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**PART II A. WOMEN'S RIGHTS:  
A CRITICAL ISSUE OF EQUITY  
AND SUSTAINABLE DEVELOPMENT  
WITH EXAMPLES FROM AFRICA**

**WOMEN'S RIGHTS: A CRITICAL ISSUE OF EQUITY AND  
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## **EXECUTIVE SUMMARY**

1. An analysis of the condition of women with regard to the application of human rights as stipulated in the United Nations Universal Declaration of Human Rights and other international legal instruments that define the inalienable and inviolable rights of all members of the human family, reveals that they only partially include women's rights, a fact to which society responds by virtual silence. This state of affairs underscores the issue of equity in relation to more than half of the world's population, as well as the effective utilization of human resources and the sustainability of development. In response to the gradual recognition of the serious implications of this situation, a number of corrective measures have been put in place among which the United Nations Convention on the Elimination of All Forms of Discrimination Against Women which was adopted by the General Assembly in 1979, stands out.
2. This paper sets out to examine the state of women's rights in Africa in the context of the Convention and the constraints for its full implementation. Part I situates the scope of the Convention which spells out the meaning of equality and proposes an agenda for its achievement in section I. In section II, the state of the implementation of the Convention is examined, with particular focus on the status of women's participation in political and public life and in socio-cultural and economic development. The exercise reveals that, in most sectors, women continue to trail behind in the decision-making process both at the national and international levels. In the economic sector, while women do not experience direct discrimination in the area of employment, their presence is negligible in the formal sector while they are predominant in the informal one. This excludes them from the protection of the labour codes. Women are still marginalized in property ownership due to cultural and traditional practices; this limits their capacity for full economic development. There is need to improve women's access to health services and education and to accelerate the process of their empowerment legally through intensive legal literacy programmes. Section III examines the issue of the prevalence of violence against women in its different forms, its basis and the effectiveness of the various responses adopted to contain it.
3. Part II focuses on the issue of information dissemination to women, which is a key factor of the empowerment process. Its four sections include the definition; a regional overview of the status of information with regard to women and the constraints thereof; mechanisms for strengthening dissemination of information; and measures to ensure its dissemination.
4. Part III offers a number of recommendations for accelerated implementation of women's rights.

**PART I**

**THE SITUATION OF WOMEN'S RIGHTS IN AFRICA:  
A GENERAL VIEW**

## I. INTRODUCTION

### A. Why women's rights?

1. The concept of human rights within which women's rights must be examined became an issue half a century ago in the wake of the Second World War as the world woke up to the fact that the destruction of humankind by some of its dominant elements was a real possibility. The world's response to this alarming realization was the formulation of the United Nations Universal Declaration of Human Rights in 1948 which is a basic international pronouncement of the inalienable and inviolable rights of all members of the human family. During the last half of the twentieth century and particularly in the last 20 years, the condition of women, seen in relation to the condition of men, has been examined at world level, particularly in the context of the United Nations Women's Decade, 1975 to 1985. This examination has revealed that "human rights" only partially incorporate women's rights, a fact that renders them not so universal after all. Besides, this special condition of women with regard to human rights is generally veiled by a silence in society, which makes the issue one of the most important in the context of the enjoyment by more than half of the world, of rights and fundamental freedoms which are universally proclaimed.

### B. What are women's rights?

2. For human rights to be truly universal, the fact that the human family is composed of men and women must be fully taken into account. The specific experience of women therefore must be taken into consideration in the process of implementing human rights. It is only in so doing that women's rights can be protected. This unfortunately has not been the case; contrary to this reasoning, many human rights of women are violated on the grounds that they are women, particularly those related to their reproductive role and to their status as females in a male dominated world. The socio-economic-cultural and religious domination of women on the basis of this power structure has led to gross violation of women's rights.

3. Yet, the need to focus on the woman's specific situation has been recognized since the adoption of the Universal Declaration of Human Rights. The creation of the United Nations Commission on the Status of Human Rights in 1946 was therefore an acknowledgement that it is necessary to monitor the situation of women and to promote their rights by bringing to light areas where they are denied equality with men. The work of the Commission has led to many declarations and conventions but the highlight was the adoption by the United Nations General Assembly of the Convention on the Elimination of all Forms of Discrimination against Women in 1979 (referred to as the Convention or the Women's Convention, in this paper). It represents an important step towards the protection of women's rights.

4. The Convention is broad and comprehensive, which, on the basis of acknowledging that extensive discrimination against women continues to exist, in its preamble spells out the meaning of equality and how it can be achieved. The Convention thus spells out an agenda for equality in 14 articles which cover four different dimensions of the situation of women. It deals with civil rights of women, their legal status, the issue of human reproduction and the impact of cultural factors on gender relations. Unfortunately, the effectiveness of the Convention is hampered by the absence of provisions for its supervisory bodies to receive and examine statements. Clearly, human rights issues are still considered more important than women rights issues as witnessed by the size of the Human Rights Commission compared to the Commission on the Status of Women in terms of budget, staff and method of implementing findings.

5. In examining the issue of women's rights as a critical issue of equity and sustainable development, this paper will be organized in three parts. Part I will comprise four sections as follows: after the introduction, section II focuses on the provisions of the Convention as well as the status of its ratification in Africa. The status of the implementation of the Convention in the region will also be discussed including the impediments to its enforcement. Section III will look at the issue of violence against women which constitutes violation of several women's rights. In so doing, different types of violence on women and their consequences will be discussed. The remedies provided to fight violence against women will then be critically

examined and suggestions as to how this problem could be more effectively tackled will be subject of focus. The issue of dissemination of information to women will be the subject of part II while part III will comprise the recommendations.

## **II. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

### **A. The Convention**

6. The Nairobi Forward-looking Strategies for the Advancement of Women (NFLS) adopted by the United Nations World Conference on Women in 1985 referred to the issue of women's rights as one of equity when they state that the advancement of women is without a doubt a pre-condition for the establishment of a humane and progressive society.<sup>1</sup> Indeed, it is a fact that sustainable advancement in any given area cannot be made without corresponding advancement in other areas. To promote the advancement of women therefore, the United Nations has set international standards and brought about legally binding treaties including the primary international legal instrument to protect women's human rights and the Convention on the Elimination of All Forms of Discrimination Against Women. The spirit of the Convention is grounded on the fundamental goals of the United Nations to reaffirm faith in fundamental human rights, the dignity and worth of the human person, and the equal rights of men and women. It thus establishes an international bill of women rights and in a practical manner describes constitutional, legislative and other measures to promote equality through affirmative action, maternity protection, equal employment opportunities and equality before the law.

7. Article 1 of the Convention defines discrimination against women as "*any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women... in the political, economic, social, cultural, civil or any other field*". The principle of equality is affirmed in Article 2, while Article 3 requires all States parties to take all the necessary measures, legislative and otherwise to ensure the full development and advancement of women by guaranteeing them the enjoyment and exercise of their human rights and fundamental freedoms on a basis of equality with men.

8. The Convention then focuses on the different areas in which women's rights are violated on a consistent basis in the cultural, civil, political economic, educational and legal context and prescribes remedies to State parties. Article 5 thus addresses the inconsistencies between customary and State laws, a phenomenon that is common place in Africa yet not always apparent to those who apply the law and calls for modification of cultural patterns and practices which are based on the idea of the inferiority of women. Provisions are made for equal participation in political and public life in such situations as voting, formulation of government policy, representation of governments in international organizations and embassies etc. (Articles 7 and 8). Equal access to education, and same choice of curricula as men, equal opportunity to employment and equal pay for equal work as well as non-discrimination in matters related to professional development are also provided for (Articles 10 and 11). Similarly, the Convention requires measures to guarantee women's right to family benefits, to bank loans, mortgages and financial credit, as well as the right to participate in all aspects of cultural life.

9. In the context of family life, the Convention calls for structural reforms in role allocations as it stresses the equal responsibility of men and women in the upbringing and development of their children. There is emphasis on the importance of adequate social services including child-care facilities to allow for a combination of work in and outside the home. Article 12 calls for non-discrimination in the provision of health-care services for women including family planning services while Article 15 focuses on the right of women to a legal capacity identical to that of men and requires all States parties to agree that all contracts and other private instruments that restrict the legal capacity of women are null and void. The Convention is emphatic about the elimination of discrimination in all matters related to marriage, divorce, child-spacing,

child custody, choice of family name, choice of residence and domicile, property ownership, acquisition and or change of nationality and the rights of children in this regard vis-à-vis the mother. This is one of the areas in which almost all women have experienced a violation of their rights in one way or another.

10. It should be noted that the Convention pays special attention to the specific needs and conditions of the rural women. Recognizing the significance of the roles they play for the economic survival of their families including their work in the non-monetized sectors of the economy, the Convention call upon the State Parties to take special measures to ensure that its provisions are applied in the rural areas. In recognition of the gap between what the Convention calls for and the **status quo**, it makes provisions for affirmative action through special measures to accelerate the process. These measures according to the Convention are not to be considered discriminatory but rather corrective, in which case they should be discontinued as soon as the situation is normalized.

#### B. Implementation of the Convention

11. Provisions for the implementation of the Convention are specified in Articles 17 to 30. States parties, under Article 18, undertake to submit reports within one year of ratification on the measures they have initiated in the administrative, judicial, legislative and other sectors towards the implementation of the Convention. Thereafter, progress reports should be submitted to the Committee on the Elimination of Discrimination Against Women (CEDAW) at least once every four years.

12. CEDAW, which was established in accordance with Article 17, meets every year to examine reports submitted by States parties. It is constituted by 23 "*experts of high moral standing and competence in the field covered by the Convention*"<sup>2</sup> who are elected from the candidates submitted by Member States according to the terms of Article 18. In electing the candidates, geographical balance, the different developmental orientation and the principle legal systems are taken into consideration. In the last 11 years, the members have been mostly lawyers, judges, legal scholars, specialists in economics, diplomacy, mass communications and sociology.<sup>3</sup>

13. The reviews take the form of constructive dialogue between the government representative and the Committee, seeking to identify gaps and obstacles that still stand in the way of equality between men and women and how these could be overcome. Such dialogue in the past has yielded minor changes in national laws. Others have used the occasion to review their national laws, policies and practices. Based on the reviews it has done until May 1992, the Committee has issued 20 recommendations to States parties regarding the implementation of the Convention and the reporting procedures. These entail corrective measures that need to be undertaken to clarify existing grey areas and to signal the results in the reports.<sup>4</sup>

14. Once adopted by the General Assembly in December 1979, the Convention entered into force in September 1981 and thereafter, its success is demonstrated by the fact that as of 14 May 1992, 114 countries had ratified or acceded to it. In Africa, out of the existing 53 African States, 33 had ratified the Convention as of the same date, the first having done so as early as 1982. While 14 States parties have already submitted at least their first reports to CEDAW, 11 of them have been reviewed by the Committee as of May 1992 and three have had their second periodic report considered also.<sup>5</sup> It would now be helpful to look at the various sectors in which women's rights are covered by the Convention and the extent to which women are benefiting from the provisions. Although specific statistical information may not always be available, sources such as case studies, newspapers and other media sources, periodicals, personal accounts etc. provide adequate information to paint a realistic picture of the actual situation as presented briefly below:

##### (a) Participation in political and public life

15. From an historical perspective, the early period c.3100-2345 BC was characterized by equality of the sexes before the retrogression that we know today. Women were involved in state administration and



military defence planning during the civilian rule of Nebet in the Old Kingdom of Egypt. Egyptian women as in several other societies in Africa participated in the public affairs of society while royal women could reign as monarchs. In modern history, on the other hand, women acquired the right to vote only in the last 30 years including Switzerland that granted this right only in 1971 and in 1991 in one of its Cantons (Appenzell), while Kuwait remains the exception as it continues to refuse its women the right to vote.<sup>6</sup>

16. In modern Africa, most countries granted women voting rights after independence and as they drafted their first constitution, provisions were made for this. But political participation goes beyond voting; being part of the high-level decision-making machinery is indispensable in a system that is truly representational. Yet, according to the United Nations World's Women of 1977-1988 report, no women held ministerial posts in 93 countries of the world and representation in parliament exceeded 20 per cent only in the former Eastern Europe and USSR which quickly eroded to an average of 10 per cent parliamentary seats by 1989. More specifically in Africa, in 1989, 26 countries had no women ministers; 22 had less than 10 per cent while only two had more than 10 per cent.<sup>7</sup>

17. The low representation of women in parliament and high level positions both in politics and decision-making machineries has much to do with the roles that the woman is expected to play traditionally. Most African societies still expect women to confine their sphere of influence at the domestic level and to leave public matters to the men. The low levels of women who actually cast their votes thus comes as no surprise at all. With increased recognition of the implications of the exclusion of women from public and political life, special corrective measures can be observed here and there at the initiative of the women themselves and/or the governments. On the eve of the 1993 multi-party elections, Kenya had only two women judges at the high court, two women ambassadors, two women permanent secretaries and no women District, Provincial or Police Commissioner.<sup>8</sup> It is significant, therefore, that the first National Women's Convention was held in February 1992 and was attended by women from all walks of life. The women endorsed a Women's Agenda for a Democratic Kenya. Rwanda's women before the current crisis constituted only 1.5 per cent of government administrators and three ministers. Characterized generally by low levels of education and subsequent lack of skills, they are relegated to subordinate positions. However, the newly formed Alliance of Women's Organizations set out to educate women about political participation in terms of voting and training them to become successful political candidates.<sup>9</sup> In South Africa, the African National Congress (ANC) Women's League and other groups, recognizing the importance of breaking through the barrier of tradition as well as the apartheid system, held voter election workshops in rural and township communities where the majority of the women live.<sup>10</sup> In Namibia, it was the Women Action for Equality Party that was formed to encourage women's political participation and to give them a voice as a constituency in the 1990 elections.<sup>11</sup>

18. There are also instances where governments are taking initiative to institute certain corrective measures with regard to the marginalization of women in political and public participation. Thus the Government of Uganda has established a representative National Assembly, the National Resistance Council (NRC) in which women are reserved seats (one seat per district in all 34 districts) to cater for female interests in addition to those that might be filled during elections. Countries that have hardly had any women elected parliamentarians should note this example and take some affirmative action measures to accelerate the process towards higher participation of women.

19. The democratization process that has taken root in Africa today perhaps offers additional hope that there may be greater emphasis on more representation in all sectors of concern to society in the interest of equity. Unfortunately, as Leila Hashim hastens to caution, all the 17 newly formed opposition parties in the United Republic of Tanzania have predominant male leadership and none of them have come up with a programme for women's advancement.<sup>12</sup> Considering that this picture is not very different elsewhere, it is clear that women will continue to trail behind in the decision-making process both in public and political sectors unless they pressurize governments to implement the Women's Convention and protect their rights.

(b) Participation in development: economic, socio/cultural and legal rights(i) Economic rights

20. Employment: By and large, discrimination against women with regard to employment and labour laws is non-existent in Africa. However, some countries have adopted the International Labour Organisation (ILO) labour laws that restrict women employment from such jobs as mining, night work etc. against which some women have protested and demanded that the choice be theirs rather than being made for them *a priori*. Most African countries have also made provisions for paid maternity leave and nursing hours including the United Republic of Tanzania, Mozambique, Zimbabwe, Ghana, Zaire, Morocco and Zambia.

21. Unfortunately, while the majority of the women work, only a minority are recognized as "workers" with the corollary rights of safe working environment, equal wages, paid vacation and sick leave. The majority are not paid for their work and according to global economic statistics, the unpaid labour in households, the informal and agricultural sectors where women predominate but without any formal contracts that would legitimize their rights in legal terms, is invisible. This hinders the recognition of the basic rights of women as workers considering that only a small minority are formerly employed - for example, only 9 per cent in Kenya,<sup>13</sup> less than 14 per cent in the United Republic of Tanzania<sup>14</sup> and 23.8 per cent in Uganda<sup>15</sup> of the women are in the public sector which is the largest employer while in the Gambia, 15.2 per cent are in the formal sector, public and private combined.<sup>16</sup> Consequently, most are invisible, under or unpaid altogether and more often exploited.

22. Because women have always been burdened with unpaid housework and relative absence from public life, this is deemed to be a natural state of affairs. And while the right to work is included among fundamental human rights, to be recognized as a worker requires a contractual relationship between the employer and employee. In this context, therefore, in spite of the long hours spent in household maintenance, food production, storage and commercialization, women do not work and therefore cannot enjoy the internationally accepted labour protection. To challenge such practices and the deeply rooted attitudes on which they are based is a tremendous task. Strong national measures are required to provide the protection that the right to work provides to the majority of the women.

23. Property rights and production: Access to production resources for women is a prerequisite for their participation in development. Seeking to ensure their access raises such issues as title to land, credit and banking facilities, provision of information and advice on new technology and technical training. In most African countries, however, under customary law, the status of the woman is that of a minor whereby she is under the control of a male, her father, her brother, her husband or even her son. This means that in terms of real property where it is communally owned, a woman has no capacity to exercise ownership rights over it. Besides, all property acquired by the spouses other than personal items belong to the husband who is entitled to retain all of them in case of dissolution of marriage. Statutory marriage laws are not very different in most African countries with regard to property acquired after the marriage of the couple. Thus, women cannot enter into contracts that could jeopardise the rights of the husband to the property. In practice, they cannot enter into a loan or purchase agreement without the consent of the husband.<sup>17</sup>

24. "Women form the main productive forces in rural communities with almost total responsibility for subsistence farming as well as cash crop production and despite that, the advent of mechanization has reduced the workload of men while increasing that of women... The introduction of machines and animal traction has reduced the male workload and permitted an extension of the area under cultivation of farms which invariably belongs to men, while in weeding, planting, and harvesting, which are done by women, labour-saving devices have not been introduced".<sup>18</sup> This situation holds true in the majority of African countries as well as the fact that it is mostly the men who take part in agricultural training, learn new techniques and use modern tools and equipment which are provided by governments and through development programmes.

25. While it is qualitatively known that these problems exist, they are poorly documented in most statistics which moreover are not gender specific. It is known that women are denied land ownership in many countries but the extent of their access to land is unknown. Nonetheless, national and international bodies have called for a remedy to this situation. As far back as 1962, the Economic and Social Council recommended that the existing inequality in inheritance rights be remedied by granting women equal rank in the order of succession and equal shares in the same degree of relationship.<sup>19</sup> As expressed in the Nairobi Forward-looking Strategies, *"The assumptions that underlie a large part of the relevant legislation, regulations and household surveys that confine the role of supporter and head of household to men hinder women's access to credit, loans, and material and non-material resources. Changes are needed to eliminate terms such as 'head of household' and introduce others that are comprehensive enough to reflect women's role appropriately in legal documents and household surveys to guarantee the rights of these women"*.<sup>20</sup> After all, it has been established time and again that when credit is extended to women, not only is it managed satisfactorily but its proceeds go to benefit the family directly.

26. Among the efforts that are being made to remedy the situation are government efforts to modify the rules and regulations of banking institutions to ensure that women have access to credit in spite of lack of property that they could use as collateral. A case in point is the Uganda Commercial Bank which has set up the Rural Farmers Credit Scheme and a Mortgage Scheme that are primarily earmarked to help women. It is expected that 70 per cent of the beneficiaries should be women although so far they are only 33 per cent.<sup>21</sup> Private financial institutions are also trying to facilitate women's access to credit by waiving some of the difficult lending procedures. Affiliates of the Women's World Banking (WWB) that have been established in a number of African countries, for example, cater exclusively for women's needs. But women themselves are organizing into national associations of women entrepreneurs that not only facilitate expansion of their knowledge and markets but also their borrowing power. This move culminated in the establishment of the African Federation of Women Entrepreneurs (AFWE) which has expanded the sphere of operation for the African women to the continental level. The establishment of an African bank for women is another option that has been studied extensively by ECA and whose operationalization is imminent.

27. It behoves upon governments, women and society, therefore to join efforts to remedy the fact of exclusion of women from property ownership for a faster and more sustainable achievement of higher standards of living and more fundamentally for the rectification of the violation of this basic human right.

## (ii) Socio-cultural rights

28. Women and health rights: One of the direct consequences of the low status of women and the social roles that women are assigned in Africa is denial of their right to access information, adequate nutrition and health and family planning services. Women therefore face health risks at all stages of their lives particularly from such practices as women eating only after the members of the household have been adequately fed; taboos against women eating certain nutritional foods; inadequate health care; genital mutilation; early marriages and risk of death from early child bearing; interruption of education following early marriage or responsibilities around the home; inhaling of smoke that pollute their lungs as they prepare meals over wood fire on a daily basis; risk of domestic accidents and skeletal damage from carrying heavy weights including water; unprotected sexual relations that lead to sexually transmitted diseases and unwanted and uncontrolled pregnancies particularly in the light of the inaccessibility of adequate family planning and maternity care services; violence at the hands of men which result in serious physical and mental health consequences, etc.

29. As a result of the above risks, it is reliably reported that in the world at least 500,000 women die each year "from avoidable causes related to uncontrolled fertility, complications of pregnancy and childbirth. Many societies, attributing low status to women, accept maternal death as the natural order of things".<sup>22</sup> In Africa, maternal mortality rate is estimated at 500 for every 100,000 live births. This is related to the fact that hardly any country in Africa has laws ensuring adequate maternal care including pre-natal and post-natal clinics. Although in general there are no laws against family planning for child spacing in order to

protect the health of the mother and child, husband's permission is required for the most part before this service can be utilized. Both governments and NGOs are involved in family planning programmes but in the rural areas where the economic situation is even more precarious than in the urban areas, more women may wish to invest in a large family for security in their old age. Besides the services for family planning are even more inadequate in the rural areas in addition to the usual resistance based on socio-cultural attitudes and prejudices. Abortion is also illegal in most African countries except under conditions stipulated by the law. In some countries, illegal abortion is punishable by as much as 14 years' imprisonment. Most of the women in jail in some countries are said to be there as a result of illegal abortions.

30. Women bear the primary responsibilities in human reproduction by virtue of the fact that they carry the social, physical, psychological and practical burdens of child bearing and child rearing. Nonetheless, human rights require that they are accorded societal recognition not because of their capacity for motherhood but because they are entitled to full protection of their rights and freedoms as human beings. Protection of motherhood, on the other hand, which in the spirit of the Women's Convention should include *"ensuring reproductive choice regarding the number and spacing of children and ... access to the means to do so ... [and] recognizing the right of women, on an equal basis with men, to decide on child-bearing and to have access to the information and means to exercise this right"*,<sup>23</sup> is compensation to those women who perform a socially valued function. It is not granted them merely because they are women. This is the main principle that ought to guide family planning policies rather than the exclusive pursuit of population control, if the notion of human rights is to be safeguarded. It is also important that human rights norms relating to family planning address both parents rather than only the prospective mother in order not to contribute to the tolerance of irresponsible fatherhood which is well known world-wide.

31. Education for empowerment: The current picture of the state of education in sub-Saharan Africa is one of declining enrolment and expenditure by governments in this sector. UNICEF thus reports that the proportion of the number of children who enrolled in the first year of primary school fell from 84 per cent in 1980 to approximately 70 per cent in 1990 while total educational expenditure declined by almost 30 per cent in the first half of the 1980s. At the secondary level, the drop in enrolment is supposed to have fallen from 18.7 per cent in 1985 to 17.5 per cent in 1990.<sup>24</sup> The implications of such a trend are that although both women and men have equal rights to education, the unequal access that already exists for girls is exacerbated. The illiteracy gap ratio in some countries between males and females is as high as 1:2 and worse still, this gap seems to be increasing as demonstrated by various studies.<sup>25</sup> In other countries, the illiteracy rate of females is increasing while the male rate is decreasing.<sup>26</sup>

32. The issue of women "devaluation" rooted in socio-cultural beliefs and practices has already been alluded to earlier which contributes significantly to the situation presented above. Investment in girl education in many African societies, particularly in the rural areas has low priority from the point of view of returns in relation to the various forms of family and social costs both in the immediate and distant future. Thus girls have to fulfil their duties around the house while their brothers go to school and at the same time learn how to be "good" wives for the honour of their families. It is important to understand that girls are socialized to accept their situation and the idea of male supremacy which make them prey to a range of discriminatory practices. This leaves them socially and ideologically unequipped to question or resist the implicit or explicit injustices to which they are subjected. In the absence of alternative role models they actually espouse and propagate the dominant social and cultural values that militate against their gender group.

33. Education for empowerment thus entails awareness of alternatives, women's rights and the nature of their requirements. It involves the breaking down of powerful sex stereotypes which prevent women from demanding their rights from men in positions of authority. The issue of education in the human rights context therefore goes beyond inequalities in access to formal education for women. It necessitates addressing the orientation, contents, and impact of education on women, which runs counter to the current situation which is based on years of discrimination against women.

34. It might be assumed that women would know more about their rights and be more favourably disposed to them than men. However, there is no clear-cut relationship in this respect. One of the few surveys of public attitudes concerning equal rights for women, carried out by UNESCO in 1978-1981 in a number of countries, revealed that those rights that are formulated in a way that stresses women independence from and equality with men within the family are least well known and find least favour with both men and women, e.g., the right to work outside the home without permission from husband or the right to equal inheritance with men.<sup>27</sup>

35. It is therefore crucial to introduce human rights and their implications to formal educational curricular and to look for ways of reaching those whose formal education stopped before such concepts as "rights", "responsibilities", "equality", etc., could have real meaning to them. Besides, non-formal programmes aimed at a basic redefinition of the status of married women, recognition of domestic labour as economic activity, a re-evaluation of the parental and domestic responsibilities of men etc. would improve the attitudinal environment which currently militates against the practice of equal rights within the family. It must also be pointed out that having formal education does not mean accepting the concept of gender equality. Even those who have excelled in many fields may not only find themselves subjected to pressure at home to prove that they were still women in the sense of such connotations of being docile, weak and feminine, but they themselves may be chained by their own fears of seeming odd and ridiculous or jeopardizing chances of a happy family life if they did not conform to inherited social traditions. They also need strong socio-economic and cultural support to develop a sense of self worth which they can transmit to the succeeding generations.

(iii) Legal rights

36. Women and legal rights: The history of Africa as well as the gender dynamics in the region demonstrate the importance of legal norms and structures not only for the economic empowerment of women but also for equitable and moral considerations. Today, women-headed households exceed 40 per cent while 70 per cent of the labour for food production, 50 per cent of labour in domestic food storage, 100 per cent of food processing, 50 per cent in animal husbandry, and 60 per cent in marketing are provided by women in sub-Saharan Africa.<sup>28</sup> Yet, in many societies, laws and customs act as road blocks to their access to resources and inputs to facilitate effective implementation of their roles. A combination of the colonial legal heritage and a diversity of customary laws and customs have contributed decisively to the status quo. Thus, the existing system of hierarchy of courts has jurisdiction over all people and can apply either the law inherited from the colonial administrators or the customary law depending on what seems to be most beneficial with regard to given cases. Religious law is also not too removed from customs and in fact in some parts of Africa, many classic religious principles have been modified to incorporate the indigenous customary law.<sup>29</sup>

37. As mentioned earlier, one of the areas in which women are clearly discriminated against under customary law and tradition is that of property ownership including land tenure, real property and other productive resources within marriage, after dissolution of marriage and under inheritance laws. In this regard, women are for the most part prohibited from owning and exercising proprietary rights over real property in several African countries. Women from South Ghana are an exception to this practice with regard to property due to the existence of matrilineal societies that inherit along natal rather than conjugal families. A man's brother or his sister's son inherits his property in a matrilineal system or a man's children in a patrilineal system, but not his wife in either case. Even where land was jointly acquired by husband and wife, under Ghanaian customary law, it becomes the sole property of the husband who would pass it on to his heirs upon his death. The same kinds of practices exist in societies where livestock is an important productive resource.

38. According to Z.S. Ali, in her publication Marriage and Divorce in Islam, the Islamic law requires that a daughter inherits half of what a son inherits while a widow is entitled to one-eighth of her deceased

husband's estate or one-quarter if she had no children. The husband, on the other hand, is entitled to one-quarter and one-half of his deceased wife's property, depending on whether or not they had children together.<sup>30</sup> In some Moslem societies, however, custom dictates that women do not take any part of their inheritance in exchange for "protection" by their relatives while in others widows cannot take their inheritance in real property. Rather, they take the cash proceeds from sales. This contributes to the keeping of women landless. In countries where female seclusion and sex segregation exist, they also limit women from engaging in independent economic activity and participating in the development process. It should be noted that in some countries, female segregation is not just a custom but is law.

39. The success of civil law in alleviating the disabilities faced by women under customary law has been limited. In some countries, civil law requires the courts to apply local customary laws and customs in particular cases such as inheritance of agricultural land, crops therein and livestock situated in certain areas.<sup>31</sup> Women are therefore left in the same situation as they were before the adoption of the Law of Succession Acts which provides for equality between the sexes with regard to inheritance in all types of marriages. In fact most sections of customary law that are incorporated into modern civil codes are those that operate to the detriment of women's property rights with regard to inheritance and marriage.

40. The introduction of land reform is not always helpful to the woman's unequal status. In countries where land was distributed on the basis of individual ownership under the land reform legislation or individual ownership eliminated in favour of the distribution of land use rights among the rural population, it was the men who acquired the land as heads of family while women were excluded from the benefits of reform except for widows. This put many women in danger of not even having usufruct access to land that they enjoyed when land belonged to clans under customary laws.

41. The violation of women's rights in land ownership extends to other economic areas. Land being perhaps one of the most precious assets accessible to most Africans is one of the most commonly used collateral in obtaining credit. Women are therefore automatically excluded from such facilities by virtue of being landless. Similarly, in areas where credit is made available through agricultural cooperatives, restrictions on female membership, again on the basis of being landless or not being a head of household, limits the ability of women to obtain credit. Cooperatives that are set up to boost the economic strength of communities thus end up eroding this very objective in women by their-by-laws and regulations.

42. With regard to the ILO Conventions that are intended to protect women by eliminating discrimination against them in employment, most African countries enforce maternity protection standards by statutory measures either embodied in legislation such as labour codes, ordinances or regulations and in enactments regulating conditions of employment in certain classes of employment. They are also found in legislation dealing with employment of women and children. Maternity protection for agricultural workers, however, lags behind measures taken for workers in other sectors. Where protective measures exist for them in a few countries, they cover the area of social security but not in contracts of employment or conditions of work. In a region where most of the women are in the agricultural sector, it is imperative that this issue is resolved for the welfare of the women and society at large.

43. With respect to right to work and right to equal pay, most African States have constitutions that outlaw discrimination in access to jobs. However, distinctions have been made traditionally between what is suitable work for men and for women. Traditional female jobs tend not to be compensated as well as traditional male jobs. This provision of the constitution is vague enough to allow discrimination in access to employment. The provision for *de jure* equality is undermined by attitudes and the gap between men and women in education, which are products of a long history of bias and discrimination could be addressed through enforcement of non-discrimination and affirmative laws to increase women's access to educational resources.

44. Some constitutions in African States do not bar discrimination on the basis of sex. This paves the way to the promulgation of laws, rules and regulations that discriminate against women in such areas as the employment sector; the right to enter into legal business contracts, to obtain loans, travel, obtain medical treatment; right to insurance coverage of spouses etc. Such restrictions of women's fundamental rights are justified by culture and traditional practices that accord women the status of minors all their lives. Women are thus left with no legal recourse when the highest legal structure does not protect them against discrimination.

45. With regard to marriage, most African countries have legalized polygyny through the civil and/or customary law. Often, however, there is the requirement that the couple declares its option to polygyny or monogamy at the point when the first marriage is contracted. In other cases, the law requires that the consent of the first wife be obtained before the marriage with the second wife is contracted. The reality, however, is such that the pressure put on the women to accept polygyny either by their husbands and/or their families/families-in-law makes it difficult for them to declare their objections. Where declaration of the marriage option is required before the first one is contracted, this detail is often omitted by the marriage officers, and whether inadvertently or by design, the marriage is automatically considered a polygynous one. Property is also considered jointly owned unless otherwise stated, and the husband as its administrator. He is therefore at liberty to administer it without reference to his wife. This has often caused grave difficulties to wives, especially in cases of divorce or the death of husbands as they find themselves with no legal claim to the property.

46. Several African countries have made significant steps to revise the marriage and family laws to render them more equitable. They have made provisions for alimony and joint custody of children in case of divorce and share of inheritance by wives in case of death of husbands. Others have even abolished polygyny, bride price and forced marriages and have legislated the minimum age for marriage. Some codes have also given equal rights to husbands and wives in choosing their domicile, the right of exercising a profession, the right of children to equal inheritance irrespective of their gender and to acquire citizenship of the mother's country in case of marriage between individuals of different nationalities. One of the major constraints to the implementation of these progressive laws, however, is the great tendency for people to organize their civil matters according to customs and tradition and, therefore, to resort to customary law when problems arise. Besides, the status of a married woman continues to command more respect than that of an unmarried one in several African societies, hence the tendency to opt for marriage and all its ramifications.

47. The imperative of legal reform for a system that is more responsive to the safeguard of women's rights becomes self evident in the face of the realities of the status quo. To do so, however, requires a strategy aimed at propelling women empowerment but also tailored to the specific needs of countries and the objectives of the reform. And in designing such a strategy, women must be actively involved. Yet, they cannot achieve much without being legally literate. Below we shall examine briefly the question of legal literacy for women empowerment.

48. Legal literacy for empowerment: The concept of legal literacy entails mobilizing women to know their situation in the context of their rights and acting to obtain them as part of the process for their social and personal development and empowerment. It also entails being conscious and informed about obstacles to the exercise of these rights and form strategies to eliminate them. Legal literacy is therefore more than getting to know the law; it is a critique of the law, and a critical understanding of women's position as defined by the law. The compulsions and social forces that determine how the law is to be framed as can be detected in the hidden agenda of political debates must also be well understood in the pursuit for legal literacy. The context in which the law operates and the prejudices that operate in society are also equally relevant.

49. Personal laws, for example, are usually based on customary laws that control inheritance, adoption, marriage, divorce, and various issues that affect women's domestic lives. The sensitivity of custom is perceived as the cornerstone of the African identity and is thus used to dismiss women's issues and to seal off possibilities for change. Consistent with this as discussed above, women have been indoctrinated to accept their inferior position against that of male supremacy in society and to hardly see themselves as recipients of rights. They pass these same signals to their daughters from generation to generation. To be legally literate therefore is a stepping stone to women examining their role and position in society. It also leads to an understanding of the need to get together with other women as a force to change their conditions.

50. After the first review of the implementation of the Nairobi Forward-looking Strategies, the Economic and Social Council recommended that: "Governments, in association with women's organizations and other non-governmental organizations, should take steps on a priority basis to inform women and men of women's rights under international conventions and national law and to prepare or continue campaigns for women's 'legal literacy' using formal and non-formal education at all levels, the mass media and other means ...".<sup>32</sup>

51. This recommendation was based on the recognition that there existed a number of serious obstacles to women's enjoyment of their rights that must be combated in a concerted manner. Illiteracy and low levels of education that are generally found among African women are an important obstacle to women's ability to exploit the legal systems to obtain their rights (see section on "Education for empowerment"). They contribute to women's marginalization within the family, the work place and public life. They also account for women's inability to benefit from socio-economic and technological development. It is worth noting that few curricula, particularly at primary school level, address the issue of human rights which has long term implications for awareness of rights and the legal system in which they are implemented.

52. Another obstacle to the enjoyment of women's rights is conflict between national and international laws with regard to women's rights as well as the absence of enabling legislation to implement equal rights for women that have been provided for in the constitutions or in international human rights instruments. A number of African countries for example, still have customary and civil laws whereby women never attain the majority status. As single women, they are under their father's guardianship which is transferred to their husbands once they are married. Where customary law is given equal status with civil law, such discriminatory practices may occur also as the two conflict over matters of personal law.

53. The structure and complexity of the legal system itself can be an obstacle to its use. The cost of litigation and the absence of legal aid system are cases in point. It is also not always possible to challenge laws that are discriminatory against women on the basis of their inconsistency with the provisions of the constitution. This coupled with the generally obscure legal language makes it impossible for the average woman to be aware of her rights and exercise them. Similarly, the attitudes of the agents of law enforcement including judges, magistrates, the police etc. are highly influenced by cultural values which is evident in their interpretation and enforcement of the law *vis à vis* women. All this, coupled with the absence of institutions to provide information and/or assistance to women with regard to the legal system and its provisions constitute a major obstacle to the exercise of women's rights.

54. In spite of this grim picture, experience shows that women at all levels of socio-economic status can be mobilized to exercise their rights as a strategy to empower themselves and promote change in the legal system. In particular, the media has an important role to play in combating discrimination and stressing equality in all aspects of life through distribution of information at all levels, review of educational material and generally acting as a watch dog to women's rights. The example of the Tanzania Media Association of Women and the Women in Law and Development in Africa News (WILDAF News) are good examples of what the media could do to inform the women and the general public of their rights. NGOs could also develop programmes of general education to empower women for action and change to increase women's economic independence as well as to deal with problems related to other aspects of their lives, e.g. violence



in the home, family planning, child-care etc. This approach thus deals with the question of empowerment more intensively beyond the direct supply of legal information.

55. But given the financial implications in running legal literacy programmes, governments should take the lead in adopting the measures provided for in the Women's Convention to promote legal literacy. They should also ensure that the legal system includes measures for the implementation of women's rights through the promulgation of policies and programmes that are gender sensitive. In the same spirit, governments should ensure that legal systems are accessible to women in terms of their physical location, hours of operation, and procedures and also that the law operators are gender sensitive in their dealings with the law and the people. A legal aid system that assists the public to use the law to their benefit should also be established and supported by governments. Already, several countries have launched legal aid services albeit mostly in the urban areas including FIDA affiliates in Uganda, Ghana and Senegal. To promote legal literacy among youth, understanding of women's rights should be built into the educational curricula at all levels, beginning at the primary level. At the international level, the United Nations system should incorporate programmes that promote legal literacy into its programme budget as part of its efforts to promote international standards and norms in connection with the Women's Convention.

56. Promoting legal literacy should thus be seen as a necessary tool for asserting the broad spectrum of the rights of women and for evoking the moral responsibility of governments and indeed society at large to live up to the heights that civilized humankind has set for itself today.

### III. VIOLENCE AGAINST WOMEN

57. Violence against women is a universal phenomenon. It cuts across socio-economic and cultural lines, manifesting itself as a symptom of the structural inequalities that characterize society. It is not an individual but a societal problem. It is directed against the woman at home, in the streets and in the work place. As it hits on the woman, it could be in various forms and degrees of intensity. Domestic violence, sex assault, sexual harassment, child sexual abuse, violence related to custom and tradition and media-directed violence are among the better known forms of violence against women. Yet, it has been largely invisible, under-reported, unrecorded and implicitly condoned. The silence on the issue perpetuates the notion that women are inferior and have no right to demand human rights.

58. Although the range and the importance of causes of violence against women differ, it is basically derived from the prevailing socio-cultural attitudes and values which are also embodied in domestic legislation, as well as the financial and economic dominance of men within the family and society. Men's dominance as reflected in such practices as polygamy, bride price, family planning and the area of women's reproductive rights are often causes of conflict and subsequent violence. Thus, a woman's insistence on family planning may lead to polygamy; her use of family planning without consent of her husband may lead to violence; difficulties in returning the bride price may result in a woman staying in a violent marriage etc.

59. The continued existence of violence against women is yet another flagrant violation of the Women's Convention which calls for State parties to take measures to guarantee women the exercise and enjoyment of all human rights and fundamental freedoms on a basis of equality with men as expressed in the Universal Declaration of Human Rights; the International Covenant on Economic, Social, and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment etc. In the light of this, the United Nations Declaration on the Elimination of Violence Against Women, recently adopted by the General Assembly in December 1993 is yet another attempt to ensure the commitment of States and the international community *vis-à-vis* the elimination of violence against women. The Declaration thus 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 in private life".

60. This part of the paper will scan the scope of the various forms of violence against women as defined in the Declaration and how it is handled by society at various levels, particularly by those who have the responsibility to protect women, and finally examine how this problem could be eliminated altogether. The issues of violence against women in the context of armed conflict and violence related to customs and tradition, however, are dealt with in separate papers.

#### A. Forms of violence and their prevalence in Africa

##### 1. Domestic violence

61. Domestic violence is a universal but invisible problem. It is colour, culture and class blind and data has been mostly unsystematic and anecdotal. It was only in the 1970s that this problem started attracting the attention it deserves which grew to world-wide concern by the 1990s. Its invisibility is therefore eroding systematically and according WILDAF News article on "Violence Against Women: A Human Rights Issue", six out of ten Tanzanian women are physically abused by their partners; a woman in the United States is beaten every 15 seconds; one in ten Canadian women is abused or battered by her husband or partner; in South Africa, one adult woman out of every six is assaulted and their children too in about 46 per cent of the cases; and in Brazil, 70 per cent of all cases of violence against women take place in the home by husbands or lovers and a survey of 6,000 violent crimes found that 400 of them involved murders of women by their husbands or lovers.<sup>33</sup> Still there is gross under-reporting of domestic violence. The main sources are the police, welfare and hospital records, those responsible for running shelters for victims of violence, etc. There is reluctance by victims to report the problem due to shame, loyalty and fear of being blamed. Criminal records are also inaccurate often omitting such important information as sex of victim, relationship between offender and victim, etc.

##### (a) Context of the problem

62. In addition to wives and lovers, other victims of sexual violence include young girls (and boys to a lesser extent), elderly women, co-wives, and other female members of the extended family. The nature of the violence at home takes various forms. Physical violence which is quite widespread in Africa usually begins as minor injury and then increases in intensity and frequency. Often, it also culminates in sexual abuse. Victims of physical violence suffer debilitating health and psychological implications such as anxiety, depression, somatic complaints, inclinations towards suicide, drug and alcohol abuse, etc. Socially and economically, women suffer such consequences as social isolation, stigmatization, temporary or chronic economic dependency on support groups, etc. Children of battered mothers are also likely to be abused by their mothers or fathers, suffer from behavioral problems and reduced social competence. Should divorce occur, the children often suffer enormous psychological, emotional, social and economic deprivation. In the long run, they themselves may learn to be abusers and victims of abuse. Psychological or mental violence on the other hand might be characterized by consistent verbal abuse, harassment, excessive possessiveness, deprivation of economic, physical and personal resources, threats of divorce, polygamy, etc.

63. Violence against women, as stated above, is rooted in the broad structures of sexual and economic inequality in society. Violence against women in the home is therefore within the norm, a mere exaggeration of the role that society expects men to play in their domestic sphere. It is a naked display of male power, the outcome of social relations in which women are kept in a position of inferiority to men, to whom they are responsible and by whom they are protected. This form of social structure has thus explicitly or implicitly served to justify violence against women who are perceived as their possessions. Nonetheless, extreme use of violence may be sanctioned, albeit, irregularly.

(b) Legal approaches to domestic violence

64. The legal approach to the question of domestic violence is dependent on the perception of the problem by society. For most of Africa as in the rest of the world, there are two parallel approaches. There is the criminal justice model which stresses the importance of the symbolic power of the law and carries the message that society condemns violence against women while it acknowledges personal responsibility of the abuser. It equates violent crime in the home with violent crime in the streets, thus focusing on the interest of the woman and refusing to subordinate her protection to the preservation of the relationship or the maintenance of the family. The mediation or reconciliation approach, on the other hand, is seen as the therapeutic approach which has been more successful in reducing recidivism. It downgrades violence to reestablish the relationship and preserve the family.

(c) The role of the police

65. The response of the police to domestic violence is a reflection of a country's response to domestic violence. At best, it offers the woman accessibility to the coercive power of the State while it is available. Unfortunately, the police are accused of not giving the woman adequate protection, understanding, and sometimes ignoring altogether appeals for help on the grounds that there are insufficient grounds for intervention.

66. The police response is based on the fact that they treat domestic violence as a social rather than criminal issue, which is a normal feature of domestic life. In some situations, this response is also a reflection of societal view that a man has the right to "discipline" his wife and that in most cases, the women provoke the violence. It is also not unusual for some women to find it difficult to leave the situations of violence or prosecute the offenders, which frustrates the arresting officers. Besides, it is not always clear whether wife assault is criminal activity or a private family matter which requires counselling and reconciliation. This lack of clarity not only colours the response of the police but also that of law enforcement agents. Clearly the police prefer the reconciliation approach rather than fulfil the role of law enforcement, especially when the couple is married. This is also a safer approach in the light of limited powers of entry and arrest. Even in cases where they can arrest, the offenders have the right to be released on bail which poses an additional problem to the victim, particularly if she does not know of his release. In some countries, there is an attempt to stipulate conditions for his re-arrest.

(d) Current legal strategies

67. Under customary law, cruelty can be grounds for divorce but it is generally discouraged in favour of reconciliation by the two families. This is even more so considering such implications of divorce as having to return the bride price. Where marriages are governed by religious law, cruelty, incestuous adultery, bigamy, rape, sodomy, adultery followed by desertion are all grounds for divorce, among others. It should be noted, however, that a woman caught in an adulterous situation provides grounds for immediate divorce. Separation is also allowed in many countries to provide relief to the petitioner.

68. For some women, however, neither divorce nor separation is a fool-proof protection from violence. Besides, there are those who are not interested in divorce for a variety of reasons, but rather for violence to stop. For those interested in divorce, the burden of proof is theirs which must be carried out to the satisfaction of the judge. Depending on the orientation of the latter, this may never happen. In some countries also, hearings for divorce will not be entertained until there is proof that attempts for reconciliation have been made. It must also be pointed out that this strategy for dealing with violence against women automatically excludes those who are not legally married.

69. Although the criminal law remedy is another strategy which purports to punish different kinds of assault, manslaughter and murder, in most African countries, it is not criminal to sexually assault or rape a wife. The production of proof also poses special problems given the fact that in domestic violence, often

the victim is the only witness, which may result in either threats or pleadings for her to drop the charges. Still there are those countries where wives are incompetent to testify against their husbands either because they are legal minors or because the law forbids it. There may also be instances where they are competent but not compellable.

70. Other quasi-legal remedies include "binding over" or "protection orders" whereby an undertaking before magistrates etc. to refrain from violence is processed and if broken money is forfeited or imprisonment applied. This strategy is constrained by its vagueness in terms of its limits, the burden of proof, etc. Nonetheless, it provides relief where no legislation exists with regard to domestic violence and procedures to obtain it is quick and cheap. It is therefore an appropriate complement but not substitute to the criminal law approach.

71. Many countries have provisions in their civil law to sue in tort for monetary compensation in case of injuries emanating from violence. This is open to women in countries where they have adult status and there is no law against wives taking their husbands to court. But some countries insist on separate living arrangements before a wife can benefit from such provisions. Other countries exclude domestic violence from such recourse. It is a provision that is limited in benefits also in cases where husband and wife have joint property ownership. Injunctions too could be issued to keep a man from molesting or harassing his wife. They could entail temporary eviction from the matrimonial home upon pain of imprisonment without a warrant for 24 hours if violated. This has been criticized as a violation of men's rights before proving them guilty. Besides, the statutes for injunctions do not include such areas as emotional, psychological or sexual abuse, and often require couples to be adults and to be living together. The procedures for obtaining injunctions are sometimes too long and expensive thus excluding a good number of women, and largely depending on the cooperation of the police and the judiciary.

## 2. Sexual assault: Rape, defilement and indecent assault

72. Rape is defined as sexual intercourse by a man with a legally adult woman which is unlawful and which takes place without the consent of the woman, of which the man is in full knowledge. Ejaculation or rupture of the hymen are not necessary conditions in defining rape. In the African context, rape cannot happen in marriage. However, a woman can accuse her husband of rape if they are officially separated and are therefore not co-habiting. Defilement, on the other hand, is a man having sex unlawfully with a girl who is legally a minor and is not his wife. Consent of the girl is irrelevant in this case. The law, however, requires corroboration of evidence and when the victim provides it in cases where she was a consenting participant, she becomes an accomplice. On the whole, however, there is hardly sufficient corroborating evidence. Lastly, indecent assault refers to sexual assault without penal penetration or violations such as oral sex, sodomy, bestiality, etc. This is in line with the understanding that rape is a means of humiliation, degradation and violation rather than a means of sexual satisfaction.

73. Penalties of sexual assault escalate in accordance with the gravity of the violence or other means to gain the victim's submission to the unwanted sexual connection. These, of course, vary from simple sexual assault to aggravated sexual assault where the victim is wounded, maimed, disfigured, or whose life is endangered. The gradation scheme seeks to stress the violent rather than the sexual nature of the crime as well as to increase the prosecution and conviction rates.

74. In Africa, the maximum punishment of rape and defilement is death. It is preferred that reporting is done within two hours of the commitment of the crime. Lack of the necessary equipment to facilitate the work of the police and health institutions, however, leads to inevitable late reporting which negatively affects the case. The low socio-economic status of the woman in society and poverty also influences the seriousness in which sexual assault is taken by the authorities and families respectively. It is not unusual therefore for the parties concerned and their families to settle such cases out of court.

75. In addition to late reporting of cases, it is also apparent that only a small percentage of them reach the authorities. According to most cultural traditions, young girls cannot discuss sexual matters with or before adults. Besides, when the crime is committed by a family member, there is an attempt to kill the case because of the severe punishment that could be apportioned to him. There is also the question of ignorance of the law, undue delay of trials for up to three years, and the fact that in some societies, rape is considered a normal way of introducing women to sex.

### 3. Sexual harassment

76. While the problem of sexual harassment at the work place and elsewhere has attracted significant attention in the last ten years, considerable difficulties have been encountered in defining behaviour that falls within the term. Besides, for many women, sexual harassment is so commonplace that they have come to accept it as a hazard of the world of work. Perhaps one of the ways of defining the problem is in terms of what a woman in a particular situation perceives as threatening. In this context, the power that a man has over a woman, particularly within the work place or in an educational establishment, becomes significant and readily identifiable. Any sexual overtures to a woman by a man in a position of authority in such a context thus falls into that category based on the implication that the woman is at a disadvantage unless she responds positively to the overtures. This principle could also be applied in more informal employment situations such as in the domestic arena. Sexual harassment by co-workers, on the other hand, becomes difficult to categorize. There are two ingredients, however, in the conduct of a man or a woman that can be defined as sexual harassment: unwelcome sexual attention, and conduct which from the recipient's point of view is offensive. Conduct that may be sexual harassment in one context might therefore not be in another and that which may be acceptable by one woman may not be so to another.

77. In the workplace and educational institutions, sexual harassment defines the role of women in sexual terms thus perpetuating their subordinate role in society. While it harms the individual woman, it also diminishes the effectiveness of the organization and is wasteful of the human and economic resources. Accordingly, it must be treated as a serious problem.

### 4. The media and violence against women

78. Over the past decade, researchers have directed their attention to ways in which violence against women is portrayed. The results have showed that exposure to violent content in the media increases men's acceptance of violence against women and strengthens men's belief in rape myths such as women having an unconscious desire to be raped and therefore unconsciously provoking it. For the category of men who according to their own self reports could rape if they were assured that they would not be caught, they get sexually aroused by viewing materials where women at first resist sex and then become aroused. In addition, men who accept violence against women are also likely to be violent towards them particularly after viewing aggressive pornographic materials.

79. It is therefore generally concluded from the various research findings that the mass media can contribute to a cultural climate that is more accepting of aggression against women. This view, however is not accepted by the media industry on the basis that there is no conclusive evidence to this effect. A great deal of the media imagery, however, based on a view of the world in which women depend on men for economic, social and sexual status, perpetuates the notion of women as property or commodities available for sexual and other use. The task of the media therefore is to understand and to demonstrate the values underlying all sexist representations of women, which depict women as responsive to men, not as responsible in their own right but to men as the initiators, and the source of active desire. *"The challenge is to expose these values and illustrate their role in explaining and defining actual and fictional male-female relationships and to propose alternative values and media representations which redefine these relationships."*<sup>34</sup> The advantage of such a strategy is that while it monitors the media content, it also analyses the political, economic and cultural factors influencing the current situation, gains awareness of the important pressure

points not only in the media institutions but in society in general, and is thus in a position to envision an alternative future.

#### B. Conclusion

80. The complexity of the problem of violence against women requires multiple strategies from many disciplines which are compatible with the conditions and the resources of the country under consideration. Violence must be recognized as a serious issue and condemned by those in authority. But this must be accompanied by the development of other measures to act against abuse and to promote respect for women in general based in the principles of NFLS and the Women's Convention. These strategies should include: research to understand the phenomenon and the appropriateness of the various responses adopted so far; appropriate legal systems to which women should have adequate access; education and training for those who are involved in the handling of the various aspects of the problem; and fundamental change in the socio-economic-cultural factors in society that foster the continued existence of violence against women.

**PART II**  
**DISSEMINATION OF INFORMATION TO WOMEN**

81. Dissemination of information is a process whereby specific data and information and their implications are brought to the attention of different audiences in different "packages", each suited to the specific needs of those particular audiences. It must first be "analyzed", "transformed" and then "adapted" according to the needs of the target audience. It is one of the prime ingredients of development. Information and the control of its dissemination is one of the most potent forms of power within human society. Access to information constitutes a valuable resource - for the exposure itself is the key that can unlock the path to other resources and rights.

82. The mass media have not been effective to inform and prepare women to play their new roles in society. Women's advancement and empowerment cannot be achieved in the absence of relevant information on their situation and strategies of dealing with that situation. Relevant information is therefore necessary to promote the social and economic welfare of women. Women also need information on how to empower themselves, as they struggle to dismantle the patriarchal structures that are at the root of the violation of their human rights.

## I. REGIONAL OVERVIEW

### A. Status and role of the media

83. In Africa, most institutions representing the media are state-controlled, usually under the ministries of information and broadcasting. This includes both the electronic and the print media, i.e., radio, TV and the press. In addition to the mass media, combination of other forms of communication including folk media and person-to-person communication are used in mass education and in the process of national development.

84. The goals of the mass media in Africa, apart from educating and entertaining the mass, include persuasion towards ensuring better quality of life for all; transmission of information; promotion of social interaction and relationship; advocating social, economic and political change; and linking the government and the people.

85. Despite the limitations in resources and services in Africa, however, country reports on the assessment of the implementation of NFLS indicate that there is general recognition of women's problems in the areas of communication. Evidence shows by and large that the benefits of existing services come more readily to men than to women. The problems of access first arise because of scarcity of resources and the allocation of priorities for the male population that is always the first to be considered.

86. Most countries provide neither adequate programmes for women (especially programmes geared towards rural development in areas of agriculture, education, health), nor infrastructure for the majority of women in rural areas. This is based on a failure to recognize the real roles that women play in society and especially in the rural economy, where the majority of them are engaged in productive functions such as agriculture, food preservation, handicrafts, etc., and are primarily responsible for providing the basic needs for their families.

87. Programmes directed at women are limited in scope. Often they do not have direct bearing on rural women and fail either to articulate their basic needs or mobilize adequate participation for them. As a result, the majority "urban elite" gain access to the media and also enjoy the benefits of the programmes thereby providing the image and leadership for women in their countries. Too often, such urban women become entrenched in such leadership positions giving little thought to the problems faced by the majority of women.

88. In most countries in Africa, media women lack professional training due to non-availability of training facilities. On-the-job training seems to be the most widespread method used by media organizations and while it does not necessarily produce the best results, it also perpetuates the limitation on women's upward mobility.



89. Some of the women's problems can be eliminated through organizational changes, allocation of additional resources (if affordable within national resource constraints) for the purpose of strengthening the communication systems. Measures mainly directed towards improving the existing situation of women should be within the reach of rural women of all sections.

#### B. Information for development: Women and the mass media

90. The central focus on the mass media underlines the fact that the media are among the most powerful and influential institutions, in conformity with the sociological truth that communication is indeed a master process in human society.

91. In Africa, despite the efforts being made to deploy the services of the media to play a more effective role in the development process, facts reveal that men benefit more from their services than women. Consequently, women, especially the majority performing the large agricultural tasks in rural economy, have so far received very little attention and recognition by the media.

92. The roots of women's problems were enunciated in the Declaration of Mexico and the World Plan of Action which, *inter alia*, states that "*Public attitudes and values about the role of women in society are a major obstacle to improving the status of women. The mass communication media have great potential as a vehicle for social change and could exercise a significant influence in helping to remove prejudices and stereotypes, accelerating the acceptance of women's new and expanding roles in society, and promoting their integration into the development process as equal partners*". Since the Mexico Declaration, the concept of articulation and implementation of programmes for women has become broader. However, there still exists a gap between the acceptance of popular participation at the international policy level as well as its acceptance and implementation on the national level.

93. The process of alleviating the socio-economic discrepancies lies in the development of all human resources - men and women - and in providing them opportunities to participate in efforts at improving the quality of life for all through improved education, skills and health. Importantly, however, the struggle for the integration of women in development means the full recognition of women as equal partners to men by providing in law and fact the full access to services including education, knowledge, skills, information and training, thereby opening the avenue for a proportionate share both in responsibility for and to the benefits of development.

94. The mass media as a vehicle to speed the development of women can be deployed into a more active capacity not only in motivating and awakening them to their right demands for a better life but also in advancing the quest for social justice and equitable participation in social and economic progress.

95. Although the goal of integration of women in development has generally been accepted and giant strides are being taken to achieve certain objectives, women and especially women leaders, must themselves have greater responsibilities towards the majority and less fortunate in their societies - particularly media women whose paramount functions are those of watchdogs, educators and solicitors.

#### C. Problems and constraints

96. Major constraints on women in the media in Africa are summarized to include:

(a) Under-representation in media organizations; top positions; absence in the decision-making processes; and relatively few training opportunities;

(b) Lack of access to communication channels; lack of adequate and quality programmes; lack of access to multi-media channels including the opportunities to exploit folk media for education purposes

at grassroots level; lack of proper planning of programmes for specific clientele; and inadequate data and research;

(c) Inadequate resources (human and material); lack of mechanisms for effective feed back; lack of reinforcement and follow-up; lack of coordination and cooperation among agencies; and conflict between journalism as a career and the traditional demands on women as home-makers.

#### **D. Role of information in development: The distribution process**

97. Access to information plays an important role in the development of women's capacities for participation and self-determination in all spheres of life. This in turn increases the flow of news and information on women in society. It also promotes social acceptance of women's changing roles; facilitates the participation of women in the development process; eradicates prejudices and stereotypes through the provision of a new media imagery and content generated by women themselves; contributes to the sensitization of society about the need for gender equality in all aspects of life; plays a conscientious and awareness raising role among women, and developing them to recognize their common oppression as women, and to develop a sense of solidarity that can overcome their class and cultural divides; and assists women to gain greater control over their lives as well as contribute to raising their level of self esteem and self-confidence. Relevant information disseminated to women therefore has an empowering capacity on them.

#### **E. Barriers to information dissemination**

98. Among several impediments to information access, a few stand out. First there is the inadequate organization of materials that is to be disseminated and the lack of national focal points for information on women. Besides, insufficient outreach and repackaging of information to suit the requirements of the user accounted for the underutilization of existing information. The problem of poor coordination at production, collection and distribution levels as well as financial constraints also present important constraints as do the shortage of personnel coupled with gaps and deficiencies in available data and information.

### **II. MECHANISMS FOR STRENGTHENING DISSEMINATION OF INFORMATION**

99. Women, as communicators and information specialists, are key agents of change in our society in the evolution process leading to a more sustainable development of the planet. They can influence the whole world from the family circle to the decision makers. There is need for a network among all involved in women's information whose objectives would include sharing and utilizing existing information, promoting communication and comparative research and documentation units and mobilizing the strengths of each participating unit for the benefit of all. Networking would also contribute to increased dissemination and improved utilization by all persons in need of information especially women at the grass-roots level. Furthermore, it would compliment efforts currently under way in many countries to develop women's information centres and networks as well as enhance the intercountry flow and exchange of information related to women and women's programmes, projects, status and situation.

100. In turn, it is expected that those direct benefits would contribute to more effective formulation of development policies, plans and programmes through improved access to information which can provide a clearer understanding of the situation of African women, their needs and priorities.

### **III. MEASURES TO ENSURE INFORMATION DISSEMINATION**

101. Measures mainly directed towards improving the existing dissemination of information by and for women should include the hiring of more national correspondents, committed to the promotion of women in development. The training, in each subregion, for existing and future correspondents in both technical skills development and orientation to relevant issues should also be considered. The development of material

through "small" media - audio tapes, comic strips, broadsheets - for illiterate or semi-literate audiences as well as adaption of features material into vernacular languages are also important strategies for information dissemination. For a more realistic assessment of the audience needs assessment, the involvement of women's organizations and groups in discussions and practical follow-up action based on the features material is a necessity. Besides, training of middle-level women extension workers from rural localities is essential as they can be more effective in communicating with rural women in languages they can understand.

102. There is evidence that a woman animator/change agent is more effective among women than men. There is therefore need to train more women in radio, newspapers, folk media, community and rural development programmes and adult and non-formal education programmes for greater impact on communities. In this context, there is need for more women as reporters, producers, script writers, editors, broadcasters, dramatists, artists, researchers, etc. For those already in the field, their skills should be sharpened through refresher courses as well as on-the-job training in order to have a deeper understanding of the problems and or needs of their target groups and have these properly situated within the framework of the prevailing socio-economic situation in the country - a situation which may also need to be properly understood. This may be achieved through seminars, workshops, symposia, etc.

103. It is necessary that the media are aware of the different socio-economic categories of the targets of its information. The needs and particular socio-economic circumstances of women within rural areas differ considerably from those of women in urban areas. Because most of the former operate within the informal rural/agricultural sector, their occupational/domestic skill, as well as their attitudinal needs differ from those of middle-class urban women. It is therefore necessary that trainers of journalists, male and female, sensitize them to developmental needs of their target audiences especially those working among women. There is also need to impart communication skills to extension and other change agents, all types operating in community or rural development projects especially in cases where these directly relate to women. In addition, it would be useful if governments and United Nations agencies cooperated in producing statistical evidence both on the number and the level of participation of women in the various media. This would highlight and document the disproportionately low participation of women in the media. The information could eventually serve as a basis on which accelerated involvement for training and employment of women in the media could be satisfactorily and equitably realized. Since there is little systematically compiled information on existing training facilities and institutions in journalism and other areas of mass communication in Africa, there is need to compile and make available a regional directory of these and other relevant organizations in the field.

#### Popular participation

104. In order to involve women in the use of the media, programme emphasis should be laid on the actual contribution to society by women at grass-roots level. This will help to rectify the false, distorted image of women portrayed by the media. Programme planning should originate right in the field and women should be made to identify and find solutions to specific needs. The media should feature women's activities and their organizations prominently.

105. To promote greater interest in women by the media, quality programmes directed at specific needs must be developed. These should be functional and within reach. Informative and educational programmes should be launched to meet women's development needs both in rural and urban areas. Feedback and evaluation as well as continuous follow-up are essential for media organizations in monitoring audience participation as well as public consciousness with respect to women's important roles in society.

### **PART III**

## **RECOMMENDATIONS**

## I. WOMEN'S RIGHTS

106. Women's rights are about full and equal enjoyment by women of human rights as stated in the United Nations Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and all other international policy instruments which have been promulgated and accepted for the protection of the inalienable and inviolable rights of all human beings. Women's rights are also about the full integration and participation of women in the development process, both as actors and beneficiaries, with a view to achieving a sustainable and equitable development in the spirit of the Rio Declaration on Environment and Development and Agenda 21 adopted by the United Nations Conference on Environment and Development in Rio de Janeiro in June 1992. The summary of recommendations listed below are based on the provisions of these international human rights instruments including the recent Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 and thereafter adopted by the United Nations General Assembly.

107. In view of the fact that a major obstacle in elevating the status of women lies in societal attitudes and that the great potential of the mass media can be deployed for changing these attitudes and other prejudices and stereotyped ideas about women, there is need for improved systems for the dissemination of information on the situation of women for development of policy and programming purposes.

108. All African States that have not ratified the Women's Convention are urged to do so while those which have reservations that are contrary to the objectives of the Convention are urged to withdraw them. The Committee on the Elimination of Discrimination against Women should continue to review the reservations in search of appropriate ways of resolving them. Its mandate should be expanded to include hearings on the implementation and/or violations of the Convention.

109. Strong national measures should be taken by governments to document the nature, scope and value of women's work with a view to formally recognizing it and ensuring that they are protected by the provisions of the specific international standards on the right to work, social security, highest standards of physical and mental health and all other rights related to work.

110. Governments, women and society should spare no efforts in launching corrective measures all around to ensure that women are no longer excluded from property ownership in the interest of accelerating the achievement of sustainable standards of living and more fundamentally, rectifying the violation of this basic human right. Collection of disaggregated data should be incorporated in regular data collection exercises so as to give an accurate picture of the situation of the women.

111. Governments and all their national and international development partners should ensure the reproductive choice of women regarding the number and spacing of children as well as access to the means to do so. They should also recognize the right of women on an equal basis with men, to decide on child bearing and to have access to the information and the means to exercise this right.

112. Countries should accelerate the promotion of women's health and safe motherhood to eliminate the high rates of maternal morbidity and mortality and the number of deaths and morbidity from unsafe abortion. They should also seek to improve the health and nutritional status of women in general and pregnant and lactating women in particular.

113. It is crucial to introduce human rights in the formal curricula and to launch non-formal programmes for various segments of society aimed at the improvement of the attitudinal environment which militates against the practice of equal rights within the family, e.g., the need to learn different ways of viewing the status of the married woman, recognizing domestic labour as economic activity and re-evaluating the parental and domestic responsibilities of men.

114. Strong socio-economic and cultural support structures should be established for women aimed at assisting them to develop a sense of self-worth which can be transmitted from generation to generation.

115. Women must work in close collaboration with their governments and other relevant actors in revising the existing legal systems to render them more responsive to the safeguard of women's rights.

116. Violence against women must be condemned by those in authority. Research to understand this phenomenon in all its dimensions as well as the appropriate ways of handling the problem should be undertaken. Appropriate legal systems that are accessible to women should be put in place while those who have the responsibility to respond to the phenomenon at different stages should acquire adequate knowledge and training in this regard.

117. The equal status of women and the human rights of women should be integrated into the mainstream of the United Nations system-wide activity, and those issues should be addressed regularly. In this context, cooperation and coordination should be strengthened between the Centre for Human Rights and the Division for the Advancement of Women.

118. Governments and regional and international organizations should facilitate the access of women to decision-making posts and participation in the decision-making process. The United Nations system including the Secretariat should set a practical example to this effect.

119. The media has the responsibility to understand, and widely expose the values underlying the violation of women's rights particularly in defining actual and imagined male-female relationships through the analysis of the political, economic, and cultural factors influencing the status quo, and thereby envisioning and proposing alternative values and relationships.

120. Governments, regional and international organizations must ensure that all socio-economic policies, plans, programmes and activities reflect the gender perspective in their formulation, implementation and evaluation in the interest of fostering sustainable development and safeguard for human rights.

## **II. DISSEMINATION OF INFORMATION**

121. The challenge in designing and implementing information systems and networks on women and development is two-fold:

(a) To make effective use of existing data and information while seeking ways to fill identified gaps or deficiencies; and

(b) To mobilize the human, physical and financial resources necessary to develop effective information systems at national levels.

122. The opportunity to make significant contributions towards the full participation of women in all aspects of development during the remainder of the century and beyond, through well-organized information systems and networks should offer sufficient incentive to ensure sustained commitment and dedicated efforts on the part of governments, multilateral and bilateral agencies, private and international organizations concerned with women and development.

123. Collaboration and cooperation among media organizations in Africa are essential for the exchange of relevant information on women and development. The creation of a data bank for developing up-to-date information on all aspects of women's development is necessary for the free flow of information among countries of the region. It should be sufficiently funded and staffed to ensure that it compiles and distributes information on the economic and social conditions of women.

124. More specifically, the following recommendations are suggested for more effective dissemination of information for and about women:

(a) Female journalists or broadcasters should:

- (i) offer their services for writing, adaptation, translation, etc., in their communities and persuade their editor/station managers to publish the features;
- (ii) look out for women's features in their local and national press and provide written feedback on them;
- (iii) discuss with relevant persons whether, and how much, their own papers, magazines, stations, etc., could subscribe to receive some or all of the material from them;

(b) Women's groups and NGOs should:

- (i) establish a network on women and development information;
- (ii) use the features within their own organization as the basis for group discussions, project work or community action;
- (iii) look out for women's features in the local and national press and provide written feedback;
- (iv) consider the possibility of other human or financial resources - for example, in translation, evaluation, training, production of materials - which might contribute to networking with other organizations;
- (v) monitor programmes, advertising and writings to determine if they present a stereotyped image of women's and men's roles;
- (vi) organize seminars and assemblies among local audiences to promote awareness of discrimination against women in media portrayal and employment;
- (vii) promote democratization of the mass media by encouraging public participation in media decision making and in the creation of new structures to facilitate such public participation;
- (viii) establish a dialogue with mainstream media decision makers, including advertisers, to acquaint them with the precepts of the women's movement;

(c) Governments should:

- (i) formulate short-, medium- and long-term programmes, allocate and utilize adequate resources for the maximum exploitation of mass media towards disseminating information in promoting a fuller integration of women in development;
- (ii) in the deployment of mass media in this manner, all available media should be effectively used to raise public consciousness as regards women's roles, their potential as a vital human resource and the value of developing their capacities to the maximum for the advancement of family, community and national welfare, side by side with men;

- (iii) undertake joint research programmes on women, especially in mass media with bilateral and multilateral agencies as well as women's organizations;
- (iv) organize study tours, seminars, workshops and exchange programmes for women journalists and other women's groups;
- (v) establish and/or strengthen mass communication training institutions in the country and assure that women are adequately trained in such institutions for careers in this field;
- (vi) strengthen national machineries and focal points;
- (vii) develop national women's information centres and networks;
- (viii) increase inter-country flow of data and information related to women and development;

(d) United Nations agencies should continue to give their support to all regional, subregional and national efforts aimed at promoting the conditions of women in Africa and to ensure that women benefit from all programmes and projects designed to promote their interests;

(e) Multilateral and bilateral agencies should consider increasing their resources to finance various strategic programmes of communication in order to accelerate information distribution, especially in the most isolated areas.



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