2001) with young people making a significant contribution to the TFR. This is accompanied by very high maternal mortality and morbidity rates.

Despite the various on-going efforts in Nigeria, MMM rates have continued to rise ranking among the highest in the world. Maternal deaths as a result of pregnancy-related causes rose from 800 in 1994/1995 to 1,800 deaths out of 100,000 births in the late 1990s, and it is reported that in some states of the federation, up to 2000 deaths occur per 100,000 births. There are also estimates that in the rural areas, one maternal death occurs every ten minutes in Nigeria and for each woman who dies, reports say that twenty more sustain pregnancy-related disability, some of which last a lifetime.

## **Determinants of MMM**

There is a wide range of determinants to MMM which could be categorised into obstetric and socio-economic factors. Over time, most of the intervention has been targeting obstetric factors, which include obstructed labour, excessive bleeding, severe infection, toxemia during pregnancy, unsafe abortions, malaria, anaemia, etc.

Underlying factors to these complications include too early childbirth (18 and below), too late childbirth (35 and above), too many (more than 4) births, and too close together (2 years and less intervals between) births.

## **Early child bearing**

Early onset of sexual activity is very high in Nigeria. The 1999 NDHS reported 48.6% adolescents 15 — 19 are sexually active in a context of very low contraceptive use. The median age at first sexual intercourse has remained low in northern Nigeria, and lowest in Northwest (15 yrs) and so is the age at marriage. It is reported that the median age for girls in the northwest is also 15 years (1999 NDHS). As a result, pregnancy rates among female adolescents are still high. Girls age 15 — 19 contribute 16% of TFR in Nigeria (Reduce Maternal and Newborn Deaths in Nigeria, FMOH/WHO). In the northern region of Nigeria, more than 50% of adolescents aged 15— 19 years are reported to have begun childbearing.

Pregnancy among female adolescents often result into complications leading to death. Pregnant girls aged 15 and under have a maternal mortality rate that is 7 times higher than that of women 20 and 24, yet it is still not unusual to come across girls who are married out under the age of 15.

“During a survey in the North of Nigeria in year 2000, I interviewed a middle-aged woman who was providing care for her hospitalised daughter. The daughter was 12. She was suffering from VVF, I asked the woman if she had given her daughter sexuality education before giving her out in marriage. She replied that her daughter was too young then to understand that kind of information. She said the girl was seven years old when she was given in marriage.” (C.D. Aken'ova, unpublished research for CAFS, 2000).

The experience in Ghana is similar to that of Nigeria. By age 20, more than 85% of young women are already sexually active and girls 15 — 19 contribute 30% to all the births recorded in Ghana. In Ghana, teenage pregnancy is one of the leading causes of MMM and has drawn the attention of policy makers.

Women under 20 years of age suffer more pregnancy and delivery complications which include anaemia, prolonged labour, pregnancy-induced hypertension, infection (sepsis), bleeding, premature delivery, vaginal fistula than women aged 20 — 25 (NGO Shadow Report for CEDAW 1998).

## **Unsafe abortion**

In 1991, the FMOH proposed reform of abortion law in Nigeria. This was initiated by the Nigerian Medical Association (NMA), but the Bill was never enacted. In 1999, the FMOH and other women's NGOs, with CAUP leading the campaign again endorsed this reform in the bid to reduce maternal mortality rate in Nigeria.

Unsafe abortion due to unwanted pregnancies arises from variety of factors such as lack of access to information and services, early sexual activity, rape. Also, restrictive abortion laws, and unskilled providers are major contributing factors.

Abortion is criminal in Nigeria except if it is performed to save a woman's life, yet, abortions are performed in very large numbers everyday. The estimated rate of unsafe abortions in Nigeria as surveyed by CAUP numbers up to 610,000 per year. From data available, it is believed that unsafe abortions contributes the largest percentage to MMM rates.

Estimates put the contribution unsafe abortion makes to maternal mortality rates in Nigeria at 80%. CAUP reported complications observed from unsafe abortion in some clinics to include incomplete abortions, infection, uterine perforation, bleeding, genital tract infection, and bowel injuries. In addition to these are significant numbers of others who do not report to clinics.

Girls and women seeking abortion services are unable to obtain safe abortions because they cost more, and lacking resources to seek quality and safe aborted services, they patronise unskilled persons who operate underground, in an unsterile environment. The CAUP research reported that unskilled personnel perform 60% of abortions.

In a study conducted by F. E. Okonofua et al on "Unwanted Pregnancy and Induced Abortion in Nigeria," 5.6% reported no reason for termination of pregnancy, while 18.6 reported method failure, 31% wanted to remain in school, 8.8% high cost of rearing children, 40.5% bad timing, 3.5% abandoned by partner, 5.3 % pregnancy socially unacceptable, 1.3% extra-marital pregnancy, etc. This is very essential information if we are to design responsive interventions in this area.

Abortion is legal in Ghana and the law allows registered physicians in government hospitals or certified private hospitals and clinics to induce abortion. Despite this, unsafe abortion is reported to be the highest contributor to maternal mortality with 22% of all maternal deaths. Many women in Ghana continue to suffer from complications of unsafe abortion as a result of ignorance on the part of the police, the hospital staff, and the women themselves. The Ghanaian situation continues to record cases of women who are handed over to the police for requesting for abortion.

### **Poor access to health care services**

Some maternal deaths could be helped if women had access to health care facilities and if they could pay for quality reproductive care.

A midwife remarked "It is important that pregnancy treatment be given to these women where they live ... the area where I am working is about 50 miles away from the nearest hospital where a doctor is" Pg 13, Training Midwives to Improve Post-Abortion Care in Ghana, Major Findings and Recommendations From an Operational Research Project.

Ghana has been implementing projects to bridge this gap in access, building the capacity of midwives in quality care including post-abortion care, and ensuring that they are posted to communities.

In Nigeria, the 1999 NDHS reported that only 31 per cent of deliveries took place within the health centre. The rest took place at home, 60% of those not attended to by anyone.

Another factor responsible for high maternal mortality and morbidity is long distances from home to health care centres where women can access quality maternity care.

It has been reported from a study of the distribution of married women residing in rural areas served by the Maternal Child Health Centre, by distance to the nearest facility that more than 40% live 10 — 30 miles away from the nearest health centre. Obstetric emergencies from these areas often arrive

too late. In cases where they get there early enough to be helped, they often do not have resources to pay for the services. Since removal of subsidies as a result of SAP, all government hospitals in Nigeria have become mere consulting centres. For women who need surgical intervention, a minimum amount has to be deposited before they are admitted. A medical doctor from Katsina shared pathetic experiences with me —

Often when they come, they have trekked for 3 to 4 days and the woman in labour is tired and the foetus is dead. Because they do not have sufficient money to pay for admission and surgery, relatives walk back to the community to raise the money and before they are back it is 4-5 days. We used to help them pay, but we discovered that we were unable to cater for ourselves after doing so for two to three patients.”

### **Sexual abuse**

Frequently, girls become pregnant from sexual abuse. Because of social attitude to survivors of sexual violence, the girls do not report early. They often try crude methods to terminate the pregnancies or keep the pregnancy till full time without any ante-natal care. Some of them go through delivery without any assistance, despite the level of risk they run for complications during and after delivery. Recently the Abike Dabiri “Sunday-Sunday Tonic” (a national television network news) paraded a 10-year-old girl who was pregnant. Her father’s friend, a 65-year-old man, claimed responsibility for the pregnancy, declared his love for the girl and the willingness

to marry her.

It was a violent sexual relationship judging from the account of the girl, the threats, suffocation with the pillow pressed over her face, etc. She also reported not having access to health care after having been sexually abused and during the pregnancy.

The case of out-of-school young girls is even more pathetic, especially those who are domestic assistant, sales girls in beer parlours, restaurants, street hawkers, because they do lack information and protection that in-school girls have and have most often been marginalised in the adolescent friendly services initiatives.

Whether the girls are sexually abused or married at an early age, they often become pregnant and are at risk. The needs of married adolescents often go unperceived. There has not been much study done in this population, not even in the North of Nigeria where early marriage is very common.

### **Gender relations**

Women and girls lack control over what is done to, or with their bodies. Socio-cultural institutions have put mechanisms in place to ensure that women lack decision-making power. Decisions that affect them directly regarding at what age to begin or stop having children, birth-spacing, and the number of children, when and where to seek medical services are all decided upon by the male partner, in most communities these include obstetric emergencies. The man is expected to decide

and provide resources for seeking medical care.

A man shared this experience as a testimony in the church (he took all the decisions!):

“She started labour and after 24 hours, she had not delivered. The doctor recommended caesarian section, but I had made a covenant with God that caesarian section is not our portion. I have never liked the idea I knew it was the work of the devil. I refused the recommendation. I came to the Church and asked some brethren to join me in prayers. And for another 24 hours, we prayed and sought the face of the Lord. When I went back to the hospital, the doctor told me that he is still proposing a section because my wife was no longer having contractions, she was weak and pale, and they were no longer picking the heart beat of the baby. I went back to inform the brethren, they prayed with me and told me to sign for the operation to be performed, I went back to the hospital, signed the paper. We lost the baby, but we are thankful that God spared the life of my wife. Please, join me to give thanks to the Lord because it could have been worse.”

Sometimes the male with whom decision-making power rests is away, and the woman is obliged to wait for his return or the next male in the hierarchy to give permission for the woman to go and seek care.

These are evidences that show that women experience gender-related constraints on access to health services, and

that this affects the poorest women in particular who have to wait on their male partners for resources with which to acquire health care services.

Gender inequalities, which prevent access to quality health services, constitute a double disadvantage in women who are already at risk because of their childbearing role.

Throughout Nigeria women experience poverty while men have control over household resources to pay for health care and are often gatekeepers in allowing such care or for use of contraception. There are documented reports, which point to the fact that this is also true of women in Ghana, Northern Ghana, in particular.

Most women do not have accurate information on signs of pregnancy complications and this affects their health seeking behaviour.

### **Policy implications**

Tendency is to view normal processes in women as pathological. Unlike the diseases and surgical events for men, pregnancy and childbearing in women is a healthy process we only need to put structures, mechanisms and processes in place to make it safe.

- Hitherto, efforts to reduce the occurrence of maternal mortality have focused mainly on obstetric determinants, neglecting the rights, gender and other

socio-economic factors accountable for the depressing rates. There is need to broaden our effort beyond the Safe Motherhood package and also address MMM from a sexual rights perspective, paying equal attention to the socio-economic factors as well as obstetric emergencies.

There is also need for the following:

- Increased interest in networking and collaboration among the policy makers of the various participating sectors and civil society organisations, NGOs in particular producing synergy which would result into strategies and actions, by sector, of how the policy makers could address these issues in order for maternal mortality rates to decline.
- Increased budgetary allocation to addressing MMM and monitoring disbursement of such funds
- Innovative methods to sensitise policy makers and communities on the dimension and gravity of MMM towards more accountability and stronger political will
- Introduce and enforce auditing in MMM mandatory for all maternity service providers, collect, collate the data from auditing
- Educate women on danger signs in pregnancy,

especially women in the rural areas and married girls.

Improve monitoring and evaluation of MMM programmes by making them participatory involving all the participating sectors — Ministry of Health, Education, Information, Justice, Women and Youth, Finance, Planning, etc.

### **Sexually Transmitted Infections**

The Nigerian 1999 NDHS reported a high knowledge of Sexually Transmitted Infections (STIs) among women and men. Only 34% of women and 9% of men did not know about STIs. The most known STIs as reported in the survey were syphilis, gonorrhoea, and HIV/AIDS. The life style of Nigerians does not depict an accurate knowledge of STIs.

To start with, knowledge was limited to a few names of STIs, and the level of knowledge is even poorer among women and worse still among girls and young women. They are ignorant of the symptoms, modes of prevention and other socio-economic determinants that make them vulnerable to STIs. This is confirmed by reports of small-scale studies among population groups of women of various ages and in various contexts — market women, university students, out-of-school young girls, etc. Also from anecdotes and reports from community projects in rural areas, some still hold unto superstitious beliefs over the symptoms that are apparently STI symptoms. In some communities in Katsina State, they believe that foul-smelling discharge is as a result of crossing

the antelope's urine on the way to the farm.

In Gummi, in Sokoto State, also in Nigeria, many said they would rather die than go to report an STI. In the South West and South-East, in research work done by Okonfua, Iwalola Akin-Jimoh, there were reports of poor knowledge of STIs.

Women's limited knowledge is also a concern if they do not know other STIs in addition to the ones listed in the NDHS. Chlamydia, trichomoniasis, human papiloma virus (major cause of cervical cancer), and fungal infections like candidiasis, may result in strictures of the fallopian tubes, cervical cancer, and may facilitate transmission of HIV/AIDS.

Recently, while facilitating workshop for programme officers serving in adolescent health projects, I discovered that they were ignorant of symptoms of STIs, and the predisposing factors among young women, which include the lack of power in relationships to negotiate when, with whom and how they want sexual relationships. The nature of women's reproductive anatomy and difficulty to observe symptoms, the absence of symptoms in women of some STIs, poverty among women and especially among young girls which often compel them to opt for alternative means of livelihood has put girls at even higher risk of STIs and complications for delayed treatment.

Also, there is a continuous rise in STIs among young girls as a result of early onset of sexual activity a significant of which is without consent, very low use of contraceptives

and the lack of control on the sexual behaviour of their male counterparts.

“While managing the Youth Action Project (a project of Women’s Health Organisation of Nigeria) in Ijebu Ode, a case was reported to me of 15-year-old who was reporting for the third time with an STI. After interviewing the service provider to make sure that they provided her with appropriate counselling, including bringing her partner for treatment or use the condom, I was told the following heart - chilling story from her file: she was dating an older man who was responsible for her school fees. She feared he would leave her if she told him she had an STI even though she knew she had contracted it repeatedly. She said he might accuse her of indiscriminate sex.

She said she could not begin a discussion on condom use with him despite the fact that she had been told the risk she was taking by keeping the relationship. She knew he had a wife and other girls.

There have been reports of resistance to antibiotics indicating a high degree of abuse of antibiotics, especially among young people who are often shy to use healthcare facilities and opting for prescriptions from their peers or sales persons in patent medicine stores who are often young themselves and not skilled to do so. In a youth forum, a young person explained how he had been protecting himself from disease:

“You see, I take septrin, two tablets before and two tables after, and this way, I do not get infected.”

## **HIV/AIDS**

It is estimated that new cases of HIV infections are recorded every minute of the day in Nigeria with young people accounting for 60% of the total infection rates.

Both NDHS and the Sentinel Survey, carried out in 1999 reported that women and young girls have a risk that is five times higher than that of their male counterparts. This is proven by the data on HIV sero-prevalence in Ghana where girls are clearly the most affected by HIV (Ghana Ministry of Health, National AIDS/STD Control Programme, 1999, HIV/AIDS in Ghana). This huge discrepancy in the numbers of males and females with AIDS which is the case in most of the sub-Saharan Africa points to the following facts:

- Girls are engaging in sexual activities with much older men who are more likely to be HIV positive.
- High prevalence of sexual abuse of young girls
- Very negative gender socialisation
- Unequal gender power relations in favour of boys
- Inadequate sexual and reproductive health information and services, especially among young girls
- Lack of negotiation and other life skills among girls and young women
- Persistence of cultural practices that are detrimental to women's sexual and reproductive health which include early marriage, polygamy, and as it is the case in Northern Nigeria, frequent divorce, etc.

- Lack of recognition and gross violations of women's sexual rights
- In the 12 months preceding the NDHS, only 18% of women and 45% of men reported using condom for the prevention of STIs and HIV/AIDS alone while up to 70% of women know that condoms can prevent HIV/AIDS and STIs.
- The NDHS 1999 also reports that 69.2% of female adolescents and 71% of their male counterparts perceive themselves at no risk at all when asked to rank their risk to HIV/AIDS.

These are reasons to be concerned about, especially as the burden of HIV continues to weigh heavily on women.

Remember they are at higher risk than their male counterparts for biological and socio-economic factors; they are the care providers for those community and family members living with AIDS. Also, women also care for children orphaned by HIV/AIDS.

Nigeria has a gradual build up to the Ghanaian situation. CASSAD reported male-to-female ratio to have been 3:1 in 1994 while in 1999 Sentinel Sero-Prevalence Survey, the male-to-female ratio of HIV positive had become 1:1. From 1.5% Sero-positivity in 1991 Nigeria now records a blinding 5.8 sero-prevalence.

Until the year 2001, political will, resource allocation and priority given to addressing HIV/AIDS were very poor resulting in the country's inability to curtail or reverse the trend. The civilian government recently, woke up to the need to address the infection head-on and began to engage the civil society groups, the three tiers of government and has hosted and participated in international meetings on HIV/AIDS making positive contributions in all of them. National strategies have been developed in Nigeria and in Ghana to address the scourge.

So far, there has been attempt at movement from IEC to BCC, but the implementers of the programmes do not quite understand the meaning and the package of BCC. The situation is more a change of name for the same old things they used to do.

Until late last year in some parts of the North of Nigeria, red ribbons were meaningless. The International Centre for Reproductive Health and Sexual Rights (INCRESE) also did a survey recently related to the production of IEC materials for the HIV project and a significant number of respondents denied the existence of HIV/AIDS. They said they needed to see an AIDS patient for them to believe. Some claimed it was a foreign disease. Though people are dying of HIV/AIDS, the PLWAs or their families would not disclose the cause of death. There is a high level of denial of the HIV reality. This constitutes an immediate danger for young people.

*"In Niger State, we observed that most hospitals and*

*clinics no longer disclose the HIV status of the PLWAs to them or to their families. In an interview with a key opinion leader in Niger State, we asked why and she said because the PLWAs are denied quality care by their families, abandoned in the hospitals or simply left to die. She said the people believe that it is a waste of resources providing such care since the patient was going to die anyway.”. INCREASE Annual Report 2001.*

This view was re-echoed by a medium cadre staff in an international agency in Lagos who has a relation dying of AIDS. He said he was wasting his resources since the relation was going to die anyway. “We should have taken her home she would be dead already, now I have exhausted all my savings,” he concluded.

### **Policy implications**

- There is need for capacity-building for all who work on BCC, what the package really is and how to implement it, and making it a compulsory part of the VCT initiative in order to achieve that highly desired behavioural change
- Introduce gender socialisation training for parents and communication skills to enable them to talk to their children from an early age on HIV/AIDS, STIs and safer sex.
- Increased male participation in the fight to reverse the trend
- Laws on discriminatory practices against PLWAs
- Information education on STI symptoms, modes of

transmission and prevention and gender issues in STI  
HIV/AIDS transmission and prevention

- Increased promotion of dual protection method
- Intensify work with younger children ages 5 — 9 who are the “window of hope.”
- Encourage openness in discussing sexuality across the population and provide skills for communities in-home-care

### **Poverty and women's health**

“Although women do two thirds of the world's work, they earn only 5% of its income.”

Poverty has been described as a multi-dimensional phenomenon which encompasses the inability to meet basic needs, lack of control over resources, lack of education and skills, poor health, malnutrition, lack of shelter, poor access to water and sanitation, vulnerability to shocks, violence and crime, lack of political freedom and voice.

Many studies have documented the fact that women are the poorest of the poor as a result of the current economic policies that are being pursued globally and at country levels, which negate the gains women had made through informal small-scale enterprises. Current trends are placing more importance on corporate profits causing women to face greater impoverishment with adverse impact on their wellbeing.

Policies in Nigeria on the expulsion of girls when they get pregnant in school for example compel women to remain in

the vicious circle; unable to break out of it. Once they are sent out of school, they lack skills that may have qualified them for employment as a means of livelihood.

Revenue policies such that pretend that the children of a marriage belong solely to the man and therefore provide only him with tax relief. This policy does not cover female-headed households. The same also for widows and divorcees. Even among couples, often times, women bear a lot of family burden and are the breadwinners, yet they are not granted any tax relief on the assumption that the male partner is performing these responsibilities.

Gender disparity in work-related benefits reinforces poverty among women. In Kano State Civil Service Rule 03303, it is stated that "any woman civil servant who is about to undertake a course of training of not more than six months duration, shall be called upon to enter an agreement to refund the whole or part of the cost of the course in the event of her course being interrupted on grounds of pregnancy.

Gender stereotypes, which feminise professions, also play an important role in keeping women within the poverty cycle. This is supported by findings of the Gender Monograph of the National Population Commission (NPC 2000). Reports indicate that except for the sales and service sectors, most of the occupations are male-dominated. This is not the case in Ghana as the DHS reports good rates of employment of girls and women.

Health and quality of life of women is affected to a very large extent by poverty, especially their sexual and reproductive health.

There has been low allocation of resources to the welfare of women resulting in increased maternal mortality rates, which ranks among the highest in the world.

In Ghana, some women do not have the resources to procure quality reproductive and sexual health services. This applies to Nigeria and on a higher scale as many more women are living below poverty level.

"I have seen a woman who became a public spectacle at a hospital in Lagos. She had been in labour for over 24 hours before she was brought to the hospital. The hand of the baby was outside while the rest of the body was still in the woman. Her family members were begging for money from other patients to pay for the woman to be taken to the theatre. There was no more foetal heartbeat. Other patients were going to look at her, telling others to go and look. The amount she needed to deposit was five thousand naira," *Dotty*.

Unskilled providers of abortions remain in business not only because abortion is illegal, but also because most women and girls cannot afford the fee the skilled providers charge. Unskilled providers do 60% of the abortions in Nigeria.

Quality life continues to elude most women and girls as a result of socio-economic inequities leading some women and girls into exploring alternative options to livelihood, some

of which constitute a risk to their already vulnerable health. Such options include sex work, serving pornographic film industries, etc. In some cases, women and girls become concubines, or live-in partners for the purpose of securing shelter. These women are often subjected to abuses and exploitation, as their partners are aware of their vulnerability. Some of them get battered, exposed to HIV and STIs.

Trafficking in girls has been occasioned by poor socio-economic conditions, as has been the experience in Nigeria since the past decade. When trafficked, some girls are forced into prostitution or domestic work under extremely dehumanising conditions making them vulnerable to STIs, HIV/AIDS, unwanted pregnancies and unsafe abortion.

The burden of poverty on women's health is more as a result of the additional gender inequality resulting in additional chores, which are not considered as "work" since such do not bring in cash. First to wake, last to sleep, the woman busies herself cushioning the impact of poverty on the rest members of the family. Her health, including sexual and reproductive health is compromised in the process. She is anaemic, malnourished and stressed.

Her right to a satisfying sex life is not spared. An NGO in India carried out a survey on women's sexuality, and found out that those women who had rich husbands (domestic assistants, labour saving machines, etc.) enjoyed sex more than their poor counterparts.

## **Policy implications**

- Increase economic opportunities for women and participation in politics and public life
- Support women's networks
- Operationalise the Affirmative Action in an effort to bridge the gap between men and women. Set aside a number of seats in the state and national assemblies for women and get them to contest for those seats on party lines as in Bangladesh
- Expunge all repugnant provisions in our laws and policies that perpetrate poverty among women
- Articulate clear measures for operationalising and measuring progress made in the area of eliminating poverty among women
- In the case of Nigeria which recently withdrew from IMF, the government should go an extra mile and return the subsidies withdrawn as a result of SAP and so should Ghana
- Mainstream gender in all the stages of state programmes and in our budgets at all levels of the government

- Government and other key players in poverty alleviation Schemes should adopt a multi-sectoral and holistic approach to the challenge.

### **Conflict and women's health**

Research has documented that women's health status is at its worst where there are conflicts and natural disasters. Ghana has not experienced any conflicts or natural disaster since the drought of the 80s unlike Nigeria.

Nigeria, especially in the past five years has been through serious communal clashes, like the ones that took place in Zangon-Kataf, Ife-Modakeke, Niger-Delta conflict, and the Gbeji, Benue State. Niger Delta conflicts were caused by the failure of oil companies, the federal and state governments, and the community leaders to compensate, or develop the communities. There have been cases of frequent kidnapping of oil workers, community leaders, etc, by communities as a means of expressing their frustrations. The exploration going on there and the burial of toxic wastes in the empty oil wells have ravaged their community lands. This drew the attention of the Federal Government, which responded by sending the military on "peace keeping" mission. Of course, they got there and razed the Choba community in Bayelsa State, to the ground, raped, assaulted and killed women.

The community clashes in Gbeji, Benue State, also got a harsh response from the federal government when the fighters killed and mutilated the bodies of the military who

went to keep peace. The military went in there and shot and killed and maimed. The situation was so bad in the two cases that the Amnesty International issued very strong statement, calling the Obasanjo government to accountability.

There have also been recurrent religious conflicts in Jos, Bauchi, Gombe, Kano and Kaduna States. Some of the bloodiest and very recent ones were as a result of communities' resistance to the Sharia law. And in Kano, the killing of four schoolgirls was the protest against the American bombing in Afghanistan.

Nigeria has also experienced man-made disaster of recent. The bomb blast in Lagos which caused many to drown in the canal most of whom were women and children. But it is interesting that there are a number of girls whose whereabouts are not known till date. It is believed some of the missing children were kidnapped for ritual killings and trafficking. There were reports of girls and women who were raped during the stampede that followed the explosion. The response of the government and development agencies and NGOs did not make provisions for the women who were raped, no emergency contraceptives, no screening for STIs or HIV, or treatment of injuries.

Even though many of the effects were not documented, except in the Choba situation, the little attempt at documentation did not take account of gender issues. We have heard reports and narratives from observers and those who survived that women and girls in these situations experienced

poor sanitation, lack of water and electricity, the weakening of the health care delivery systems which were already in a precarious state, etc. In all the above cases, communities were displaced; women and children were rendered homeless, and the impact of poverty on women made more severe and it is not an exaggeration to say that these situations have exposed women and girls to unplanned pregnancies, STIs and HIV infections, trauma, low self-esteem, depression etc, some of which will last a lifetime.

### **Policy implications**

- There is need to develop strategies for conflict resolution in a non-violent manner and to build community capacity to adopt dialogue as a tool for conflict resolution and to involve women in the effort
- It is also important for the government to be transparent and accountable, this will make communities develop confidence in the system, so that they cease to take law into their hands
- Government must develop alternative strategies to respond to clashes so that it does not end up committing worse crimes in the name of peace making; and these strategies must be gender-sensitive
- More effort is required to increase employment opportunities with the view to reduce gangsterism.

## **Gender-based violence and women's health**

Violence against women is widespread in both Ghana and Nigeria and impacts adversely on women's health. In Ghana, gender-based violence has an important interplay with access to sexual and reproductive health services. These cases are found in the report of the study carried out by Ayaga Agula Bawah et al: Impact of Family Planning on Gender Relations in Northern Ghana - (Studies in Family Planning, Vol. 30 Number 1 March 1999). In the interviews and FGDs, which sought to establish the interest of women in contraceptive use, women reported beatings by their husbands, loss of intimacy and affection, conflict with extended family, borne out of various reasons. Even though some of the women in the study found ways around this obstacle, it undoubtedly affected access to a much-required service by them to the attainment of their sexual and reproductive health.

There are no nationally representative data in Nigeria on gender-based violence and abuse and their direct impact on health, but anecdotes from service providers confirm the findings of studies conducted in other parts of the world.

Violence and abuse range from physical assault through sexual harassment and domestic violence to rape. Violence and abuse endanger women's lives directly and also expose women to factors which endanger their health. The World Bank's action to determine the precise toll of VAW in the lives of women estimated that rape and domestic violence

account for 5% of the healthy years of life lost to women of reproductive age (Violence Against Girls and Women: A Public Health Priority, UNFPA, 1998).

Studies have shown that women living in abusive conditions, especially women who were abused as children are more likely to report their health status as fair or poor than others who have not and are not being abused.

### **Physical health outcomes**

- Health impacts of VAW include somatic symptoms, which include headaches, chronic back pain, and gastrointestinal distress. This indicates that they experience poorer health in general.
- Clinical records point to the fact that women who experience VAW or experienced child sexual abuse report gynaecological disorders such as severe menstrual problems, endometriosis, and infertility more than non-abused women. Women are also exposed to unwanted pregnancies, miscarriage and maternal mortality because abuse does not cease even when the woman becomes pregnant.
- Studies have also reported that half of incidents of abuse lead to injuries, half of which need immediate medical attention. Some of these injuries may result in disabilities like in the case of acid baths.

- It is also not uncommon to find women who respond to violence by adopting self-injurious behaviour such as alcoholism, smoking, tranquilisers, and other illicit drugs. Alcoholism is especially common among women who suffer spousal abuse. Others may react through inter-generational transmission of violence. About 30% of women abused as children may abuse children (Women's Health —The Commonwealth Fund Survey, 1996).

### **Mental health outcomes**

- Mental health is often compromised by VAW. Low self-esteem, depression and anxiety, depressive symptoms and suicide ideation, especially among those women who have experienced rape or violent crimes have been observed. It has also been noted that higher levels of anxiety may persist, including panic and phobia among these women.
- Experiencing abuse, especially sexual abuse and domestic violence results in sexual dysfunction.
- Women and girls experiencing VAW are unable to protect themselves from STIs and HIV/AIDS in the face of threatening male violence. They are compelled to have unprotected sex and cannot negotiate condom use in an abusive relationship, an already difficult task even in normal relationships because of unequal gender power relations.

- They experience disabilities that prevent them from participating fully in school, housework or paid employment. The commonwealth study reported 33% of women who were raped and 20% who experienced child abuse compared with 14% who did not experience these types of violence.
- Some women may have personality disorders such as multiple-personality, extreme levels of which may manifest in spontaneous self-hypnosis, self-anesthesia, feelings of being disconnected or being "out of one's body." They also experience flashbacks and hallucinations.
- The Commonwealth Fund study also reported that those abused, as children were likely to be abused and experience violence as adults. They report more rape and more spousal abuse. Many studies have linked child abuse to experiencing violence in adulthood, which may result from low self-esteem, and the feeling that they deserved to be abused. They exhibit inability to stop abuse, or think it is a normal part of relationship, or dissociate symptoms, which make violence and abuse seem unreal. They are often unable to recognise potentially violent situations.

### **Medical care**

The use of medical facilities in Nigeria and Ghana of women who have been abused and those still living under abusive

conditions needs to be examined. Studies in other places have shown increased use in healthcare facilities, especially the primary healthcare facilities.

In our settings, significant number of women never disclose abuse to anyone, especially if there are no life-threatening injuries. Injuries that can be explained away are reported to healthcare providers as having been sustained by other means. As a result of the general attitude of the society to VAW, the lack of skill and capacity of healthcare providers, and effort to conceal violence, there is poor communication between providers and the women who have been abused resulting in unmet need.

### **Policy implications**

Policy implications include the need for:

- Increased effort to break the silence on VAW
- Sensitisation and BCC targeting communities, healthcare providers, law enforcement agents and women
- Advocacy targeting the legislators to ensure that the Bill on VAW in Nigeria is passed. Effective implementation of these laws is required
- An important aspect of VAW Bill that must be strong have to do with ensuring care for women who have been abused

## **Disability and women's health**

Disability is the physical or mental impairment disabling a person to use his/her body up to the normal natural expectation. Disabilities may be temporary or permanent.

In the last Nigerian Census (1991), there was a study of the status of disabilities in Nigeria. Conditions reported include deaf, dumb; deaf and dumb; blind; cripple; mentally ill; and all those not featured in this listing lumped together as "others". In the 1991 census analysis — gender and sustainable development, the monograph reports that:

- \* 2.33% of the Nigerian population with disabilities are women and have higher disability rates in the categories — blind; deaf deaf and dumb
- \* The commonest disability was blindness
- \* Majority of persons with disabilities (67%) reside in rural areas
- \* 2/3 of those with disabilities were married
- \* While over 46% of the males were employed, only 24.58% females were employed
- \* The gender monograph reported a general differential in numbers of persons with disabilities between males and females and related this to the socialisation process, which prevents or discourages women from undertaking risky behaviour such as drinking, smoking, substance abuse, etc.
- \* The monograph reported that disability rates increase in the population by the age of 50

Sexual disabilities have been studied neither in Nigeria nor in Ghana. From the case records in hospitals, anecdotes and observation in our communities, this category of disabilities does exist. They are not discussed openly and, often times not reported. These include all the categories of sexual dysfunctions found in women such as anorgasmia, dyspareunia, and vaginismus. There are congenital malformations, which are often not reported such as absence of the vaginal opening. The Women's Health Organisation of Nigeria (WHON) projects in Lagos and Ijebu-Ode recorded these cases.

Another category of disabilities in women that could have been easy to report on are those caused by complications during pregnancy or abortion or FGM, such as vesico vaginal and recto vaginal fistulae. In old age, more women suffer locomotive problems as a result of reproductive and productive activities coupled with malnutrition in younger age and during reproductive years.

The implications are that certain disabilities that are gender-specific such as the ones suffered by women as discussed above are unrecognised disabilities and these have grave implications on policy formulation and service provision.

While serving in WHON, I carried out a preliminary survey among persons with disabilities and found out that girls and young women with disabilities were not given sexuality and reproductive health information.

They reported that they were considered as non-sexual

beings by the rest of the society and alienated and therefore cannot learn by observing others. This complete alienation from the mainstream denies them affection, which they most need, as they reported, just like their able-bodied counterparts. They desired to have relationships, companionship and families of their own, but the society was hostile to those thought. I found out that girls and women with disabilities based their decisions and choices regarding sexual behaviour on instinct, leaving them vulnerable to sexual exploitation and abuse, STIs, unplanned pregnancies, as well as headship of households, etc.

At a church activity on the Challenges of Young People in a New Millennium, one of the board members of the School of the Blind in Oshodi, Lagos said that the girls in the school were often raped at night by strange men who would scale the walls. She said they must be "area boys" from around and that when the girls were interviewed as a result of discovered pregnancy or STI, they were unsure if it was the same man who came to them since they could not see and no communication, it was sex and that is all. She that said often times the guardians or teachers would run into the blind students having sexual activity among themselves in the open.

In the course of my work, I have met parents and professional care givers for children with disabilities who are ignorant or insensitive to the sexual needs of the children, and would simply take it for granted that the children have no feelings or desire. They also are ignorant that there were men out there

who are willing and ready to have sexual intercourse with girls with disabilities. Some of the men I have discussed with who have been involved in sexual exploitation of girls with disabilities claim they did it out of sympathy, but all have been aware of the vulnerability of such girls and aware of their advantage over the girls.

A parent once reported to a colleague with two blind daughters who had gonorrhoea, PID, and was simply stunned. He said he has never imagined that any man would find a blind desirable. The girls had never been given sexuality education

Women with disabilities suffer double discrimination as women and then as persons with disabilities. Some of them have reported mistreatment at the FP, and ante-natal clinics. The service providers and guardians always ask them if the burden of disability is not enough for them that they have to add more to themselves by engaging in sexual relationships and having families.

Families, in the end would give them out in marriage where they are often times not the only wife. And rich families are known to add incentive — a house, a car, or both to anyone who would marry their daughter with a disability.

They lack access to healthcare facilities and personnel, schools, and other skill development opportunities, especially those significant numbers residing in the rural areas. Lack of employment among women with disabilities renders them

even poorer and unable to cater for themselves. They often resort to begging or marriage or remain dependent on their families.

The case of the mentally impaired poses the greatest challenge with care providers ignorant of the fact that the children have hormones just like their able-bodied counterparts, but lack the capability to negotiate and therefore more vulnerable to abuse than the others. Recently, in the formulation of the Bill on abortion in Nigeria, there were debates on whether the parents should be given the right over the child with disability to decide on contraceptive use and abortion. It was eventually resolved that this should be done in consultation with a medical doctor.

### **Policy implications**

- There is need to make surveys gender sensitive which does not stop at differentiating between the numbers and how women and men are differently affected by the same situations and conditions and also to examine those conditions that are peculiar to women — the case of VVF, RVF, etc.
- There is need for us to commence open and non-judgmental discussion and dialogue on sexual dysfunction in women
- VVF and RVF are disabilities and should be included in subsequent research and intervention activities

- All reproductive health intervention projects should have a component for girls and women with disabilities and their issues and concerns should be mainstreamed
- A gender-sensitive bill should be prepared on disability since there is no mention of the needs of persons with disabilities in most current bills and policies recently passed in Nigeria. This is also a requirement for Ghana as indicated by the resource materials from Ghana used in the preparation of this analysis
- NGOs should take the lead, as usual, in designing and implementing projects on reproductive health and sexuality information and services for girls with disabilities, supporting them to cope with adolescence in a less traumatic manner and also in parenting. Also efforts should be made to carry out advocacy for governments to scale up the initiatives

### **Conclusion**

It appears, from review of documents and the current situation of women's health and policies that Ghana has a stronger political will to address women's health issues and demonstrates it not in tokens as is the case with Nigeria. Taking the health cases one after the other, it would appear that Ghana more than Nigeria has made appreciable progress in addressing MMM, contraceptive use, and in making positive related laws and policies. Though it may be argued

that Ghana is a smaller country and therefore has fewer complexities and challenges to meet, it is obvious that Nigeria has not utilised its resources judiciously. With the amount of resources at its disposal, Nigeria still ranks among the lowest in the UN ranking and presents similar indicators as those countries in the region which have been at war for decades due to high level of corruption, bad governance and misprioritisation. (Situation Analysis of the Rights of Women, Youths and Adolescents, UNICEF, 2001).

Ghana has remained consistent in its dialogue at the international policy making levels with its policies, laws, and interventions at the country level and has demonstrated its progressive stance on all the women's issues without reservations. Nigeria has been on the other of the continuum, appearing more on the conservative side of the negotiations at international policymaking level, inconsistent with on-going programmes at the country level. The dilemma for the activists in Nigeria remains very strong because, despite the fact that the military era is now history, the civilian government has failed to deliver. It is therefore not wrong to believe that the Nigerian government has continued to pay lip service to women's issues, its effort ranking as tokenism; for appearance sake and for the sake of seeking political favours.

The most recent shock was the declaration by a policy maker that the civilian regime was blaming the military regime for appending their signatures indiscriminately on UN outcome

documents thereby committing the government to high standards and principles that are against the religious and cultural values of the country. Such UN document she cited was CEDAW, with particular reference to its intolerance to polygamy and early marriage. It is important to state here that these religious and cultural values are definitely not those of the Nigerian women. The women don't want to die of pregnancy related complications that are avoidable, they do not want to be the most hit by HIV/AIDS, they do not want to be abused by men and the so-called "peace keepers", etc. They are the values of men who continue to dominate and dictate what happens or does not happen, they shape the values, and beyond this, set the agenda for what programmes to be implemented, their scope and determine the resources that go into the process. They dominate the mainstream.

The Nigerian government has continued to mortgage its women for the sake of political favours from its allies, which only benefit a few. Nigeria continues to disappoint its women and girls by not representing their interest. An important lesson Nigeria can learn from its neighbour, Ghana, is to be more responsible and accountable to its women, involving them in all aspects of governance and programming.

### **Globalisation**

It will be unwise to ignore the role of globalisation in the above discussion because it brings unequal market - forces to negotiation tables, dictates consistent increase in

economically driven developmental programmes, which affect particularly women and girls. Current economic development, restructuring and transition as dictated by the IMF agenda, SAP, have led to the removal of subsidies by the state, privatisation of public facilities and services.

These further impoverish women and make them suffer even more as they lack access to quality health services. An example is the privatisation of the Women's Hospital in Nigeria; at least that is what it was originally called and meant to be.

It became National Hospital without any consultation with the women who initiated the idea and brought it to reality and then it gets privatised! How could these women who have always been the poorer of the poor afford medical care in this facility? The slogan "As the nation privatises, the people benefit" as commonly seen these days along the highways in Nigeria, is not true and constitutes an infringement on the rights of the already disadvantaged group — women because as the nation privatises, only the few who have always been rich, benefit.

### **Mainstreaming of gender in health care provision**

Finally, there is need to constantly remember that gender mainstreaming is a prerequisite for attainment of quality and healthy life for women. Remember that the FWCW Platform For Action called for a fundamental change in health care

decision-making, it called for mainstreaming and integration of gender concerns into everyday decisions regarding the provision of health care services. Those of us who have the skills need to work closely with those in policy making positions to ensure that this happens.

It is my desire that this analytical document will produce a synergy leading to the removal of barriers to quality life and well-being among women, a challenge and a source of inspiration to those of us who work in the area of women's sexual and reproductive health.

181  
182

## REFERENCES

- A. A. Bawah et al, Impact of Family Planning on Gender Relations in Northern Ghana, F. E. Okonofua et al on Unwanted Pregnancy and Induced Abortions in Nigeria
- F. E. Okonofua et al on Unwanted Pregnancy and Induced Abortions in Nigeria,  
Gender and Sustainable Development: Nigeria Population Census 1991 Analysis, 2001
- M. E. Greene et al, In This Generation: Sexual and Reproductive Health Policies for a Youthful World, Population Action International, 2002
- WHO & UNFPA, Women and Health — Mainstreaming the Gender Perspective into the Health Sector, 1999
- D. L. Billings et al, Training Midwives to Improve Post-Abortion Care in Ghana: Major Findings and Recommendations from an Operative Research Project, IPAS, 1999
- A Practical Approach to Gender-Based Violence: A Programme Guide for Health Care Providers and

Managers, UNFPA Pilot Edition 2001, New York  
M. M. Falik and K. S. Coiling, Women's Health: The  
Commonwealth Fund Survey

- A. R. Scialii, *A Book of Women's Health: Your Comprehensive Guide to Health and Wellbeing*, USA, 1999
- B. Gomez-Schwartz et al, *Child Sexual Abuse: Initial Effects*, US, 1990
- NGOs CEDAW Report for Nigeria, Nigerian NGOs Coalition for a Shadow Report to CEDAW, 1999
- C. D. Aken'Ova, *Poverty as a Violation of Women's Human Rights*, Legislating For The Poor Summit, Banquet Hall, Rockview Hotel, Abuja, 2002
- The World's Women 1995, Trends and Statistics — United Nations, 1995
- Action for the 21st Century Reproductive Health and Rights for All, Family Care International, 1994
- C. Meillon, *Holding to the Promise: Women's Human Rights and the Beijing +5 Review*, 2001
- Nigerian Demographic and Health Survey, 1999, National Population Commission, Nigeria, 2000.
- Without Reservation: The Beijing Tribunal on Accountability for Women's Human Rights, Niamh Reilly, 1996
- Poverty Trends and Voices of the Poor, The World Bank Group, 4th Edition 2001

The WHO Bulletins on MMM

## 6

### **WOMEN, LAW AND VIOLENCE**

#### **Case Studies in Nigeria and Ghana**

**Cesnabmihilo Dorothy Aken'Ova**

**T**his research was being conducted through review of documents from Ghana and Nigeria, involving national surveys, small-scale studies and documentation of anecdotes by NGOs and other research institutions in the two countries. Journals, newsletters, newspaper clips, UN reports and reviews, publications from outside the two countries, interviews, group discussions, police, health care centres, and court records, observations and personal experiences have also been used in compiling this paper. This is despite the fact that not as much research has been done on gender-based violence as has been in reproductive health for instance. Also, it was observed in the process of compiling this paper that FGM is the most researched aspect of gender-based violence. This paper seeks to throw light on a broad spectrum of factors which cause or influence gender-based violence, and propose strategic policy and intervention action to address gender-based violence.

## **Gender-based violence (GBV)**

Gender-based violence is any form of violence that is meted out to a person as a result of her/his gender. Gender-based violence can take various forms, taking a combination of psychological, physical, verbal, sexual or and economic intimidation. Gender-based violence also takes place in the home (domestic violence) and outside the home. This implies that it is not all forms of violence against women that are visible. In the same manner, the impact of gender-based violence could be immediate, delayed and long-term. Gender-based violence is an infringement on the rights to bodily dignity and personal integrity of the target. Gender-based violence is an abuse.

An action constitutes an abuse when the person it is targeted at experiences a feeling of being intimidated, disrespected, manipulated, put down, scared, or humiliated as a result of the action.

The commonest forms of gender-based violence in our setting include sexual harassment, FGM, forced marriage, widowhood rites, battering, trafficking, etc

Even though isolated issues which constitute gender-based violence were addressed at previous international fora, gender-based violence became an important issue on the agenda of the UN General Assembly in 1979 with the adoption of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). Since then

awareness level on gender-based violence has grown. There is no accurate data, in Nigeria or in Ghana, to demonstrate the prevalence of the incidence of gender-based violence but there is enough evidence to show that it is widespread and common in Nigeria and has been generating equal concern due to the way it has developed and its rapid spread in Ghana.

Gender-based violence has often been used interchangeably with violence against women. This is because the evidence available indicates that majority of the victims of gender-based violence are women and girls and the majority of the perpetrators are men. Gender-based violence which targets men is very uncommon because most of the practices that are harmful to men or which infringe on their rights are not forced on them, they engage in them. This is so because the societies we are examining are patriarchal and matrilineal and not matriarchal. Anthropologists have reported that societies that were matriarchal in nature enjoyed more equitable sharing of power and resources. Unlike patriarchy where gender power relations are not in favour of the women and the women are of less value and have very little decision-making power and access and control over resources. The matrilineal system is not as brutal, but only acknowledges lineage on the mother-side, therefore gives some recognition to the status of the woman. Otherwise decision-making power still lies with the male members of the family.

## **Violence against women**

The Declaration on the Elimination of Violence Against Women (Resolution no. *A/RES/48/104*) New York, UN, 1994 defines violence against women as any act of gender-based violence that results in or is likely to result in, physical, sexual or psychological harm or suffering, to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life. It goes further to state that "violence against women shall be understood to encompass, but not be limited to the following:

Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry - related violence, marital rape, female genital mutilation, and other traditional practices harmful to women, non spousal violence and violence relating to exploitation;

Physical, sexual and psychological violence occurring within the community, including rape, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

Physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs.

Evidence has shown that the pattern of occurrence of VAW can be episodic, recurrent, or chronic.

### **Policy environment - Ghana**

Size (1,000km<sup>2</sup>) 239

Population 18 million

Number of women per 100 men: 101

Percentage of young people in the population (under 15 years)  
45

Ghana has ratified Women's Convention in 1986, Children's Rights Convention in 1990, and Banjul Charter in 1989.

The parliament in Ghana has been very progressive. In 1998, the parliament added new definitions of sexual offences to the existing laws and reviewed punishment for others making them more severe. Legislators banned the practice of forcing young girls into slavery to atone for offences committed by their family members, and doubled the mandatory sentence for rape, criminalised indecent assault and forced marriages, increased punishments for incest and child prostitution, and made protective provisions for women who are accused of witchcraft.

Ghana responded to the increasing wave of violence by passing a Bill on domestic violence in 2000. They also have instituted a "Women and Juvenile Unit" of the country's police service to address violence against women and children.

NGOs are doing a lot of work in the area of awareness creation on domestic violence. They do advocacy and campaign against VAW the most recent being the Accra March of 6th April 2002. They continue to monitor the implementation of the law they have in place on VAW.

### **Policy environment - Nigeria**

Size (1,000km<sup>2</sup>) 924

Population 118 million

Number of women per 100 men: 102

Percentage of young people in the population (under 15 years)

47

Nigeria ratified Women's Convention in 1985, Children's Rights Convention in 1991, Civil and Political Rights Covenant in 1993, Economic, Social and Cultural Rights in 1993 and the Banjul Charter in 1983.

In Nigeria, NGOs are bringing the issue to the open because it had been treated as a private matter over the years. Tribunals have been organised to break the silence over domestic violence and some are collecting and documenting these incidents and using them for advocacy. The House of Assembly in Edo State threw a Bill out on domestic violence and accused its sponsors of trying to break homes.

The National Assembly is currently working on a Bill on domestic violence which has received a lot of input from women activists in Nigeria. Nigerian lawmakers are also

working on a Bill on trafficking. But like the experience from Ghana shows, it is not the passing of the bill that ends the matter, it is actually the beginning of the struggle.

In Nigeria, an NGO has opened a temporary shelter for victims of domestic violence and is running a rehabilitation centre for them.

### **The law**

Given the policy environment and the international instruments the two countries have ratified, one could be misled to assume that the rights of every individual in Nigeria and Ghana are fully protected by the law of the land without discrimination on sex, gender, religion, marital status, sexual orientation and other factors that determine who is discriminated against. The Constitutions of the two countries guarantee the equality of women and men before the law, they both declare equal rights for all citizens without any discrimination. The Ghanaian Constitution is more articulate and gender-sensitive than the Nigerian Constitution.

Section 17 (2) (a) provides that "every citizen shall have equality of rights, obligations and opportunities before the law." Section 17 (2) (b) provides that "the sanctity of the human person and dignity shall be maintained and enhanced." Section 17 ((3) (d) states that "the State shall direct its policy towards ensuring that ... there are adequate medical and health facilities for all persons". Also, Section 42 (1) prohibits the enactment of discriminatory laws and other acts of discrimination by the government. As is obvious, the Nigerian

Constitution makes its provisions for "persons" - it is gender neutral or what would otherwise be described as gender blind. On the other hand the Ghanaian Constitution provides that "[e]very person in Ghana, whatever his gender... shall be entitled to the fundamental human rights and freedoms of the individual" in Article 12. Article 17 (1-2) and provides that "[a]ll persons shall be equal before the law," noting that discrimination on the basis of gender is prohibited. Even though the language may be considered sexist as it is used in some of the provisions - use of the male pronoun, the third person singular, the specification based on gender shows an effort that is missing in the Nigerian Constitution.

A clause that has captured the attention of feminists in Nigeria is found in Section 12 of the 1999 Constitution and states as follows:

- "An agreement between the country and other country or countries cannot be enforced unless the National House of Assembly has passed it into law.

- The National Assembly can pass a law to enforce the agreement whether or not it is a

- matter listed in the Exclusive Legislative List.

- To pass such law, it must first be approved by more than half of all the State Houses of Assembly and signed by the President."

This has a lot of implications on the operationalisation for

treaties and conventions that have been produced at international meetings with the participation of the Nigerian government. Despite the fact that Nigeria is a signatory to these instruments, that it did not reserve on any of the provisions, that three of these instruments have been ratified, Nigeria has not domesticated any. Lengthy, closed door debates have continued to occupy our policy makers and those behind the scenes who dictate what happens at the policy making level over some of the key provisions which include early marriage, polygamy, spousal rape, etc. Some have openly expressed regret for the signing of CEDAW as a result of the commitment made on issues of polygamy especially.

Following the Constitution in Nigeria are the penal and criminal codes. While the penal code is operated in the North of Nigeria and has aspects of the Sharia added to it, the criminal code is operational in the South of Nigeria. These were supposed to have replaced the customary law, but these have continued to exist side-by-side, with citizens choosing which one to use as it suits their situations. To complicate matters further, some states in the North of Nigeria have adopted full Sharia law which they have interpreted and implemented in the most conservative manner.

Some states, such as Niger and Kaduna, pretended to be adjusting only a few clauses in the penal code while they were actually debating in the State Houses of Assembly for the full adoption of the law. There has been open criticism of the process, interpretation and implementation of the Sharia because the process excluded most of the population

especially women, and the implementation as we shall see later in this paper, are the most adversely affected by the law.

That these laws all exist and are operational in one country leaves people in doubt and confused because they do not know which one of them is the superior one. In theory it has been said several times that the civil law and the constitution are superior, but this has not been so in practice. The state has been unable to stamp its authority over its position in this regard and stands the risk of being torn apart by an interest groups tagged the "Kaduna Mafia". Even though many Muslims have shown dislike for the interpretation and application of the law, they have often done that in the hiding. Only very few daring ones have openly criticised, condemned the new Sharia being operated in Northern Nigeria. Not even feminists have been able to come out and openly denounce the law and the motive behind its adoption, this is despite the fact that many women's rights are being violated in the process of the implementation. This is not at all the case in Ghana. Ghana is governed by the constitution and the criminal code.

**Inequality before the law**

The Nigerian law shares its origin with the Ghanaian law, both having been passed down to them from their British colonial power in the case of Nigeria since the early 40s. There are two civil laws operating in Nigeria, the penal code is operational in the northern part of the country and the criminal code, operational in the southern part of the country. Unlike many other former colonies, Nigeria has not reviewed

the law.

It is therefore not surprising to find provisions that are repugnant to equity and justice. The authors of the law, the British, have themselves revised their law several times to reflect the current needs and to conform to universal human rights norms which themselves are dynamic. Presently, women's rights issues have become the issues legal authorities are battling to update. The Nigerian situation is non-responsive to the global change in this direction despite the high level of human rights activism.

The Nigerian Constitution is the highest and most important law. It has been revised over time by the various regimes that have ruled Nigeria. But the issues that have received the most attention in the processes have been political issues, while the core human rights issues are ignored. The most recent revision took place in 1999. It is the most binding instrument on Nigerians despite the fact that the reviews have always been done in a non-participatory manner. The document and the process towards its output have continued to draw debates.

Section 42 on Freedom from discrimination in the Nigerian Constitution states as follows:

"No Nigerian can be discriminated against on the grounds of ethnic origin, sex, religion, or political opinion or circumstances of birth". The constitution follows this provision up with the following exceptions: "This law does not apply to the appointments of officers of the Armed Forces

or Police, or companies established by law.” This is the bedrock of many discriminatory legal provisions and practices in public life which perpetrate discrimination against women and feminisation of poverty.

In the constitutional provisions of local, state creation and election of officials, including those of the state and national assemblies are completely gender blind. The language in these sections is not women-inclusive. For instance:

- Section 7 could use “he or she” in the place of “person”. It did not make provision for the implementation of the Affirmative Action of the FWCW Beijing.

- The 1995 PFA states that at least 30% of all appointments and elective positions be set aside for women. Uganda, South Africa, Bangladesh, etc, have accordingly developed mechanisms for the implementation of this all important provision which is the bedrock of equity and equality between men and women.

- Section 14 principles of governance First schedule talks about principles of “participation by all and equality of all persons” which could easily have been made gender-specific by adding, *including women and girls*. The last clause in the same section states as follows: “Government must make appointments in such a way that all areas of the country are represented

to promote national unity.” This could have read as: Government must make **appointments** in such a way that all areas of the country and both sexes are represented to promote national unity. Where “areas” refer to geographical coverage and “sexes” refer to gender.

Gender-sensitive language would demonstrate the political awareness of the existing need to bridge gaps which exist between men and women in Nigeria and the political will to bridge the gaps.

Other areas of discrimination in the Nigerian laws are found in the penal and criminal codes. These include:

### **Age of consent to sexual activity**

Age of consent to sex is put at 14 for the males and 16 for females for no articulated biological and social reason. This is probably based on the myth that sexual desire in males is uncontrollable, once experienced, it must be consummated. Whereas this provision much as it seeks to protect the girl-child does not give her the required protection for all the time she needs it — till she is 18 years. Onset of sexual activity is accompanied by the risk of pregnancy, early child birth and the attendant consequences and complications such as eclampsia, prolonged or obstructed labour, injuries during childbirth resulting in VVF or RVF, haemorrhage, etc. It does not protect married adolescents who are below the age of 18.

Some girls are even married before the age of 16 and engage in sexual activity sometimes with their spouses who are much older than them.

### **Inequality in marriage and family law**

Women have continued to experience unequal and unfair treatment within marriage and in family law. Some family laws in Nigeria are repugnant to women's human rights. An example is found in Section 55 of the penal code in the North of Nigeria which permits wife chastisement (beating) provided it does not result in grievous bodily harm. Bodily harm is described in Section 241 of the penal code as emasculation, permanent loss of sight, inability to hear or speak, facial disfigurement, deprivation of any member or joint, bone fracture or tooth dislocation

Contrary to the provisions from the international instruments, a woman by the Nigerian law and culture is only second to her male counterpart. Sometimes, her position is even lower down the family tree than her male children despite the contributions she makes within the home. In fact, women are treated and called the "property" of the husband. Based on this, the man has remained the decision-maker in the family, deciding over the earnings of his partner, having the last say on what happens to the body of the woman, etc.

The Nigerian law does not recognise spousal rape. It is understood in the law that once a woman has agreed to marry a man, she has automatically given consent to every sexual

demand the spouse may make. These gaps have created room for women to be assaulted and abused sexually and otherwise by their partners.

### **The Sharia**

The Sharia law as has been interpreted and is being implemented in Northern Nigeria has been making headlines worldwide especially regarding the implementation of the law on zinnat (adultery and fornication).

This began about two years ago with the case of Bariya Magazu, an adolescent who was charged with fornication because she had given birth to a baby out of wedlock. Bariya mentioned three men who had had non-consensual sex with her. She was asked to produce four witnesses to the act of sexual intercourse to convict the men, but her daughter was enough evidence to convict her of fornication which was punished by 100 lashes. She was supposed to have received 80 other lashes for "false accusation" for saying the men had had sex with her without being able to prove it.

The next case was that of Safiya Tungar Tudu. She gave birth to a baby girl outside of marriage. She was accused of adultery since she is a divorcee (once an individual has been married, even when they are divorced or widowed, sexual intercourse outside marriage is considered adultery and attracts a death sentence by stoning). Safiya's partner who reportedly raped her was discharged and acquitted for lack of evidence. Safiya appealed her sentence and with the international uproar, campaign against the sentence by

activists in Nigeria and the intervention of the federal government, Safiya won an appeal and was discharged and acquitted. But not before the commissioner for justice and other policy makers in Sokoto State had described the gory way the execution was going to be carried out. The legal process at the lower Sharia court was faulted. Safiya had no legal representation. She was not aware of the fact that she could have one, she was not even aware that the charges she was facing attracted a death penalty by stoning. The level of poverty she lived in was a source of concern to many, including Sharia clerics who believe that wallowing in poverty was sufficient enough a reason to acquit and discharge Safiya.

The very day Safiya won her appeal, another divorcee, Amina Lawal received a death sentence for adultery in Katsina State. She has lost an appeal and her case is going on to the superior court for hearing. While activists are battling to save Amina's life, another sentence has been passed for death by stoning for adultery in Gurara in Niger State. The father of the woman has said he is taking the case to the appeal court.

The very fact that these women give birth to female children should arrest our attention. It is not a mere coincidence but a message for us to take decisive actions to address religion and VAW.

Along the continuum are various forms of state promoted human rights abuses committed against women. In Niger and Kano States. At the inception of the Sharia law, young unmarried women were arrested and charged with

indecent behaviour and were flogged after conviction. The case of Niger State was very bad because any young woman who was not married, and was not leaving her parents, and was not gainfully employed was accused of being a sex worker and charged with indecent behaviour punishable by flogging. This caught the attention of the media because most women and girls who fall into this category went to co-habit with single military men in the barracks for security and safety, a lot of them giving sex in exchange for the shelter. This happened in a context where the HIV rate is said to be above the national average among its military men.

### **Domestic violence**

Domestic violence is the physical, verbal, emotional, psychological and or sexual battering of a woman by her partner or spouse, or any member of the household. The Ghanaian policy on VAW provides comprehensive indicators of members of the household which was formulated and passed as a result of the spate of spousal killings. Ghana has been described as a country where violent crime is still an anomaly, a peaceful country which has escaped civil conflicts that continue to roil its neighbours. But recent police reports affirm that violent against women is on the increase. In the course of two weeks in the spring of 2002, seven women were killed by their husbands or companions over alleged infidelities. Nigerian women have continued to take domestic violence as part of life. Violent acts such as murder, amputation, acid baths, beating, have been recorded. Small-

scale surveys have shown that most women have a very narrow understanding of what violence against women is. Some of them go through all sorts of abuses unaware that they were being abused and could seek redress for those abuses. Abandonment and mental and psychological abuse are very common. Those who are aware and report these are often asked to present evidence of such abuses whereas we know that these are difficult to prove.

Unfortunately, when the domestic violence Bill was passed in Ghana, it did not repeal the old laws. Now some judges have cited some laws which still exist in the law books to dismiss cases of domestic violence saying the offence as charged was not criminal according to current law. Activists in Ghana are pressurizing legislators to review the law and Nigerians have learned from this experience to repeal the old laws in the Bill on VAW that is being processed

### **Sexual harassment**

Sexual harassment is when a victim is sexually provoked, singled out, pestered, persecuted, frustrated or hounded in a manner that causes him/her emotional or psychological harm. A person in position of authority over a victim normally perpetuates it. Sexual abuse becomes sexual harassment when there is an imbalance in power relationship between the abuser and the victim. It is often referred to as victimisation.

Sexual harassment is common in Nigeria. Boys selling in the market are constantly catching the hands of girls and women in a manner that makes the victims feel uncomfortable.

Often times the victims are powerless and do not complain, in a few instances where the girls complain they are threatened and touched further, sometimes on the buttocks or the breasts. The girls usually would have to put up with this without support from other women or girls around. These are observed everyday, especially in urban areas.

Sexual harassment is present in our institutions. Anecdotal evidence points to the fact that some girls are failed by their teachers for refusing to yield to sexual advances.

In most cases, the girls are not given justice when they report such cases; they are dispelled as rumours and not acted upon. Victimization and sexual harassment is visible in primary schools and up to higher institutions of learning as well as the work environment.

*"A girl reported to her pastor that a "brother" in the church had offered a job as a personal secretary on condition that she has sexual intercourse with him. She obliged and got the job. She worked late hours with her boss and continued to satisfy his sexual urge. One day they closed so late that the gate to her home was locked when her boss went to drop her off and she ended up sleeping in his house. She reported to her Pastor because her boss had fired her despite the guarantee that he had given her for job security. The so-called "brother" admitted to the pastorate when he was called upon but insisted that he did not owe her anything because the fun was shared by both of them. The pastor using their*

*real names announced their excommunication from the church and banned the church members from even greeting them and called them sons of perdition. The girl who had gone to seek justice ended up being embarrassed, disgraced and punished. Any source of strength or support which she may have received from the church members was taken away from her since others were banned from associating with her – Dotty, Communion Chapel, Festac Town, Lagos, 1995.*

The rural communities are not left out as they complain when given safe space to discuss things that happen within their communities, which they would want changed. This was the case of female adolescents in Afia Nsit, a rural community in Akwa Ibom State, Nigeria. The girls were participating in project monitoring of the Women's Health Organisation of Nigeria (WHON) where they reported that they were repeatedly molested and harassed in the community by older boys and men especially during community festivals.

From the known cases, those who harass girls may be their family members, guardians, teachers, employers, supervisors, neighbours, and in some cases, they may be total strangers.

In Ghana, these cases are on the rise. Women have begun to speak out and protest by holding public rallies condemning such acts. Esther Appiah, the commanding officer of the Women and Juvenile Unit of the Police Force was reported to have said, in Accra alone, in 2001, 16 cases of indecent assault or forcibly touching the buttocks or breasts or other

parts of a woman by men were reported (Raymond Acher, WEnews Correspondent, Ghanaian Chronicle 2002).

### **Sexual violence / rape**

Even though there are a few anecdotes of rape committed against men with equally devastating impact, only very few are committed by women. Majority of rape cases are committed by men against women of all ages. There are reports of rape cases of toddlers, children below the age of 5 and above. A few of these are reported to the law enforcement, few get to the court, and even fewer are prosecuted fully because such cases are often withdrawn from the court due to pressure and settled outside the court.

In Ghana, defilement of a female under the age of 14 is an offence under section 102 of their criminal code and 204 cases of defilement were recorded in Accra district in 2001, in addition to these were 58 cases of rape within the same region and period. In Nigeria, these reports are read from the newspapers. It was only of recent that NGOs began to document such stories.

There are reports of group or gang rape of women in their homes by armed robbers, outside their homes by "area boys" and in institutions of learning by schoolmates who use it as a tool for settling scores. In fact girls have been raped that way because they were unyielding to requests for dating from their schoolmates.

There are cases where women have had their vagina inserted with objects such as sticks, iron rods, broken bottles,

etc, during rape (a famous Nigerian politician, Gambo Sawaba, was inserted with sticks "to be taught a lesson" by political opponents. She recounted her ordeal in a testimony she gave on the national television before her death.

The response to these acts of violence by the policy makers in Ghana and Nigeria differ. While Ghana has revised the law on rape and has made the sentence more sever, Nigerian law on rape is still the old one from the early 40s. The law is gender-specific, as a woman cannot be accused of raping a man; in fact a boy cannot be raped according to that law. Also, according to this law, it requires a witness's testimony to convict the assailant. The prosecution for the offence of rape in Nigeria has a status bar of six months and the provisions in the law during court proceedings have been described as unfriendly to the victim.

The law in Nigeria is fraught with flaws. These include:

- Absence of a national law on the minimum age for marriage in Nigeria.
- Carnal knowledge of a child under 16 years not considered as an offence, if marriage has taken place and the partner is her husband.
- There is a law that sets the minimum age of consent at 14 years for boys and 16 years for girls. This is unrealistic because both male and female adolescents age 14 and 16 are still in their puberty and are considered immature for sexual activity and its consequences.

- The laws impede adolescents' health decision-making if they are below the age of 16.
- Nigeria still has laws that are restrictive regarding access to services e.g. the law on abortion.

The recognition and protection of customary and religious laws have adverse effects on the sexual and reproductive rights and health of adolescents. This is evidenced by their position in matters regarding use of condoms, even in the face of HIV/AIDS. They insist on abstinence as the only approach to prevention.

### **Harmful practices**

Various communities in both Nigeria and Ghana have practices that are harmful to women and some are traditional while some are modern. A harmful practice is any practice that is valued, protected and promoted by a community or a given group of people which has adverse effect on the health of individuals upon whom the practice is done and or infringes on their fundamental human rights. Most harmful practices are practised on women.

The Ghanaian Association for Women's Welfare Plan of Action on Traditional Practices Affecting the Health of Women and Children in a report of their 10th anniversary regional conference at Addis Ababa in 1994 showed that Nigeria and Ghana have a lot of commonalties. The list of practices which are harmful to women and girls in Ghana

include childhood marriage and teenage pregnancy, Female Genital Mutilation, nutritional taboos, widowhood rites, virgin slaves known as "tokosi", and some practices relating to delivery such as "gishiri cuts". In Nigeria, there are emerging practices such as trafficking in girls and women both locally and across the borders for purposes, which include sex work. The most researched of these is the female genital mutilation for which we have empirical data on types and prevalence of practice.

### **Female Genital Mutilation (FGM)**

In Ghana, the prevalence rate of FGM: 30%. The type most commonly practised is type two. Several ethnic groups practise FGM and they include Bussansi, Frafra, Kantonsi, Kassena, Kussasi, Mamprushie, Moshie and Nankanne in the Upper East region. Others are the Dagarti, Grunshie, Kantonsi, Lobi, Sissala, and Walas in the Upper West region. There are provisions in the Ghanaian Constitution which protect women against FGM. Article 26 (20) and article 39(2) provide for protection for the person against customary practices which dehumanise or are injurious to a person and the latter declares the abolition of such practices. Act 484 of 1994 amended the criminal code and makes FGM an offence and seeks to penalise any person who carries out female circumcision on another person. The offence is a second-degree felony attracting a sentence of not less than three years imprisonment.

The situation in Ghana best demonstrates what could

happen when there is differential in the level of understanding, information, and motives behind enactment of laws between the high-ranking authorities and the less powerful officials whose responsibility it is to enforce the laws. The laws are not enforced and the practices still persist. The women's ministry in Ghana says FGM is still being conducted in more than a third of rural communities in Ghana.

"... With regard to FGM, since that law was passed, those who have been practising it have gone underground. What in my opinion, is required is vigorous enforcement of the law as well as massive IEC and advocacy to get the general public and the authorities at various levels to internalise the values underlying the legislation." — Dr. Turcson Richard, NPC, Ghana, 2002.

In Nigeria, only the change agents are sufficiently sensitised and are working towards the abolition of harmful practices. The awareness level among policy makers, the enforcement agents and the populace is still very weak. Things are looking up slowly, in the wake of democracy, because some Eastern States passed Bills on FGM making it a punishable offence. The federal government is yet to pass the bill submitted to it by the Federal Ministry of Health.

In Nigeria, the prevalence of FGM: is 60%. Types of FGM most commonly practised are types I & II and practice is found among the Hausa, Yoruba, Ibo, Urobo, Itsekeiri, Edo, ethnic groups.

## **Early marriage / childbearing**

In Ghana as much as is in Nigeria, early marriage has remained a cause for concern because of the harmful effect it has on women's health and development and on the society as a whole. Median age at first sex, first marriage and first birth is about 17 in the two countries and much lower in the northern regions of the two countries. Individual cases of marriage at below the age of 10, first delivery at the ages of 11 and 12 are found mostly in the North of Nigeria. In Ghana the DHS 1998 reported 2% of adolescents, aged 15 as having commenced childbearing and 32% among those aged 19. Childbearing at such an early age sometimes results in maternal mortality and morbidity.

There are beliefs that a girl should see her menstruation in her husband's house, and should it start when she is still in her father's house, she should not see the second menstruation in her parents' house. In a study carried out by Aken'Ova, C. D., for CAFS in Northern Nigeria, she reported interviews with mothers who admitted that their daughters were given out in marriage at the age of seven and one of them was in the hospital being managed for VVF.

Early marriage and childbearing inhibits self-actualisation in the victims.

## **Widowhood rites**

Traditional history informs us that mourning rites such as being used currently against women were for both men and women who lost their spouses in suspicious circumstances.

It was, therefore, not limited to women. But these have been manipulated to suit the dictates of a patriarchal system with women at the receiving end.

In those societies where mourning rites were in place, it was women who were made to perform those rites. They were often asked to wail louder than every other person and do so continuously for seven days, and to drink of the water used to bathe the corpse to prove that they did not kill their husband. They were put in seclusion for weeks; they ate in broken plates, shaved their hair, and would not have their bath or change their clothes for a given period of time.

In some cases they were disinherited and were themselves passed down to a sibling of the deceased to be inherited as part of the property left behind by their relation, etc.

### **Nutritional taboos**

Women, in some cultures, especially those pregnant are sometimes told that if they ate certain foods, the foetus will be deformed, or will be born dead, or that they will have complications during or after delivery. This practice is harmful because the foods that are tabooed are the proteinous and iron rich foods which the woman needs most. As such they become anaemic, stunted, with low birth weight babies who are more difficult to cater for, especially in rural areas where the personnel and facilities are not available. Women also suffer from post-partum haemorrhage, prolonged labour, eclampsia, etc.

## Trafficking in women

Trafficking in persons has continued to pose increasing challenge in Nigeria because it has assumed a more organised form and the incidence has become more rampant than it was a decade ago. Trafficking in persons is an act of luring, abducting or buying a person from their parents or guardians by individuals, or networks sometimes referred to as cartels. Most victims of trafficking in Nigeria are adolescents most of whom are females.

Most of the trafficking in Nigeria is local whereby some parents or guardians in rural areas give out their children to be taken to the urban areas. These children are either sold out or hired out for a fee to work in restaurants as attendants, in homes as domestic servants, in brothels as prostitutes and in beer parlours as shop attendants

In recent years, Nigeria has witnessed an increasing cross-border trade in persons who are taken to other countries in Europe and the United States of America to perform various tasks including prostitution. There are no accurate data on how many girls have been trafficked out of Nigeria but there are eye witness reports on hundreds of girls who are stranded in transit countries, and of those who die along the treacherous way, as well as newspaper reports of those who are deported from the host countries back to Nigeria. Ghana is one of the few countries in the sub-Saharan Africa not experiencing trafficking.

### **Civil unrest, armed conflict and displacement**

Ghana differs greatly from Nigeria in this aspect. Ghana has never experienced civil unrests and armed conflicts.

Nigeria has recorded many armed conflicts and civil unrest including a civil war, in its history.

In addition to these are numerous disasters most of which are man-made, these include fires as a result of vandalised fuel pipelines, bomb blasts; onslaught by unruly groups such as the "OPC", the "Bakassi Boys", etc.

Tribal and religious conflicts continue to erupt in different parts of the country. The law enforcement agents who are sent to keep peace often end up inflicting additional havoc on the communities. These have severe impact on community members, especially women and girls. These include the following:

- Sexual violence perpetrated because of the way women's bodies are seen in territories to be "conquered". This may be in form of mass rape, military sexual slavery, and forced prostitution. Often, sexual assaults are accompanied by physical assault resulting in disability or death. Unaccompanied women and girls, are usually at greatest risk.
- It must also be remembered that torture, mutilation, watching family members or friends being raped, tortured, mutilated, murdered, kidnapped, may also result in trauma.

- Bombing, shelling, and severe deprivation of food, water, shelter, safety.
- During and after conflicts or in refuge camps, there is often shortage of health care workers, facilities and services. Pregnant and lactating mothers lack ante-natal and post-natal care, adequate nutrition, predisposing them to greater risks of pregnancy-related complications. Such contexts have a high record of MMMi and infant mortality.
- The reproductive and sexual health among adolescents would deteriorate even more. Having been discriminated against in the access to information and services, in armed conflict situation, they are further distanced from access to these key services. Unwanted pregnancies, unsafe abortions and complications are likely to result in such situations.

*During the armed conflicts in some states as a result of the introduction of Sharia law, ethnic violence, and the spill-over effect, women and girls who sought refuge in police stations, barracks were reportedly abused and exploited sexually.*

- Hoodlums would take advantage of chaos and rape and assault women and girls as is often the case during demonstrations and community unrest. During the bomb blast in Lagos, it was reported that certain locations were strewn with torn female underwears.

It is only of recent that rape in armed conflicts became an issue and accepted as war crime.

In Nigeria, though there were always reports of young women being raped during demonstrations on school campuses by policemen, during civil unrests like the June 12 demonstrations, protests over fuel price hikes in Lagos, etc, these did not receive public attention. There was conspiratorial silence by the victims, their families and friends, and the authorities. The media and frontline women's NGOs took the Choba incident, for instance, up creating public debates through awareness / solidarity treks (by WHON), tribunals (by Oby Nwankwo) press releases (FIDA Nigeria, etc). And the rape cases during the bomb blast also received reactions from women's NGOs such as INCREASE, Project Alert, Baobab, etc. The authorities have till now not done anything to show an acknowledgement of this.

Cases of rape have been reported on campuses, but authorities where such abuses have taken place always dismiss the cases with a wave of the hand.

A major gap in these events is lack of coordinated documentation of sexual abuses and violence. And equally important is a study of the determinants of VAW which will enable intervention strategies to be more accurate and effective knowing how much energy, time and resources need to be allocated to each of the factors. There is need to know to what extent each influencing factor determines how many girls and women are at risk of VAW. Below are highlights of some of the determinants and influencing factors to VAW. There is no statistics to assess their impact on the VAW situations in Ghana and Nigeria or to know by how far VAW

has been reduced or prevented as a result of having eliminated them from a community.

### **Socio-cultural determinants of gender-based violence / predisposing factors**

**Religious claims:** The two most predominant religions in Ghana and Nigeria teach that men were the first to be created and that the woman was created from them. This is interpreted by men to mean that the woman is a lower being than her male counterpart. These religions go further to use a discriminatory language in the holy books, e.g., Son of man, . . . to them gave he power to become the sons of God; the husband is the head of the family; etc. The aspects of equality are downplayed. These usurp the basic decision power of the woman even over things that concern her directly. The man is also fed with the idea that he is superior, stronger and more powerful by referring to the woman as a weaker vessel. This leads the man to treat his female counterpart with less consideration than he would himself or his other male counterparts.

Certain passages are used out of context by men to demand subservience and submission of the woman to the man, requesting her to keep quiet in places of worship, put the woman in seclusion, and subject her to other discriminatory practices within and outside places of worship.

Religion preaches the unity and sanctity of the family, leading believers to preach that everything done in the home is not

supposed to be heard outside. For this reason, many women tolerate violence and do not report it in order not to go against this holy teaching. They are also compelled by such teachings to remain in a union that is full of violence targeted at them. They are taught that divorce is ungodly and is sinful. Conditions for divorce are limited to cases of infidelity in the Christian teaching. These help to guarantee the man's safety since the woman would not reach out for help or leave. And among the Muslims, the "Talak" is reserved for men only who can wake up, as has been the practice and ask the woman to leave the house because they have pronounced divorce on her three times.

**Cultural norms and traditional practices:** We live in societies that are mostly patriarchal in nature. These are settings where the man is considered superior and preferred to the female. She consequently occupies a lower position and status than her male counterpart. Her birth is detested. She begins to experience neglect, discriminatory treatment and sometimes violence as soon as she is born —sunna, and other forms of FGM are carried out on her. This continues all through her life as she is socialised and treated as a lower being. She is not allowed to own and/or inherit landed property in some cultures thereby increasing her dependence on the man.

She is brought up to think that marriage and other love relationships are the ultimate for the woman. She toils and sacrifices to make them work. She bears the burden of making

the relationships work, giving her all. In putting others first, many women in abusive situations remain in order to protect family image, for the sake of the children, and sometimes to protect the already damaged image of the abuser.

Cultural practices and norms are put in place to discourage a woman from leaving a man who is abusive because the treatment meted to her should she attempt to leave her husband and go back to her family is by far more unbearable. She is often met by outright rejection, described as lacking in feminine virtues and compelled to go back to live with the abuser. These acts make assailants think there is nothing wrong with their conduct, and women are made to accept acts of violence as just another part of life.

**Myths and rumours:** Among the factors that influence domestic violence are myths, rumours, superstitious beliefs, and gender stereotypes.

These are designed and passed down from generation to generation through socialisation processes, which dictate community attitudes towards VAW, rationalise, protect and promote VAW.

There are myths such as:

- If a woman is beaten by her husband it is because she deserves it,
- A woman is her husband's property, he can do with it what he wills
- Women from some tribes need to be beaten, they actually

look forward to it

- If he beats you, it is because he loves you
  - Your parents have collected bride price, they won't take you back
  - That is what every woman is going through
  - Yours is not the first and it won't be the last
  - You have to put up with it for the sake of the children.
- etc.

This is why most women who are being abused by their spouses or their in-laws, sit tight, or are asked to go back when they come for help. Denied urgently needed support, they would not reach out for help until their obituary is posted around the community—they'd have been beaten to death.

*"Managing cases of domestic violence, I once took in a woman because her husband battered her and threw her out in the middle of night sure that there will be no one to take her in. After two weeks he had traced through her work place and had been told that the woman was in my house. He came threatening to call the police for me because I was harbouring his wife. It was when I told him that I am a feminist and would turned the police against him that he changed his strategy. He said he wanted her back.*

*But I know of cases where other women and sometimes, family members are scared taking battered women in because they are scared they will be arrested by the police." - Dotty.*

**Low status of women:** This belief allows abuse to begin and go on unchecked by the society. The assailant believes

that the target is unequal to him and so does not deserve to be treated with the same consideration. Women by the same token are socialised to put the needs of others, before theirs, whether they are members of their families, colleagues or strangers.

If she speaks out against violence or reacts in manners that are not approved by the norms of the society, privileges are withdrawn from her. She is stigmatised and alienated further exposing her to more violence.

This causes women not to report violence, thereby further entrenching VAW in the society.

**Community attitude towards gender-based violence:** Most communities trivialise VAW and its consequences. It is downplayed where it is even perceived as a problem and women are made to bear the burden. Most often it is dismissed as a non-issue. And in some cases it is viewed as part of womanhood. Communities often forget that it all starts from a threat, an insult, and moves to a push, a slap, before she is killed or maimed by an abusive partner.

**Limited / lack of knowledge:** Women are not equipped with information on their human rights, and are not in a position to assess the treatment they receive.

**Myths and rumours / stereotypes:** These encourage women to adopt a certain role and responsibility that makes them ready to take any abuse without complaints, and also provide the man with the profile that makes violence part of his

characteristics: To be aggressive, violent, while she is submissive, soft-spoken.

**Low income — increased dependency:** Women are made to be dependent on their male partners, male members of the family, and the society and are often restrained by the consideration of their security, shelter, if they were to take legal action against their partners or family or walk out of an abusive relationship.

**Lack of social support networks:** Women often lack social support networks on which they could depend when they need protection from abuse or just someone sympathetic to listen to their story. Often times the society reprimands or punishes those who extend a helping hand. They are labelled home-breakers when they offer temporary shelter where she had been chased out of her house after a beating. There have been cases where women have borne abuse till death as result of being denied support and ironically, received support to enable them to stay on.

Fellow women are afraid to provide support to targets of violence because this could make them targets too.

**Inequality before the law:** Where women have been given a clear message that they are inferior and less deserving of justice by the institution that should ensure equality and justice and security, the women would realise that they have no where else to go to for justice. They live their life accepting that

being abused is part of being "woman." A judge in Ghana was quoted to have said, "It is "unGhanaian" to send a man to jail for pushing or slapping his wife". Most males in Nigeria share this belief.

### **Effects of VAW**

The impact of VAW is felt beyond the victim and may range from physical to psychological and may be felt immediately or in the long-term. Effects of VAW include the following:

Fractures, knife wounds, concussions, etc, and for those who are sexually abused, damage to the genitalia, such as bruises, lacerations, damage to the perineum and the bladder or the rectum and the surrounding pelvic structures.

Victims of sexual abuse may contract STIs, HIV, pelvic inflammatory disease, infertility, or tetanus. Girls under 15 years of age and those who have performed FGM stand a greater risk because the scar tissue may be cut open. If the woman is pregnant the risk of miscarriage and complications of unsafe abortion, pregnancy and delivery may set in.

Finally, in extreme cases, the violence may result in death. In situations where abuse results in pregnancy, effects could include:

- a) Unsafe abortion leading to fatal complications, especially where abortion is illegal
- b) Refusal to seek care during pregnancy, delivery and after delivery

- c) Refusal to breastfeed the baby, neglect, abandonment, and stigmatisation of the child
- d) Infanticide.

Psychological effects also differ greatly among women depending on their cultural background, personality and circumstances. This can be aggravated by lack of support systems and supportive environment for healing. The impact may also be short-term or long-term. These may include shock, fear, anger, shame, depression, anxiety, memory lapses, sleep difficulties, lack of control over one's life, inability to respond to life and to establish intimate relationships. They may experience silent withdrawal, low self-esteem, loss of sexual desire, eating disorders, etc.

Other symptoms may be psychosomatic such as feeling dirty or infected. Women who have been raped may report the latter despite repeated treatment.

Women who have experienced abuse may also manifest self-destructive behaviour such as unprotected sexual activity, casual sexual intercourse, multiple sexual partners, substance abuse (tranquillisers, alcohol, etc), suicide ideation, homicide, infanticide, inter-generational transmission of violence, etc.

- Social impact of VAW

In case of civil unrest and armed conflicts, health facilities, courts, worship places, schools may be destroyed.

Homes may be destroyed causing displacement with its

attendant economic consequences. The need to, and the cost to rebuild, replace the lost population, are high and would constitute an additional burden on women who may have borne other direct forms of the violence.

Bitterness among the warring groups may linger on and last for generations. This has been the case of Nigeria since the civil war.

Breakdown of social networks the impact of which is particularly damaging to adolescents because when they are in place, they provide emotional and psychological support for adolescents and guide their sexual development.

Burden on healthcare systems would result from victims seeking medical care on the already over-stretched system. Often times, victims of violence, especially sexual and domestic violence, do not disclose the real problem, and may continue to visit the healthcare facility for a long time where their problem may not be easily diagnosed. Counselling does take a lot of skills, time, and human resources. This is coupled with the fact that the healthcare service providers are often not skilled to manage VAW victims, this makes them feel overwhelmed by the problem.

### **Strategic policy planning to eradicate gender-based violence**

#### **Perception of gender-based violence as a problem**

The first step towards the elimination of all forms of violence against women is to perceive it and believe that it is a problem.

Until we cease to wave it off as one of those things, until we have more of the type of Kazibuwe Silvia, the vice-president of Uganda come out and speak out and take firm position on VAW, we shall not experience the desired and necessary change in the lives of women and girls. When all and sundry see VAW as a social ill and an ill against women then we shall have the required political will to put mechanisms in place and ensure their implementation to check acts of violence against women of all ages. Committed unflinching political will is required to move the traditional structures which perpetrate inequalities and inequities against women, and to commit the required resources to address VAW.

### **Baseline survey**

There is need for a detailed qualitative and especially quantitative study of all types of VAW, and the broad range of determinants and influencing factors in Nigeria and Ghana. These will provide basis for intervention programmes, ranging from IEC to advocacy.

Sufficient funds need to be allocated for this purpose by international agencies but most especially by the governments of Nigeria and Ghana. It is possible to have statistics which demonstrate by how much VAW contributes to the use of healthcare facilities.

There are NGOs such as Women's Centre for Peace and Development (WOPED) who have compiled a fact-file on cases of violence against women and girls in Nigeria. We

need to scale-up this effort.

This will also enable the countries to set realistic and measurable benchmarks for the reduction and eventually the elimination of VAW in their strategic plans to which activists and women generally, can hold them accountable.

### **IEC on VAW and gender issues**

We need to pursue education on gender and women's rights issues vigorously targeting all, from policy making level to the family level, consciously making effort to reach women of all ages.

Raymond Archer in WEnews quoted the Executive Director of the Ark Foundation to have said "Women don't know what options are available to them when they are abused," indicating that women themselves are not well informed over the issue of violence and available interventions. . This is also very much the case in Nigeria. There is need to respond appropriately to this by providing accurate information and education to women on their rights and on VAW.

It is only when women are sufficiently and accurately informed that they can make use of policies and laws to protect themselves, and make use of the available intervention programmes put in place for victims and act as a pressure group, making demands from their governments to put an end to VAW.

## **National policies and laws on gender-based violence**

VAW must be understood as a development issue that requires a public policy debate and action in order for the policy-makers to address gender-based violence. They both need to draw up and monitor a national gender policy, and stop the lip service they are paying the issue. Nigeria especially must move from being a mere signatory to international instruments to domesticating them, abrogate existing obnoxious laws that are harmful to women's well being. The public policy debates should include dialogue on existing gaps in national laws on VAW and how best to bridge those gaps by pursuing legal reform and legislative initiatives. Legislators should avoid political and technical debates, which last three-quarters of the year and commit their time and resources towards addressing the real concerns of the citizenry. Majority of the sessions of the legislators in Nigeria have been dedicated to disagreements between them and the executive arm of the government on their allowances, party manoeuvres and scheming towards next elections when bills are awaiting their attention.

## **Multi-sectoral response**

Since VAW is caused by a broad range of determinants and has various consequences requiring various interventions, there is need to address the multiple causes, including gender inequality and inequity which is the root cause. This requires

a multi-sectoral approach. There is need for various ministries, civil societies with focus on rights, health, economy, trade, labour, UN agencies and multi-lateral organisations to collaborate and develop a sector-wide strategy to eradicate VAW. This problem cannot be addressed by a single organisation. There is need for proper coordination of these actors to ensure that the linkages formed are effective and sustainable.

Effective and sustainable linkages should be established between social welfare establishments at all levels, women's groups, teachers, police, legal groups, mental health clinics, human rights groups and institutions, and healthcare centres must be created. Client-friendly multiple referral systems among the partners must be established.

Economic empowerment of women is essential towards the eradication of violence against women. Such empowerment will make the woman less dependent of the partner and she will be capable of making decisions concerning her life.

Traditional coping mechanisms and institutions should be identified and strengthened where they exist.

**Identifying areas of intervention including clinical care / forensic lab**

Healthcare support mechanisms need to be put in place to provide both clinical support as well as counselling services. Functional forensic laboratories should be set up and

capacities built for the professionals in identifying and managing gender-based violence, knowing how and what specimens to collect from the survivor, how to package them without breaking the chain of evidence, at the same time being able to conduct appropriate medical examination. This recommendation is made because there is a gap in the services available especially for survivors of rape. Such referrals may include rehabilitation centres.

### **Behavioural change communication (BCC)**

Skills-building as done in the BCC strategy as complementary to IEC need to be operationalised, targeting women of all ages and in all settings. This includes married young adolescents, sex workers, street children, adolescents with disabilities, etc. Such skills as self-esteem, assertiveness, refusal and pressure resistance skills, decision making, goal-setting, communication and negotiation skills, skills to read and manage sexual scenes (including self-defence skills), will reduce or prevent abuse.

Young boys need to be targeted with BCC as a preventive measure. Catching them young and building their capacities to recognise women as equals is very key to preventing gender-based violence. There should be counselling clinics for male children, especially those who grow up in a setting or family where they experience acts of GBV directly or indirectly. A stitch in time saves nine.

## REFERENCES

Reproductive Health During Conflict and Displacement: A Guide for Programme Managers, Department of Reproductive Health and Research, World Health Organisation, Geneva.

Gender and Sustainable Development: Nigeria Population Census 1991 Analysis, 2001.

WHO & UNFPA, Women and Health — Mainstreaming the Gender Perspective into the Health Sector, 1999.

*A Practical Approach to Gender-Based Violence: A Programme Guide for Health Care Providers and Managers*, UNFPA Pilot Edition 2001, New York.

Violence Against Girls and Women : A Public Health Priority, UNFPA, 1998.

M. M. Falik and K. S. Colling, Women's Health: The Commonwealth Fund Survey.

*Constitution of the Federal Republic of Nigeria*, 1999 (Simplified and Abridged), CFCR, Abuja, 2001.

Rahman and N. Toubia, Female Genital Mutilation: A Guide to Laws and Policies Worldwide, Rainbo, 2000.

G. Aryee, Technical Consultation on Female Genital Mutilation, Coutry Report, Addis Ababa, 1996.

Plan Of Action, Ghana Association for Women's Welfare, National Committee of Inter-African Committee on Traditional Practices Affecting the Health of Women and Children.

Domestic Violence Bill, 2000, Ghana.

The 484th Act of the Parliament of the Republic of Ghana, 1994.

GAWW, 10th Anniversary Regional Conference at Addis Ababa, 1994.

*Ghana Times*, Wednesday October 26, 1994, Pg. 5.

The Bane of Our Times: A Fact-File on Cases of Violence Against Women and Girls in Nigeria, WOPED, 2000.

The Law at Hom: A Report of Legal Rights Advocacy on Domestic Violence in Nigeria, WOPED, 1999.

Rights and Widowhood Rights in Nigeria, Monograph Number 3, IAC - Nigeria. 2000.

Raymond Archer, 2002, Women's Enews, 2002.

Ghana Demographic Health Survey, Summary Report, Ghana Statistical Services, 1998.

The Women's Centre - A Multi-Focused Approach: Kenya, Benin, Ghana, Zambia, concept paper for presentation to Danida, IPPF, Programme Development Department, Women's Unit, 1996.

WHO & UNFPA, Women and Health - Mainstreaming the Gender Perspective into the Health Sector, 1999.

A Practical Approach to Gender-Based Violence: A Programme Guide for Health Care Providers and Managers, UNFPA Pilot Edition 2001, New York.

M. M. Falik and K. S. Colling, Women's Health: The Commonwealth Fund Survey

B. Gomex-Schwartz et al, Child Sexual Abuse: Initial Effects, US, 1990.

NGOs CEDAW Report for Nigeria, Nigerian NGO Coalition for a Shadow Report to CEDAW, 1999.

# 7

## **JUSTICE DELAYED IS JUSTICE DENIED**

### **Judicial Activism And Women's Rights In Tanzania**

**Salma Maoulidi**

**H**uman rights are inherent to all human beings. The obligation to protect, promote and ensure the enjoyment of human rights is the prime responsibility of the state and this includes the obligation to take proactive measures to ensure that human rights are protected within its territory. One way to achieve this is through the adoption of appropriate domestic legislation<sup>1</sup>.

Hitherto, this has been interpreted as the exclusive domain of the legislature. However it is well appreciated in legal circles that courts also have a critical role in making law, construing law and upholding the law. The intention is not to exceed the powers of the legislature but to complement initiatives towards greater constitutional and legal protection

---

1. Article 2 of the International Covenant on Economic, Social and Cultural Rights

of rights.

While the global community is almost unanimous in its recognition of human rights as a human entitlement, the enforcement of human rights at all levels has posed major challenges. The international human rights system has depended on the good faith of governments to ensure compliance with human rights standards. Amidst grave human rights abuses in the former Yugoslavia and Rwanda amounting to crimes of genocide the human rights court system is assuming a key role in promoting and safeguarding human rights standards. But apart from the international court system, there lies tremendous potential in domestic courts in upholding human rights standards within national borders

Under Article 2 of the Convention on the Elimination of all Forms of Discrimination Against Women, CEDAW, states undertake to establish legal protection of the rights of women on equal basis with men and to ensure through competent national tribunals and other public institutions, effective protection of women against acts of discrimination, to modify or abolish laws, regulations, customs or practices which constitute discrimination against women.

Most studies have thus far concentrated on the aspect of legal reform as a means to guarantee women their human rights. Very little attention has been given to look at how competent national tribunals, and more precisely how courts can be invoked to arrest violations against women's rights. This is the concern of this work. This view is premised on a potential (if not already) function of the court- that of legal

and human rights advocacy. Also, it is in recognition to the court's influence in establishing jurisprudential rules.

Law-making occurs in any of the three arms of the state i.e. the executive either in the form of rules, regulation and policies: the legislature through the passage of laws and the judiciary by setting precedents and engaging in legal construction/ interpretation. Perhaps the judiciary of the three arms of governance has been the slowest in encouraging activism of the bench towards greater respect for human rights. Judiciaries, to a large extent, fail to recognize the rights of women enshrined under international human rights instruments when interpreting national constitutions and legislations.

This status of affairs results primarily in the bench's unwillingness to exert their advocacy role in championing human rights. The failure to act is attributed to jurisdictional limitation<sup>2</sup>. Such position is contrary to the spirit of human rights law, which obliges the judiciary, being an arm of the state, to take proactive action in arresting the continued violation of the rights of women. Specifically, it is obliged to act as a watchdog and ensure that the executive arm, the legislature and public authorities and institutions act in conformity with human rights standards.

This study thus proposes a rigorous constitutional standard in safeguarding human rights, particularly the rights of women in Tanzania. This demands a readiness to engage

---

2. Either in terms of separation of powers or procedural rules

in deductive reasoning in order to defeat outdated and unresponsive legal mechanism with regard to women's reality.<sup>3</sup> The obligation not only rests with the law but also with culture and I see a proactive judiciary and judicial machinery as necessary in interpreting and implementing human rights values in cases involving gender-based discrimination. I suggest that appellate courts best signify the revolutionary spirit of courts on key policy, and legal issues aimed to uphold women's human rights.

### **Human rights and women**

Human rights principles are enshrined in the UN Charter and the Universal Declaration of Human Rights. To date there are over 20 - human rights covenants and conventions that further define human rights and establish procedures to promote and protect them<sup>4</sup>. All major international human rights instruments affirm the rights of women<sup>5</sup>. But almost a quarter of a century after the passage of Universal Declaration of Human Rights, discrimination against women remained pervasive. Partly this was due to the public-private dichotomy that allowed states to renounce accountability for violations

- 
3. *Marsha Freeman. Women, Development and Justice, using the international convention on Human Rights, in Ours by Right: Women's Rights as Human Rights, p. 93*
  4. Also see. Nancy Flowers. *In our Own Words. A guide for Human Rights Facilitators and a Companion Tool to Safe and Secure and Claiming Our Rights. p. 13*
  5. Universal Declaration of Human Rights, International Covenant of Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the International Covenant on Civil and Political Rights, the

occurring in the private or family sphere. A separate treaty was considered necessary to combat the continuing and evident discrimination of women.

In 1979, the International Covenant on the Elimination of all Forms of Discrimination Against Women (CEDAW) was adopted identifying a number of specific areas where discrimination against women has been flagrant, specifically with regard to their participation in public life, marriage, family life and sexual exploitation and CEDAW is a powerful instrument in the delivery of development with justice and provides guidelines for legal, policy and programme development to promote equality as a means to justice.

CEDAW defines discrimination to mean any distinction, exclusion or restriction made on the basis of sex, which has the effect or purpose of imparting or nullifying the recognition, enjoyment or exercise, by women.. on the basis of equality with men.<sup>6</sup> CEDAW encourages states to adopt positive measures, including preferential treatment to advance the status of women. This aspect of human rights had been missing from the largely male-defined concepts of what is central to humanity, and strengthened the concept by taking into account the lives of the other half of the human race.<sup>7</sup>

A state being party to any of the conventions, agrees to

---

second Protocol on the Covenant on Civil and Political Rights, the International Covenant on the Elimination of all Forms of Discrimination Against Women, the Convention on the Rights of the Child, the African Charter on peoples' Rights and the Beijing Platform for Action

6. Article 1

7. Charlotte Bunch, Organizing for women's human rights globally in **Ours by Right: Women's Rights as Human Rights**. p. 141.

integrate the principle of equality of men and women in national legislation and to adopt legislative and other measures to ensure through national tribunals and other public institutions the effective protection of women against discrimination.<sup>8</sup> State obligation to stop human rights violation is not only limited to its own action. i.e the state as the violator but also extends to its readiness to deter and condemn such violations. The onus is greater when it is aware of the breach, as in the case of legal action or strong public protest involving such abuse.

Human rights are protected through three main systems, global (international), regional (continental) and national (domestic). CEDAW is the only document from the women's decade that carries legal obligations and provides for civil society engagement in monitoring violations.<sup>9</sup> However, there is a weakness inherent in the human rights system. Although the optional protocols provide a mechanism to compel state parties to action, its application is limited due to procedural requirements, mainly relating to locus and jurisdiction. Similarly, enforcement of human rights conventions is a question of political will, not only at the international level but also at national level.

The African Charter on Human and People's Rights<sup>10</sup> provided a human rights model for most countries in the continent but

<sup>8</sup> Human Rights a basic handbook for UN Staff. p. 14-15

<sup>9</sup> Marsha Freeman. *opcit.* p. 95

<sup>10</sup> The African Charter on Human and Peoples' Rights, OAU Dec. CAB/LEG/67/3 Rev. 5 (1981), reprinted in 21 I.L.M 58 (1982), entered into force Oct. 21. 1986

despite its revolutionary contribution in defining the context of human rights<sup>11</sup>, the African Charter has been ineffective in part due to the draw back clauses protecting African customs and traditions. This weakness is also apparent in some African constitutions. Tanzania is included, where customs and traditions are preserved at the expense of women. The UN commissioner for human rights who has mandate in pursuing gross human rights violations is like a toothless dog, underfunded and subjected to political collusion<sup>12</sup>.

### **Evolution of discourse of rights in Tanzania**

At independence, Tanganyika's 1962 constitution did not include a Bill of Rights.<sup>13</sup> Likewise after the union with Zanzibar in 1964, the Bill of Rights was suspended in the 1965 constitution so as to allow the state to engage in national construction according to a socialist model-Ujamaa. In 1977, the ruling party in Zanzibar, ASP, and on the mainland, TANU, merged. The constitution was amended to provide for party supremacy. Again, the Bill of Rights was left out.

11. For example, by shifting the emphasis from individual rights to collective rights.
12. See. Farewell speech by Mary Robinson#, High commissioner for Human Rights, in **News Spotlight** Friday, September 13, 2002, Currently the preoccupation is on the war on terror and prosecuting war criminals in former Yugoslavia and Rwanda while little emphasis is placed on promotion of human rights standards and on prevention of human rights violations.
13. The Independence Constitution of 1961 and the Republic Constitution of 1977 had a Bill of Rights in the preamble.

However, following Tanzania's acceding to the African Charter of People's and Humans Rights<sup>14</sup> a constitutional amendment was effected in 1984 incorporating the Bill of Rights.<sup>15</sup> This part came into force in 1988. The bill draws heavily from the international Bill of Rights, but leans towards political and civil rights. Social and economic rights are made part of directive principles which are not justiciable, while civil and political rights are circumscribed by draw-back and derogation clauses.<sup>16</sup>

Nonetheless, the inclusion of the Bill of Rights in the 1984 Tanzanian Constitution ushered in a new human rights era in courts. Courts were now required to "construe existing laws, including customary laws, with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the constitution."<sup>17</sup> Articles 12 and 13 provide for the right to equality and Article 29(2) stipulates that every person has the right to equal protection under the laws of the United Republic but until the 2000

---

14. Shivii describes the 1984 bill of rights as a superimposition on an otherwise authoritarian polity as the liberal 1961 Constitution was a superimposition on the authoritarian colonial legal order. He views the bill as a compromise with the new emerging Zanzibari leadership. The Zanzibar Constitution's bill of rights, came into effect immediately and it would have been awkward for the union not follow suit, see Issa G. Shivii, "Problems of Constitution-Making As Consensus-Building: The Tanzanian Experience". Sub-Regional Workshop on Land Tenure Issues in Natural Resources Management in the Anglophone East Africa.

15. Part III of The Constitution of the United Republic of Tanzania (Consequential Transition and Temporary Provisions (Act No. 16 of 1984). Chapter One deals with "Basic Rights and Duties"

16. See Shivii *op cit*.

17. Constitution of the United Republic of Article 5(1)

amendment, gender was not included in the definition of elements that constituted discrimination.<sup>18</sup>

Tanzania has signed and ratified CEDAW, as it has all major human rights treaties. This is of particular relevance to women as CEDAW outlaws all forms of (negative) discrimination against women, whether rooted in laws, customs and or religion. When looking at reported cases between 1993-1997 however, the only human rights documents quoted by the court as reference are the Constitution of the United Republic and the African Charter on Human and Peoples Rights.<sup>19</sup>

Most commonly, the constitution has been invoked in respect to civil and political rights on issues involving the Elections and Petition Act and Rules, Elections (Amendment) Act<sup>20</sup> the Prevention of Corruption Act, and The Criminal Procedure Act in respect to bail during this period among key issues discussed directly related to human rights include the death penalty declared unconstitutional in *R vs Mbushuu alias Dominic Myaroge*,<sup>21</sup> while *Lausa Alfan Salim and Others vs. Ministry of Lands, Housing and Urban Development and NHC*<sup>22</sup> and *OTTU vs. AG and Another*, concerned the right to appeal.<sup>23</sup> It appears that the judiciary in its choice of cases

---

18 Ibid Article 13(5)

19 Cited on DPP vs. Daudi Pete 1993 TLR (CA)22. The case was discussing the right to personal liberty in context of granting of bail.

20 Act No. 6 of 1992

21 (1994) TLR 146

22 (1994) TLR 237

23 (1997) TLR 31

and judgment exemplifies the overwhelming bias to first generation rights.

The distinction between categories of rights is of special significance to women. Second and third generation rights are relevant to African women as most women rights concerns fall within this subset of rights. African women often fail to recognize their human right or constitutional entitlements due to culture, tradition or religion. The situation is aggravated by the application of received law in most jurisdiction, outdated codes which not only are overwhelmingly patriarchal but often unsuited to local socio-economic systems.<sup>24</sup>

Generally, there is a paralysis by the courts in applying principles of equality so central in human rights with regard to issues around the family and livelihood as will be appreciated below. Yet, the separation of first generation from second generation rights does not reflect the reality of most women's lives where the violation of these rights are not so easily separated.<sup>25</sup> Undoubtedly this is an area women and human rights advocates can advocate on emphasizing how socio-economic rights are central to the achievement of women's rights.

---

24 See Athaliah Molokomme. "Women's Economic and the Human Rights Framework" in *Claiming Our Place: Working the Human Rights System to Women's Advantage*. p. 34

25 Charlotte Bunch *infra* p. 142

## Appellate courts and women<sup>26</sup>

Judicial landmarks are rare in the Tanzanian legal system, and it appears those involving women are exceptions rather than the rule. Since independence, there have been landmark rulings... of these since the reintroduction of the Bill of Rights in the constitution and involved women, existing decision, leave more room for contention, failing to set a clear, unambiguous standard in striking down laws or policies that are prima facie discriminatory.

One of the areas where constitutional challenges against discriminatory laws and practices with regard to women are property rights and land rights. However, when discriminatory provisions are challenged before the court as short of meeting constitutional muster, the court has been sending mixed messages in upholding human rights standards. For example, in *Scholastica Benedicto vs. Martin Benedicto*<sup>27</sup> held that customary law had the same status as other laws of the land.

Thus, with regard to women's rights to clan land, the court ruled in *Deocras Lutabana vs. Denis Kashaga* that, in respect to clan land, a woman had inherited she had no more than a life interest<sup>28</sup> and thus she could not sell or bequeath it while in *Rubuka Ntemi vs. Jalia Hassan & Gervasi Baruti*<sup>29</sup> the court held that a rule that discriminated against females is contrary to the constitution and therefore null and void.

26 This part is in no way exhaustive as it was difficult to access cases

27 Civil Appeal No. 26 of 1988

28 Also termed as a usufruct right

29 (PC) Civil Appeal No. 19 of 1986

This view was upheld in *Bernardo Ephrahim vs Holoria Pastory and Gervais Kaizilege* (PC) Civil Appeal No. 70 of 1989, which held that a customary rule, which bars only female heirs from alienating clan land, is discriminatory and hence unconstitutional. Ephrahim's case pioneered the use of an international instrument, in this case CEDAW to uphold human rights standards in the court but there is an ambivalence as to the propriety of the court engaging in such construction with absent legislative force

Justice Mwalusanya is one of the justices who consistently apply human right standards in construing the Bill of Rights, but had often faced criticism by his peers for failing to conform to jurisprudential principles. However, in view of the provisions of the Bill of Rights the court has largely failed to make practical statement in favour of women not only with regard to landed property but also with regard to gender equality.<sup>30</sup>

In light of decisions that appear to be fluid, how can activists soundly rely on such cases as precedent in breaking gender discrimination perpetrated by the legal establishment? The High Court, under Article 30(5) is empowered to rectify government breach (or fear of breach) of principle of equal protection or discrimination.<sup>31</sup> Also, the constitutional court can address itself to a law or action that violates basic rights

30 It must be emphasized that although the court had ample opportunity to widen the scope of discrimination to include gender, this was realized through legislative intervention and not through judicial interpretation. In fact, the Court desists from translating legislative intent as much as possible. Also see Mukoyogo. M.C. "The Law of Inheritance and the Position of Women in Tanzania (Mainland)" 1992

31 Article 30(3) enables one to file a petition to the High Court

of individuals.<sup>32</sup> Thus far, I am not aware of any legal challenge against the state on meeting its constitutional obligations and international obligation under CEDAW. More importantly, no action has been filed to the constitutional court, nor have women lawyers and activist demanded that it forms part of issues to be heard at constitutional court as part of the constitutional amendment sought in the larger democratic debate.

### **Weighing rights; civic and political rights versus economic, social and cultural rights**

Human rights are dynamic as is reflected in their historical evolution. First generation rights comprise civil and political rights emerging after World War II, while second generation rights comprising social and cultural rights reflecting the preoccupation of newly independent nations as well as the diversity in the global family and third generation rights make up solidarity, group or peoples' rights.

Whereas states have historically made firm commitments to political and civic rights, this is not true for areas of economic, social and cultural rights. This worsened with the collapse of the eastern bloc, which traditionally supported social and welfare rights. Nonetheless, the commemoration of the 50th anniversary of the UDHR highlighted the universality, indivisibility and interrelationship

---

32 Article 125-126

of all human rights. It reinforced the idea that human rights, civil, political, cultural, economic and social- should be taken in their totality and not dissociated.

One of the issues that prompted this study is a recent development in legal advocacy in Tanzania. Gender and civic activists recently hailed a decision termed a "class litigation" by a newly appointed woman judge concerning an election petition.<sup>33</sup> The high court found for the appellant by finding Sections 11(2); (3) and (4) of the Elections Act of 1985 as amended by the Electoral Laws (Miscellaneous Amendment) Act of 2001 as being unconstitutional for they violate Articles 13 (1); (2) and 6(a) of the Constitution of the United Republic. The plaintiff was challenging the constitutionality of the restrictive provision requiring an aggrieved party to pay Tshs. 5 million, being security for an appeal to an election petition in which Mr Ndyanabo contended that the provisions were discriminatory in that the cost was prohibitive for the majority and therefore denied equal access to justice.

Indeed, the decision is significant not only because it is a reflection of active judicial engagement but also in that it embodies the essence the judicial function advanced in this paper. How much does this litigation spell as a gain for women or for human rights considering that the plaintiff, a lawyer was aptly represented and hardly impeded from accessing the judicial process. How far does this decision go

---

33 The case Ndyanabo vs the Attorney General was adjudicated by Madame Justice Natalia Kimaro

in addressing the needs of the marginalized, most of whom are women and poor, in getting due process?

To demonstrate the gap in the struggle to assert human rights is the fact that the decision took a very short time to effect, as it was lodged in the High Court as a court of first instance. However, cases that involve women's legal struggles to assert their rights, begin in courts of first instance and take on average of years to finalize, if at all. Also, it is at these levels that most corruption and delays in the administration of justice is experienced.

According to Rwebangtra legal problems women presented to legal aid between 1980-1989 it saw matrimonial and inheritance issues top the list.<sup>34</sup> This continues to be the trend in most legal aid programmes with labour issues assuming greater prominence.<sup>35</sup> Succession and inheritance issues in Tanzania Mainland are characterized by the co-existence of different systems of law: their application depends on ethnicity, race, religion or mode of life. This complex system gives rise to conflicts and difficulties in choosing which law to use.<sup>36</sup> Primary courts have original jurisdiction over these issues.

---

34 Sections 14 and 15 of the Magistrates Courts Act, 1984 and the Order of the Chief Justice published as Government Notice 320/1964, rule 2

35 See Annual Reports of KWIECO, LHRC and WLAC 1998-2001

36 UN Habitat, p. 137

Where women make inroads in the judicial structure, statutes upholding cultural traditional, or religion limit options for redress. But excusing human rights violations in the name of tradition, culture or religion obfuscates the real oppression of women and distorts what is essentially a women's rights issue even when constitutionally sanctioned.<sup>37</sup> Further, it runs counter to notions of respect for justice and human dignity inherent in the traditions of most cultures- as long established practices in some, and in others as part of holy texts or legal codes.<sup>38</sup>

Thus, amidst the present climate of rapid social and economic change, increased work insecurity, HIV/AIDS and the feminization of poverty and cultural backlash perhaps there are other more fundamental considerations to emphasize in order to make such rulings more relevant to women and marginalized groups. In addition, the implementation of Tanzania's international obligations (CEDAW, CRC, etc.) is in question when the majority of its population cannot enjoy their human rights.<sup>39</sup>

International human rights organizations, laws, covenants and other instruments require re-interpretation or amendment if

37 Rani Jethmalani, Reasserting Constitutional Guarantee in the Struggle Against Sati. in *Women Law and Development: Action for Change* p. 70-71

38 Flowers *infra* p. 12 notes that all societies have ways of caring for the health and welfare of their members. This however should relate to the actual not desired.

39 *ibid*

they are to promote or protect the rights of women. Although the World Bank is involved in legal reform and funds programmes in health and education, women's social and economic rights are not yet analyzed within a legal context.<sup>40</sup> Also, progressive law reforms intended to protect women can be rendered ineffective and irrelevant depending on judicial interpretation as was the case with the Law of Marriage Act.<sup>41</sup>

### **Building a case for judicial activism**

The urgency of assuring the human rights of women took greater prominence with the Nairobi World Conference on Women in 1985, but very little progress has been made on the ground. World forums on human rights and sustainable development continue to make constant references to states taking the necessary measures to ensure that women's inferior status is overcome. Such measures fall into the political, social, economic and cultural spheres and consist in the establishment of sanctions, the creation of national tribunals and public agencies, which aim to impede discriminatory actions, or in efforts to modify the patterns in social and cultural behaviours.

The value in using the human rights paradigm, however, lies in the political and legal effectiveness that actions at the international level have on the understanding and exercise of

40 Joanna Kerr. "Strategies for Action" in *Ours by Right, women's rights as human rights* p. 160

41 Act no. 5 of 1971 the LMA introduced many progressive provisions like the concept of matrimonial property banning spousal battery

rights in specific contexts at the local level.<sup>42</sup> Radhika Coomaraswamy notes that for human rights to be effective, they have to go beyond the normative, textual essence and become part of the legal culture of a given society. They must strike a responsive chord in the general public consciousness with regard to civil and political issues.<sup>43</sup> It is for this reason that, for example, courts issue stringent penalty for crimes of murder or robbery, to acknowledge general public consciousness about the undesirability of such uncivil politically incorrect behaviour.

Common law jurisdiction's concern on whether a country has or not ratified an international instrument is *non sequitur* as a basis to continue denying a segment of the population their basic and human rights.<sup>44</sup> On the contrary, the judiciary has a corresponding duty to see that CEDAW is used as a frame of reference in human rights litigation. CEDAW obligates governments to take on the issue of customs by taking all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view of achieving the elimination of prejudices and

40 Joanna Kerr. "Strategies for Action" in *Ours by Right: Women's Rights as Human Rights* p. 160

41 Act no. 5 of 1971 the LMA introduced many progressive provisions like the concept of matrimonial property banning spousal battery

42 Margaret Schuler (ed) *Claiming Our Place: Working the Human Rights System to Women's Advantage*. 1993 p. 3

43 Radhika Coomaraswamy. "To bellow like a cow: Women, ethnicity and the discourse of rights". in *Human Rights of Women: National and International Perspectives*. p.39

44 *Also see*. *Women, law and development action for change series on women, law and development issues and strategies for change*. p. 5

customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for men and women.<sup>45</sup>

Appellate courts set precedents that are binding on lower courts. In Tanzania, the high court acts as a court of first instance with regard to human rights violations but it has not been proactive in developing a comprehensive human rights framework to cater for human rights violations nor in giving guidance to positive interpretations of international instruments where such provisions are not incorporated into domestic law. This contrasts with domestic courts in England and continental Europe that seek to make regional human rights statute enforceable where government fails to introduce the relevant legislation.<sup>46</sup>

The courts' ability to uphold human rights standards, absent state influence, is not only a statement of the state's commitment to human rights but also evidences human rights consciousness, and the presence of a human rights culture. In fact, judicial intervention on human rights matters not only reflects policy sentiments towards human rights but also obligates its strict observance. A court decisions can compel executive action when the latter has fallen short of meeting rightful obligation.<sup>47</sup> Also, a court can respond more

45 CEDAW Article 5

46 See Borgen "Judicial views of international law" in *American Society of International Law Proceedings of the Annual Meeting*. Washington 2001 p. 29

47 In *C. Mtikila & Others v. R.* Criminal Appeal No. 90 of 1992 (Dodoma Registry (Unreported) Mwalusanya J. ruling on an appeal sections 41 and 42 of the Police Force Ordinance. Cap. 322 wrote. "I construe section 41 of the Police Force Ordinance to be void. From now onwards this section is deleted from the Statute Book"

effectively to evolving needs in the community thereby setting a policy standard.

A case in point is Brazil where the UN convention was the basis for reforms of the civil and penal codes, labour and other laws, which do not conform to women's reality in contemporary society. The convention document is not only a powerful tool on the fight for women's rights, but can work as a valuable inspiration for the next steps, either of legislative nature or some other means women may take.<sup>48</sup>

Likewise, international law played an important role in South Africa's recent history. During the apartheid period, judges used international law to elucidate how apartheid laws were internationally unacceptable thereby providing them with an opportunity to critique the inequity of the apartheid systems. International law was important in not only shaping the new South African Constitution of 1994, but in interpreting it after ratification.

The same holds true for International Criminal Tribunals where lawyers, prosecutors and courts have had to be imaginative and adaptive to build up a new international jurisprudence and procedure. Knowledge of international law norm acts as background information to a judge and goes further in giving a judge positive ground to act according to

---

48 Silvia Pimentel. "Women participate in the crafting of the new constitution" in *Women, law and development - Issues and strategies for change*. p. 46

human rights standards.<sup>49</sup> It has been over 15 years since the Bill of Rights was introduced in the constitution reaffirming Tanzania's readiness to be bound by international human rights norms and standard. Shouldn't national courts demonstrate a more vigorous stance with regard to gender-based discrimination, either subtle or obvious, in law or policy as an affront to human dignity and notion of justice?<sup>50</sup>

### **Raising constitutional standards**

Human rights activists and movements have failed to give violations of women's human rights the attention and in some cases, the priority that they require.<sup>51</sup> In the case of Tanzania, for the most part, our strategy has focused on legal reform and executive action. Few follow-up on state action on a regular basis as a monitoring mechanism to pressure state and state arms to human rights vigilance and action. Instead of assuming a strong public policy profile we adopt an approach that is opportunistic, seasonal and dictated by extraneous events. However realizing a deep change in women's circumstances means corresponding change through

49 For this, generally see J. Borgen op op p. 28 summing discussion of judges Ricahrd Goldstein of Constitutional Court of South Africa and Judge John Walker from the US Court of Appeals for the second.

50 An argument can be advanced on basis of legal maxim "justice delayed is justice denied"

51 Steiner HN and Alston P **International Human Rights in Context - Law, Policies and Morals** p. 118

social life. There is need to make the concept of human rights a functional framework via-a-vis women's rights. This requires stretching our own capacities to even greater conceptual and strategic clarity.<sup>52</sup>

The traditional dichotomy between the public and the private is very clear in the position which used to be taken towards domestic violence, most of the time directed at women, leading to a state policy of non-interference. A main issue for women all over the world has been to have domestic violence<sup>53</sup> recognized as a social problem, not a familial one and therefore, taking it from the private to the public. The creation of women police stations in Brazil was the biggest step towards addressing sexual violence. Having a provision set forth in the constitution obliging the state to create a mechanism to avoid violence in the family was certainly a significant victory but not the final one.<sup>54</sup>

In Zimbabwe, *Magaya vs. Magaya* challenged the incorporation of traditional and customary laws in constitutional framework seeing it as paralyzing the advancement of gender equity. Vennia Magaya lodged a claim to inherit and administer her father's estate but the court ruled that she could not inherit her father's estate even though Zimbabwe's laws and international treaties clearly backed

---

52 Margaret Schuler (ed) *Claiming Our place: Working the Humna Rights System to Women's Advantage* p. 3

53 Whether it is physical, sexual or psychological violence, each form is based in sexual hierarchy

54 Schuler op cit p. 52

her claim. Instead, the court gave the estate to her half-brother, claiming that the 1982 Majority Age Act was interpreted too widely: giving women rights they never had under customary law. Amidst public uproar a government official clarified the court decision stating that the Act had not gone far enough to repeal the customary law practice entitling the son, not the daughter, of a customary marriage right to inherit, despite the Legal Age of Majority Act.<sup>55</sup>

In Africa there is no regional judicial system to monitor and enforce human rights. We are yet to see if the newly established East African Court will engage itself with the issue. The responsibility thus falls on the national legal system. A special measure that the state can require of its judicial arm is to subject cases involving the violation of the human rights of women to the highest standard of constitutional scrutiny (and natural justice). This will encourage the incorporation of CEDAW and other progressive human rights provisions in national legislation, local human rights jurisprudence and the administration of justice as well as legislative processes. It will also overcome the conflict of customary law and colonial law and contribute in developing a protective legislation for women.<sup>56</sup>

Perhaps lessons on how the court can keep abreast policy and sectoral developments can be drawn from more dynamic

---

55 See. UN WIRE May 12, 1999 - Zimbabwe: Supreme Court Revokes Women's Rights in **Women International Network News** 25 -3 Summer 1999 p. 59

56 Georgina Ashworth. "Women and human rights - Recommendation in". **Ours by Right: Women Rights as Human Rights**. p. 176

sections of the legal practice such as commercial or business law, intellectual property and reproductive health law. This requires that the judiciary should have ample assistance with research to keep abreast of legal development within and without the jurisdictions.<sup>57</sup> It may afford trainee lawyers an opportunity to experience a dynamic and principled legal practice.

### **Conclusion**

Human rights are inherent to all human beings and are therefore indivisible, interrelated and interdependent. UN charters seek to promote and encourage respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. Continuing to deny women their human and legal entitlements solely on account of their gender is denying them their humanity. For developing nations the elimination of discrimination against women is not only a universal value but is critical to development.<sup>58</sup>

The acquisition of rights is important because in most societies women operate from disadvantaged position. There have been few effective channels to carry women's voices, interests and concerns into the mainstream human rights law-making arena, and women have remained in a sideline;

---

57 For concrete examples of such opportunities see Diane Edelman. "Teaching International Law - The visible college of international law clinicians: Making a real difference in law school and in the world". in *American Society of International Law, Proceedings of the Annual Meeting*, Washington 2001 p. 188

58 Marsha A. Freeman. *infra*.

specialized international sphere.<sup>59</sup> Thus, the avenues for addressing violations of women's human rights must be fully or systematically explored and exploited. This exploration, often enough, will entail a creative interpretation of one's mandate or mission; one that takes account of the changing political, social and legal environment and consecutive approaches towards tackling this environment and specific issues.<sup>60</sup>

One way to ensure that women's voices find a public audience is to incorporate an understanding of the world from the perspective of the socially subjugated.<sup>61</sup> The court remains an important avenue to realize this. The legal foundation of rights serves as a basis on which to build structures that will protect the security and integrity of women and provide women with an equitable opportunity for individual and collective development.<sup>62</sup> In applying a constitutional standard to human rights concerns, the court remains consonant with the need to engage in social engineering towards building a more equitable society: and greater human rights consciousness and culture.

---

59 Hilary Charlesworth "What are women's international human rights?" in Rebecca Cook p.63-68

60 Agnes Callamard. *A methodology for gender-sensitive research*. p. 21

61 *ibid* p. 76

62 Rebecca Cook p. 47

## REFERENCES

- Agnes Callamard (1999). *A Methodology for Gender-Sensitive Research*, Amnesty International and International Centre for Human Rights and International Development.
- Chris Mama Peter & Ibrahim Hamisi Juma (1998). *Fundamental Rights and Freedoms in Tanzania*, Mkuki na Nyota Publishers.
- Chris Mama Peter. "The Human Rights System- An Overview," a paper presented at the Faculty of Law 40th Anniversary 7-9th February, 2002.
- Chris Mama Peter. "The State of Human Rights in Tanzania." a Keynote address, given at the public rally to celebrate 50 years of the Universal Declaration of Human Rights of 1948, organised by the United Nations Association of Tanzania and held at the Institute of Finance Management in Dar es Salaam on 10th December, 1998.
- Christopher J. Borgen. "Judicial Views of International Law," In American Society of International Law Proceedings of the Annual Meeting, Washington 2001 p 28.

Diane Edelman. "Teaching International Law- The Visible College of International Law Clinicians Making a Real Difference in Law School and in the World", In American Society of International Law Proceedings of the Annual Meeting, Washington 2001 p 188.

Ferdinand Wambali "International Human Rights Law and Women's International Human Rights.

Issa G. Shivji. "Problems of Constitution-Making as Consensus- Building: The Tanzanian Experience, Sub-Regional Workshop on Land Tenure Issues in Natural Resources Management in the Anglophone East Africa, with a Focus on the IGAD Region Addis Ababa, organized by the United Nations Economic Commission for Africa 11-15 March 1996.

Joseph Oloka-Onyango, Kivutha Kibwana and Chris Mama Peter. *Law and the Struggle for Democracy in East Africa.*

Katha Pollit, Women's Rights: As the World Turns In *The Nation* Vol 268 issue 12 March 29. 1999 p. 12.

Kivutha Kibwana & Chris Mama Peter (2001). *Constitutionalism in East Africa- Progress, Challenges and Prospects in 1999.* Fountain Publishers.

Magdalena Rwebangira (1992) 'Some Aspects of Women and the Courts in Tanzania,' (unpublished)

Magret Schuler (ed). *Women, Law and Development: Action for Change.*

Mwalusanya. James L. "The Protection of Human Rights in the Criminal Justice Proceedings: The Tanzanian Experience ". in *The Protection of Human Rights in Criminal African Proceedings*, under the direction of M. Cherif Bassiount and Ziyad Motala. pp. 285-306. Dordrecht, Martinus Nijhoff Publishers 1995.

Nancy Flowers (1999). *In Our Own Words: A Guide for Human Rights Facilitators and a Companion Tool to Safe and Secure and Claiming Our Rights, Sisterhood* Global Institute.

Nathalia Kimario and Pellagia Khaday (1999). *Towards a Jurisprudence of Equality Women Judges and Transnational Human Rights Law*, Training Manual.

Rani Jethmalani. "Reasserting Constitutional Guarantees in the Struggle Against Sati," In *Women, Law And Development- Action for Change Series on Women, Law and Development Issues and Strategies for Change* edited by Magret Schuler No 2.

Regina Rweyemamu. *Judicial Activism and Gender Rights in Tanzania.*

Sarah Pritchard. 'The Jurisprudence of Human Rights: Some Critical Thought and Developments in Practice' *Australian Journal of Human Rights* available at <http://www.austlii.edu.au/ahric/ajhr/ajhr2102pritchard.html>.

Steiner H.N. and Alston. P *International Human Rights in Context: Law, Policies and Morals*, Clarendon Press P 118

UN. *Human Rights- A Basic Handbook for UN Staff No.19*

jurisprudence. For example, those of Indo-Pakistani origin generally are Hanafi while small groups of the population of Yemeni origin belong to the Maliki and Hanbali schools. Muslims of African origin are mainly Ibadhiyya, a moderate branch of the Khariji movement. The Shii'a minority, mostly of Asian origin, are Ismaili, Ismahi and the Bohra. A small but active Ahmadiyya group is also present in the country.

Colonialists polarized the Tanzanian community ethnically and religiously for strategic reasons. This was most evident in the area of education. Native children were required to

6. There are 5 main schools of Islamic jurisprudence, Shafi, Hanafi, Maliki, Hanbali and Ibadhiyya. The first 4 are Sunni sects while the last comprises the Shi'a sect.  
7. See Abdallah Y. Ismail and David Washbrook (1985) March 1992.



## 8

# BATTLING FOR SPACES IN TRADITIONAL STRUCTURES

## The Case of Muslim Women in Tanzania

Salma Maoulidi

### Introduction

In most traditions and cultures, women have always organized themselves. In fact, in the African context, through their organizing they undertook many community roles, both productive and reproductive, and generally provided a sense of community cohesion necessary for survival. However, traditional forms of organizing are changing. The contact with colonial structures in the early part of the 20th century affected modes of organizing locally. Following political independence in Tanzania, the state, through its political and public organs played a role in organizing communities, but it is perhaps the development sector that had the biggest impact in traditional forms of organizing towards more formal and institutionalized

structures.

Amidst current economic decline, the civil society sector is increasingly assuming a key role not only in development interventions, but also as an emerging labour sector in its own right. NGOs and development agencies have been purposely seeking women to assume positions while others commit to implement gender-sensitive programmes, thereby assuring that women are reached and benefit from development interventions. Religious institutions play a vital role in supplementing the state in the provision of social services. Religions and religious communities have reaffirmed their role in development, from grassroots to transnational levels. They remain important social and intellectual centres of the masses, and have significant presence and influence among people.

One of the critical areas of concern in the Beijing Platform for Action is women's participation in decision-making structures. There has been much agitation on the part of civil society organizations to demand that governments increase the number of women at decision-making levels. In Tanzania, a constitutional amendment in 2000 raised the number from 15% to 20-30% of the legislature.<sup>2</sup> Likewise, women's participation is guaranteed in local governance structures, both at the council level and at the village level.<sup>3</sup>

1 Rajkumari Shanker, "Religion and Development", in **DEVELOPMENT EXPRESS**, CIDA p. 7 downloaded at <http://www.acdi-cida.gc.ca>

2 The Constitution of the United Republic of Tanzania 13th Amendment Act No. 3 of 2000

3 The Land Act for example requires that the land Village Assembly and Council have 30% female representation.

But how have women fared in civil society structures and interventions? How are women represented in key processes? Do they have a right to participate on equal footing in key processes affecting them and their communities? In this paper, I focus on the experience of Muslim women.

Faced with numerous challenges — oppressive social, political, economic and philosophical systems, a hostile political climate and world economic imbalance — Muslim women are exploring diverse means and forms of asserting themselves. Often they have to contend with religious and political undercurrents, which blur the real issues at stake. Ultimately their struggle is about governance, at an individual and institutional levels, a struggle touching the heart of fundamental rights and freedoms- the right to dignity and equality, freedom of association; the right to participation and representation, the right to make decision.<sup>4</sup> This study paints the experiences of Muslim women to claim political spaces in traditional religious and political structures. This is a difficult task as there are few studies about Muslim women in East Africa, and about Muslims generally. I therefore build on my experience as a human rights activist and in organizing Muslim women to contrast the theory and practice of Islamic rules, in both the religious and secular contexts, in order to expose particular challenges Muslim women face in asserting

---

4 Salma Maoulidi, "The predicament of Muslim women in Tanzania", In ISIM Newsletter issue No. 10, July, 2002 (available at [www.isim.nl](http://www.isim.nl))

their rights, both religious and legal. I also make reference to similar experiences from other Islamic communities in my discussion.<sup>5</sup>

I have divided the work into three main parts. In the first part of this study I introduce the contexts in which Muslim women presently find themselves in Tanzania. I make a general, or at least dominant analysis of the state of Muslims in Tanzania chiefly as perceived by themselves. In so doing, I revisit the history of Muslims in Tanzania and look at key events that have shaped Muslim-state relations, Muslim-Christian relations as well as Muslim-Muslim relations.

I then go on to address, in the second part, what, amidst this reality, are the main issues for Muslim women in Tanzania as they battle for political space in traditional and mainstream political structures. I focus part of the discussion on the current turmoil in the impending reforms to personal laws since the religious establishment is categorically against any tampering with Muslim personal law. Yet, women continue to suffer the unilateral application of the Sharia with little consideration to the principle of justice and compassion for the most vulnerable in the community advocated for in the Quran.

In the concluding chapter, I try to explore potential areas for consideration as we try to assert ourselves in a civic climate polluted with religious and political bigotry. I share some

---

<sup>5</sup> I use the term community as it is largely accepted that there is no country following a pure Islamic legal or political system to warrant being called Islamic country.

initiatives adopted by my organization, Sahiba ☆ Sisters Foundation, to advance the cause of Muslim women in Tanzania before examining some positive developments in Islamic communities as well as the international community towards upholding women's dignity in key structures.

## **Muslims in Tanzania- issues and demands**

### **Profile of Muslims in Tanzania**

Muslims in Tanzania are a diverse group. The great majority are Sunni who follow the Shafi School and comprise mainly natives. Other ethnic groups represent other schools of jurisprudence.<sup>6</sup> For example, those of Indo-Pakistani origin generally are Hanafi while small groups of the population of Yemeni origin belong to the Maliki and Hanbali schools. Muslims of Oman origin are mainly Ibadiyya, a moderate branch of the Khariji movement. The Shiite minority, mostly of Asian origin, are Imami, Ismaili and the Bohra. A small but active Ahmadiyya group is also present in the country.<sup>7</sup>

Colonialists polarized the Tanzanian community ethnically and religiously for strategic reasons. This was most evident in the area of education. Native children were required to

6 There are 5 main schools of Islamic jurisprudence, Shafi, Hanafi, Maliki, Hanbali and Immamiya. The first 4 are Sunni Sects while the last comprises the Shiite sect.

7 See Abdulaziz Y. Lodhi and David Westerdund (MSS March 1997)

convert to Christianity upon enrolment. Consequently, many Muslim parents resisted sending their children to school for fear of conversion. Children who were sent to missionary schools spent years and great distance away from home and some ultimately converted to Christianity. Alienated from their communities and cultures, these students later formed the cream of colonial administrative manpower. As a consequence, the Muslim population was under-represented in the academic and professional sectors. Therefore Muslims welcomed the decision by the TANU government to nationalize the schools in 1969, as they believed it would redress the imbalance in the education sector against them.

The Islamic community has a history of political activity in the country and formed the foremost opposition to colonial rule. The colonial administrations, both German and British, aided by missionary propaganda that facilitated the colonial inquisition played the religious factor to undermine the internal opposition they faced claiming that most of the resistance was from Arab slave traders. However, with the *Majimaji* uprising by Chief Mkwawa, from South Central Tanzania and Kinjekitile, such opposition could no longer be confined to Arab slave merchants.<sup>8</sup>

Most towns that aligned the old trade, and later slave routes, were Muslim. Consequently, most colonial settlements first began in Muslim towns such as Zanzibar, Bagamoyo,

---

<sup>8</sup> See *Nasaha* No. 119 of September 26-October 2, 2001. Also see, Lodhi and Westerlund.

Tanga, Tabora, Ujiji, Dar es Salaam and Kilwa. Muslims, however, feel that this fact is not acknowledged in official publications, as well as in the school curricula, where Islam is not only associated with Arab slave traders, but increasingly seen as an imposition on the local population effectively underplaying its contribution to the local culture.<sup>9</sup> This is most evident in the ongoing discussion in the origins (and linguistic structure) of Kiswahili, leading some Muslim scholars to conclude that it is an attempt to deny the language of its rich Arabic heritage.

It was thus inevitable that the Muslim population formed the base of the liberation movement against colonial rule. Initially, this was through associations and labour unions, social clubs and football clubs, but in time grew into more sophisticated political entities.<sup>10</sup> Muslim women took an active part in these movements, yet their contributions in official records are neglected. Muslim historians and researchers attempting to rewrite Tanzania's history have so far failed to rectify the anomaly. The only woman whose name keeps coming up in historical accounts is Bi. Titi Mohammed, one of the first women ministers in Tanzania and one of the first women to be imprisoned by the independence

9 The fact remains that while Christianity is just over 150 years old in the region, Muslim settlements have been traced to at least 1000 years, especially in coastal towns.

10 See Mohammed Said, *The life and times of Abdul Wahid Sykes*

government for treason. Yet, there are many unsung heroines who sold their properties to fund and support TANU activities, as well as undertaking the critical role of mobilizing party membership.<sup>11</sup>

### Muslims and state relations

The Constitution provides for freedom of religion, and the government generally respects this right in practice, subject to measures that it claims are necessary to ensure public order and safety.<sup>12</sup> While the Tanzanian government is secular and adheres to the strict separation of church and state, Muslims perceive state action as arbitrary and bias towards them.<sup>13</sup> Some attribute the uneven use of force in Zanzibar following the 2000 elections as CCM's (the ruling party) long battle against Islamization.<sup>14</sup> On 27 January 2001 armed police shot dead at least 22 opposition demonstrators (according to government figures) and possibly more than 60 (as the

- 
- 11 As Muslim women could own and inherit property many bequeathed their houses to the Party. One such woman was Biti Feruz of Singida who funded and protected Nyerere when he campaigned against the colonial administration in Singida, a key constituency. Others are Rukiya Binti Abdalla, Zeitun Fadhili and Mwanabibi Forodhani of Songea, Halima Chambo and Mariam Puga Puga of Handeni Tanga.
  - 12 U.S. Department of State, **Annual Report on International Religious Freedom for 1999: Tanzania**, Released by the Bureau for Democracy, Human Rights, and Labor Washington, DC, September 9, 1999 Section I.
  - 13 A more comprehensive account of some of the key claims of Muslims are available at [www.islamtz.org/nyaraka/w\\_lalamika/toc.htm](http://www.islamtz.org/nyaraka/w_lalamika/toc.htm).
  - 14 This is the tone of Islamic Newspapers like *An. Nur* and *Nasaba* and is supported by authors like Hamza Njozi, Abound Jumbe, Mohhamed Said and others.

opposition claims)<sup>15</sup> on Pemba Island, which is part of Zanzibar and is ruled by the semi—autonomous government of Zanzibar.<sup>16</sup>

Throughout Tanzania's colonial and post-colonial history, the state has clashed with Muslims. The prominence of Muslims in political activity singles them out as anti-state agitators. Just as mainly Muslim towns attracted the wrath of the colonial administration in anti-tax and later anti-colonial resistance, the independence government also harassed, imprisoned and exiled prominent Muslim personalities. Many Islamic leaders, political and non political, 'were imprisoned during Nyerere's rule on suspicion of challenging his authority in TANU and his policies.<sup>17</sup> As Tanzania experiences pluralism Muslims fare no better and they continue to report increased acts of open hostility at the individual and class levels.<sup>18</sup>

They thus see the events of January 2001 as a culmination of acts of violence against the Muslim population. In 1993 following the Pork Butcher Riots, the Field Force Unit (FFU), Tanzania's version of riot police, was sent in to

---

15 See AMNESTY INTERNATIONAL PRESS RELEASE Tanzania: Commission of Inquiry findings must be made public News Service No: 101 14 June 2002.

16 This is significant as Zanzibar is 99% Muslim according to **World Development Indicator Database**. There are varying figures as to the percentage of Muslims on the Mainland.

17 See Mohammed Said, op cit.

18 See for example former Zanzibar president's Aboud Jumbe book **The Partnership: Tanganyika-Zanzibar Union - 30 Turbulent Years**, Amana Publishers 1994.

roughen protesters who were denouncing the unregulated operation of pork butcheries and pig breeding in residential areas. Many of those arrested were refused bail and remained in detention for long periods without being formally charged. Again in February 1998, police allegedly in trying to quell riots at the Mwembechai Mosque in Magomeni suburb in Dar es Salaam, opened fire on protesters killing three persons in cold blood and wounding several others. Approximately 200 Muslims were arrested and detained including prominent Islamic preachers. Most were denied bail.

There are reports that police tortured and sexually humiliated a group of Muslim women arrested during the riots and forced them to sing Christian songs while in custody.<sup>19</sup>

Muslims accuse the government of open bias against Muslim interests. Among examples they cite to assert their claims include the delay or arbitrary denial of applications for plot allocation for building of mosques and schools; permits to hold demonstrations and public meetings; and registration of groups and organizations. Muslims are also bitter about the government's curtailment of their right to organize and to manage their affairs. Since independence, opportunities for organizing have been curtailed. A popular organization the East Africa Muslim Welfare Society

19 U.S. Department of State, *Annual Report on International Religious Freedom for 1999*, also *International Religious Freedom Report* issued on October 26, 2001.

(EMWAS) was disbanded in 1968, its leaders imprisoned and a new organization, the Supreme Muslim Council of Tanzania, (Baraza Kuu (a Waislam wa Tanzania, BAKWATA), set up in its stead.

In fact, the legitimacy of BAKWATA is at the heart of the ongoing controversy between the state and Muslims, as the latter feel it is not a representative body but a state imposition, something Christians are not subjected to. A Parliamentary Commission of Inquiry and a report of the Roman Catholic Church of Tanzania in 1992 confirmed Muslim claims. Also, a Catholic academician issued a publication that came to a similar conclusion.<sup>20</sup> In 1994 Aboud Jumbe, the former president of Zanzibar, further described the dominance of Christians and the underprivileged position of the Muslims in the country as not per chance.<sup>21</sup> Thus, National and regional parole boards, constituted in 1998, were dissolved amidst Muslim uproar when it was found that they did not include Muslim members. The government named new boards in January 1999.

The perceived discrimination against Muslims has increased religious tension in the country. In 1998, amidst rising civic strife in the country, USAID sponsored an independent flashpoints study to determine whether there was

<sup>20</sup> Matters came to a head when Rev. John Sivalon wrote a book in 1992, *The Catholic Church and Tanzanian Politics from 1953-1985*, stating that the political and educational imbalance between Christians and Moslems was purposeful. Also see Jan Pvan Bergen, *Development and Religion in Tanzania*.

<sup>21</sup> Aboud Jumbe, op. cit.

religious tension in Tanzania. Despite strong arguments from Muslim representatives showing clear patterns of suspect behaviour on the part of the government, the team of researchers, which incidentally had no Muslim, played down the magnitude of the problem claiming it was more an issue of perception than intention. During the Eid Baraza in 1999 a representative body of Muslim leaders<sup>22</sup> presented the government with a series of grievances for joint resolution. However, the government has not responded to the issues to date. Instead, it has clamped down on religious leaders believed to incite adherents to civil disobedience. Subsequently the Ministry of Home Affairs sent 22 religious organizations, mostly of Arab origin and with an 'Islamic affiliation', a letter demanding that they show cause why they should not be deregistered and expelled from the country.<sup>23</sup>

The state of affairs increasingly affects Muslim-Christian relations, which has, by and large, been harmonious in Tanzania.<sup>24</sup> Some acknowledge that throughout Tanzania's history a certain tension has existed under the surface, but it has seldom led to open conflict. Nyerere, in his valedictory address in 1985, stressed the fact that the risk of religious conflict in Tanzania has been greater than ethnic strife. According to him large religious conflicts have been avoided

---

22 The Shuraa or Consultative Council comprised representatives of all the major Muslim sects in the country. See *An Nur* No. 187 February 5-11, 1999.

23 Lodhi and Westedund provided most of the information for this part.

24 Trends in Constitutional and Political Development, *Conflict Trends* No. 3 of 2001, available at [www.accord.org.za](http://www.accord.org.za)

not least because most Muslims have set national interests ahead of religious concerns.<sup>25</sup>

Lodhi and Westerlund note a tendency toward increasing conflict between Muslims and Christians in Tanzania and attribute it, among other reasons, to the growing Christian fundamentalism in the country. They claim that to many fundamentalist Christians, Islam is considered the archenemy, particularly since communism is no longer perceived as a threat. However, in addition to the historical context such trends should also be understood in the light of current political and constitutional development in the region to give a balanced perspective to the issues at stake and defining an appropriate strategy towards meaningful resolution of the impasse.

### **Islamic organizations in Tanzania**

Like other communities, Muslims, especially those living in urban areas, mostly organized through their *masjids* or mosques. Perhaps as a colonial feature of racial and ethnic segregation, it was not uncommon to find some of the mosques organized ethnically like the Manyema Mosque, the Ngazija Mosque, the Arab Mosque, the Bohra Mosque and the like. However, a Mufti was appointed to provide leadership on Islamic matters with broad consultation among the larger (Islamic) leadership. It was also common for

---

<sup>25</sup> *Ibid.*

Muslim women in towns to belong to associations or clubs called *Lele Mama* as well as Taarab.<sup>26</sup> This played an important role in entertaining the population as well as political organizing. Men commonly organized around sports clubs.

Muslims also organized in more formal structures that furthered both religious and development aims. One of the first organizations with a broad base was the East African Muslim Welfare Society (EAMWS). EAMWS was founded in Mombasa in 1945 by the then Aga Khan with the aim of promoting Islam and raising the living standards of Muslims in East Africa. The Ismaili community is well known for promoting the establishment of schools, hospitals, libraries, and engaging in industrial development in the region and the Aga Khan intended that EAMWS would become an organization with pan-Islamic ambitions. In 1961, however, EAMWS headquarters moved from Mombasa to Dar es Salaam and a Nyamwezi Chief, Abdallah Fundikira, regarded as Nyerere's principal political rival in the 60s, became the president of the organization, curtailing the dominance of Asian leadership.

EAMWS concerned itself with the building of schools and mosques, providing scholarships and spreading literature. In the early 50s, it financed the Muslim Academy, a training college for teachers of Arabic and Islamic education in

---

26 A woman's native dance while tarrab is a melodious mixture of Arab, Hindi and African music played in the East African Coast.

Zanzibar. However, the academy was closed down by the Revolutionary Government of Zanzibar in 1966 and only reopened its doors in mid 70s. EAMWS also planned to start an Islamic University in Zanzibar or Mombasa, but as a result of the pan-Islamic tendencies and the capitalist-oriented leadership of EAMWS pro-TANU Muslims opposed it claiming it constituted a threat to the ruling party. The antagonism culminated in 1968, when the organization was declared illegal in Tanzania. Other Muslim organizations were also dissolved and instead the Tanzania Muslim Council (BAKWATA) was formed borrowing largely from the TANU constitution. For this reason BAKWATA, for most Muslims, remains an area of much controversy. They see it as government imposed (if not its arm), corrupt and ineffectual.

Opposition against BAKWATA soared in the early 90s with the decline in relations between the state and Muslims following the crackdown on Islamic organizations and preachers. Organizations that were seen to be popular and overshadowed pro-government BAKWATA were outlawed. This was the fate of Warsha ya Waandishi wa Kiislam (Islamic Writers' Workshop). Warsha was founded in 1975 as a unit within BAKWATA, its main concern being educational issues. The unit had many young and well-educated members, some of whom were Shiites. This radical group was supported by the BAKWATA Secretary General Sheikh Muhammed Ali and demanded Islamic education alongside secular subjects in the Islamic secondary schools run by the organization.

Muslims faithful to the regime argued that this went against the secular foundation of the state and after some conflict the Warsha group was excluded from BAKWATA in 1982 and its members were forbidden to work at BAKWATA institutions.

Another organization is Baraza a Uendelazaji Koran Tanzania (Tanzania Quranic Council), BALUKTA, whose 1987 constitution states its main aim as promoting the reading of the Quran and spreading of Islam through financial and material support to Muslim schools. Compared to Warsha, characterized by its young members, BALUKTA seems somewhat old-fashioned. In April 1993 some BALUKTA members under the leadership of its president, Sheikh Yahya Hussein, were involved in attacks against butchereries selling pork in Dar es Salaam. It was soon dissolved on account of instigating religious animosity.

The emerging tensions between Muslims and the state as well as Muslims and Christians led to the formation of organizations with wider interests and with a more activist orientation. Baraza Kuu la Jumuiya na Taasisi za Kiislam (Baraza Kuu or The Supreme Council of Islamic Organizations), founded in 1992 attempted to infuse a more scientific approach to organizing including professionals in its rank.

Muslims have been preoccupied with professionalizing their associations and stocking their membership with

academics as they attribute their poor treatment on account of their low academic qualifications. This reality saw the creation of the Muslim Students Association of the University of Dar es Salaam (MSAUD) which was very active in the mid 70s to 80s and tried to contribute to wider social and political issues. Its role at present is some how diminished. Likewise, the Dar es Salaam University Muslim Trusteeship (DUMT), an organization made of Muslim faculty at the University of Dar es Salaam which strives to protect Muslims' interests in higher education and has produced statistics, which point to the much-publicized under-representation of Muslims at universities and in administration. In the early 90s, following the Pork Butcher riots, the Tanzania Muslim Professional Organization (TAMPRO) was created to broaden the involvement of Muslim professionals in development activities from an 'Islamic orientation.

A number of foreign Islamic organizations also appeared in the scene in the mid 50s mainly from Saudi Arabia, Kuwait, Sudan and Iran. Most of these organizations involved themselves in relief work as well as building and renovating mosques, schools, dispensaries and digging wells. Some provided sponsorships for secondary and post-secondary education. On the other hand, the Iranians and Libyans established cultural centres including libraries and run some small programmes for youths. Some accused them of promoting their ideologies, something that is causing divisions among Muslims in the country.<sup>27</sup>

---

<sup>27</sup> The sighting of the moon signaling the start of the fasting month Ramadhan, for

Most mainstream organizations have women's wings, however apart from lacking in autonomy, they are not functional, save to cater for community functions. In response to a social and human need, Muslim women have thus begun organizing informally. Women commonly organize around religious classes known as darsah, where they receive religious instruction. These groups are affiliated to mosques and are mostly unregistered. Increasingly some are trying to diversify their activities and include aspect of skills and income generating projects.

Some of the groups have gotten into activism as a result of the perceived harassment of Muslims and Muslim women by the state.<sup>28</sup> In particular, after the Mwembechai incident Muslim women became more active in political issues involving Muslims. Their role is limited to holding rallies where they denounce the government and its collaborators (not necessarily non-Muslims).<sup>29</sup> Recently, some mainstream Islamic groups were using women to attract sympathy of foreign missions towards the plight of Muslims. However,

---

example is an area of increasing controversy. The official channel requires for the moon to be sighted in the East African region while other Muslims follow Mecca. This has resulted in two separate marking of Eid. In frustration at this development, in 2001 the police in Zanzibar stopped people from congregating for Eid prayers before the official proclamation of Eid while fliers were circulated in Dar mosques encouraging Muslims to pray together in open spaces on the official Public Holiday.

28 For instance the Committee to Fight for Muslim Women's Rights constituted after the Mwembechai Fracas.

29 Commonly this refers to not wearing the Islamic dress or being 'too western' in demeanor.

this has backfired mainly because the women used as fronts had no agenda of their own. Most are not articulate and are not exposed to issues and situations beyond the 'Islamic rhetoric' seriously limiting their ability to engage in public policy and social justice advocacy.

### **Muslim women in Tanzania**

Almost four decades after independence, in most African countries, Muslims, especially females, are four times more likely than others to have no formal education and less than half as likely to possess a post-secondary qualification. In a study of four countries in East and West Africa: Mali, Nigeria, Tanzania and Uganda, this relationship is strongest in Nigeria and weakest in Tanzania, but it is statistically significant for all four countries studied.<sup>30</sup> Sahiba has reached a similar conclusion not only in the education sector, but generally with regard to Muslim women's ability to access social, economic and political opportunities.<sup>31</sup>

In an effort to address such disparities women's rights have made immense worldwide gains in the last fifty years. The degree of acceptance of women's rights, however, varies from country to country. Women's rights have not evolved

30 Afrobarometer Briefing Paper No. 3 September 2002 Islam, Democracy, and Public Opinion in Africa available at <http://www.afrobarometer.org/abbreviating.html>

31 Sahiba Strategic Plan 2000-2004

uniformly because of religious, political, social, and economic differences.<sup>32</sup> Local organizations assumed a direct role in pushing forth the agenda for women's rights in the mid 80s, thereby complementing existing efforts undertaken by the state and development agencies. Given the sensitive nature of issues addressed and the challenge to power relations, it has not been an easy task, and in some cases there has been a backlash.

The state, development and human rights activists single-handedly blame religion and customs for women's continued subordination. In particular, Islam has often been named as the main factor inhibiting the development of women's rights in Muslim communities. Such assertions, however, trivialize the real issues at hand and thus fail to offer sustainable options in realizing gender equality/equity. Also, it fails to appreciate the role played by religious and cultural forces in any development context. Shanker remarks that, "Any analysis of the religion and development relationship is bound to carry equal danger of oversimplification and over-complication. The challenge is to understand the complexities of a given religion in a spatio-temporal context, in full view of the economic and political considerations. Religion can be understood as an outcome of such conditions, as well as the cause of change".<sup>33</sup> And this

32 Leila P. Sayeh and Adriaen M. Morse, Jr., "Islam and the Treatment of Women: An Incomplete Understanding of Gradualism", 30 *Texas International Law Journal*, 312

33 Rajkumari Shanker, *op cit*.

is how I want to approach my analysis of the issue facing Muslim women in Tanzania as they try to assert themselves in governance structures.

Muslim women's struggle in Tanzania is at two main fronts: internal and external. Internally, Muslim women try to exert themselves against unresponsive structures and systems. Women have little access to major Islamic institutions, hardly any of which have women in decision-making bodies. Where space is provided to women, it is symbolic and leaves them with little autonomy to organize or make decisions. Externally, they struggle against a global legal and political system that increasingly is intolerant of non-Western philosophies or ideologies.

The spillover of these dynamics can be appreciated in the predicament of Muslim women in Tanzania, a reality that reflects the gap which civil society organizations are yet to bridge in promoting good governance, equality and justice.<sup>34</sup>

How are Muslim women relating to these challenges? How are they reconciling what they understand to be divine ordinance to human interpretation of justice? Is Muslim

<sup>34</sup> For instance if one reads LaShawn R. Jefferson's piece on the plight of Muslim women in some Islamic communities, though raises legitimate human rights concerns, stands to be ineffective to a lay Islamic audience not because it lacks merit but because essentially values the western definition of human rights and justice against what locals perceive and interpret as a just standard under the sharia. I feel that human rights advocates stand a better chance in promoting universal values by working from where people are at, not where they think they should be. See, "The War on Women," *The Wall Street Journal*, 22 August 2002. Also see my article in ISIM.

women's desire to acknowledge their religious identity aiding the status quo or is there evidence of movement towards universal human rights principles, irrespective of how termed or defined? This will be the focus of this part of the paper.

### **Muslim women and the political- religious quagmire**

Muslim women have become the underdogs in the ensuing political and religious quagmire between Muslims and the state as well as with other interest groups. In some cases, they choose to be such as considering their collective history and vulnerable situation they are in performing the ultimate act of sacrifice and devotion.<sup>35</sup> But, in most cases, they are unwilling victims caught up in events that are not their creation and beyond their comprehension. And as a whole, Muslim women have been the losers. They have been denied the right to dignity, identity, free association, to participation, to an education, freedom of expression and exercise of their religion, enjoyment of personal security (physical and material) not only by the Islamic establishment, but also by the state and other civic and development agencies.

In particular, the excessive regulation of Muslim organizations impacts on women's ability to organize themselves. Although there are now a growing number of

---

35 It is not uncommon for religious labels to be assigned to political and non-political causes by Muslim activists and the government alike when seeking mass support to legitimize their actions.

Muslim women's groups and organizations in operation, many are not recognized officially. This is because Home Affairs requires that all religious organizations or organizations with some religious affiliation to be recognized by a mainstream religious body. This places undue hardship on Muslim women given the ongoing saga with BAKWATA and the autonomy of Islamic organizations. Muslim women's groups thus miss out from opportunities in development assistance and continue to operate in isolation from the mainstream development fold. Moreover such a requirement threatens their very existence and autonomy in a patriarchal structure that has thus far failed to respond justifiably to their basic concerns, particularly in personal law issues.<sup>36</sup>

For instance the Law of Marriage Act requires all matrimonial matters to go before a marriage conciliation board before dissolution.<sup>37</sup> This includes granting of divorce, custody of children and maintenance. In the case of Muslims, the practice is to direct such matters to BAKWATA, which has a proven record of inaction and insensitivity to women's concerns and interests. It is thus not uncommon to hear of women who fail to extract themselves from unhealthy

---

36 Based on research conducted on clients attending legal aid clinic and social welfare office whose matters on matrimonial issues were forwarded to BAKWATA for example report delays and dissatisfaction with the way their cases have been handled. Most did not feel 'heard' as they had no opportunity for legal or other representation and they were intimidated by the procedure, which sought to silence or chastise them.

37 S. 101 of the Law of Marriage Act (Act no. 5 of 1971).

relationships, or denied of maintenance for themselves and children because the court has not received an appropriate 'instruction' to the contrary on the matter from the religious body. This is of great concern in terms of their health, wealth and future. Remaining in a violent or forced relationship may put the woman at risk of contracting an STD such as HIV. Also, it means that she, as well as her properties, remains encumbered in a marital bond that is not to her benefit. Meanwhile, she is not able to develop herself and therefore plan for her future. The scenario defeats government policy to maintaining peace and tranquility, curb the spread of HIV/AIDS and other diseases and to eradicate poverty.

This raises the issue of legal reform particularly with regard to discriminatory laws against women. The Law Reform Commission issued in 1984 but to date no progress has been made particularly in the area of personal law issues. Law reform remains a sticking point between Muslims and the state. Muslims are quick to accuse the government of religious interference and of curtailing constitutional freedoms in the exercise of their religion. Before the passage of the Law of Marriage Act in 1971, Muslims, as well as Christians and Hindus, followed their own marriage and divorce laws. The 1971 Act was an attempt to unify the different practices in a single code to make it more accessible for practitioners. It also attempted to recognize 'women's rights in a legal union, however it did not go far enough to make structural interventions in the administration and dispensation of justice.

The disadvantaged position of women relative to men in the legal sphere was underscored during the UN Decade of Women and Human Rights Forums. Tanzanian laws came under scrutiny to meet universal human rights standards prompting the government to review all discriminatory laws. In response BAKWATA in 1987 called on the government to reinstall the system of Muslim courts that existed in colonial and post-colonial times. Islamic institutions opposed the idea of reforming the law, especially 'where such reforms are seen to be in conflict with *shar'ia*. Without investigating the merit of such assertions the government has chosen to appease the religious establishment by stalling the reform process while the liberty, health, security, dignity and well being of Muslim women is compromised.

Likewise, in the ensuing communal tension Muslim women suffer most. They have been ridiculed for their dress as well as harassed by the state, public institutions and the community at large. Yet their stories are not widely publicized. For example, in 1993 during the Pork Butcher Riots female Muslim students at the University of Dar es Salaam (the Hill) became easy targets for those who wanted to put Muslims in their right place. Some had their head scarves pulled off. The university commentary, the Punch,<sup>38</sup> threatened rape if matters got out of hand. All this happened while the university was just recovering from the suicide of Levina Mukasa,<sup>39</sup> an event

38 The notorious Punch is an area at the University of Dar es Salaam where political and other commentaries are published in both prose and art forms.

39 Levina was a first year student who committed suicide in 1991 after being harassed

that had to do with the issue of sexual harassment in academic institutions. Yet, the harassment of female Muslim students went unnoticed by the media and university authorities.

This scene was to be repeated during the Mwembechai riots in 1998 where female residents and worshipers at the mosque, who were caught in the melee, and some in their homes were arrested, strip-searched and penetrated with objects in the vaginal and anal areas. Surprisingly, although widely publicized by the women themselves through the media, few human rights or gender organizations spoke up against these atrocities. Again during the 2000 elections the military and police violated Muslim women where there were reports of rampant raping of women by the military to quell fierce political opposition. This time, key human rights organizations spoke about the human rights violations on principle. Most comments were, however, directed at the suppression of political rights and not at the violation of women's bodily integrity.<sup>40</sup>

Such apathy towards human rights abuses against Muslim women is also observed by the general attitude

---

by an engineering student. Activist organizations like TAMWA took up the issue after they learnt University authorities failed to put an end to the harassment after she reported the male student effectively publicizing the issue of sexual harassment beyond the academic circles.

40 Amnesty International subsequently pays due regard to the issue of gender violence in its reports. See for example AMNESTY INTERNATIONAL PRESS RELEASE Tanzania: Commission of Inquiry findings must be made public. News Service No: 101 14 June 2002

towards the women's dress, the *hijab*. Most activists and the larger population see it as a symbol of women's oppression. Thus, on the whole women and human rights activist have been indifferent to the plight of Muslim girls who are expelled from school solely for putting on the *hijab* as required by their parents. Young girls are thus being doubly punished- by their parents who make it a precondition for their being allowed to attend school, and by the state which in asserting its authority, harms innocent children contrary to its constitutional and international obligations. Likewise, Muslim women have been denied education and work opportunities in public and private institutions, not because of their inability to perform but on account of their dress.

Effectively, the identity and worth of a Muslim woman is restricted, by the religious establishment and human rights activists alike, to her dress code. Although *hijab* is seen as outdated and restrictive, women who choose to wear it argue that it is dignified and allows them to practise their religion. Following intense activism, a ministerial circular was issued in August 1995 to allow female students to wear the *hijab*. However, this protection is revocable and does not extend to women in employment. Such disregard to issues of personal choice and religious sensitivity by the larger women's and activist movement has alienated the majority of Muslim women from human rights and women's movements. They see them as extensions of a western agenda that only uphold

western standards and ideals, even if morally abhorrent to cultural and religious values, to the detriment of non-western mores.<sup>41</sup> It has also led to the politics of exclusion and incrimination among Muslim women where their loyalty to the faith is measured by how they dress, what they say, how they pray, who they associate with and even where they school.

Witch hunting is thus common among Muslim women who are seen not to conform to the fold. In 1988 Sofia Kawawa, one of the wives of Rashidi Kawawa,<sup>42</sup> and leader of the Tanzania Women's Union (UWT) came under fire after publicly criticizing Islamic rules she felt were oppressive to women. Kawawa urged for the ban on polygyny and for equal inheritance rights. Her statements caused protest and riots countrywide. The government and ruling party distanced themselves from her statements claiming Kawawa had expressed her personal views and not the views of CCM or the government.<sup>43</sup>

Other high profile Muslim women face incessant criticism about their pronouncements, dress and actions, even when

41 A case in point pertains to economic liberalization, which has seen the flourishing of tourism and recreational spaces which some associate with prostitution, the revival of beauty contests and lottery.

42 Rashid Kawawa served as Tanzania's Prime Minister in the first independence government. Umoja wa Wanawake wa Tanzania, is the women's wing of CCM

43 In Zanzibar two men who died were fatally shot in the riots by the police while MSAUD wrote an open letter demanding the government to cease interfering with religious matters. See US State Department Report on Religious Freedoms at [www.state.gov/www/global/human\\_rights/irf/irf\\_rpt/1999/irf\\_tanzania99.html](http://www.state.gov/www/global/human_rights/irf/irf_rpt/1999/irf_tanzania99.html).

unsubstantiated, something their male colleagues escape even when pictured engaging in 'non-Islamic behaviour such as officiating at a beauty contests, drinking alcohol or being accused of fathering children out of wedlock.<sup>44</sup> Such squabbling among Muslim women detracts from addressing the real causes of their underdevelopment and oppression. But why is it difficult for Muslim women to refuse to be consumed by trivialities and move ahead? I think it is important to address this aspect as we seek to find realistic solutions to address the causes of Muslim women's subordination, considering that in Muslim societies there is a pervasive belief that international standards for women's rights conflict with *shar'ia*. This extends to the idea that women's human rights—and efforts to promote them—are "un-Islamic" or even "anti-Islamic." Thus, resistance (official and popular) to reform *shar'ia*, whose sources are regarded as divine, in order to accommodate international legal standards can be justified as a refusal to sacrifice or subordinate the sacred to the secular."<sup>45</sup>

Laila Ahmad captures this fact when she observes, "The successes in defining and promoting women's rights, including the prohibition of domestic violence as a human

44 For example, the Minister of Foreign Affairs and International Relations has attended a number of beauty contests while the minister for Planning and privatization has been accused of fathering a child out of wedlock not counting those officials accused of corruption and other ills or those periodically caught on the news sipping wine or beer at cocktail parties and in local bars. The women are almost always chided for not wearing the *hijab*.

45 Lisa Hajjar *op cit*.

rights violation, has generated criticism and reprisals. Social conservatives around the world have responded negatively to efforts to empower women and endow them with enforceable rights within the family, charging that such initiatives constitute an assault on family values, traditions, national cultures, and so on." In many societies, official and popular aversion to enforcing international standards for domestic relationships is far more powerful and influential than the forces seeking to promote and protect the rights and well-being of women.<sup>46</sup> Fatima Mernissi argues that any Muslim who subscribes to such view misunderstands his own cultural heritage.<sup>47</sup> But unfortunately such views persist and thrive in the present political impasse.

### **Ideology of suppression**

Shamima Sheikh, though writing in the context of a South African but the experiences are equally relevant in Tanzania, notes "After 1400 years it appears that there is still confusion and conflict as to the status of women in Islam, and the role that gender plays in an individual's worth in terms of status, position, potential and constitution. An important arena of the struggle in upholding the dignity of Muslim women in Islam and the Muslim community, is the ideological struggle — the struggle to grasp the existing controversial and

---

46 Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate*  
47 Quoted in Shemima, "Woman's Role in Contemporary Society" 1994.

conflicting perception of the status, position, worth and constitution of women — a perception used to control women's actions and status. For Muslims, this perception is supposed to be derived primarily from the Qur'an and Sunnah."<sup>48</sup>

Shamima goes on to assert that despite the overwhelming and strong assertions by Muslims that Islam liberated women 1400 years ago, some thought and practice within Muslim society do not reflect this conviction, giving rise to the accusation that Islam oppresses women, to which the Muslim community reacts emotionally with denial and animosity, without reflecting inwardly and addressing the existing problems. Thus, although Islamic rules have been reinterpreted, modified, or simply treated as inapplicable when dealing with changing circumstances in such issues as slavery and modern commercial practices, no such flexibility has been shown with regard to women's rights. For women, the trend of interpretation has worked almost exclusively in the opposite direction.<sup>49</sup>

Leila Ahmad attributes this to the tendency to treat women as markers of cultural authenticity. Thus, "when cultural discourses posit that women's human rights are an alien

48 Shamima Shaikh, MYM Islamic Tarbiyyah Programme '97 19-23 Dec, As-Salaam, Kwa Zulu Natal (transcribed from the talk that Shamima presented at the above programme 17 days before her death on the 8 January 1998).

49 Asma Mohamed Abdel Halim, "Tools of Suppression," in **Gender Violence and Women's Human Rights in Africa**

concept, part of a cultural onslaught emanating from "elsewhere," the disadvantages that women experience as women can be justified and defended—even glorified—as an aspect of that particular culture. Conversely, when the promotion of women's rights is read as a sign-and imperative-of modernization (by vesting women with individual and inalienable rights), and when this goal demands the revision or revocation of local laws and practices, then it often provokes countervailing efforts to resist globalization and foreign influence by defending that which is (deemed) authentic and particular to a given culture or society."<sup>50</sup>

Since the 1970s, Laila observes, Islamist movements have mobilized in many countries across the Middle East, Africa and Asia to demand a (re)turn to Islam through the establishment of a system of government that adheres to and enforces *shar'ia*.<sup>51</sup> This cry is also heard in some quarters of the Muslim population in Tanzania. The desire to be governed by Islamic principles is more an articulation of nostalgia of the downtrodden who are looking for alternatives to present inequities than it is a genuine appreciation of what the application of *shari'a* entails for women or for the larger population as pointed out by Shanker who writes, "Modernization, secularization and economic development,

50 See Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven, CT: Yale University Press, 1992). Also see Patricia Jeffrey and Amrita Basu, eds., *Appropriating Gender: Women's Activism and Politicized Religion in South Asia* (New York: Routledge, 1998).

51 See Joe Stork and Joel Beinin, eds., *Political Islam* (Berkeley: University of California Press, 1997)

once considered both desirable and irreversible, have had a powerful effect on society. Erosion of the moral order, along with the growth of individualism, has freed the elite from traditional religious and ethical values, without providing a substitute to social morality; the non-elite have seen their religious beliefs demolished, and are perceived as potential opposition as they question the validity of societal inequities. Those who see their religious convictions challenged are determined to defend their beliefs. In sum, modernization and economic development have had an uneven impact not only on peoples' material well being, but also on their religious and traditional values."

It is thus no surprise that Muslim women's movements and Muslim activists in Tanzania, as they do elsewhere, paint a picture of Muslim women far removed from actual realities. They make a wishful list of benefits and gains for women in an Islamic state and conveniently disregard the losses women have experienced in the application of the *shar'ia* in other countries. In most cases, women cannot establish what they are told i.e. whether Iran, Sudan or Northern Nigeria are success stories not only in the view of the governing power but of women themselves. Any challenge to the application of the *shar'ia* is attributed to human failings or the pro-west media assault on an Islamic system. The religious establishment is quick to counter any possibility to engage

women in exploring and defining alternatives beyond the Islamic for individual and political salvation.<sup>52</sup>

But what has been the implication of adopting the *shari'a* elsewhere? In Pakistan Zia ul Haq introduced *shar'ia* benches in the high courts, which became centralized as the Federal Shari'a court in 1980. This court was authorized to review all laws to ensure their conformity with *shari'a*. These changes to the legal system have reinforced deeply rooted attitudes about male domination.<sup>53</sup> In Muslim societies, *shar'ia* functions both as specific legal rules for organizing social relations, and as a general religion-cultural framework for norms and values.<sup>54</sup> In both senses, dominant interpretations of *shar'ia* accord men the status as heads of their families with guardianship over and responsibility for

52 I will discuss specific examples in the context of Tanzania. But this is also true in other countries with a sizeable Muslim population. For instance in Nigeria following heated political contest, a Nigerian daily, *This Day* carried a story entitled - *Sheikh Warns Muslim Women Against Politics* published and posted to the web May 12, 2002. On September 26, 2002 the *East Africa Standard* carried a story of Muslim women in Kakamega District, Kenya sanctioning themselves in upcoming presidential bid.

53 Pakistan ranks near the bottom globally for almost every social indicator concerning the lives of women. Only 25 percent of Pakistani women are literate, compared to 55 percent of men. See Amnesty International, *Pakistan: No Progress on Women's Rights*; World Bank, "Genderstats," [www.genderstats.worldbank.org](http://www.genderstats.worldbank.org).

54 Specific legal rules that epitomize and maintain gender inequality include men's right to marry up to four women while women are restricted to marriage to one man at a time; differences in right to divorce, custody and inheritance; and differences in legal competency. Nevertheless, women are not entirely disadvantaged by *shari'a* nor thoroughly unequal to men; women have legal and financial rights, including independence (at least in principle) to manage their own affairs. Women are recognized as equal to men before God, the critical issue being not gender but devotion and righteousness.

women. The complement to this is the expectation that women have a duty to obey their "guardians" (husbands, fathers or other male heads of family). This hierarchical and highly patriarchal relationship is based on the shari'a principles of *qawwama* (authority, guardianship) and *ta'a* (obedience), from which gender-differentiated rights and duties are derived.<sup>55</sup>

Lisa Hajjar points out that although *shari'a* is administered, interpreted and used in a multitude of ways across Muslim societies, it provides justification for failures and refusals on the part of states to act responsibly to provide women the rights and protections that they are due as humans, as citizens, as women and as Muslims. In the context of domestic violence, it provides both the legal framework for administering family relations and a religion-cultural framework for social norms and values in Muslim societies. She urges that Muslim women's vulnerability to violence is related to jurisprudential traditions and social understandings of male authority and female obedience, and this provides fertile ground for domestic violence to occur with near-total impunity for perpetrators.

The controversy surrounding Taslima Nasreen from Bangladesh is a case in point and makes sense only if it is seen in the context of a struggle between the forces of religious extremism and secular liberalism, which are both vying for

---

55 Leila Ahmed, *Women op cit*

the hearts and minds of the people in Bangladesh. These forces are engaged in symbol manipulation to secure the social and political order they desire. The status and visibility of women form an important element in this struggle as the orthodoxy had always viewed gender issues to lie within their jurisdiction. Feminists pose a threat to such territorial assertions.<sup>56</sup>

Some female activists believe that a "feminist" re-reading of the *shari'a* is possible-even becomes inevitable-when Islam is no longer part of the oppositional discourse in national politics. This is so because once the custodians of the *shari'a* are in power, they have to deal with the contradictory aims set by their own agenda and discourse, which are to uphold the family and restore women to their "true and high" status in Islam, and at the same time to uphold men's *shari'a* prerogatives. The resulting tension-which is an inherent element in the practice of *shari'a* itself, but is intensified by its identification with a modern state-opens room for novel interpretations of the *shari'a* rules on a scale that has no precedent in the history of Islamic law.<sup>57</sup> Thus, for example while, trying to uphold the purity of the faith, Muslim activists earnestly try to distance what is Arab from

56 Tazeen Mahnaz Murshid, *Women, Islam, And The State: Subordination And Resistance*, University of North London

57 Ziba Mir-Hosseini, "Stretching the Limits: A Feminist Reading of the *Shar'a* in Post-Khomeini Iran," in Yamani, ed., *Feminism and Islam*, op. cit., pp. 285-86. See also her book, *Islam and Gender: The Religious Debate in Contemporary Islam* (Princeton, NJ: Princeton University Press, 2000).

what is Islam, in effect they engage in the Arabization of local customs, particularly as it pertains to women and the family. For instance, in promoting the Islamic identity some Muslim factions promote the black chador or abaya, common in parts of the Middle East, over the local *khanga and kitenge*, a multi-purpose cotton print for women.

Marmaduke Pickthall, an eminent scholar, made a similar observation in 1927 about the Indian-style type of Purdah system, which was also recently practised by the Taliban in Afghanistan. This system condemns women to a life entirely within four walls where women are not only required to cover themselves completely from head to toe when in public by not only wearing a 'burqa / jalabib' but additionally they are required to hide behind a screen (purdah/curtain) which makes them invisible by preventing the outside world from seeing them at all. It acts like a one-way mirror in that women are able to see the outside world, but the outside world cannot see them. Pickthall notes, "The tragedy for those who adhere to this Indian-style purdah system is that they have deluded themselves into thinking that they are in fact following the Qur'an. They have actually fallen prey to their own over-enthusiastic religious fervour. This in turn has led to their insolent and self-righteous behaviour in their treatment of women."<sup>58</sup>

Also, On September 3, 2000, Human Rights Watch

---

58 Marmaduke Pickthall, *Social degradation of women - a crime and libel in Islam*.

condemned the ban imposed by the Governor of the State of Khartoum and former minister of social planning, Mr. Mazjoub al Khalifa, that prevents women from working in public places where they come into direct contact with men. The governor justified the ban as "intended to honor women," to uphold their status in line with Islamic law, and to respect the values and the traditions of the nation. He asserted that women should not be harmed by this decree because they could be employed in other areas. The order itself however, goes beyond this. Women are banned from working in cafeterias, at cash registers, and anywhere in the service sector. Sudanese activists expressed their fear that the decree is a prelude to removing women from all fields of public work. After years of civil war, many women have become the sole providers for their families and rely on their income.<sup>59</sup>

If this forms the reality for women, why do Muslim women in Tanzania join voices to Islamist forces to demand for the unilateral application of the *shari'a*? I think that coupled with some of the factors I discussed earlier in this part, it is also due to Muslim women's inexperience with governance issues at a personal and institutional levels.

### **Women and governance**

The issue of governance is central to Muslims women's emancipation not only at an individual level but also

---

<sup>59</sup> Human Rights Watch, Sudan Blasted on Women's Ban, Washington, September 8, 2000

institutionally. In making this point, I want to return once more to the verse that has been used liberally to justify male domination. The verse reads:

*Men are qawwamun ('maintainers/protectors') of women, for Allah has preferred (faddala) some over others, and (on the basis) of what they spend of their property. So good women are qanitat (obedient.), guarding in secret that which Allah has guarded. As from those whom you fear nushuz (rebellion), admonish them, banish them to beds apart, and scourge/beat them. Then, if they obey you seek not a way against them. (4:34)*

Many Islamic scholars have tried to interpret this verse and in so doing have made varying qualifications as to the 'degree of superiority' men have over women. Progressive schools limit it to the financial, as men have an obligation to look after women. Traditionalist however see the superiority as absolute and as their opinions are most readily available to the larger public, it is this view that dominates not only popular theory but also practice. Accordingly local customs, as well as legal provisions, subscribe to the traditional interpretation and give men unlimited rights in both the private and public spheres while restricting that of women making the work of gender activist particularly arduous. It also complicates the reality for women as they try to engage legal and administrative processes to get some relief from their predicament.

Lisa Hajjar writing about domestic violence in a number of Arab, Asian and African countries notes that in Morocco, as elsewhere, one of the most common reasons women would seek to end a marriage is to extricate themselves from a harmful situation. This illuminates the connection between the right to divorce and female vulnerability to domestic violence).<sup>60</sup> One of the strongest predictors of violence against women is the restriction on women's ability to leave the family setting)<sup>61</sup> While divorce is a permissible and established option in Islam, in many Muslim societies it tends to be treated as a male prerogative; women can easily *be divorced*, but not *seek divorce*).<sup>62</sup> A new Moroccan law aimed to lessen this

60 The Moroccan Code of Personal Status has served to foster conditions in which domestic violence is tolerated. For example, while the Code does allow for the possibility of divorce on the grounds of "general harm," rules of evidence that would enable women to prove such harm are extremely difficult to fulfill. Moreover, *shari'a* court judges tend to be skeptical of such charges and inclined to advocate reconciliation of the couple rather than prioritize relief for the wife.

61 In a comparative study of gender violence in 90 societies, four socio-cultural factors, taken together, were shown to be a strong predictor of spousal abuse in 75 societies. These factors are: 1) sexual economic inequality; 2) a pattern of using violence for conflict resolution; 3) male authority and decision-making in the home; and 4) divorce restrictions for women. The study found that the more dependent women are on men, the more vulnerable they are to violence. David Levinson, *Domestic Violence in Cross-Cultural Perspective* (Newbury Park: Sage, 1989).

62 In 1958, two years after Morocco gained its independence from France, the state established a Code of Personal Status (*Mudanwana al-Ahwal al-Shakbsiyah*), which reiterated and codified the (Maleki) tradition of family law jurisprudence. Among the provisions of this code was the husband's right to dissolve the marriage at will by means of *talag* (repudiation), stating, "I divorce thee" three times, although the code instituted the requirement of two witnesses to authenticate the divorce. If the husband chose to divorce his wife, she had no legal recourse, while her right to divorce was restricted and subject to confirmation by a *shar'a* court.

gender imbalance.<sup>63</sup> On March 12, 2000, some 300,000 demonstrators took to the streets of Rabat, Morocco, expressing their support for a new law expanding women's right to divorce while a comparable number of demonstrators took to the streets of the nearby city of Casablanca to protest the law as a deviation from *shari'a*. The example offers anecdotal evidence of sharply divergent views on Muslim women's rights.

Tazeen Mahnaz Murshid when examining the position and status of women in Bangladesh in relation to the interplay of religion and politics arrives at a similar conclusion. She writes that, "a series of such provocative actions have virtually led to the establishment of a parallel structure of authority in remote areas far from the reaches of officialdom. Various front organizations of the Jama'at supported by their own armed

---

63 The background to this new law includes prodigious advocacy efforts by women's rights activists, and the political transition on the death of King Hassan II, who was succeeded by his son, Muhammad. Morocco has a vibrant women's rights movement, although there are some notable differences in the interests and goals that various sectors pursue; some have taken the position that women's rights can be assured and protected only through the replacement of the *Mudanwana* with a secular code enshrining liberal values, including the enforcement of the equality provisions of Morocco's constitution. Others have sought to expand women's rights through the reform of Islamic jurisprudence, and to these ends the country has been a center of some extremely innovative efforts to reinterpret Quar'anic verses and *hadith* in a manner that would enhance the rights and equality of women. As a result of activism in the early 1990s, some modest reforms of the *Mudanwana* were instituted in 1993. But the accession to the throne by Muhammad, who, by many accounts is committed to bolder legal reforms, set the stage for the promulgation of the new law.

cadre have begun to impart Islamic justice. They derive their authority from the fatwas given by local mullahs and not from any court. Not only have thieves lost their limbs and 'adulterers' been stoned, but opposition newspapers have lost access to various distributors and their clients. Many rural women have been divorced by fatwa for practising birth control. Such a situation is novel in the history of the region. Women are also losing their marital status for taking bank loans for their small businesses. It is being argued that economic independence for women is undesirable because it can give them a status superior to men, which was not God's design.<sup>64</sup>

It is however astounding to note what happened when a local literary activist Taslima Nasreen spoke out about the injustices. "The Jama'at and its various front organizations took full advantage of the fact that Taslima's provocative message, language and style had alienated large segments of Bengali society. Women accused her of 'derailing the feminist movement.' Politicians held her responsible for the bad press Bangladesh was receiving abroad. Religious bigots insinuated she was pandering to the West, India and the extremist rightwing party, the Bharatiya Janata Party (BJP). Intellectuals implied that she was after cheap publicity. Literary competitors considered her work shallow. Others envied her success, while most men were annoyed at her audacity."<sup>65</sup> Taslima had to go

---

64 24 Inquilab, 12th and 19th of August 1994 available at [www.lib.uchicago.edu/e/su/southasia](http://www.lib.uchicago.edu/e/su/southasia).

65 Ibid.

into hiding after she was threatened for speaking the obvious.

The sad reality is that even women themselves who are harmed often join forces with the establishment to condemn the likes of Taslima or they maintain a respectful silence. Such was the case when amidst rising cases of HIV/AIDS we advocated for greater protection for Muslim women. One way we believed this could be done was by the active participation of Islamic organizations in the national effort to combat HIV/AIDS. Muslim women organizations had been denied funding to engage in AIDS education because the same was earmarked for umbrella organizations. But until January 2002 BAKWATA, as was the case of most mainstream organizations, did not have HIV/AIDS programmes. Following state intervention and activism however in January 2002, BAKWATA launched their HIV/AIDS policy, which was summed up by the late Mufti as amounting to "restricting young people's bodily desires by marrying them young." Such statements make a mockery of government efforts to make gains in development particularly in areas of girls' education and maternal health. Moreover, it effectively arrests any effort to address the issue meaningfully beyond the welfare response to widows and orphans adopted by some women groups.

Thus whereas women who in early Islam not only exercised self-governance but also took an active part in community/state governance, are now rendered powerless under the same 'so-called' Islamic structures. These structures place demands on Muslim women, as well as on the state, far

removed from Islamic heritage and spirit. Where women opinions are now censored and questioned, as is their participation in governance they formed part of delegations of the faithful who came to give their allegiance to Islam when the Muslims recaptured Makkah. They refused to offer their allegiance to Umar (the second Khalifa) and insisted that they wanted to give it to the Prophet (pbuh) himself. The Prophet conceded at a public assembly of men and women. Also, women like Asma bint Abu Bakr were active in the workforce and in some cases worked away from home to support her family. Women were also given responsibilities in running the affairs of the state. Shifa bint 'abd Allah was appointed controller of the market of Madinah by the Prophet. She was reappointed by Umar when he became caliph. The Prophet left it in the hands of wife, Umm Salamah to advise the Muslims to forgo the Hajj and instead sign the treaty of Hudaibiyya, which not only signalled one of the first times women actively took part in conflict prevention and peace building, but changed the course of history.<sup>66</sup>

If all the above could be done before any international gender-sensitive human rights instruments, why does it prove challenging to do the same in Muslim societies today? Leila P. Sayeh and Adriaen M. Morse note that Islamic jurisprudence consists of an interplay between the sacred source of the Qur'an, the Sunnah, and the tradition of ijtihad.

---

66 See Shemima Shaikh *Woman's role in Contemporary Society Rhodes*

Both the Sunni and Shi'i accept the Qur'an as the primary and authoritative textual source containing the word of God and the Sunnah of the Prophet as an inspired secondary source that can shed light on the interpretation of the verses of the Qur'an. There are, however, four sources of difference between these schools of Islamic jurisprudence: (1) different construction of some Qur'anic verses, (2) disagreement among the ulama on the authenticity of some of the Hadith, (3) dissension on the acceptance of some legal sources, and (4) differences in opinion in some practical situations. The ulama of the various schools are the interpreters of Islamic law. Although originally judges had been both interpreters and makers of the law, their role became restricted to applying the law as developed by the ulama jurists.<sup>67</sup> The ulama's decisions constitute the *ijma* or legal precedent on which future cases will depend.

Abdulaziz Sachedina observes that whereas the God-human relations have remained more or less immutable in the *Shari'a*, the area of inter-human relationships has demanded rethinking and reinterpretation of the normative sources like the Qur'an and the Sunnah to deduce new directives under changed social conditions. There are, however, epistemological problems connected with the way normative sources are retrieved and interpreted by Muslim jurists, which have hampered the necessary progress towards

one particular area in the inter-human relationships, namely, the personal status of Muslim women. The juridical deliberations in the exclusively male-oriented traditional centres of Islamic learning, the madrasa, have disregarded female voices in the emerging discourse connected 'with women's issues and human rights. He thus believes that the redefinition of the status of a Muslim woman in modern society is one of the major issues that confront Muslim jurists' claims to be authority on legal-ethical sources of Islam. However he sees such a redefinition dependent upon Muslim women's participation in the legal-ethical deliberations concerning matters whose situational aspects can be determined only by women themselves. Without their participation in legal-ethical deliberations, women's rights will always depend on a "representational discourse", conducted by male jurists who, in spite of their good intentions, treat the subject as 'absent' and hence, lacking the necessary qualification to determine her rights in a patriarchal society.<sup>68</sup>

And this is why I feel that Muslim women's ability to govern themselves is so crucial. It should however not mean replacing Muslim men or institutions with development or state agendas, as this will only mean the reassertion of a

68 Dr. Abdulaziz Sachedina, *Woman Half-the-Man? Crisis of Male Epistemology in Islamic Jurisprudence*.

patriarchal order that is at the base of women's subordination. This is evident in Islamic history where the Prophet's death signalled the reanimation of patriarchal forces such that at the end of the reign of the first four Rightly-Guided Khalifahs, the political forces of patriarchy reasserted themselves and swiftly eroded the advances in women's rights guaranteed by the Prophet's teachings. In order to undermine the gains made by women during the life of the Prophet, men alone began to assume the role of interpreting the Quran. As discussed above, various schools of interpretation developed, but all had one thing in common—a patriarchal value system. These schools began to disallow the participation of women in public life, and, as a result, Qur'anic scholarship and interpretation of Islamic law became the province of men, with predictable results for the rights of women in society. The Islam intended by the Prophet and the Islam practised today are identical in form only; in spirit, Islam has drifted from its guiding principles as they apply to Muslim women.<sup>69</sup> Instead, an ideology of suppression rules Muslim women in particular and Muslim communities in general.

### **Separation of the sexes**

One of the ways this ideology is reinforced is through the separation of the sexes. Shemima observes that, "The "intermingling of the sexes," is frowned upon on the basis

---

69 Leila P. Sayeh and Adriaen M. Morse, Page 321

that women create *fitnah*. In some mosques, a woman should not only be seen but her voice cannot be heard. If she has a question on what has been said, she is to write it and send it to the Imam. The logistics of facilitating this differ from one mosque to another. In the early 90s MSAUD wanted to introduce this system at the university mosque in their effort to introduce 'more Islamic practices.' Some female students protested and challenged the logic in such an academic environment where students are always mingling. Also, they argued that while it was not okay for women to be seen or heard in main spaces, some male representative was always present in all women affairs!<sup>70</sup>

Some Muslims apply this doctrine to illogical proportions. In one teaching session (darsah for women) at a local mosque an Imam conducted a whole session while facing the wall, not his students! I walked into witness this absurdity as he was answering a question about collective prayer, which needed to be demonstrated practically to the women. There were about 20 women attending the session and they were clearly having difficulty understanding his explanation such that three different women repeated the same question yet again and again. He, on the other hand, seemed oblivious to

70 For instance there will be a Muslim women meeting at the Mosque but male representatives of MSAUD always felt they needed to be present while women were never invited to male meetings. I witnessed the same practice a few years later in Beijing where though we had highly qualified and influential women in the Muslim women's caucus like Ayesha Lemu, Aziza Al-Hibri, Saleeha Mahmoud among others, some brothers felt their presence was required at every stage of our deliberations.

the fact that a small demonstration could have satisfied the women. His only concern was to save himself from the women's *fitnah*, regardless of the fact that they were decently attired and were too many for any indecent proposal to pass!

With such attitudes and practices, it is difficult to miss the subtle and obvious message the faithful, both male and female, are exposed to on a daily basis: women are best unseen and unheard. The impact of such practices has an implication beyond the spiritual. The ideology is also replicated at the political level and in governance structures as already appreciated and the blind acceptance or tolerance of such practices has dire consequence for women. In Saudi Arabia in March 2002, at least 14 girls died unnecessarily in a school fire because of extreme interpretations of the Islamic dress code. Members of the Committee for the Promotion of Virtue and the Prevention of Vice interfered with rescue efforts because the fleeing students were not wearing the obligatory public attire, the *abaya* mandated for Saudi girls and women.<sup>71</sup>

Traditional religious structures make an extra effort to make women invisible or unwelcome in common places of worship. Some simply prohibit women from worshipping in mosques. Where they are allowed, it is with many restrictions. One mosque at the heart of Dar es Salaam only allows women access on Friday, as if this is the only time women are obligated to pray. In most mosques, women have limited

---

71 Reported in **Women's Right Watch 2002**

access to the main pulpit from where the teachings are imparted. Often they worship in much smaller and inferior and, at times, dangerous surrounding. For example, in one mosque in Kigamboni Area, women pray outside while men pray inside the mosque. Apparently, the mosque is still under construction and while the women are regular contributors to the mosque fund, it is often the male area that gets priority in rehabilitation and expansion plans. When challenged about such discriminatory practices, the leadership is quick to point out that women don't regularly attend mosques, so they don't need as much attention. But, absent motivation and appreciation, why should women be expected to be enthusiastic about attending collective gatherings? Also, why should they put themselves and their property at risk because of attending a religious service when the idea of bringing people to worship together and socialize is to comfort them and give them a sense of security and community?<sup>72</sup>

Also, while the idea behind collective prayer or *jamaa* is listen to the Imam and also have the opportunity to discuss issues pertinent to the larger Islamic community, women may not have the opportunity to do either. It is not uncommon that women do not hear the sermon or prayer because they are too far from the Imam and there are no speakers or microphones to facilitate communication.<sup>73</sup> Where they exist it is not a

72 There is a big depression on the center of the women's prayer area, in one of the main mosques in Dar es Salaam. Although women pray on the first floor nothing has been done about the structural damage for the past 5 or so years.

73 At AriZona State University Masjid, women are able to hear and see the sermon

guarantee that they function. Likewise the erratic power supply can cut them off from the main prayer hall. Such an arrangement is justified under the strict separation of the sexes. And although the original intention was to afford women protection and privacy its practice relegates women to the backseat with no opportunity to influence major decisions that affect their lives.

This is in contrast to the practice at the times of Prophet Muhammad (pbuh,). In his time, Prophet was criticized for allowing women more freedom than was customary. In Medina, his living quarters were adjacent to the mosque, and the Prophet is known to have received visitors in the presence of his wives sometimes even lead the prayers from the quarters of his wife Ayesha. Women were not just passive listeners and docile followers, but actively participated in discussion and questioned, confronted and challenged. This practice continued even in Umar's time - when he was caliph. For example it is reported that when Umar attempted to limit the dowry in a khutbah in the mosque, a woman challenged his ruling and Umar conceded saying the woman "is correct and Umar is wrong". The mosque was a space where dialogue between the leader and the people could take place. Shemima, and many like her, thus can't fathom, "the idea that the mosque is a privileged place, the collective space where the leader

---

directly through video conferencing. This same technique is also used in some Saudi schools for joint lectures thus allowing women to follow and participate in class while guarding their privacy.

debates with all the members of the community before making decisions, is the key idea of Islam which today is presented to us as the bastion of despotism.<sup>74</sup>

She goes on to explain that everything passed through the mosque, which became the school for teaching new converts how to do the ritual prayer, the principles of Islam, how to behave towards others in places of worship and elsewhere. Although the Prophet's mosque was fairly small, women occupied the back rows of the Prophet's mosque; where they could be seen and heard by the rest of the congregation.<sup>75</sup> Direct contact between the Prophet, as the Imam who led the prayers, and those who attended the prayers seems to have been an important element in the Friday *khutba*

It often happened that men came to the mosque late and were blocked by the rows of women. Shemima concludes that it is very easy to imagine the fatal next step in such a situation: ban women from the mosque, since the mere presence of women risked creating a problem.

She observes that in reading modern authors like Muhammad Sadiq al-Qannuji, the twentieth-century Indian scholar (d. 13084), that, one notes the institutionalization of the exclusion of women from such a crucial place as a mosque.

74 Shamima Shaikh, Denying women access to the 'Main Space' - A betrayal of the Prophet (phuh). Presented to the Jamaat Khanna committee of the University of the Witwatersrand - 1995. also see Tarich Tabari, "Sceau des Prophets" 1980, cited in Mernisi p. 133.

75 One of the most fascinating descriptions of the Prophet's mosque is in Imam al-Nasa'i, Sunan, vol. 1, pp. 31-59

In his chapter on "What has been said on the fact that the Friday sermon is not a duty for women", he brings out a dubious *hadith* which says: "The Friday service is a duty! for all Muslims, with four exceptions: slaves, women, children, and the ill."<sup>76</sup> Shemima concludes, "We are certainly a long way from the Prophet's mosque, open to all, welcoming all those interested in Islam, including women. The mosque now suffers a betrayal of Muhammad's (pbuh) ideal community: women are declared strangers to the place of worship. Women, who had the privilege of access to the mosque as *sahabiyyaat*, companions of the Prophet, very quickly became polluting, evil beings."

### **False sense of equity and equality**

Perhaps the most amazing fact about why men and women, who speak grandly about their faith, allow or forgive such contradictions in practice, is as a result of what I term as a false sense of equity and equality, something that Muslim women in particular have been confused into ascribing to even when such logic defies the spirit or essence of Islam. For instance, Muslim jurists have eloquently written about equality of women in Islam and they have been quick to point out that one area where equality between women and men is absolute is in spiritual matters. Nonetheless, making exceptions to women's fulfilment of spiritual obligations such

76 Muhammad Sidiq Hasan Khan al-Qannuji, *Husn al-uswa bima tabata minha allah fi al - niswa*, Beirut: Mu'assasa al.Risala, 1981 p. 345

as praying in the mosque or attending Friday prayers or providing inferior prayer services to women's areas is in fact suggesting that their worship is less significant.

Mahfoudha Alley, a local activist and now MP for the newly created East African Parliament writes, "Every time equality of men and women is mentioned in Islam, ten or twelve verses from the Quran are thrown in for good measure, especially Surat Nnissaa 4:3 "Arrijalu Kkawwaamun alaa nmissaa (*Men are protectors and maintainers of women*). They use this verse to justify the injustices done to women. This verse, plus a score of others mixed with several Hadiths (*Sayings of the Prophet*,) are misinterpreted and looked upon superficially".<sup>77</sup> In the same vein Shamima writes, "Since it is the responsibility of males to provide for females, women are liberated from all social, political and economic obligations. They are freed from all these burdens so they can enjoy the joys of housework and child-bearing and caring. And this is regarded as the special status that Islam has accorded women, thus liberating them from oppression and suppression over 1400 years ago!"

In trying to understand why this happens, Mahfoudha Alley offers the following explanation, "The position of women in Muslim societies and in Islamic jurisprudence is

77 Mahfoudha Alley Hamid, *Women's Rights in Islam*, a paper presented at a workshop organized by Sahiba Sisters Foundation to familiarize muslim women with national and international policies concerning women, December 2001 Dar es Salaam.

78 Shamima *Woman's Role in Contemporary Society*, Rhodes University Muslim Students Association Islamic Week, 1994

readily susceptible to misunderstandings. In the first place, most of the women in these societies are illiterate; and even if they are not, those who live in non-Arab countries like ours, probably do not know Arabic or have access to the sources. Because of this, they form their own ideas about what is Islamic, something which can be very far off from the official teachings. Also, they are confronted with local religious leaders who in some cases have little more or equal schooling than ordinary believers. It is of fundamental importance to note that certain practices pertain to cultural norms and traditions, some of them pre-Islamic that have been incorporated into local Muslim practices and what pertains to the formal doctrine and its sources. Thus, what women are facing and challenging is not necessarily religion according to the letter of the Quran, but religion as it is explained at the local level. Explanations are mingled with local traditions and hence are heavily influenced by the prevailing balance of power.<sup>79</sup>

She goes on to suggest that extreme boldness is required in approaching violations on rights since the issue of reason and self-determination is still not well digested as an individual entitlement. She points out that excuses such as religion, modesty or chastity, cultures, traditions and the like are used to rob the girl of her human and religious rights.

---

79 Mahfoudha Alley Hamid WOMEN'S RIGHTS IN ISLAM p.2

Indeed this forms a contradiction in real terms. Muslim feminists face criticism from other feminists for insisting on maintaining the link to Islam in the gender struggle. Muslim feminist looks to the Qur'an and the Prophet as a force for liberation, but in this ideological struggle faces tremendous opposition and criticism for "reinterpreting, changing the Qur'an", "following 'western feminists'", etc. from the clergy, the community as well as other women. Such feminists would insist that they are inspired by Islam and the women heroes of Islam who stood up for justice and human rights. And that Islam is a force of empowerment rather than of disempowerment.<sup>80</sup>

However application of Islamic law has not been without its problems. The case of Amina Lawal, the 30-year-old Nigerian woman sentenced to death, should raise grave concerns about how Islamic law is used in Nigeria and in other countries to brutalize and subordinate women. Likewise, in Pakistan a woman who has been raped and 'wants the state to prosecute her case must have four Muslim men testify that they witnessed the assault.' Absent of these male witnesses, effectively the rape victim has no case. Equally alarming, if she cannot prove the rape allegation, she runs a very high risk of being charged with fornication or adultery, the criminal penalty for which is either a long prison sentence, including public whipping, or, though rarely, death by stoning.<sup>81</sup>

---

80 Leila P. Sayeh and Adriaen M. Morse, Jr, *op cit.*

81 Tazeen Mahnaz Murshid and Lisa Hajjar, *op cit.*

The Islamization of Pakistan's legal system began with Prime Minister Zulfikar Ali Bhutto in the mid-1970s, but was greatly expanded following the military coup that brought General Zia ul-Huq to power in 1979. Zia appealed to Islamic values to legitimize his regime and granted religious parties, which did not enjoy much popular support, a power they had not previously had and a role in revamping the legal system. The consequences were borne principally by women and minorities; in the first year of his rule, Zia reversed virtually all of the reforms that had benefited women in the previous 30 years.<sup>82</sup> He introduced the Hudood Ordinances, which changed the laws on rape and adultery and made fornication a crime, and the Law of Evidence, which renders the evidence of women equal to only half that of a man in some cases.

### **Access to divine and legal rights**

Inheritance is another sore issue with women in Tanzania and it in fact, forms one of the areas of contention between gender activists and Muslim women in the rights discourse. However, there are two fundamental departures in approaching the issue of property with others in the women's movement. The first rests with the reality that under Islamic law, Muslim women are guaranteed property rights as mothers, wives, daughters or sisters.<sup>83</sup> Secondly it concerns

82 Ibid. Also see Shahnaz Rouse, "The Outsider(s) Within: Sovereignty and Citizenship in Pakistan," in *Appropriating Gender: Women's Activism and Politicized Religion in South Asia*, eds. Patricia Jeffrey and Amrita Basu (New York: Routledge, 1998).

83 I emphasize Muslim women as the same is not true for women who are not Muslims but married to Muslims.

the concept of inheritance in Islamic jurisprudence, as opposed to western views, a contrast between distributive justice and individual interest.

This in no way undermines the real hurdle Muslim women like other women face in asserting their property rights in inheritance matters. For instance, Muslim women's readiness to be governed by Islamic laws has not guaranteed them of their religious or legal rights. Mahfoudha remarks that followers of Islam, turn their faces the other way when it comes to a position where a woman is to inherit land or a house. Rather, they resort to their customary laws, some of which forbid women to inherit or own property. In these instances they forget that they are Muslims first, and their customs and traditions come next.<sup>84</sup> However, it underscores the fact that solution is not about giving women those rights, but guaranteeing them access and enjoyment of those rights by putting appropriate and responsive mechanisms in place to that effect.

The matrimonial relationship is also another area causing much difficulty for Muslim women. Whereas Muslim jurists claim that the dowry is a gift, given by the bride in consideration to the honour the bride gave him in accepting him, some jurists require that the wife return the marriage gift upon divorce.<sup>85</sup> This not only contradicts the teachings of the Qu'ran that encourages men to forego all gifts given to the wife particularly where the marriage has been

<sup>84</sup> Ibid, p. 4.

<sup>85</sup> This is known as *Khula* divorce. My understanding of *Khula* is that it becomes

consummated<sup>86</sup> but it also perpetrates the pre-Islamic idea that the woman is a chattels who can be arbitrarily disposed of upon divorce without due consideration to the wear and tear she endured 'while fulfilling her marital obligations and reproductive role. So, why should only the man be compensated when the relationship has turned sour while the wife is left in suspense?<sup>87</sup>

Shemima did not miss this injustice in divorce law and practice while commenting on the application of Muslim Personal Law (MPL) in South Africa. She believed that the provision giving men unilateral right of divorce, conflicts with the spirit of *shura* (consultation), decency, dignity and justice. She saw the problem to be implementing an MPL code that was developed in the ninth century where the context was different and the assumptions on which the laws were based were very different. Shemima believed that the intention was

---

incumbent where the marriage has not been consummated and where there is no valid basis for the wife to seek a divorce. However, the practice has been to demand that women return *mahr* or dowry in exchange for their freedom if the wife is the one requesting for a divorce as long as the man is not ready to grant it. Very little regard is given to the basis of the divorce application by the wife, such as cruelty, failure to maintain or adultery.

86 The Holy Qur'an IV:4 states, "And give the women (On marriage) their dower as a free gift". For further reading see, Muhammad Abu Zahrah, *Muhadarat Fi Aqd Al-Zawaj Wa Atharuh* (Conference On The Contract Of Marriage And Its Obligations) 228 (1971)

87 In actual fact, many women who have sacrificed their careers or even wealth in a marital union end up poorer after marriage and divorce than they would have had they remained single, as rarely is a maintenance order or parting gift spoken about in the Qur'an implemented in a divorce order.

never to impose those laws to the present context; rather, the eternal, universal and Divine injunctions from the Qur'an were to be applied to our context.<sup>88</sup>

She also saw the 'authorities' reluctance to engage in *ijtihad* as another stumbling block to giving women their due rights. She viewed "religious authorities" as incompetent to deal with present issues and challenges mainly because they are not qualified to do so as they lacked education, experience and commitment. Consequently, when challenged about reform, they failed to think or reflect proactively but remained static. In some instances, they lash out at the challenge to their authority. Shemima urges the population to keep challenging the clergy and demand that the issue be put up for public discussion and input given that Muslim Personal Law is not a private issue neither is it in the domain of the clergy class but affects all Muslims.<sup>89</sup>

### Women and political spaces

Earlier on in this paper I made reference to how women are restricted from the most basic area of community interactions for Muslim- the mosque. I also indicated that this has implications beyond the spiritual, that, in fact, it ultimately dictates women's influence politically in their religious establishment, as well as in the larger community.

88 Shamima Shaikh in a letter to The United Ulama Council of South Africa, dated 24 July, 1995.

89 Shamima Shaikh, 1997

The pulpit is a powerful symbol and position to be speaking from. In the mosque, it is only a prerogative of the Imam or male guest of the Imam. Although in Islam's history women have taught religion, it is not customary for women to be consulted as authorities in religious matters. My own grandmother is a shekhuna (a female scholar) who taught males and females and also conducted a darsah for women, but I have not heard of her being called upon to speak or clarify on an issue in state-sponsored religious programmes or in public spaces. Thus, while Muslims readily claim that half of Islamic Hadith were transmitted by a woman, they are not ready to listen to women even on issues that pertain to the female sex such as menstruation or consummation of the marriage.

Moreover when one speaks from the pulpit, one commands authority and uncensored and unlimited access to speak on an issue. It gives one power to influence people's opinion at a regular basis at least four times each month which amounts to at least 48.<sup>90</sup> Sahiba has experienced the force of pulpit power. In December 2001, Sahiba organized a workshop to introduce key national and international policies to her networks as a way of empowering them to seize opportunities available to all women. During one of the sessions an observation was made, which was reported in one of the dailies,<sup>91</sup> about men's unwillingness to let their

90 In some mosques sermons or just preaching are done after every prayer which is 5 times each day that amounts to 1825 times each year.

91 See *Majira* of December 28, 2001 with the headline "Quran used to oppress women, says MP".

wives work, not because this is religiously required but because of human weakness and fear of the woman earning more. Following the report BAKWATA came up in arms and called a press conference on Saturday January 5, 2002. During the press conference they purported to counter what were reported to the assertions of an MP and lawyer during the meeting. They took particular issue with the procedure for issuing talak or divorce.<sup>92</sup>

As if that was not enough, they also used the pulpit during Friday sermons in all mosques it controls to accuse, who they saw as some wanton women of wanting to corrupt divine law. As accused parties, we did not have access to the same platform to put through our case, not only to the public at large but also to the religious establishment.<sup>93</sup> They proceeded to also make their case about the content of proposed reforms to the LMA, which we later learnt was what motivated, in part, their verbal attack. Thus they claimed that the requirement to register marriages and divorces at the local government level as un-Islamic which suggested their unfamiliarity with practices in other Islamic legal systems.

---

92 Although representatives were invited at the forum none turned up. Also no one from the Council called us to clarify on what transpired at the workshop before calling a press conference and launching their attack. Obviously, it was not important to consult women!

93 Also, what was interesting was that although Tanzania has poverty eradication as a national priority, the government did not react to BAKWATA's claim that Muslim women are absolved from working. Likewise no one seemed to raise the issue where with a minimum wage of Tshs. 30,000 about \$28 per month anyone can afford to maintain a family.

Whereas sermons are meant to be on topical issues covering different aspect of a Muslim's life, an overwhelming number of Imams choose to focus their *khuthas* on women's inaptitude in religious matters. Conversely, they choose to justify why women are an irrational sex headed for hell fire mainly because of their unwillingness to obey their husband's wishes and commands, their immodest dress and general rebellious streak. These accusations are broadcast live to thousands of ears, at time nationally, Muslims and non-Muslims alike without the opportunity for women to respond, or at least have their say one Friday. For instance, women are entitled to a number of conjugal rights, including entitlement to fine their husbands for breaching conjugal rules and unsatisfactory performance but these are rarely discussed. Likewise, there are many cases of irresponsible husbands, the perennial grooms, and the hoodlum sons but few sermons as far as chastise them for their non-gallant and far removed from the Prophet's way of behaviour. Obviously, civility and humility towards the women that bore humanity is too divine a quality for common clergy and believers!

In some cases the attacks are not as obvious. For instance, most women are not as conversant about performing religious rites as men are. This is because most are not exposed to religious observance the way men are. Thus, before beginning the prayer the Imam will urge women to be mindful about their religious acts such as straightening the prayer rows.

However what they don't seem to understand is the very exclusion of women from mainstream structures and religious instruction is at the base of the perceived shortcomings in women's religious observance. The fact that women have no space to influence what is said or discussed and how it should be imparted in the mosque structure perpetuates this circle of victimization and ignorance.

Effectively, Muslim women are silenced into submission not only by physical spaces but also by structural inequalities that have been sanctioned by legal frameworks. This impacts women's ability to organize, or to make meaningful inroads in rallying for their rights within a dominant religious establishment that otherwise negates the human rights approach. Ultimately, the structure facilitates women's subordinate role in the larger community, as it does misconceptions about women. It also denies the community an opportunity to explore different viewpoints and interests from alternative voices and groups about an array of community issues.

This is why Sahiba, began a women's newsletter and deems it important to initiate forums to offer a women's perspective on religious and everyday issues. Sahiba sees the Internet as a powerful tool to empower women foremost by facilitating access to communication and also in its possibility to post and publish information widely. Thus, I urge that undue restrictions placed on women's organizations to organize

autonomously has consequence on their very existence. The extreme manifestation of this can be seen from the case of the Tanzania Women's Council (BAWATA) and the Ministry of Home Affairs representing the interest of the ruling party.<sup>94</sup> There is thus real concern that the enforcement of the proposed NGO policy will limit the operation of Muslim women's groups under mainstream Islamic organizations, or the state.

### Conclusion

The history and politics of the state—that is, the specific experiences and legacies of colonial rule, and the trajectories of national independence, integration and development—have given rise to vastly different state projects and agendas in regard to gender relations, law and religion, and the relationship among them. As we head into more complex political situation how will Muslim women negotiate their rightful space in key national development efforts amidst continued exclusion from key bodies?

Thus far, I have attempted to define what I see as the problems facing Muslim women in Tanzania, particularly as

---

94 It is believed that fearful of the power base BAWATA could build following the multiparty democracy, effectively replacing the women's wing of the ruling party, UWT, the government orchestrated the demise of BAWATA by accusing it of engaging in political activity contrary to CSO mandate. Unexpectedly BAWATA raised a legal challenge that is yet to be resolved. Also see Chris Maina Peter, "The State of Human Rights in Tanzania", a Keynote address given at the public rally to celebrate 50 years of the Universal Declaration of Human Rights of 1948, organised by the United Nations Association of Tanzania and held at the Institute of Finance Management in Dar es Salaam on 10th December, 1998 p. 7.

they try to exert themselves in traditional political and religious structures. I have shown how their predicament continues to be influenced by historical factors, in Islamic history as well as national history. I focused on specific challenges facing Muslim women such as political and religious bigotry, the issue of ideology and the lack of governance. To contextualise my discussion I tried to use specific examples from the Tanzanian experience as well as from other corners of the Muslim world. In this concluding part, I examine briefly some efforts towards promoting Muslim women's participation in key governance structures.

### **Some local solutions**<sup>95</sup>

It has thus been the earnest preoccupation of my organization, Sahiba Sisters Foundation to promote Muslim women's involvement in different spheres, thereby bringing them out of isolation. Sahiba evolved from a need by women, mostly younger women, to address issues of concern to them from a more practical and gender-sensitive perspective. They felt that to a large extent, a patriarchal religious establishment constrains the development agenda for Tanzania's Islamic community. As already discussed, women have been left out of key religious structures, as well as programmes, even on

---

95 *Also see* Salma Maoulidi, **Revisiting an Organizational Strategy: Mobilizing and Mapping Organizational and Community Assets Towards Greater Organizational and Institutional Impact**, Coady International Institute, November, 2002.

those issues that directly concern and affect them. Sahiba's founding members wanted to overcome this male bias in organization and interpretation. They chose to organize so as to assert Muslim women's autonomy and visibility.

Primarily, Sahiba Sisters Foundation is a networking organization that addresses the development needs of Muslim women and of development partners who want to work with Muslim women thereby creating opportunities for development cooperation. Although Sahiba is an organization for Muslim women, its purpose goes beyond the religious. It is an organization that strives to bridge the gap among Tanzanian women, in terms of those who are visibly benefiting from national and external donor development initiatives and those who remain at the periphery of such initiatives, a gap, which is increasingly assuming a religious character. In part, this results from the way Muslim women are organized, mostly in informal groups affiliated to mosques and making stronger connection with their spiritual roots. But after decades of WID and GAD initiatives no real effort has been made to address this disparity, a situation the founding members found unacceptable. Sahiba is thus an attempt to engage in a development dialogue from where her constituents could relate to, as Sahiba believes that development interventions must take account of people's own realities.

Sahiba's purpose is to enhance leadership and organization capacity among Muslim women and Muslim women's groups so as to facilitate their participation in civic

engagement. However, her purpose has far reaching implications, beyond the ambit of the organization. Sahiba seeks to create an impact at different levels in an institutional context. Implicit in this realization is defining how Sahiba would intervene to achieve her purpose. It became clear that Sahiba needed to develop a strategy that would allow her to build on her programmes towards institutional impact while paying greater attention to issues of governance, communication, advocacy and resource mobilization.

Sahiba's programmes are designed to empower women and to create a ripple effect to development initiatives and the benefits now spread to network stations in 13 regions in the country. To carry out her mission Sahiba applies Islamic values grounded in the search for social justice. The process of bringing about the desired social transformation is spiritual, to be nourished and sustained foremost at the individual level. It is important that Sahiba is able to identify groups and individuals demonstrating a similar outlook to enrich the process. Sahiba has therefore chosen to focus on leadership development as her basic strategy towards an empowered membership. An induction process has been developed to share the operating philosophy widely.

However, not all members of the network share the same interpretations on all ritualistic and doctrinal issues. Rather, Sahiba sees such diversity as necessary to internalize a culture of tolerance and dialogue in the community. Also, by allowing diverse voices, Sahiba encourages critical thinking consonant

with the Islamic notion of *ijtihad* or reasoning. Nonetheless, Sahiba struggles with striking a balance of more progressive interpretations and outlooks in a context that is increasingly rigidifying itself as a result of the negative media attention against Islam, which has intensified since September 11 2001. One way Sahiba tries to overcome this is by seeking to expand her circle of alliances with more diverse development and social movements locally, nationally and globally.

### **More developmental and sustainable solutions**

I believe that sustainable options towards women's insubordination can be realized when activists and development agents take account of people's realities and the dynamics influencing that reality. Essentially, I advocate for a facilitative posture that is common in developmental OD practices.<sup>96</sup> This demands for a value shift on the part of the facilitator of development to lead by stepping back, by desisting from prescribing and leading the process but by

---

<sup>96</sup> This involves approaching OD as a discipline that foremost concerns the consultant or facilitator, and not the client. It is about checking your biases and motivations in aiding a development process. See for example Allan Fowler, *Institutional Development and NGOs in Africa; Policy Perspectives for European Development Agencies*, INTRAC/NOVIB 1992; Allan Fowler, Piers Campbell and Brian Pratt, *Striking a Balance: A Guide to Enhancing the Effectiveness of NGOs in International Development*, Earthscan, London (1997); and Allan Kaplan, *The Development of Capacity*, NGLS Development Dossier, UN NGO Liaison Office 1999.

guiding the process as it evolves. It means letting go of some of our long-held notions about leadership and change and showing greater respect to the process into which we seek to intervene, while recognizing that the implications may be for the better or for worse. However rather than making it solely our preoccupation, we also have to learn to allow those most concerned with the outcomes to also assume a defining position in articulating their expectations and aspirations.

To appreciate the demands of such a value shift demands paying heed to Shanker's reminder when he notes, "The belief that economic development, along with science, modernization, industrial growth and urbanization, would put an end to religion has not come to pass. Secularization separated state from church, but religious beliefs have remained important in the lives of individuals and societies. Far from being anti-modern, the contemporary interaction of religion and development emphasizes the dynamism of societies, and their propensity to change. Economic progress, though important to human betterment, cannot alone lead to sustainable development. Beyond the material, human needs have a deep religious dimension, which development theory and practice must take into consideration."<sup>97</sup>

He notes further that religions provide comfort, meaning and a sense of belonging; function as a source of inspiration

---

97 Shanker p. 13

and spiritual security; and offer hope for human betterment. One of the factors common to all religions is belief in a liberating force, or salvation. The idea of liberation can inspire progress in the present world, focusing on social change and the deliverance of the poor and disadvantaged from oppression. However, religion can sedate its adherents and nurture apathy; it can encourage dependence on religious agents; it can be manipulated to keep people in their situation of helplessness, and interpreted as God's will. Herein lies the ambivalence of religion: sometimes its vision of wholeness can stimulate resistance and protest; at other times it can incite extremism, division, escapism, and submission to oppressive power structures. While the negative aspects of religion are frequently quoted, its contribution as a source of liberation from oppression and injustice is often overlooked.<sup>98</sup>

Marmaduke Pickthall argued that the laws of Islam, with regard to the position of women are intended for the benefit of women, for their health and happiness and the improvement of their material and social position. Like other progressive scholars he believes these laws are not static, they are DYNAMIC. They contemplate reasonable change as circumstances and conditions change. They can never sanction any custom that does injury or wrong to women<sup>99</sup> Leila P. Sayeh and Adriaen M. Morse agree and expound that Islam's

---

98 Pickthall

99 Pickthall, *op cit.*

legal rules are subject to rationalization. Thus, changes in the interpretation of its rules are permissible. *Shar'ia* demonstrates this dynamism and receptivity to change. It is used by jurists in religious and legal cases in order to administer the appropriate ruling in a new factual setting. *Shar'ia* allows different interpretations of existing precedents in at least three situations as laid down in the Qur'an and the Sunnah: (1) necessity or public interest, (2) change in the facts which originally gave rise to the law, and (3) change in the custom or usage on which a particular law was based. If one of these three conditions is present, the jurist may adapt existing law to the new situation, and his ruling then becomes a part of *Shar'ia* law, provided it does not contradict the Qur'an.<sup>100</sup>

They include a framework for human rights, which complements the Muslim culture and takes into account those rights of women already guaranteed by Islam itself.<sup>101</sup> In understanding how women's rights in Islam have evolved and continue to evolve they use a process of gradualism, a method of interpretation that proceeds by degrees, over time, advancing slowly but regularly. They argue that gradualism is ideally suited to Islam because, while the Qur'an does enumerate certain legal standards, it consists primarily of very broad and general moral directives, the idea of gradualism

100 Leila P. Sayeh and Adriaen M. Morse, 312

101 Ibid 332

complements the notion that Islam is a further step along the path to a greater understanding of God. They hold that by applying both proper principles of interpretation and stricter human rights standards, women in Islamic societies can achieve the position and respect that the Prophet intended.

There are a number of examples from different corners of the Muslim world that can offer lesson in how the two approaches can be reconciled. In Tunisia, polygamy has been abolished and penal sanctions established for any man who marries more than one woman. The Tunisian Code expressly bases itself on the *shar'ia* and derives its legitimacy from a modern interpretation of Islamic law. Polygamy is simply a permitted matter, not an absolute right or religious duty. Since the political authority may legislate against a permitted thing or make it obligatory according to the needs of society, the government, to safeguard society, may ban polygamy. When it was formulated, the code employed various interpretations, drawing from those espoused by the different schools; the government felt that this combination best suited the needs of the Tunisian people.<sup>102</sup>

The Turkish Parliament also adopted a new civil code that gives women equality rights under law. The new code establishes the equality of men and women in the family. One of the most important of the 1,030 amendments is the removal

---

102 Ibid 329 also see Fazlur Rahman, *A Survey of Modernization of Muslim Family Law*, 2 International Journal of Middle Eastern Studies. 451, 451 (1980)

of the clause that defined the man as the head of the family. The changes, which come about due to the lobby efforts of women's groups, met with resistance, especially the provision for equal division of assets accumulated during marriage, according to Pinar Ilkcaracan of Women for Women's Human Rights (WWHR).<sup>103</sup> However, they have gone some ways to re-examine the religious and legal implication of the principle of *qawama* that imposes the burden of maintenance only on men in a changing socio-economic reality.

### **Towards a global solution to women's dignity**

However, Muslim women's efforts in asserting themselves in different structures need not be confined to the local context or solely in the Islamic context. Some progress can be made if they also participate in regional and global structures and forums aimed at reasserting global values of human dignity and rights. And I believe that such opportunity is now rife considering that the development sector has at least begun considering the issue of spirituality and religion in the past few years. Moreover, there is increasing deference to spiritual figures and institutions at the global level. Rather than allowing such structures to continue representing the interests

---

103 Herizons, Turkish Women Rejoice, December 2002

and priorities of the few, women should seize opportunities to influence their agendas not only through activism but also through stewardship.

Dena Merriam, vice-chairperson of the Millennium World Peace Summit (MWPS), notes that after a history of neglect and marginalization, there is now a need for women who have made a mark in their respective faiths to play a greater role as religious and spiritual leaders. This was pursuant to a ground-breaking meeting held in the Thai capital in June, which launched the World Council of Religious Leaders (WCRL) attracting over 100 of the world's religious leaders.<sup>104</sup> Bawa Jain, secretary general of the MWPS, which was behind the launch of the religious council is reported to say, "We are seeking new and different ways to engage women to come forward. We hope to attract women with leadership ability to demonstrate their strengths."<sup>105</sup> According to the organizers this is an opportunity to strive for gender equity, for women voices to be heard. For Muslim women the Fourth World Conference on Women perhaps was a turning point in their organization and participation in national and global activism.

A meeting in early October at the U.N. premises in Geneva aimed at creating a "women's council to work with

---

104 Macan-Markar, Marwaan Title: Religion: Women Religious Leaders Step Out Of The Shadows, Global Information Network Interpress Service, June 14, 2002

105 Ibid.

the religious leaders. Once established, the proposed council will function in the same manner as the male-dominated WCRL — to serve as a resource to help take the United Nation's political, humanitarian and social agenda forward which includes addressing the conservative traditions of the world's faiths. It aims to offer participants an opportunity to reinterpret or clarify the religious scriptures in today's context. The meeting will continue a process initiated at the MWPS, in August 2000 at the U.N.'s headquarters in New York, attended by over 2000 religious leaders, to harness the strength of religions to work as interfaith partners with the United Nations.

I believe that there are opportunities for Muslim women to find some solutions to their current exclusion from key governance structures internally while resorting to positive interpretation of Islamic rules, as they can externally, by embracing universal human rights principles consonant with their heritage. As Shemima declared, "We Muslim women can walk into the modern world with pride, knowing that the quest for dignity, democracy, and human rights, for full participation in the political and social affairs of our country, stems from no imported western values, but is a true part of Muslim tradition."

## REFERENCES

- Abdulaziz Y. Lodhi and David Westerlund (MSS March 1997)
- Aboud Jumbe book *The Partnership: Tanganyika-Zanzibar Union - 30 Turbulent Years*, Amana Publishers 1994
- Amnesty International Press Release, Tanzania: Commission of Inquiry Findings Must Be Made Public *News Service* No: 101 14 June 2002
- Dr. Abdulaziz Sachedina, *Woman Half-the-Man? Crisis of Male Epistemology in Islamic Jurisprudence*," University of Virginia
- Dr. Lois Lamya' al Faruqi, "Islamic Traditions and the Feminist Movement: Confrontation or Cooperation?" Muslim Women's League, 1999
- Hamza Njozi, The Mwembechai Uprising, available at [www.islamorg.tz](http://www.islamorg.tz).
- Herizons, Turkish Women Rejoice, December 2002 Source:15 (3): 8(1), ISSN: 0711-7485 Herizons, Inc
- 'The United Republic of Tanzania: A Profile of Tanzania, available at [http://www.tanzania .tz/profilef.html](http://www.tanzania.tz/profilef.html) visited on Dec 1, 2002

John Sivalon, The Catholic Church and Tanzanian Politics from 1953-1985, 1992 LaShawn R. Jefferson, "The War on Women", *The Wall Street Journal* 22 August 2002

Lailaa Al Marayati, "Overcoming Obstacles in Achieving the Rights of Muslim Women, a paper presented at the Canadian Council of Muslim Women Conference on Muslim Women and the Politics of Participation, October 16-18, 1998

Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven, CT: Yale University Press, 1992

Leila P. Sayeh and Adriaen M. Morse, Jr., "Islam and the Treatment of Women: An Incomplete Understanding of Gradualism", 30 *Texas International Law Journal*, 311-334 1995.

Lisa Hajjar, Domestic Violence and *Shari'a*: A Comparative Study of Muslim Societies in the Middle East, Africa and Asia

Marmaduke Pickthall, *Social Degradation of Women — A Crime and Libel in Islam: The Un-Islamic Indians Style Purdah System (hijab)*, edited by Syed Mumataz and Rahia Mills.

Mohammed Said, The Life and Times of Abdulwahid Sykes

(1924 - 1968); The Untold Story of the Muslim Struggle Against British Colonialism in Tanganyika.

National Endowment for Humanities, Living Encyclopaedia for Tanzania, available at [http://www.sas.upenn.edu/AfricanStudies/NEH/tz\\_relgn.htm!](http://www.sas.upenn.edu/AfricanStudies/NEH/tz_relgn.htm)

Rejkumari Shanker, "Religion and Development", In *Development Express*, CIDA p. 7 downloaded at <http://www.acdi-cida.gc.ca>.

Salma Maoulidi, "Revisiting an Organizational Strategy; Mobilizing and Mapping Organizational and Community Assets Towards Greater Organizational and Institutional Impact", Coady International Institute November, 2002.

Salma Maoulidi, The Predicament of Muslim Women in Tanzania, ISIM Newsletter issue 10 July 02 p. 25.

Shamima Shaikh, "Denying Women Access to the "Main Space" A Betrayal of the Prophet (pbub) presented to the Jamaat Khanna Committee of the University of the Witwatersrand, 1995

Shamima Shaikh, "MYM Islamic Tarbiyyah Programme", 19 - 23 Dec, 1997 As-Salaam, Kwa Zulu Natal

Shamima Shaikh, "Woman's Role in Contemporary Society"

Rhodes University Muslim Students' Association  
Islamic Week, 1994.

Tazeen Mahnaz Murshid, "Women, Islam, and the State:  
Subordination and Resistance", University of North  
London

U.S. Department of State, Annual Report on International  
Religious Freedom for 1999: Tanzania, released by  
the Bureau for Democracy, Human Rights, and Labor,  
Washington, DC, September 9, 1999.

## Acronyms

BAKWATA	Baraza la Waislamu Tanzania
BALUKTA	Baraza la Usomaji Kurani Tanzania
BAWATA	Baraza la Wanawake Tanzania
Bi.	Ms.
CCM	Chama cha Mapinduzi
CIDA	Canadian International Development Agency
CSOs	Civil Society Organizations
DUMT	Dar es Salaam University Muslims Teachers Union
EMWAS	East Africa Muslim Welfare Society
FFU	Field Force Unit
ISIM	Institute for the Study of Islam in the Modern World
LMA	Law of Marriage Act
MSAUD	Muslim Students' Association of the University of Dar es Salaam

Muslim women battling for spaces in traditional religious and political structures in Tanzania

MWPS	Millennium World Peace Summit
Pbuh	Peace be upon him
TAMPRO	Tanzania Muslims Professional Association
TAM WA	Tanzania Media Women's Association
TANU	Tanganyika African Nationalist Union
UN	United Nations
WCRL	World Council of Religious Leaders

### Some Islamic Terminologies

<b>Abaya</b>	A long black cloak, covering from head to toe worn by women in the Arab World
<b>Fatwa</b>	A religious edict or ruling
<b>Fitnah</b>	Evil, corruption
<b>Hadith</b>	The Hadith is the written record of what the Prophet said and did in his everyday life.
<b>Jama'a</b>	Collective prayer
<b>Khalifah</b>	(Caliph) refers to the successor of the prophet, who is also the head of state in Islam. The first four successors of the Prophet are referred to as al-Khulafa'a al-Rashideen, or the Rightly-Guided khalifahs. The Rightly-Guided khalifahs were Companions of the Prophet during his lifetime and continued to abide by his teachings after

Muslim women battling for spaces in traditional religious and political structures in Tanzania

his death. They were, in order of their succession: Abu Bakr (reigned 632-634); Umar ibn al-Khattab (634-644); Uthman ibn Affan (644-656); and Ali ibn Abi Talib (656-661).

- Mahr** A dower is a mandatory free gift to the wife from the husband with no conditions attached.
- Qur'an** The Muslim Holy Book.
- Ramadhan** The ninth month in the Islamic calendar when Muslims fast.
- Shari'a** Islamic law. Literally, "the road to the watering hole." Shari'ah is God's will for Muslims to follow-divinely inspired law. The law has four sources: the Qur'an, the Sunnah of the Prophet, the ijma (consensus of the ulama), and ijtihaad.
- Sheikh** In East Africa a religious leader but in Arabian peninsula a tribal chief.
- Shekhuna** Feminine of sheikh.
- Sunna** The Sunna is the actual example set by the Prophet including what he said, what he did, and those actions that he permitted or allowed.
- Talak** A divorce or pronouncement thereof.
- Ulama** A religious scholar.

Muslim women battling for spaces in traditional religious and political structures in Tanzania

## NOTES ON EDITOR AND CONTRIBUTORS

### BENE E. MADUNAGU

Bene E. Madunagu, a feminist and social activist is an associate professor of Botany, University of Calabar, Nigeria. She has spoken at several international forums and written on wide ranging areas like women's empowerment, sexuality education, gender and women's rights issues, for many years.

Bene Madunagu co-founded the Girls' Power Initiative, GPI, an adolescent girls empowerment organisation. She also chairs the Executive Board of the organisation. She is also the chairperson of Calabar International Institute for Research, Information and Documentation, CIINSTRID, an institution that runs a free library and conducts an anti-sexist and critical training programme for adolescent boys.

Her involvement in women's development activities also ranges across continental and international organisations. She equally sits on the board of trustees of Reproductive Health Matters (RHM) and is the chair of the board of trustees of International Centre for Reproductive and Sexual Rights, INCREASE as well as member of the technical advisory committee of AMANITARE, the Africa Partnership for sexual and reproductive health and rights of African women. Bene is the Anglophone Africa Regional Coordinator, Development Alternative with Women for a New Era, DAWN. She also doubles as DAWN's Africa coordinator of research on reproductive rights and gender justice.

Ms Madunagu also serves as member of IPAS advisory committee for action to reduce maternal mortality in Africa and a member of the Africa regional advisory committee of the African women's Development Funds (AWDF).

Bene has published several academic books and papers and is currently researching into social consequences of some traditional practices in parts of Nigeria's Niger Delta region.

#### **SALMA MAOULIDI**

Salma Maoulidi trained as a lawyer at the University of Dar-es-Salaam. She started her activism early and helped to found Sahiba Sisters Foundation, a women's movement that focuses on development issues as they affect Muslim women in Tanzania. she still consults for the Foundation. Salma has attended several training on legal advisory services, sustainable development and the gender factor in women's empowerment and has consulted for many international NGOs, especially those involved in women's development project design in East and Southern Africa.

Maoulidi has also been on the board of Rights At Home, International Institute of the Study of Islam in the Modern World and has contributed some materials on women's development as well as children. She has been published in many journals.

#### **VICTOR OFURE OSEHOB**

Victor Ofure Osehobo, has, for the past 12 years, worked as a journalist and writer, focusing on social issues like environment, health and development. He studied Education, majoring in geography at the University of Benin, Nigeria.

Mr. Ofure has attended several professional training courses in United States of America, and currently reports for the Voice of America, VOA, Africa Service, covering parts of the Niger Delta of Nigeria.

#### **MARIA GORETTI SANYU NASSALI MUSOKE**

Maria G.S.N Musoke joined the staff of Makerere University, Uganda, as a librarian, after her graduation from that University in 1978. She became the documentalist of the university's women and gender studies department, which she also helped to set up. She has also been involved in the establishment of resource centres at the country's Ministry of Gender, Labour and Social Services, the National Agricultural Research Organisation, etc.

Musoke co-founded some women's organisations, including the Uganda Women's Network, (UWONET), FAWE Uganda, etc. Between 1990 and 1996, Musoke was the First Vice-president of the African Regional Association of Health Information Workers, and she is at present a member of the WHO-Health InterNetwork, representing Uganda.

#### **CESNAMIBHILO DOROTHY AKEN'OVA**

Dorothy Aken'ova is the founder and Executive Director of International Centre for Reproductive Health and Sexual Rights, Minna, Nigeria. She has been involved in a number of research projects on sexuality diversity in Nigeria and had been the acting Coordinator of Women's Health Organisation of Nigeria, WHON, where she helped to run community women and adolescent reproductive health projects. Aken'ova studied Linguistics, but

her areas of activism are in human sexuality, adolescent health and gender issues.

### **PATRICIA MCFADDEN**

Patricia McFadden is an African feminist activist/scholar who is currently in the US at the Five Colleges Women's Studies Research Center, Mount Holyoke College, Massachusetts, on a two year Ford Foundation writing grant, exploring the African Women's Movement and the ways in which women are changing the meaning of citizenship through engagements with the state over entitlements and rights.

For the past three decades, McFadden has worked within the African and Global Women's Movements, training young women activists in the conceptualization of gender, feminist theorizing, and its application through activist writing, lobbying, advocacy and leadership. She has also trained young journalists from Eastern and Southern Africa in gender analysis within the media under the auspices of the Nordic SADC Journalism Institute (based on Maputo, Mozambique). In addition to serving as a trainer in the Women's Movement, McFadden has taught at the university level since 1976, in various African countries and abroad, 1998/2000 she served as International Dean in the International Women's University (IFU) that was based in Hanover, Germany. For the past seven years, she has coordinated and taught the gender core course at the SAPES Trust Master in Policy Studies - Harare, Zimbabwe, and edited a feminist journal (SAFERE).

Her special interest in Sexuality, Reproductive Rights and Health and HIV/AIDS is reflected in a number of articles and contributions to books on these subjects. As an active participant in the AMANITARE Sexual and Reproductive Rights Partnership and on various women's health and rights networks, she strives to be a part of the critical changes that do make a difference in the lives of women on the African continent and globally. She believes that choice for all women has to become the standard of all discourses and decisions regarding women's sexual and reproductive lives.



C

1