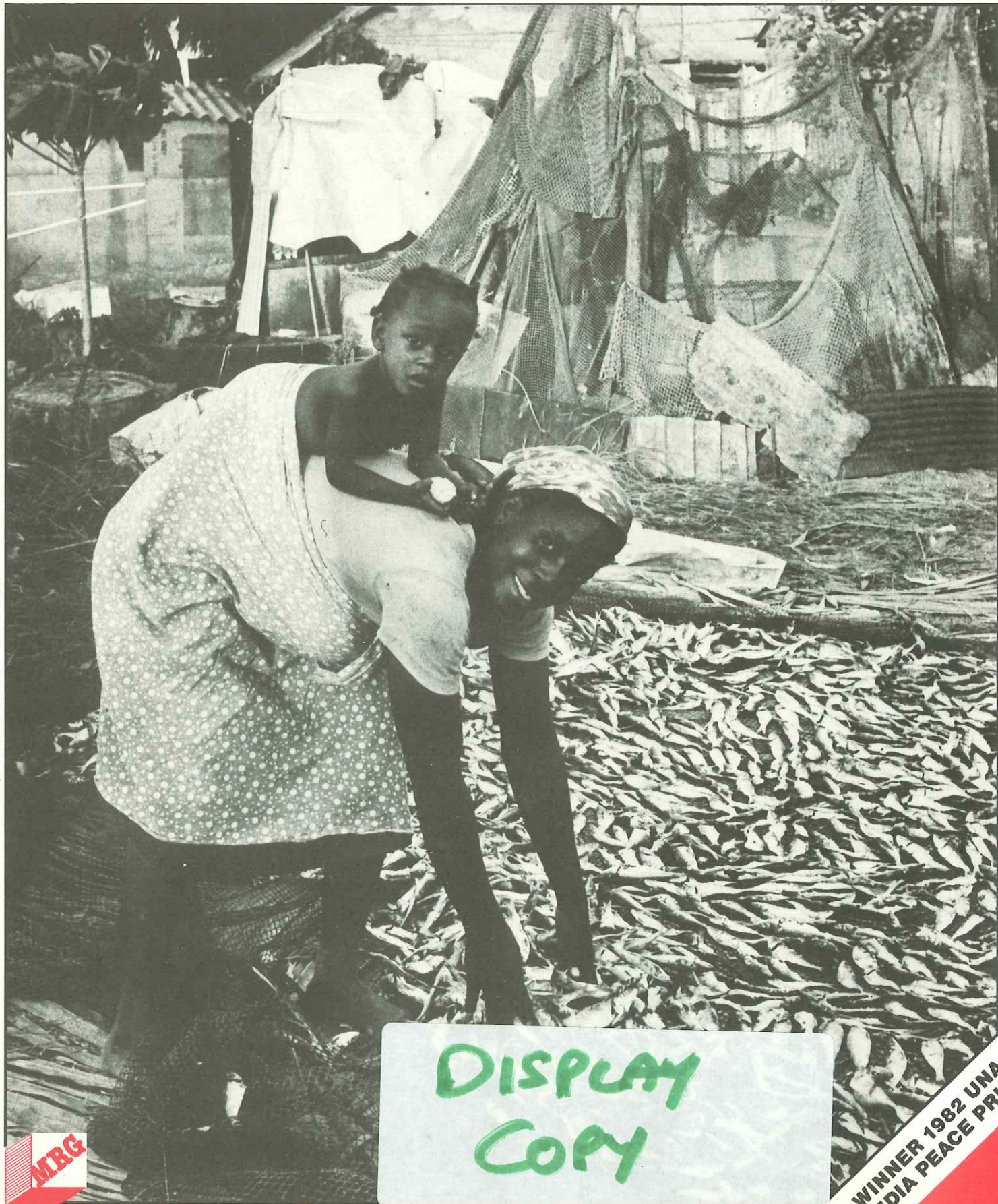


Women in Sub-Saharan Africa

The Minority Rights Group **Report No. 77**



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is an international research and information unit registered in Britain as an educational charity under the Charities Act of 1960. Its principal aims are —

- To secure justice for minority or majority groups suffering discrimination, by investigating their situation and publicising the facts as widely as possible, to educate and alert public opinion throughout the world.
- To help prevent, through publicity about violations of human rights, such problems from developing into dangerous and destructive conflicts which, when polarised, are very difficult to resolve; and
- To foster, by its research findings, international understanding of the factors which create prejudiced treatment and group tensions, thus helping to promote the growth of a world conscience regarding human rights.

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OFFICE

29 Craven Street London WC2N 5NT
01-930 6659

Women in Sub-Saharan Africa

By Edda Ivan-Smith, Nidhi Tandon
and Jane Connors

Edda Ivan-Smith studied economics and development at university and has carried out research about women in Zimbabwe and Tanzania. She is currently an editor at the Women's Press publishers, London.

Nidhi Tandon studied in East Africa (Uganda, Tanzania, and Kenya) and is currently working in the Women and Development Programme of the Commonwealth Secretariat, London.

Jane Connors is a law lecturer at the School of Oriental and African Studies, London University, and a consultant for the Commonwealth Secretariat.

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By Edda Ivan-Smith
Nidhi Tandon and
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THE UNITED NATIONS UNIVERSAL DECLARATION OF HUMAN RIGHTS

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from any fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if a man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore,

THE GENERAL ASSEMBLY proclaims

THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3. Everyone has the right to life, liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15. (1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interest.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

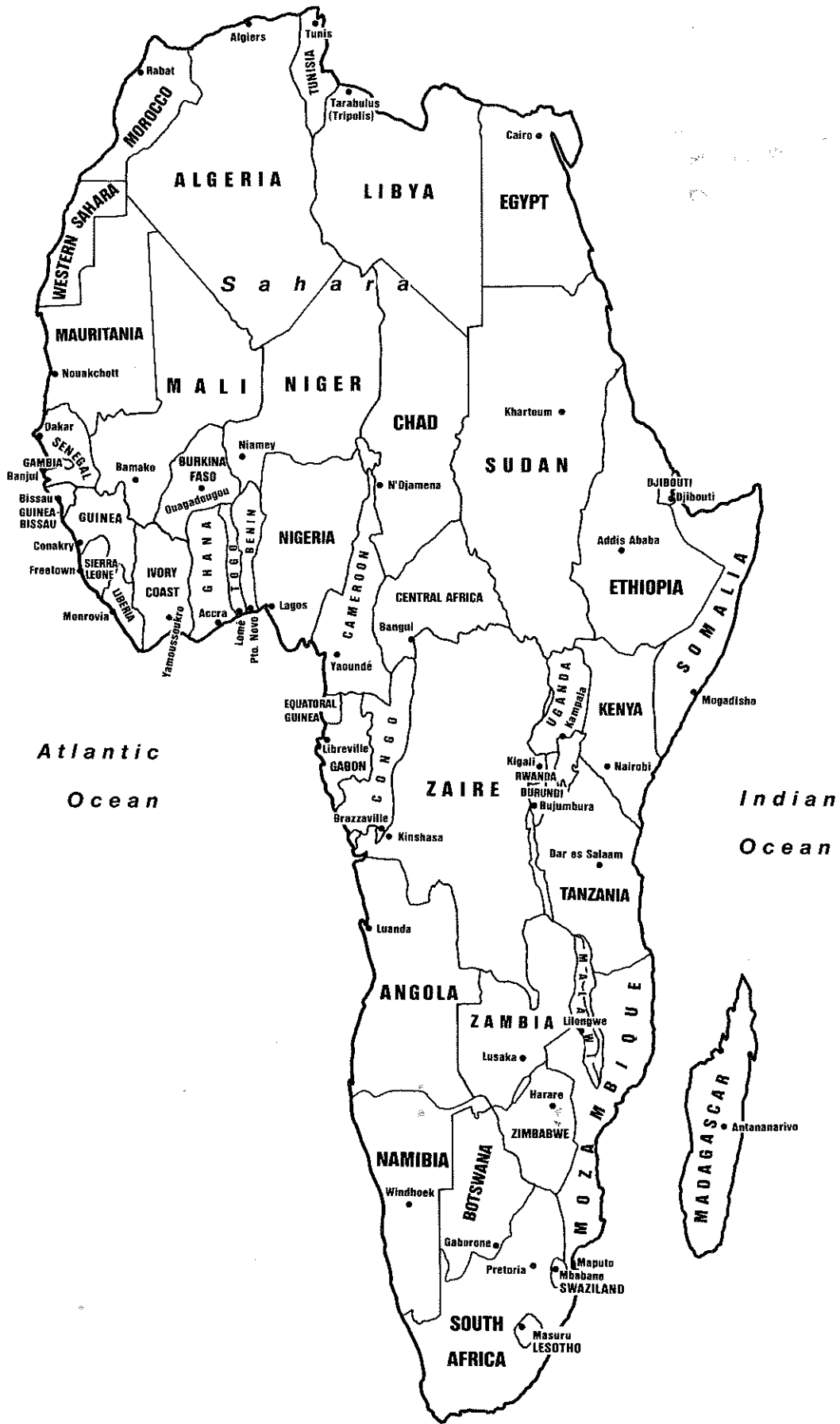
Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.



INTRODUCTION

Edda Ivan-Smith

The term 'African women' is a potentially dangerous one if not qualified; for Africa is a vast continent with over forty nations, and approximately 406 million people who speak between a thousand and three thousand languages. It embraces numerous ethnic groups, religions, traditions, political systems, ideologies and histories. Some countries, such as Tanzania, Malawi and Botswana, obtained independence with relative ease in the late 1950s and early 1960s; others, such as the Portuguese colonies and Zimbabwe, had to wage long and bloody struggles before they could secure political self-determination. Two countries, Namibia and South Africa (Azania), are still under white minority rule. The sheer size of the continent, and the dearth of empirical gender-based data on certain subjects, makes any study of African women an incomplete one. Thus, a report such as this can only hope to grapple with some of the basic concerns and problems facing African women today, and the historical passage that has led to their present situation. For this reason we have resisted the temptation of writing a country-by-country profile; instead this report will examine some of the most important issues concerning African women in the sub-Saharan region. The Arab African countries are covered in an earlier MRG report.¹ The present report discusses the effects of urbanization; women in rural areas and their agricultural contribution; women's health and education; women's legal status; and (briefly) the effects of Islamic practices on women.

Despite their diversity African women share a common plight – they tend to be the poorest people in the world's poorest continent. This has affected them economically, politically and socially, as they have even less control over the means of production in an economic order which is dominated by the West than their relatively richer and more powerful male counterparts. However, it would be inaccurate and analytically non-viable to submerge African women under the category 'victim'. At the end of the United Nations Decade for Women Conference in Nairobi in 1985 there were some fierce and informed exchanges – testimonies to the strength of feeling and the positive, practical measures that some African women had achieved by organizing themselves and applying pressure collectively. African women from very different social, educational, and political backgrounds had arrived in Nairobi, some having walked hundreds of miles, to be seen, but more importantly to be heard. If the UN Conference and the simultaneous non-governmental forum achieved little else, it did enable a few of Africa's women to articulate and exchange ideas with each other and with the world; no mean feat this, but neither a reason for complacency, for most rural women had not heard about the conference. In many spheres, African women's lives have not improved and in some cases have actually deteriorated since the decline of colonialism.

Africa is still a predominantly agricultural continent. Although it is not a large growth sector of the economy, agriculture employs three-quarters of the population and women provide approximately 60 to 80% of the household food needs in many parts of sub-Saharan Africa.² Women often work between ten and twelve hours a day, and in some instances their workload has actually increased since independence. The shifting nature of the African rural economy during the past thirty years has often been central to the debate about the position of women, and for this reason it is perhaps the best documented aspect of women's lives in Africa. However, the recent rapid growth of some African cities has focused attention on the urban phenomenon and its social effects on the population. Rural and urban women have faced and have to adapt to this erosion of traditional African social environment.

Mass male urban migration was already common in the southern part of Africa at the beginning of the century, and by 1930 an estimated 40 to 60% of all males were absent from their villages in East and Central Africa.³ This stemmed from the colonial demand for labour, the lack of a supportive agricultural livelihood, and the taxes levied by the colonial authorities to induce men to work in European-owned businesses. By 1903 most of East and Southern Africa was subject to high rural taxes; this forced many men to the towns, and some were penalized for remaining in rural areas. Unlike men, women usually migrated to the towns voluntarily to earn their own money; male labour migration imposed almost intolerable pressure on women trying to support a family on the meagre wages earned by their husbands. Lack of formal education and qualifications provided little opportunity for wage-labour for women; instead, they supplied domestic services to the migrant men of the towns. These would include food, beer, sex and companionship.

Women's work has often brought them closer together, and has fostered a solidarity in the absence of the extended rural family. Women have formed associations or informal unions to protect their interests and to protect each other from the police. Without the extended family to assist in child-care, urban women have often been restricted to occupations that let them remain at home, or failing this they have to employ someone to look after their children which adds another financial burden to an already overstretched budget.

Some women do earn enough money to buy property and send their children to school. The informal sector debate is quite pertinent here; women are heavily represented in this area of African economies, often because of lack of education or not being able to afford the trading licence fees. Informal enterprises, such as beer-brewing and illegal market stores, can generate quite a healthy income and provide good service to customers. With some financial assistance and deregulation these small-scale enterprises could and should be formally incorporated into the mainstream economy. We shall return later to this topic.

Black women in South Africa

In many southern African countries there were colonial restrictions on urban female migration, the assumption being that black male contracted labour would eventually return to the rural areas. The extraction of male labour from the country is still a dominant feature of southern African social and economic life today,⁴ and nowhere is that more evident than in South Africa. One of the most pernicious effects of the apartheid regime is its systematic destruction of black families and the double burden shouldered by black women. The attempted urban control of black South Africans is one of the cornerstones of apartheid ideology, and its effect on women must be included in any study of African women. Although the pass laws have been relaxed, legal control of the black population still exists through legislation such as the Group Areas Act. A brief history of South African urbanization policies regarding black women will bring their present situation into sharper focus.

Influx control for black women is a relatively new piece of legislation in South Africa; they were not required to carry passes until 1952 and it was not made mandatory until 1963. This freedom of movement is reflected in the 1936 census. Between 1921 and 1936 the number of African women in the urban areas had increased by 142%; in contrast, the African male population had only risen by 78%. In Johannesburg alone the black female population had increased by 245% while the male population had been augmented by a mere 45%.⁵ This indicates a significant urbanization process involving women that was developing outside the control of the State.

However, the lack of influx restrictions on black women was not an accident, nor was it the result of inefficient execution of the law. The different drafts of the Urban Areas Act had attempted to guard against mass migration of women but were never unanimously supported by Parliament: before 1948, according to one writer, 'women's freedom from pass laws directly served the interests of secondary industries, which manipulated State power'.⁶ The industrial sector was challenged by the agricultural faction over the question of black urbanization. The farmers eventually gained victory by aligning themselves with the white working class, who also feared black urbanization. The urbanization of black women

WOMEN IN THE URBAN ECONOMY

Edda Ivan-Smith

Like many other developing areas of the world, Africa has become increasingly urbanized over the last twenty years. Some bustling towns and cities have grown from small villages in just a few years; others, such as Timbuktu and Mombasa, have been in existence for centuries and were already centres for trade and commerce during the 15th and 16th centuries.

was disastrous for the agricultural sector. The rural sharecropping system relied on the productivity of the entire family unit; the family that the migrant male worker left behind was a guarantee of his return. Thus, when women began to flock to the urban areas the white farmers suffered a chronic labour shortage. The 1940s saw a labour shortage of 13,900 for the Transvaal farmers and they wanted a guarantee from the Smuts government that all 'superfluous' Africans would be repatriated to the rural areas. These sentiments on influx control were officially stated in 1948 when the Nationalist Party assumed power. This effectively brought an end to black women's relative freedom.

Their activity in the industrial sector was not terminated however. The industrial growth of the 1960s demanded more manufacturing workers than were available among black male workers. At this time, white women started to move away from the factory and into clerical work. In spite of this shift, African women still earned 20% less than the industrial minimum wage.⁷ Black women now are concentrated in the clothing and textile industries, and although these occupations are better paid than domestic service the conditions are poor and wages still appallingly low.

The large number of African women presently in industry points to their vital contribution to South African capitalism. In 1970, black women made up 36% of all female workers in the manufacturing industries. Between 1962 and 1963 more than half of the female production workforce in the textile industry was African. But the majority still work in domestic service; 88% of black domestic workers are women, and this accounts for 38% of all legally employed black women.⁸

Despite the huge influx of African women to the cities, the majority remain in the rural areas. An increasing number of black urban women are being 'resettled' in designated reserves by the government. Thus, the government has a plentiful and cheap labour supply which it can tap in times of greatest need. The labour cost of this supply is negligible for the government because of the lack of sufficient government facilities in the reserves. The urban African woman fills the vacuum which is created by a white labour shortage; as long as she is useful and gainfully employed she is permitted to remain in the urban areas, but otherwise she is 'endorsed out'. A South African member of parliament summed up the attitude towards black women when he said: 'We do not want Bantu women here simply as an adjunct to the procreative capacity of the Bantu population.' A wife should be allowed into a town only if she were needed in the labour market, if not, she had to stay in the reserve.⁹

Urbanization outside South Africa

Though extremely important, South Africa and the effects of apartheid are neither typical nor representative of Africa as a whole. Rapid urbanization has had a major effect on the African social structure, particularly in West Africa and parts of East Africa. Indeed, in some parts of the continent the city has been viewed as an escape from the toil and burden of rural life and demanding relatives. Some of these expectations are realized; others are not. Western ideology, changes in the law, and family planning make their strongest impact in the urban setting,¹⁰ mainly because financial resources, political activity and foreign tourism are concentrated there. Urban dwellers are the first to be affected by these forces, and women in particular are without the older extended family that might disapprove of some new social trends.

Old social constraints are often replaced by new ones, however, as Pons pointed out in a study of African urban living in the 1950s: '... Urban conditions had in various ways largely released women from some of the immediate constraints of traditional life, but their economic, occupational and educational advancement still lagged far behind their personal emancipation. Most women continued to be directly dependent on their menfolk despite their new-found urban freedom, and urban feminine roles inevitably came to be defined and evaluated as more specifically sexual and domestic than the tribal roles to which most women had been reared in youth.'¹¹

Some women do find a measure of independence, especially those with some formal education, but others, alienated without the extended family and village community support, resort to prostitution for economic survival. The nature of the organization of prostitution makes it difficult for women to extricate themselves

from this way of life. This is a universal and age-old dilemma for poor uneducated urban women that is not peculiar to Africa.

The most significant developments for urban women have been in the commercial sector where the absence of restrictions on control of land, houses and goods is beneficial. Such restrictions still prevail in many rural traditional societies. Not all activities have been deregularized in the cities; for example, the selling and brewing of beer is often illicit although some women take the risk to produce an income.

For married women, earnings have a particular significance where there is a strict separation of resources between husband and wife.¹² For example, in Lagos, Nigeria most wives are engaged in trade and a wife's profit is her own. In Dakar, Senegal women keep their earnings separate from the household's. This is supported by Islamic law, which places responsibility for supporting the family on the husband, but allows the wife independent administration of her personal earnings. In parts of Senegal many women own fishing boats and hire their husbands as fishermen; thus some women do have an opportunity to control the means of production and actually transform their husbands into wage-labourers. This gives women more economic autonomy and control over the organization of production. But what are the social effects of this autonomy? Increasingly, men in urban areas have had to accept that if they want a permanent partner living with them she will have to earn an independent income. The insufficient wages that men receive really leave them no choice. This does not mean that there is no conflict or tension between the sexes. A study in Kampala, Uganda¹³ showed that tensions were running very high. Men would vacillate between traditional and 'modern' ideas about women, depending on their circumstances and if it suited them or not.

There is also a class dynamic which can determine the relative freedom of certain women. In Benin, for example, illiterate women have been seen to have more freedom and autonomy than educated housewives who are often more confined to the home. Educated women tend to marry educated men with salaries able to support a wife and family, and there is much prestige for both partners in a wife who need not work. At the same time, in West Africa in particular, many married women have been able to establish thriving businesses outside the home.¹⁴

In this part of Africa, women have been involved for centuries in farming, trading and other activities as well as their domestic responsibilities. It has been suggested that this tradition has inspired the entrepreneurial spirit so evident among female market traders in West Africa today.¹⁵ However, because of the changing nature of West African societies over the last hundred years or so, women traders have had to adapt and reclaim some of their previous autonomy and validity as an economically productive force. This is clearer to understand if we take a brief historical glimpse at the agents of change in West African society.

The separation of the public and private spheres in West Africa was intensified in the late 19th and 20th centuries. The rise of the nation-State as the predominant form of political organization, and of capitalism as the predominant form of economic organization, weakened the traditional overlap between the domestic and public spheres.¹⁶ This overlap, while not giving women complete autonomy or power over their lives, certainly gave them equal importance for the work they performed within the home and the community. In most West African societies it was normal for males and females to be engaged in activities such as farming, trading and craft production which involved them in their society's wider economic life. Thus, the marriage of domestic work and 'public' work such as craft production and trading was seen as complementary and necessary for the maintenance of society as a whole.

The female entrepreneur

The capitalist economic system redefined 'labour' to make it synonymous with work for cash, whereas in traditional economies of West Africa, as in other parts of the continent, all productive work was recognized as such. Under capitalism, domestic unpaid work is not seen as an economic activity. Despite the significant shift in political and economic organization, African women continue to pursue entrepreneurial activities – something that is deep-rooted in the continent's tradition, particularly in West Africa.

Entrepreneur, in this context, can include any independent or self-employed person who controls the management of capital and who invests it in some enterprise for profit. If we look at continent-wide figures¹⁷ we see that West African women are more prominent in cash-earning enterprises than other African women, although some of the disparity in the figures could be due to regional biases in the collection of data.

As of 1970 it was estimated that the 'economically active' population in Africa stood at 132 million, compared with 109 million in 1960. According to 1960 estimates the activity rate for women was 25% in contrast to 56% for men. Approximately 31% of women in Africa were economically active, with wide variations by country and region. Although these estimates are from 1960, the actual percentages of economically active women in different parts of Africa have not drastically changed although the numerical values have increased. The regional breakdown in 1960 was as follows: 38% of women in Western Africa were in the labour force; 7% in Northern Africa; 27% in Southern Africa; 35% in Eastern Africa; and 40% in Middle Africa.¹⁸ These differences can be attributed to socio-cultural variables, such as religion and family patterns. Women in West Africa have a history of economic independence, with trade and market relationships constituting a way of life. The opposite is true for Northern Africa, where women have traditionally played a lesser role in secular activities due to Islamic practice.¹⁹ However, it is important to stress that there are many exceptions. Dakar is a notable exception where a significant number of women traders are Muslims, and the same is true for parts of Nigeria which has a large Muslim population.

For most of Africa, however, women are still under-represented in the secondary or industrial sector, but are more numerous than men in the service or tertiary industries such as wholesale and retail trade, storage, construction, transport and communication, domestic and personal services, banking and insurance and government employment. The high concentration of women in government, banking and insurance enterprises does not necessarily reflect a qualitative change for women. These types of organization rely heavily on low-grade clerical and secretarial labour, and more often than not these are the occupations that are filled by women.

The high concentration of female entrepreneurs in the commercial market trade and in direct private services represents a measure of autonomy for these women. They are often referred to as self-employed, and constitute approximately 30% of the total labour force in Africa.²⁰ However, for data collection purposes it is difficult to distinguish between women who are self-employed and those who are involved in family undertakings and in subsistence farming. As has been noted, women dominate the retail trade, be it in the market place, on the streets or in their own compounds. While an increasing number of women are industrialists, particularly in West Africa, little is known about them and detailed empirical evidence is scanty. Additionally a small but significant number of 'market queens' exist whose business activities have taken on international dimensions. 'Market queens' seem to be more common in West Africa, although female dominance of the market place exists in parts of East Africa, Zimbabwe, Zambia and Malawi.²¹

The majority of women are 'petty traders' working in the highly competitive urban market place, and dealing in a variety of goods. Generally their incomes are low, with an average annual profit estimate ranging from 5 or 6% up to 20 or 30% of turnover.²² The majority of female entrepreneurs have little or no education. Women with higher levels of education are in larger-scale business activities and tend to be economically better off. Women aged between thirty and sixty years old are concentrated in the entrepreneurial group; thus there is a correlation between a high rate of illiteracy and the high average age of women traders, because older women are less educated, if at all in some cases, than women under thirty.

New urban regulations being imposed on market traders make women's livelihoods particularly vulnerable. Older uneducated women find their options very limited if they are unable to work as market traders. Government restrictions vary in severity throughout the continent, and the West African governments seem to be less harsh than others. Julius Carlebach explains some of the reasons for this:

'Unlike the women in West Africa, women in Nairobi do not appear to occupy a recognized place in the marketing activities of the city. Thus, for

example, of some 1500 Hawkers' Licences that have been issued annually by the City Council of Nairobi, only about 20% are issued to women. This is not necessarily in accordance with the wishes of the women who, significantly, account for a much larger percentage of prosecutions for illegal hawking than do men...'²³

It would seem, therefore, that the future of female entrepreneurs in Africa is partly dependent on how their contribution is perceived, and whether it is considered important to societal development and particularly economic development. In short, are women entrepreneurs sufficiently appreciated by the consumers and decision-makers who ultimately implement the priorities for national planning and development? Too often development agencies, in collusion with African governments, have sought to change the pattern of local enterprise without trying to enhance and develop the productive indigenous enterprises that already exist.

Development policies are often influenced by the findings of academics in the field, who have their own particular angle. Male bias in development theory and data collection is often blind to the gender dynamic when analysing the urban 'informal sector'. Many academics have failed to appreciate that informal enterprises operate on a strict sexual division of labour. In order to understand gender segregation there needs to be a different analytical approach. The fact that women are concentrated in certain types of market trading is crucial to any analysis of the urban informal sector. Women's jobs are usually defined as low-skilled. This is partly because many of the 'informal' jobs that require a long apprenticeship exclude women, either because of social taboos or practical reasons, such as the care of children. The explanation of urban poverty certainly requires an understanding of the nature of various enterprises and how they are divided along gender lines. Thus, any development agency or government ministry aiming to 'better' the situation of urban women needs to examine very closely these various dynamics, and to consult the women involved.

Women in politics

African women's economic initiative, particularly in West Africa, is a clear indication of their fierce and often effective opposition to a patriarchal power structure. By armed resistance in liberation movements, by withdrawal of labour or in more subtle ways of manifesting dissension, African women have historically waged war against blatant injustices.

In the pre-colonial era women did have limited leadership roles in local politics; their power was never equal to that of men but they had considerably more power than in the colonial period. Also the spread of Christianity was vital for the influence of Europe; the early Christian missionaries had a Victorian ideal of womanhood and believed in separate spheres for women, and this ideology of womanhood was effectively taught in the missionary schools. Thus the influence of Christianity, via education, furthered the cause of European ideals that were thrust on Africans. Although traditional African custom, in some parts, did indeed involve gender-based occupations they were different from European Christian ideas of suitable occupations for women. Women in West Africa often had independent incomes from trading and marketing and had children before marriage as proof of their fertility²⁴.

Post-independence Africa has seen a degeneration of this power in formal politics, as new and more rigid political structures have been erected. Lack of educational opportunities has denied women the political language and tools for entering high positions of power. The problem with some of the State women's organizations, such as the Umoja wa Wanawake wa of Tanzania, or the women's section of the Zimbabwe ZANU-PF party, is that they have been set up and in part funded by men, and have not challenged men's control over women's resources. Men have often defined what women's emancipation is and have set the agenda for change; they have used women's organizations as another channel for mobilizing support, rather than addressing issues that directly affect women. Formal African women's organizations are often placed in a compromising position, of either having to subordinate their specific demands in order to promote the national struggle, or to reject that and deny themselves any support that might be forthcoming from the men who dominate the political structures. Additionally, women who are politically active have to increase their workload; men do not see this as contradictory, that women have to work twice as hard to be politically visible, while men make no substantial concessions.

Personal politics have also worked against many women since independence, and particularly for those women who were guerrilla fighters. In Guinea-Bissau this seems to have been less of a problem, because during and after the armed struggle there were concerted efforts to recognize the potential contradictions.²⁵ But in other countries, such as Zimbabwe and Mozambique, women have found it hard to marry because their role in armed struggle is seen as a challenge to masculinity; they are seen as lacking the traditional feminine qualities that are deemed as attractive. It is ironic that these very same men encouraged and welcomed the military participation of women, but in peacetime chose to marry women who had not had that experience. As one ex-fighter said to the author: 'the men wanted us in war but not in marriage'.

WOMEN IN RURAL AREAS

Nidhi Tandon

There is a growing literature on women in agriculture in Africa, and this article will not attempt an exhaustive analysis of women in the rural economy. Rather it seeks to highlight the roles of women in this sector to impress upon the reader their importance and the barriers they face. Within the developing world, Africa, and particularly sub-Saharan Africa, provides the most distinct example of the fundamental and yet unrecognized role that women play in the agricultural sector. From the States that border the edge of the Sahara desert to the southern part of Africa, rural women prepare the land, work the fields, collect water and fuel, harvest and prepare and process food, feed the family and carry out the marketing of surplus produce. There are variations in the type and quantity of work done by women from country to country which will be pointed out, but it is nevertheless safe to generalize that women carry out the bulk of subsistence agriculture.

Take a journal of pictures of African agricultural farming, scan the ones of the small-scale or subsistence farming, and the likelihood is that the farmer is a girl, a mother with a baby on her back, or an old woman. Scan the pictures of large-scale and mechanized cash-crop farming, and the farmer is almost guaranteed to be male.

African women grow some 80% of Africa's food; it is they who nourish Africa's households, both in the rural and urban areas. The percentage chart below gives a general idea of the amount of work that African women perform in this particular sector.

Much of the rural woman's labour cannot be monetized; her daily labour is committed to as much as six hours of fetching and carrying water and fuel for her household, preparing food, and generally managing the household. Her hours typically stretch from early in the morning to very late at night, and often she works far longer hours than the male members of the household. Furthermore, besides producing and managing their own food crops and fields, women often work as unpaid labourers on men's fields and crops. Contrary to popular belief, the women undertake the arduous and heavy agricultural work, and not just light farm activities.

Increasing demands are made on rural women through the current economic situation; they need to earn more from the sale of their produce to feed and educate their children. Very often farm produce is sold for cash when in fact there is a need for food within

the home. Furthermore, in several of the countries which are economically dependent on the migrant labour system in South Africa, the male members of the household migrate to the South African mines to work, and the women who stay behind have sole responsibility for agricultural production and for taking care of the household.

The importance of women in agricultural production can be seen for example in Uganda, where more than a decade of civil strife and unrest have meant that the nation's ability to feed itself has rested entirely on women's activities. With the breakdown of the formal market structure women have, over the years, not only grown staples and vegetables for home consumption, but also coffee and other cash crops to sell to the urban areas and across the borders.

One aspect of rural women's work is the sheer volume that they are expected to do. In Malawi, for example, women do twice as much work as men on the staple maize crop, and an equal amount on the cotton fields, in addition to domestic chores.²⁶ One study in Zambia showed that the harvest yield depended not so much upon the crop yield, but on the amount of harvesting time that the women could fit in during the day.²⁷ In other areas, such as Northern Nigeria, women are more restricted from taking such an active part in agricultural activity – in this case because of the influence of Islam.

Forgotten farmers?

Agriculture provides a major part of the livelihood of the bulk of Africa's population; it accounts for nearly one-fifth of total production, and to date it has been difficult to quantify the exact contribution women make. Nonetheless, their role in agricultural production and marketing is beginning to become part of the 'development aid' dialogue and to figure in governmental development plans.

The drought years that have hit large parts of Africa in the last two decades were caused by a combination of factors that extended beyond purely climatic ones. This would suggest that perhaps those that *have* kept Africa self-sufficient in food are now unable to do so. And the question arises – why?

Colonization by the European powers had a marked and lasting effect on African agriculture. In Africa, unlike other developing continents, women were traditionally guaranteed legal rights to the land, if only through their relationship with men. With colonialism, and later development projects (often imposed by the Western powers), land ownership has tended to be allocated to men. With this development came other erroneous perceptions, where the man is considered to be the head of the household, the farm manager and the earner of income for the family, and women are considered as the providers of 'social security' and producers of the future labour force.

The gap in Africa between mechanized commercial agriculture on the one hand and small-scale subsistence farming on the other is wide and continues to grow. Historically, men were encouraged to enter into commercial large-scale farming and continue to have access to the training, credit and new skills and techniques that come with it.

A useful example of what happens when farmers are pushed aside is provided in Gambia, where in designing a large irrigated rice

In Africa Women Perform the Lion's Share of Food Systems Tasks:

Clearing land:	5%	Processing	90%
Turning soil:	30%	Marketing	60%
Planting:	50%	Carrying water & fuel:	90%
Weeding & hoeing:	70%	Domestic animal care	50%
Harvesting:	60%	Hunting	10%
Carrying crops home:	80%	Cooking & family care	95%
Storing:	80%		

Source: UN Economic Commission for Africa, *Women in Africa* (1975).

development project the planners had overlooked certain essential factors. Their presumption was that the rice growers were the male farmers, who were approached and encouraged to turn over their land and cultivate all-year-round irrigated rice for national consumption. Cheap credits, inputs and assured markets came with the package. What the planners did not realize was that traditionally it was the women who grew rice for household consumption and exchange, and that by establishing this project for the men, the women were pushed out to inferior, scattered plots of land. All access to inputs, finance and labour was made available solely to the male head of household. The irony of the situation is that the region now imports more rice for local consumption than it did prior to the project. It is apparent that the failure of the scheme was due to the erroneous assumptions about the local system of land use and control, and the bias against the traditional responsibility and skills of women rice farmers.

The lack of support for women farmers has far-reaching implications which extend to other aspects of living conditions. In Zimbabwe, for instance, women reported that they often had to collect water after dusk during peak employment seasons, and that using water more sparingly raised the risk of water-related diseases such as skin and eye infections and diarrhoea. The women would then have to tend the sick in the absence of health services.²⁸

The historical process of development and the dictates of world trade have meant that government policies have tended to focus upon export crops and staple grains for the national and international markets, and foreign and local investments and aid have been directed at these crops. The focus on these crops is replicated by national and international research and development efforts, and by international agribusiness. All kinds of support are offered therefore to the farmers of these crops, to the detriment of farmers of food crops. The rain-watered rice grown by women in Gambia, for instance, makes up 84% of the country's entire rice harvest, covering twenty-six times as much land as the irrigated rice grown by men, and yet it receives 1/26th of government spending on rice projects.²⁹ As pressure on the land increases, the most fertile land is claimed for cash-crop production, leaving the more marginal lands for food production by the women who have been systematically excluded from access to land, credit, and appropriate technology for farming, simply because they are not recognized as the important farmers in Africa.

In the 1930s, Africa was a net exporter of food, while in 1980 Africa's self-sufficiency had dropped to 80%.³⁰ Developmentalists are now beginning to argue in favour of assisting the small-scale farmer who produces food for local consumption, and this means turning attention, at last, to the woman farmer. The Federal Government of Nigeria, for instance, has been trying to involve women in its agricultural cooperatives, although precise data are as yet unavailable. While there are numerous aspects of women's agriculture in Africa that need to be considered if efforts are to be made in improving their productive capacity, this article will look at a few main concerns. These are: the access to land and the constraints of the law; the effect of this on women's access to credit, and why credit and new technology are important to women; women in the migrant economies and their changing role; and the impact of women's unsupported agricultural activities on the environment and what this may mean for future food production.

Land and the law

Customary laws (see later article on the legal position of women) still discriminate against women, and their access to land is frequently determined by their marital or inheritance status. Land rights often devolve to men on the assumption that there is always a male head of household. With this assumption comes the subordination of women members of the family, who subsequently may lose their status as independent farmers.

National governments have tended to confirm this attitude towards women farmers, even through their land reform programmes or cooperative developments, most of which have until recently neglected women's roles and needs. Under the land laws of many countries, rights continue to be given to the male head of household, despite the fact that the majority of men migrate to the urban centres for work. In Zimbabwe, however, women have attained equal rights to land on the resettled cooperative farms, although the land remains the property of the State whilst the

cooperative members have usufruct (use and profit) rights. The fact that cooperatives and marketing boards were established as male-dominated institutions makes it that much more difficult for women to enter the formal market.

The loss of rights over access to and control of other resources, be they information, technology, credit, training or other agricultural inputs such as fertilizers, pesticides and seeds, has accompanied the loss of land rights for women. Dependence on the male members of the household to ensure that women are able to stay on the land has other implications for women in the rural areas. A woman might not, for instance, consider leaving the marital home despite being maltreated by the husband for fear of losing her home and, in many cases, the custody of her children.

Laws alone are not sufficient to ensure a change in attitudes. This is evident in Zimbabwe, where the Age of Majority Act (passed in 1981) formally granted women the right to own property; despite this, traditional attitudes in the rural areas still reserve land ownership for a woman's father, husband or son. One problem that women's groups in Zimbabwe are trying to address is that of the lack of knowledge that the majority of rural women have about laws passed in their favour, or how to use them.

Women's access to credit and technology

The African food farmer needs cash to translate needs into effective purchasing power. One of the main obstacles women face is the inaccessibility of credit, and this can be considered a major neglected aspect of the African food crisis. The problem of credit in developing countries is essentially the problem of providing credit to the most disadvantaged farmers, particularly when the provision of credit is already thinly spread. Only 5% of the money lent by African commercial banks goes into agriculture at all.³¹ Lending agencies typically prefer to lend to those farmers who have the ability to repay loans quickly, and this frequently narrows the lending to established, mostly large-scale commercial farmers.

Women are disadvantaged first and foremost because they do not have legal control over any collateral that they could offer for a loan. The three most common forms of collateral required for agricultural credit are land title, cattle, or cooperative membership. Lack of information or education about the financial process further undermines their ability to apply for loans. Rural women's heavy work burden hampers their availability and mobility to find out about the credit system.

Without help from the banks, women frequently turn to money-lenders who charge exorbitant interest rates. Lack of credit for women makes it difficult for them to benefit from the new technologies or from agricultural inputs. Jobs which women perform in the field and around the home, such as weeding, transplanting, harvesting, or gathering fuel, have not been materially lightened by technological improvements, despite being time-consuming and physically tiring tasks.

Women continue to work with elementary tools and primitive sources of energy. Even where draught animals are introduced into the production process, it is the men who control the animals. The design of water-pumps is often undertaken without reference to the users. To date, technological advancement has usually occurred in what are termed 'heavy technologies' which generally concentrate in land-clearing and ploughing. This kind of technological improvement has tended to result in the expansion of commercial farms at the expense of family farms, increasing women's work burden and at the same time reducing their rights of appropriation over the returns not only for family labour but also for their own labour. According to the Food and Agricultural Organization (FAO):

'the introduction of existing labour-saving technologies, improved seed and fertilizers and simple agricultural practices, such as timely planting and weeding, could lead to yield increases of 50% or more.'³²

There are now a few projects in some countries, such as Kenya, Gambia, Tanzania and Zambia, which aim to extend credit to women's groups. The African Regional Credit Association is presently making loans to women's groups and the African Development Bank has also begun financial incentives to encourage women farmers and entrepreneurs.³³ In Nairobi, Kenya, the regional office of Women's World Banking has been established to initiate programmes which will provide collateral for women seeking credit. Women's World Banking was established as an

initiative of the UN Decade for Women, and the bulk of its source capital has come from the United Nations Development Programme (UNDP).

The Grameen Bank in Bangladesh is one example of a successful lending agency which lends to people who have no assets, and who cannot provide any security. Africa needs to look at examples such as these and encourage facilitation of credit to women farmers, as Ruth Engo, the Cameroon delegate to the UN, told the General Assembly:

'if we want to save Africa, let us concentrate our efforts on those who feed Africa. Train the rural women for increased food production. Help them acquire food preservation techniques. Assist rural women to have pure water and fuel for cooking. Assist them to form cooperatives so they can benefit from agricultural credit.'³⁴

Women in the migrant economy

In many, if not most, of the rural areas of African countries, absentee husbands are a widespread phenomenon. There are two main forms of migration typical of sub-Saharan Africa. One is the internal migration pattern where men leave to seek employment in urban centres or industrial areas. A second form of migration is that of migration across borders, where men seek longer-term employment away from home.

The effects of the second kind of migration can be seen most clearly in countries such as Botswana, Lesotho, Mozambique and Swaziland, where the men are away for long periods working in the South African mines. In Botswana, over a third of all households are headed by women either permanently or temporarily. In Lesotho, almost 60% of all male workers have seasonal jobs in the South African mines; this country is by far the largest exporter of labour to South Africa, although the rate of outward migration is steadily decreasing. Here, the women have not only taken on the tasks of provision for their families but also tasks for national development such as road construction. Women in Lesotho are now a political force which can no longer be ignored; they have established their own cooperatives and marketing outlets, and are recognized as the major instrument of national development.

Male members of households in the migrant economies are recruited by the South African mines on short-term contracts of one year to 15 months, and then return to the rural areas for a six-month rest period. The proximity of the South African economy and the attraction of the marginally higher wages there have long encouraged the movement of men from Botswana, Lesotho and Swaziland. The specific conditions of the South African migrant economy are determined by South African law which prevents the entry of wives and children to live with the migrant labourer in the towns, and dictates that the migrant labourer cannot remain continually in South Africa for any period longer than two years.

To make up for the low agricultural productivity in the region, women have had to adopt new strategies such as taking on more trading and marketing, often in the informal sector, of food crops and brewed beer. They work at harvesting and weeding on other (larger) farms, and on their own farms are turning to the cultivation of sturdier crops such as maize instead of sorghum. Within Botswana and Lesotho, rural-urban migration is on the increase and is now dominated by women engaged in petty commodity production and distribution, in domestic work and in work in the informal sector.

Despite her increase in decision-making powers within the household and the management of food production, the woman is still subordinate to her husband because of her dependence on his cash earnings and his rights to the land. In Lesotho, for example, household politics revolve around access to the migrant's wages, and the more the number of migrant workers in a household, the more prosperous the household is. The man who receives the wages is the one who decides what portion should be remitted to the household and on what it should be spent, and often the women are forced to make ends meet without such a cash income.

Women-headed households are on the increase; in the Transkei, for instance, the percentage is recorded at 67%.³⁵ Whether or not this can be considered a permanent social structural development will be decided in the future if and when foreign African labour migrants are repatriated to their homelands, as has been threatened by South Africa in retaliation against the support for sanctions by some of the frontline States.

What is apparent is that the more productive members of the family, both male and female, seek work in the urban economy in order to meet basic needs which in turn results in a labour shortage for agriculture, leading to lower levels of production. This problem is more noticeable in Southern Africa than anywhere else in Africa, and has led – amongst other things – to a growing reliance of these countries upon food imports.

The environmental impact

Put together all the factors that have been mentioned so far that are typical of women's agricultural activities in rural Africa, and what you get is an overworked farmer tilling overworked land which is already marginal and less fertile than the land on which cash crops are grown. With her inability to gain access to fertilizers or pesticides or information on agricultural techniques, the likelihood of the woman farmer replacing into the soil what she has removed is small.

When women farmers are faced with drought and encroaching desertification, although the whole community suffers, the women who fetch the water and wood and do most of the work on the land suffer the most. As trees come down and water sources dry up, women have to work longer and have further to go. The more time that women spend in pursuit of fuel and water collection, the less time is spent on food production and land care. Furthermore, women, given these roles, have little option but to turn to the nearest sources of fuel and water, which further adds to the vicious cycle of land degradation.

Governments have attempted to deal with the problem in ways such as building wells and boreholes closer to villages, so as to shorten the time spent on water collection. However, one thing that has been noticed with disturbing frequency is that it is the men, and not the women, who are shown how to repair the water pumps. The men have little interest in keeping the supply of water flowing and are therefore not zealous about repairs. The whole issue of drought and desertification and its effects on women's agricultural and household work is intrinsically linked to a bevy of other factors, such as the formal and informal training of women on crop management, irrigation and tree planting; research on the accessibility of wood-fuel alternatives; research on rural water supply; and research into appropriate technology such as fertilizers and pesticides directed at women farmers. There have been calls for further research into food crops, particularly drought-resistant cereals and legumes, and a radical change in strategies in favour of small-scale farmers if the effects of drought and famine are to be minimized.

Women have been struggling against environmental degradation for years. The women of the Green Belt Movement in Kenya, for instance, teamed up in 1977 to plant millions of trees in the arid areas. Such examples are, however, few and far between. Although African governments have attempted to establish community woodlots, these have tended to fail, most probably because wood collecting is seen as women's traditional work and therefore does not attract the attention of the men.

Summary and conclusion

We cannot speak of the African woman's role in agriculture in a vacuum. Her role has to be seen in the wider context of national development strategies, and the latter need to be seen in the context of the dictates of the international economy.

Most African countries are primary commodity exporters which face the two-sided problem of extreme vulnerability to world price fluctuations for their crop exports, and acute difficulties in ensuring and maintaining a sufficient food supply at national levels. In their attempts to face up to the demands of a competitive capitalist world market, governments have concentrated their efforts on promoting the cash-crop aspect of agricultural production. All other ancillary services, such as transport and credit, have therefore been geared to the cash-crop market.

Furthermore, the monopoly powers wielded by multinational companies and agribusiness interests have confined cash-crop growers to particular High Yielding Variety seeds, particular pesticides and fertilizers which are usually imported at high cost, and particular land tenure systems – whether they be large, mechanized commercial privately-owned farms or State farms.

The irony in most cases is that countries have been focusing so much on the production of export crops that they have had to spend much of their foreign exchange on food imports.

Analyses of the overall situation often ignore the fact that some of the imbalance of resource allocation within agriculture can be directly attributed to the relative neglect of women's primary role in the management of food production and food processing. The food crops produced by women, which include staples as well as vegetables and pulses, receive very little attention from government policies. The lack of credit and other support services has meant that women farmers have been severely limited in their scope of activity. Furthermore, where rural projects have been set up with women in mind, they have tended to be small-scale with an emphasis on secondary earnings – with the result that women use up energies which contribute very little to overall economic development. Evidence points to the fact that if women farmers were to receive the same kind of assistance and incentives as men, their agricultural productivity would increase dramatically.

There is already evidence that women can become even more productive farmers than men when assisted. In Kenya, for instance, where 38% of the farms are run by women, those women manage to harvest the same amount per hectare as men, despite men's greater access to loans, advice, fertilizers and hybrid seeds. When the women were given the same level of assistance, they were found to be more efficient than the men, and produced larger harvests.³⁶

By making a concerted effort to ensure that women receive the same educational and training opportunities at both formal and informal levels as men; by providing women with the rights to access and control of land and other resources; by setting up child-care facilities and time-saving devices to lighten their double burden of work, and by opening up marketing and credit services to women, it should be possible to minimize the constraints that women farmers face today.

Women have been taking it upon themselves to instigate such changes. In Ghana, women's groups have joined together to work on communal tasks such as repairing roads and waterways, building day-nursery centres or raising money for collective farming projects. At a more official level, the Ministry of Rural Development in Lesotho set up an Office of Women's Affairs to oversee the consideration of women in agricultural planning. Women's Bureaux have also been set up in other African States, to assist women in their attempts at setting up enterprises, or to change legislation, or to articulate their problems.

Since the UN Decade for Women there have been various attempts to help women the world over. The setting up of the Voluntary Fund for the UN Decade for Women (UNIFEM), whose priority it is to assist rural and poor urban people, has enabled several projects to get off the ground for rural women in Africa.

Many agricultural planners and developmentalists are beginning to recognize and understand small-scale farmers, and to argue in favour of assisting them, since it is the small-scale farmer who provides for Africa's food needs. The African Heads of State and Government met in Lagos, Nigeria, in April 1980 and adopted the Lagos Plan of Action which defined priority sectors of the economy and identified objectives for improvement. One of the priority objectives is that of food self-sufficiency for the continent, and the Plan of Action stresses the vital role that women could play in seeking solutions to the current food crisis.³⁷

WOMEN'S HEALTH AND EDUCATION

Edda Ivan-Smith

Health

African women, particularly rural women, are often the most vulnerable of the population in terms of ill-health and malnutrition. Frequent pregnancies, traditional eating customs (which often forbid women to eat meat, an important source of protein) and the adverse ratio of doctors to patients all place women at a considerable disadvantage. The scarcity of doctors, particularly in the rural areas, means that women are often seen too late or not at all by medical professionals.

Maternal mortality rates range from 3 to 15 per 1000 births in sub-Saharan Africa. In some parts of Ethiopia 20 deaths per 1000 births have been reported. This is between thirty and two hundred times the rate in industrialized countries. The nutritional condition of pregnant women accounts for approximately 15% of under-weight babies; if the baby does survive, this adds an extra burden of care and attention for the mother, who is already in weak health.

The high fertility rate is also a large contributory factor in the ill-health of both mothers and children. In parts of rural Africa 50% of women who start childbearing at sixteen or seventeen die by age fifty from fertility-related causes. Perhaps even more striking is the fact that 25% (20 million) of all African women between age fifteen and forty-four are pregnant each year, compared to less than 10% in the industrialized world. These figures reflect the need for family planning services, which at present reach only 10% of women in sub-Saharan Africa. Even fewer actually use any effective form of contraception.³⁸

Abortion is another widespread killer which underscores the anguish and inability to cope either emotionally or financially with unwanted pregnancies. In Ethiopia 30% of maternal deaths in 1981 were caused by septic abortions; in Malawi the figure was 17%, and in Uganda 2%. In Mauritius clandestine abortions accounted for more than half of the maternal deaths, and it was estimated that illegal abortions in 1977 were as frequent as live births.³⁹

Although not as widespread in southern Africa as in the north, female circumcision still claims the lives of many women. In Somalia, Djibouti, Ethiopia and northern Kenya infibulation is practised. This mutilation of young girls results in scarring and a small vaginal opening which causes multiple problems during intercourse and childbirth. Obstructed labour, haemorrhage, infection and sometimes maternal and infant death are the price of this practice.⁴⁰

Economic resources, political will, and social and traditional mores are key factors in the improvement of basic health and health-care facilities in Africa. For a continent as poor as Africa the lack of economic resources identifies the need for low-cost primary health care; and in many countries this is being implemented with the 'barefoot doctor' schemes first introduced in China. Many diseases and conditions can be prevented by basic and simple measures. However, in Africa (unlike China) the barefoot doctors and health workers, the majority of whom are women, often do not get compensated for their efforts, and it requires commitment and rearrangement of women's domestic responsibilities to make it possible. Oral Rehydration Therapy (ORT) has, according to UNICEF, been phenomenally successful in many parts of Africa, but there is still ignorance about it. This cheap and simple remedy for the dehydration caused by diarrhoea could save many more lives if it was more widely publicized, particularly in rural areas where transport to the nearest hospital might be too expensive or the distance simply too great.

Social and traditional attitudes are much more difficult to change or erase, and it is not always desirable to do so. It has been said that development is the best contraception, meaning that once people's health and standard of living improve the desire to have large families will evaporate. Although this is partially true, it suggests that women now want frequent pregnancies and the physical and emotional burdens that accompany them. The fact that quite a large number of African women suffer from the effects of illegal abortions is witness to the half-truth of this concept. It cannot be denied that men's and indeed women's social status does often still depend on the number of children they produce, though this is less so in the urban areas and among middle-class families who have other signs of wealth and prestige. Additionally, there is often family pressure to have large families, even if the couple themselves would prefer to limit the number of children they have. But the fundamental issue is women's choice, the choice to decide when and how many children they want, if any. Husbands and societies who are hostile to this choice, coupled with a lack of contraceptive facilities, make the odds against such a free choice high.

African governments are increasingly making financial and political commitments to family planning programmes, but this is not always enough. Women must be able to know that family planning is not anti-family, but is an assurance of healthy development for both their children and themselves. Women must

also be reassured of the safety of some modern contraceptive techniques; some methods which are banned in parts of the Western world are still used in parts of Africa. Many programmes have been insensitive and heavy-handed in their approach; counselling and sound advice are just as important as the actual provision of contraceptives. The issue of abortion seems ridiculously irrelevant to many African politicians, who feel they have a hard enough time keeping people alive without killing them before they are born. Western notions of abortion cannot be transported to Africa without seriously examining the framework in which they will be placed. Women are quite aware of what they need, and the implementation of those needs must be approached on their terms, and defined in their social language.

Education

Higher female enrolment in secondary and primary schools has been seen as a crucial contribution to the emancipation of women in Africa, and indeed elsewhere. The situation has certainly improved in Africa since independence, but women still lag far behind men and this is one factor in the low proportion of women in highly qualified jobs.

In the 1950s many colonial administrators became increasingly concerned about providing Africans with skills, either to satisfy the reformers or to prepare for independence. Of course there were exceptions, such as the Belgian Congo and the Portuguese colonies of Mozambique, Angola and Guinea-Bissau where the colonial authorities fled in panic when independence was forced on them, leaving in their wake only a handful of educated university graduates.

After independence the annual growth rates in school enrolments were phenomenal in African countries, given the poverty of these countries. Enrolment numbers in some cases tripled and quadrupled within five years. A few countries had lower post-independence growth rates for both girls and boys, namely Benin, Botswana, Lesotho and Swaziland. Except for Benin these countries all follow a southern African pattern where boys usually herd cattle and then work in South Africa's extractive industries, neither of which require formal education. Bridewealth, a form of dowry which is still important, is increased by a girl's education. Thus, in these countries girls' primary education was mostly at or near parity with boys both before and after independence; this is quite an anomaly within the African context.

In most countries outside southern Africa there were still large discrepancies between boys' and girls' education in the period between 1950 and 1980.⁴¹ The largest discrepancies in favour of boys in school were in Guinea-Bissau and Togo, each showing a 46% difference. They were followed by Central African Republic, Congo, Ethiopia, the Ivory Coast, Liberia and Zaire, where there was a 20% difference in favour of boys. The 'average' countries for sex disparities in education were Angola, Cameroon, Chad, Ghana, Guinea, Malawi, Mali, Mauritania, Mozambique, Senegal, Sierra Leone, Somalia, Sudan, Uganda and Zambia. The smallest difference occurred in Burundi, Kenya, Madagascar, Niger, Rwanda, Swaziland, Tanzania, Burkina Faso and Zimbabwe. South Africa was at parity, while Botswana and Lesotho showed differences favouring girls by 27%. In Burundi, Niger and Burkina Faso, it has been suggested that the small differentials are probably due to low overall enrolment.

Thus, it is not surprising that in most African countries women outnumber men among the illiterate population. The highest proportion of female illiteracy can be found in Congo, Libya, Tanzania, Uganda and Zaire where it runs at approximately two-thirds of the female population. Only in Lesotho is the proportion actually reversed in favour of women. Africa fits into a world-wide pattern of a rising proportion of the illiterate population being female. In 1960 89% of Africa's women were illiterate; in 1970 the figure stood at 82%, and by 1980 it was 73%. This is in stark contrast to men's figures which were 73, 58 and 48%, respectively. Thus from 1960 to 1980 the ratio of female to male illiterates rose from 1.2 to 1.5.⁴²

Within girls' primary school education there is a significant difference in the level of enrolment in rural and urban areas. For example, in Tanzania in 1968 the ratio of boys to girls in rural schools was 1.7, and in the urban areas it was only 1.2.⁴³ In a recent survey in a rural province of Morocco, it was estimated that

only 6% of the girls were attending school compared to 40% in Rabat and Casablanca.⁴⁴ The need for female rural labour, the long distances to schools, the low quality and irrelevance of schooling, in addition to the seclusion of girls at puberty and objections to co-educational classes, were given as the principal reasons for many parents not sending daughters to school. In Ghana, economic conditions have forced the closing of schools in some sparsely populated areas. Urban parents are more likely to be able to afford education, both financially and in terms of time. Also there are likely to be more school places available in towns, and urban parents are anxious for their daughters to obtain a good education in order to secure a marriage with an educated man.⁴⁵

% of African children in all types of school, % of illiterate population that is female

Country	% of children in school		1980 ^a		Female % of Illiterate Population, 1970
	1950 ^b	1980 ^a	girls	boys	
Algeria	14	65	54	75	61.6
Angola	2	36	26	45	X
Benin	8	40	25	55	57.7
Botswana	18	73	79	66	57.9
Burkina Faso	2	11	8	14	52.7
Burundi	9	14	11	17	59.2
Cameroon	20	62	54	69	63.4
Central African Republic	6	41	28	55	62.5
Chad	1	19	10	29	58.6
Congo	20	X	X	X	65.1
Egypt	25	64	51	77	61.9
Ethiopia	3	28	20	37	53.4
Gabon	18	X	X	X	59.2
Gambia	5	32	22	42	53.2
Ghana	15	53	44	61	59.9
Guinea	3	26	16	35	57.8
Guinea-Bissau	3	60	37	83	56.6
Ivory Coast	6	48	36	61	58.4
Kenya	21	73	68	78	62.7
Lesotho	49	71	85	58	34.6
Liberia	10	46	33	58	58.2
Libya	11	X	X	X	65.2
Madagascar	19	54	50	58	X
Malawi	38	44	36	52	60.6
Mali	3	19	13	25	54
Mauritania	1	23	15	31	X
Morocco	11	48	36	59	58.3
Mozambique	12	47	39	55	58.7
Niger	1	14	10	18	53.1
Nigeria	14	59	X	X	60.8
Rwanda	9	45	43	48	61.9
Senegal	6	28	21	34	56.9
Sierra Leone	6	26	20	32	54.3
Somalia	1	28	20	36	52.8
South Africa	49	73	73	73	52
Sudan	5	36	29	42	57
Swaziland	27	82	81	83	X
Tanzania	9	61	56	66	63.1
Togo	14	76	53	99	58.2
Tunisia	19	64	53	75	62.4
Uganda	16	32	26	37	64.4
Zaire	29	60	47	72	69.3
Zambia	34	67	61	73	63.9
Zimbabwe	43	71	69	74	58.9

^aOr latest date available
^bOr earliest date available

Source: Journal of Eastern African Research and Development

It is often said that African men and women favour educating boys because female labour has great value and is essential for the family and the community. But there are other reasons for this preference as well. In some societies there is quite a high marital instability rate⁴⁶ and child custody goes to women (often in practice, if not in law); thus, women must pay school fees. The high drop-out rate among girls is another contributing factor to the reluctance for educating girls. The causes for attrition vary. In Tanzania the cost and labour value of women has been cited. In Sudan the lower quality of girls' education is a major factor, and in Ghana the teenage pregnancy rate has been a major factor among middle-school pupils. In Burkina Faso it is the labour value of girls, which not only impedes scholastic achievement but also prevents school attendance for girls.⁴⁷

The proportion of girls enrolled in primary school throughout Africa rose from 35% in 1960 to 43% in 1980, quite a significant increase, but still a considerably lower rate than for male primary-school enrolment. For Africa as a whole in 1981, the adult female literacy ran at 23% as compared to 49% of adult men. The discrepancy in secondary-school enrolment is more alarming, with only 11% of girls entering secondary school as compared with 21%

of boys. When this is compared to other developing areas such as Latin America, which has a female literacy rate of 51%, or South East Asia with 28%, it is quite clear that the allocation of resources, and not necessarily the lack of them, is one of the reasons for this gap. Data on non-formal education and literacy are erratic and sometimes unreliable, but according to statistics provided by governments and compiled by the United Nations agency UNESCO, half of all Africans over the age of fifteen in 1980 were illiterate; among women the figure was over 70%, and in many rural areas the female illiteracy rate reached 90%. However, where statistics were available it was found that in ten countries more women than men attended literacy classes.⁴⁸

In some African countries, many secondary schools are costly and enrolment is not compulsory. Very often women have to compete with better-educated men, and educational credentials do not always translate into actual jobs for women. Paradoxically, formal education sometimes works against women by discouraging self-employment. A girl at school will not put in as many hours as, for example, an apprentice seamstress; also self-employment is seen as a lowly objective in schools. For some girls this does not seem practical, when they could be gaining experience as well as earning money. Academic qualifications then seem irrelevant. Additionally, girls are still taught traditionally female subjects such as home economics and arts subjects, while subjects which they could not learn outside formal education – such as sciences and languages – are not encouraged for women.⁴⁹ Thus, the quality and emphasis of education for girls is as important as actual access to formal education. Women are painfully aware that employers discriminate against them, and the legal provisions of maternity leave and child care, in some African countries, has made employers even more reluctant to employ women because of the perceived additional cost.

It would be erroneous to assume that no women have succeeded as a result of education, for many women have obtained good professional positions and have been recognized as highly competent individuals, but nonetheless the route to success is a hard one. But it is important to place women's education in a political and economic context. In sub-Saharan Africa, the ratio of primary education recurring cost per child to per capita GNP ranges from 19% to nearly 50%. Most of the countries at the lower end of the range have made significant advances towards universal primary school enrolment, but even the countries with larger incomes have yet to achieve 50% primary school enrolment. For very poor countries, the high costs and high proportions of the national budget allocated to primary school education still do not guarantee majority primary school enrolment. In some western and central African countries a quarter of the national budget is spent on primary education, yet this only translates into less than half of the primary school population being enrolled in school.⁵⁰

Radical new forms and concepts of primary education need to be examined, as these countries certainly cannot afford to spend more on education. The implementation of distance education and the effective use of lower-cost teaching aides would considerably improve the cost-effect ratio of education for many of these countries.⁵¹ This is not simply idle rhetoric: Tanzania, which has had the highest increase in literacy in Africa, has been able to achieve this by mobilizing thousands of university and secondary school pupils to work in communities to utilize their knowledge. Correspondence courses and radio have featured heavily in this campaign; it has been effective, cheap, and reasonably simple to implement.

Attitudes to education and the whole concept of formal education need to be reviewed, particularly among women, who often see education as a passive and unproductive occupation. If both women and men perceived education as an exchange and participation of ideas as well as practical skills, the importance of education would be apparent. Many fathers feel that it is a waste of valuable time and money to educate their daughters; but the acquisition of practical knowledge, such as agricultural techniques and health-care, would be seen as extremely useful and productive. The inclusion of these types of subject as part of women's educational life would surely make sense. Health education and facilities are probably among the most important of the basic needs, and they are very closely linked to general education. If people are not reasonably healthy and well nourished, education will seem like an irrelevant burden.

THE LEGAL POSITION OF WOMEN

Jane Connors

Inequality and discrimination may be the result of attitudes, customs and traditions, or depend on political, social or cultural differences. Certainly, a basic cause of the inequality of and discrimination against women in all parts of the world is the inferior status they have under the law. This status restricts, to a greater or lesser extent, a woman's legal capacity and her rights during and after marriage to custody of children, inheritance, income, property and participation in public affairs. In sum, a woman's inferior legal status makes it impossible for her to contribute fully to society. This stifles the development of her own potential and thereby the development of society at large.

In the African context, women's inferiority is seen as 'traditional', a philosophy which is reflected in her legal status, which has relegated her, and in some countries continues to relegate her, to the position of legal minority – or childhood – for her entire life, always under the tutelage and protection of a man.

Any attempt to describe the legal position of women in Africa is fraught with difficulty. First, the region is a vast one, each country representing a separate legal jurisdiction, with separate, although perhaps similar, laws which affect women. Second, there is little published law in the region, law reporting in most of the countries being irregular. The material that is published, further, pays scant attention to the perspective of women.⁵² Finally, and perhaps most importantly, all the countries share a cultural and legal dualism which is one of the legacies of the colonial era when Western legal systems were imposed.

During this time, the colonial powers introduced their systems of public law, imposing them on colonizer and colonized alike. Where private law (the law relating to the individual) was concerned, they were prepared to recognize African customary law as a separate legal system. This dualism was reinforced by the establishment of a court structure consisting of three different hierarchies. The first, staffed by whites, operated according to the procedures of the colonizer and adjudicated disputes which arose in the context of the received system of law. The second, operated by African authorities, functioned in accordance with traditionally accepted procedures for dispute settlement, and adjudicated disputes among the Africans. The third, staffed by white administrative officers, reflected a blend between African and white courts. This system was rendered even more complex because apart from received Western laws there were many different systems of customary law, the detailed rules of which were difficult to discern. In several countries, for example Kenya, Ghana and Nigeria, Islamic law was recognized and enforced.⁵³

Because of this legal dualism (or, more accurately, pluralism) a short simple statement of the legal position of the African women is impossible. All the States maintain a general law system based on a European model – Mozambique follows Portuguese law; East Africa, Ghana, Nigeria, Gambia and Zambia follow English common law; Ivory Coast and Madagascar follow French law; and Lesotho, Swaziland, Zimbabwe and South Africa follow Roman Dutch common law. Further, in all of the countries except Mozambique and Ivory Coast, African customary law is fully recognized for some purposes, particularly personal law.

Most of the legal problems confronting the African woman can be attributed to customary law, or rather the interaction between customary and received law. Customary law subordinates a woman within the extended, traditional family, placing her under the permanent guardianship of a male relative and severely restricting her ownership or inheritance of property. It prevents her acting as the guardian of her children or, without the assistance of a male guardian, entering into contracts, and she cannot sue or be sued.⁵⁴

The legal disabilities of the African woman in customary law are rendered more acute by the changing social and economic conditions of the region. Traditional customary law was appropriate to the traditional society within which it developed, a society which was based on a subsistence economy and characterized by self-sufficient joint family organization. Within this was an elaborate system of reciprocal obligations between members of the family which sought to ensure that the needs of every member for food, shelter and clothing were satisfied. Thus, for example, women

whose marriages came to an end through death or divorce returned to their natal villages and were absorbed in the self-sufficient joint family organization; they were cared for by their male kin in the same way as before marriage. Such women, therefore, did not require support from their husbands.

Kinship systems of this nature – characteristic of a traditional society – no longer exist in modern African society and the joint family is no longer able to give adequate support to its members, particularly those female members displaced by death or divorce. As Ndulo points out:

'The joint family is in a state of decline and Africans are now enmeshed in an exchange economy. Development and industrialization have caused an unreasonable breakdown in the traditional African social order. The society is now highly individualistic, competitive and acquisitive.'⁵⁵

In such a changing society, customary norms are no longer applicable and serve to enmesh women in traditional subordination. For example, a woman who is a perpetual minor is effectively denied access to a society based on private ownership of the means of subsistence, and is rendered completely dependent on the vagaries of her legal guardian. Moreover, women denied financial provision from the property of their husband on death or divorce, in accordance with custom, are vulnerable to exploitation and abuse. They must depend on their own resources or the goodwill of their natal family for future support, a position which can be best described as precarious.

All areas of the law affect women. However, perhaps the two most important legal topics which affect them are family law, which governs their rights during marriage and on its breakdown, and the law relating to health, an area intimately bound up with the life of every woman both in her own right and as a potential child-bearer.

Rights in family law⁵⁶

Reconciliation of Western and customary law has been approached in a number of ways throughout Africa. South Africa and Ivory Coast stand at the extremes of such approaches, the former maintaining a rigid dualism between customary and general law and the latter completely abolishing customary law.

Thus, in Ivory Coast the rights of women in family law matters are governed by a code, very similar to modern French law, which was introduced with the express purpose of diffusing 'tribalism' which, it was believed, would impede socio-economic progress. Here, all marriages must be solemnized before State officials and can only be dissolved by courts. Bridewealth or *lobola* transactions have been criminalized and polygamy abolished by the rule that no new marriage can be contracted unless any earlier marriage is dissolved. Both spouses must consent to the marriage and if a party to the marriage is a minor, the only additional consent required is that of the parent who exercises parental authority over the child. The consent of the head of the extended family, which was essential in customary law, is not required.

Once married, spouses owe each other a reciprocal duty of support. All marriages are governed by the community of property regime, which means that all pre-nuptial and post-nuptial property of the spouses is jointly owned by them. However, although the woman's status is no longer determined by customary law, she is still subordinated to her husband who is made head of the family. Thus, all community property is to be administered by him and he is given the power to determine the place of the matrimonial home. The women's role is considered to be that of wife and mother, although she is permitted to work outside the home if her husband agrees and there is provision for her to act as the head of the household in the event of her husband's default. Divorce is allowed on four grounds: adultery, cruelty, conviction of an act affecting honour and respect, or abandonment of the marital home. The court must also find that the marriage has become intolerable.

If the marriage breaks down, the property is divided so that the guilty party receives no benefit from the marriage and the children are entrusted to the innocent spouse, unless the court, in their interests, orders otherwise. If a spouse dies without a will, the survivor is entitled to one-half of the community property and the other half is divided amongst the children.

In stark contrast to this, two types of marriage exist side by side in South Africa, the form of marriage – be it a civil/Christian marriage or customary marriage – predicting the rights and duties of the spouses during the marriage, and the consequences on

divorce or death intestate. The apartheid system in South Africa interacts with this duality to create particular injustice for the African woman.⁵⁷

Thus, while 'customary law unions' are recognized by the State, a civil/Christian marriage is elevated to a position of much greater importance. If a civil/Christian marriage is entered into and one of the parties is already married in custom, the second marriage brings the customary marriage to an end. On the other hand, if a customary marriage is entered into during the course of a civil/Christian marriage, the second marriage is of no effect, except in so far as it could provide grounds for an action of adultery.

A customary marriage is governed, in the main, by customary law. No form of registration or state fiat is required. In general, bridewealth is payable to the bride's guardian; his consent is essential and she must be handed over to her husband. Although not essential in custom, the consent of the parties is required⁵⁸ for a valid customary union.

During the course of the marriage, the rights and obligations of the parties are governed by customary law. The wife has limited property rights and no power to contract, sue or be sued. Divorce, like marriage, is a private and family affair. Customarily, bridewealth should then be returned to provide for the wife and children, although they also have a statutory right to maintenance. Custom also predicts the custody of children, but the courts are prepared to override it if the moral and material interests of the children so dictate. Property rights are governed by customary law, as is the right to movable property if the husband dies without making specific provision for his wife; in most customary regimes this would mean that the property would revert to his male kin.

In an attempt to gain some level of autonomy, many African women in South Africa choose to marry in the civil/Christian system. Such marriages require formality, the spouses to be of marriageable age and to have consented. Frequently, bridewealth is part of such a marriage, the courts being of the view that the bridewealth agreement must be treated as a contract modified by the principles of the marriage.⁵⁹

Unlike white civil/Christian marriages, in South Africa the African civil/Christian marriage will not be governed by the regime of community of property unless the intending spouses declare that they wish it to be so. The marital power of the husband is thus retained as an automatic consequence. Apart from this, and the requirement that an African male must declare the name of any customary wife he may have and the names of their children if he is marrying another woman in the civil/Christian marriage (so that the material rights of the discarded family are not affected), the marriage is governed entirely by the common law.⁶⁰ One exception to this exists, and this is that on death such a marriage would appear to be equated with a customary marriage; the wife and children of a civil/Christian marriage are given no greater rights in the husband's estate than they would have had the marriage been a customary one. In effect, the wife personally inherits no property at all as it passes to the oldest son and any older son of a customary marriage.

Other countries in Southern Africa have attempted to combine respect for customary law and received law. Most provide a dual system of marriage wherein civil/Christian marriages are governed by the common law and customary marriages are governed by customary law. This duality is not rigid, however, so that in Botswana and Lesotho, for example, custom prevails in civil/Christian marriages where matrimonial property, intestate succession and the guardianship of minor children are concerned. In Swaziland also, Section 25 of the Marriage Act provides that if both parties to the civil or Christian marriage are Africans it will be governed by custom, unless the parties have agreed beforehand to have the marriage governed by common law. Madagascar and Tanzania, however, attempt to provide a more synthesized regime to accommodate both received law and custom.

Madagascar allows marriages to be celebrated either before a State official in urban areas or by custom in rural areas. Both spouses must consent to the marriage, be of a minimum age, and – if below the age of majority – must have the consent of a parent or a person who according to customary law has authority over the child. Polygamy is prohibited and the property of the marriage is governed by community of property. The husband is given power over the administration of the estate, but the wife's agreement is

necessary in all major decisions relating to the moral and material interests of the family and the upbringing of the children. Divorce is allowed where there has been a failure to fulfil or a violation of a matrimonial obligation, and thus continued marital life has been rendered intolerable. Such divorce can be granted by a customary tribunal if the marriage was celebrated according to custom, but if it was celebrated under the general law, a conventional court must be used. On breakdown the common estate is divided, the husband receiving two-thirds and the wife one-third. Customary law dictates custody, but the court may deviate from such rules in the interests of the child. On the death of a spouse the property is divided as on divorce.

Family law in Tanzania is provided for in a code which attempts to accommodate customary law, Islamic law and received law. Marriages are of two kinds – monogamous and polygamous, any Islamic or customary marriage being regarded as polygamous unless it is shown that the couple did not intend their union to be polygamous. Marriages may be conducted according to civil, customary or religious form, 21 days after an intention to marry is communicated to a marriage registrar. Each spouse has rights over her or his separate property during the marriage, but on divorce the court has a discretion to reallocate assets acquired by the spouses jointly. In so doing, the court must consider, among other things, the custom of the community concerned and the contributions of the spouses to its acquisition. The wife is given full legal capacity – she may hold and dispose of property, enter into contracts, sue and be sued. Divorce is permitted only by the decree of a competent court and on the sole ground that the marriage has irretrievably broken down. On breakdown, custody is determined by what is in the best interests of the child.

Similarly family-law regimes, differing in detail, are provided by the other African States. Only Ivory Coast completely abolishes customary law, while rigid dualism is present only in South Africa. In many countries, African women seek to avoid the difficulties presented by custom by marrying in accordance with the general law. This does not provide any solution for the majority of African women who do not marry but cohabit, nor does it guarantee that the African woman will be completely unaffected by customary principles, which may work to her disadvantage.⁶¹

Health law⁶²

Access of African women to medical treatment is first limited by the fact that medical services are insufficient and unequally distributed throughout the region; a Lesotho clinic concluded that only 18% of households in their sample had access to a clinic in their village, while for more than 68% of the households it took more than one hour to reach the nearest clinic and for 21% more than two hours.⁶³

Furthermore, many hospitals and clinics require that a woman prove that she has her husband's permission to receive medical treatment, a number of health workers believing this to be a legal requirement. It would appear that this view originates in the customary principle that a woman is a perpetual minor throughout her life, and in the common-law principle that a patient's consent is necessary before medical treatment is administered. Access to contraceptives is limited by knowledge and availability. Again, the Lesotho study found that only a minority of women were aware of methods of family planning⁶⁴, a result also gleaned in Swaziland.⁶⁵

Governments encourage family planning in all countries of the region, but culturally the use of contraceptives is not approved. Traditional societies exercised their own methods of birth control. For example, intercourse was forbidden when the mother was breastfeeding, which usually lasted until the child was two years old. In modern societies these traditional methods of child spacing have broken down, but nonetheless men remain resistant to the use of contraceptives.⁶⁶ Legally the issues pertaining to contraception are identical to those involving medical treatment in general. Many clinics, therefore, require the woman to produce proof that she has her husband's consent before contraceptives are prescribed. This requirement no doubt stems from the fact that taking contraceptives without the consent of one's husband may be an offence and, perhaps, grounds for divorce in customary law⁶⁷. Moreover, in Roman Dutch and English common law it would probably be grounds for divorce. Under South African law a health worker may risk liability in damages to the husband for prescribing contraceptives without his consent.⁶⁸

There is no statutory regulation of sterilization in the region. Again, the question is whether the woman requires the consent of her husband prior to sterilization. Certainly, men resist the idea of sterilization, being of the view that it will license the woman to be promiscuous, a view which prevails even if the woman is elderly, has numerous children or requires sterilization to protect her health. South African authority exists which suggests that a civil action could be brought against a doctor who sterilizes a woman without the consent of her husband⁶⁹, and while there is no other authority for such an action in the region, this decision could be used to support actions against doctors in other countries.

Pregnancies amongst young women are common in Africa, draining resources of the countries, providing health risks to young women and often stifling their chances for advancement as pregnancy will usually require them to leave school.⁷⁰ Under customary law, the minor is under the control of her guardian and thus must have his permission for any major decision in her life. In effect, therefore, a minor will require the permission of her guardian before she can acquire contraceptives. Under Roman Dutch⁷¹ and English⁷² common law, however, it would seem that the minor does not need the permission of her guardian if she is mature enough to understand the nature and consequence of the medical treatment. Nonetheless, it does remain possible for a health worker to be sued and perhaps held liable in damages to the guardian of a minor for administering contraceptives without his permission.

The issue of abortion, similarly, is influenced by cultural and religious attitudes which suggest that abortion is wrong under any circumstance.⁷³ The law in the region varies and in some countries is unclear, leaving many people to believe that abortion is always illegal. This results in women either performing dangerous abortions on themselves or allowing others to perform illegal abortions on them. In Swaziland and Lesotho the law pertaining to abortion is governed by the Roman Dutch common law. Thus abortion is illegal unless it is regarded as 'necessary', a situation which exists where the doctor is of the opinion, based on reasonable grounds and with reasonable knowledge, that the probable consequence of the continuance of the pregnancy will be to cause severe physical or mental harm to the woman.⁷⁴ South African cases, which are used as persuasive precedents in both countries, have considered psychological factors (depression and the threat of suicide), eugenic indications (incest and the probability of abnormal offspring), and the personal circumstances of the woman (maturity, mental development, family background) in the determination of whether abortion is justified.⁷⁵

Similar considerations are taken in countries influenced by the English common law.⁷⁶ In Mozambique, abortion is regarded as illegal in all circumstances, although it is reported that abortions that are performed in hospitals, where doctors complete non-medically induced abortions, or abortions of married women, are not prosecuted. Cases of young and unmarried women are left to the courts.⁷⁷ Zimbabwe⁷⁸ and Zambia⁷⁹ have moderately liberal abortion legislation, allowing abortion where the pregnancy endangers the life, physical or mental health of the woman, where there is a serious risk that the child will suffer from a physical or mental defect, or where there is reasonable possibility that the child was conceived as the result of unlawful intercourse.⁸⁰

Conclusion

The status of African women is inferior to that of men and frequently this status is confirmed by the law. The law is not static, however, and legal change is occurring within the region which attempts to raise and equalize this status. Much of this change has occurred in the last ten years in response to the United Nations Decade for Women. Many of the post-colonial constitutions contain provisions which guarantee women equality with men⁸¹ and a large proportion of the countries are signatories or ratifiers of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women⁸², which in 30 articles sets forth internationally accepted principles and measures to eliminate discrimination and to achieve equality between men and women.

Opposition to change within countries runs deep, however, often being linked to feelings of nationalism; cultural identity with women's rights is seen as a crude and vulgar violation of African culture. Indeed public debate on legal issues affecting women runs

the risk of backlash from traditional members of society, including government officials. A stark example of this is the case of Mrs Otieno, a Kenyan woman and the widow of a leading lawyer, whom she married under the general law without any customary ingredients. She was denied the right to bury her husband in the face of opposition from his tribe, who insisted that he be buried in accordance with the customs of the clan.⁸³

Notwithstanding such opposition, positive steps have been taken. In Zimbabwe, for example, the perpetual minority of women, the factor which causes perhaps the greatest hardship for women in the region, divesting them of the right to use the courts, contract and get loans and which had been used as a justification for all manner of discrimination against women, has been abolished by the Legal Age of Majority Act (1982). In Zimbabwe, therefore, all persons over the age of 18 are given majority status.⁸⁴

Legal disadvantage systematizes discrimination in any context. However, law reform is not a panacea for all the problems which beset women, as women's status is not solely determined by the law. Even where the law is reformed, inequality and discrimination remain, either because the law is ignored because it is not communicated to those that it benefits or because it is resisted as being culturally inappropriate. Further, purely legal changes often serve to mask social reality by making it possible for reactionary elements to argue that since men and women are formally equal before the law, they are also materially equal. Nevertheless, while law is not the sole factor in the determination of women's status, the elimination of discriminatory laws and the introduction of affirmative laws are essential first steps in the achievement of equality for women. The law reflects existing social and economic relationships, and can also be used as a tool for directing social change. Legislative reform, therefore, must be combined with economic and social changes to ensure that women and men achieve full material and legal equality.

THE EFFECTS OF ISLAMIC PRACTICES ON AFRICAN WOMEN

Edda Ivan-Smith

The effect of Islam on the lives of some African women has been briefly discussed in this report in relation to education, health, and legal practices. Like Christianity in Africa, and elsewhere in the world, Islam has been adapted to and interwoven with some traditional religious practices. Just as Christianity has had an effect on non-Christians in the practice of law and moral codes, so has Islam. Its historical development in Africa is an important aspect of some of Africa's social structures.

Approximately 50% of the entire African population adhere to non-indigenous religious beliefs; 25% are Muslims and the remaining 25% are Christians, including Catholics and Protestants and members of African independent churches.⁸⁵ Some Christian and Muslim beliefs have been incorporated with African traditional elements. For example, traditional circumcision has become integrated into Christian and Islamic rituals, and prayers to Mohammed are given before puberty rites for girls who have no basis in Islam.⁸⁶

Some historians claim that Islam spread to Africa before Christianity. Others take a more cautious approach, suggesting that actual contact with Christians preceded the arrival of Islam, though widespread conversion to Islam occurred well before Christianity was adopted on a large scale. There is no doubt that Muslim traders brought Islam to the coastal areas of Tanzania and Kenya. The national language of Kenya and Tanzania, Kiswahili, has been strongly influenced by Arabic, and it is no historical accident that the 'purest' Kiswahili is to be found in the coastal regions of these countries.

Like Christianity, Islam contains an ideology based on gender differences and specific roles for men and women. However, Islamic law does ensure basic rights, if not equality, for women. For example, an adult woman has to consent to her marriage, and once married a woman is entitled to be maintained at the level to which she was accustomed. She is also allowed to obtain a divorce for breach of maintenance as well as other grounds. A married woman is allowed to own and inherit property in her own right. But each of these rights is limited compared to those of men. A man is able to marry up to four women, while a woman can only marry one man.

Whereas a woman only has specific grounds on which to obtain a divorce, a man does not need to present any grounds at all.⁸⁷ Although women are able to inherit property in their own right, a man is able to inherit twice the share of a woman, unless otherwise specified in a will. Additionally, in the absence of significant power, a woman's rights can be ignored by her male kin. Nevertheless, when upheld, these rights do represent an advance for some African women from societies where they were legal minors, and thus were unable to own property.

The question of purdah, the seclusion of women from male strangers, is an emotive subject arousing strong debate; some feel it is an unnecessary constraint on women, while others feel it is for their protection and general well-being. Purdah varies by region. In some communities, older women who are past child-bearing age are allowed to go to market where their younger female relatives may not, even if they are veiled. In some rural parts of Kenya, where women work in the fields, they have disregarded the wearing of a 'bui' (the required Muslim covering as cumbersome and impractical for manual work). Hausa Muslim women in northern Nigeria are very active as traders working outside the home. For social prestige, towards the turn of the century, both Swahili and Hausa women of low status adopted purdah to elevate their social standing. But where seclusion was strictly enforced the women were inhibited from actively pursuing their economic interests, and this also enforced their dependence on male kin.

Islam's integration into African society is not restricted to social and religious practices, it is also evident in the legal system of certain African countries. One example of this can be seen in Sudan, the largest African country and embracing, both socially and geographically, the Arabic and African heritage of the continent. In 1983, President Nimeri announced major changes that would make the laws conform to Shari'a, the strict Islamic code of law. It forbids alcohol consumption, adultery, theft, robbery and murder, which were all redefined as 'hudud' - major crimes against Islamic law with specific penalties such as death, stoning, or the amputation of limbs.⁸⁸

The legal status of women under the civil law in Sudan was improved after the coup d'état of 1969, which was accompanied by a strong pan-Arabist influence. Working women had already gained the right to equal pay in 1968, and pensionable service was granted under the Pensions (Amendment) Act of 1975. The current public service regulations give special benefits to female employees, such as paid maternity leave.⁸⁹ Thus Islam, in Sudan at least, has effected significant improvement in the status of Muslim women, as it accepts them as worthy human beings and recognizes their civil and religious responsibilities. It also prohibits female infanticide.

Polygamy is perhaps the most well-known aspect of Islamic life, and it is often presented as a very blatant example of female subjugation. Like all social practices it is more complex than that, and is often based as much on economic reasons as on religious ones. The Koran requires the equal treatment of co-wives in a polygamous marriage. In Sudan, the incidence of polygamy varies with the region and with the resources of the men involved. It is more prevalent in the southern and western regions, where polygamous unions provide valuable labour and enhance the wealth and status of men. Among the more wealthy it is often used as a status symbol. But poor families, which are in the majority in Sudan, find the maintenance of only one wife a financial burden, much less three or four.⁹⁰

Although legal provisions are made to accommodate and protect women, the practical implementation of them is a major problem. There are few women who can afford to enforce their legal rights by travelling to distant courts, and many are reluctant to incur the displeasure of their families by being assertive. Opposition to the husband's right to unilateral divorce has failed in both Egypt and Sudan. The often powerful advocates for the maintenance of this right stipulate that the right is given to men by divine law, as laid down in the Koran. But ultimately social and cultural attitudes will have to be modified to accommodate real change. Similarly women will have to be educated in not only their legal rights, but the language and mechanisms that are required to present one's case convincingly. The law, and all things legal and political, are still dominated by men; thus women need to feel that they are conversant with the language of law to assert their human rights.

CONCLUSION

Edda Ivan-Smith

The struggle against male domination has been a long one for African women. Extracting basic human rights and needs from the status quo has been on the informal agenda for centuries; but like any major challenge to a social structure, its recognition has been delayed and avoided for too long. Equality, peace and development were the themes of the United Nations Decade for Women, but it cannot be said that this has been or could be achieved in ten years. Yet the designation of a decade for women at least legitimized women's call for change, and identified the specific problems of women in the developing areas of the world. Governments were forced to evaluate their own attitudes to women; but this is not enough. Legal provisions and political objectives are often not as potent as the underlying social fabric, which actually informs them.

In 1985 it was estimated that there were approximately 217 million women in Africa, 70 million of whom were bearing the full burden of the current economic crisis.⁹¹ This is neither a new nor an original observation, but it is a vital one. For when policy makers look at women, very often they are seen as the problem, when in fact they could be seen as a partial solution to many of the economic (particularly agricultural) problems of the continent. How can this be achieved? Although desirable, the appointment of more women in influential positions does not always guarantee a sympathetic ear to the plight of African women. Eroding the marginalization of women would certainly be a significant advance, for women are not peripheral adjuncts to the mainstream structure. The frame of reference which dictates social change has to be reviewed. Some countries have assumed that changes in the social relations of production will implicitly better women's conditions. This has proved to be a miscalculation, as the specific relationship between men and women is what needs to be changed;

if men are the ones who always set the parameters of change, women are invariably going to be excluded.

Feminism is an emotive word in Africa, among both women and men, as it connotes yet another imprint of Western imperialism for many; yet the imposition of other foreign political ideologies has not seen as much opposition. But feminism is not a new phenomenon for Africa; women have collectively fought, adapted to and survived countless changes in their lives. Many African women feel that they do not need to identify themselves with a specific ideology because of the dangers of labels, but nonetheless have a strong feminist perspective of their lives. Any country which is committed to true development cannot afford to shelve women's issues for the 'common' good of the nation. Equality, peace and development cannot be achieved if half of the population is excluded.

Straddling two spheres of oppression, as Third World women, African women want full and equal participation in every social and political realm; this means that men have to free themselves of their prejudices and preconceptions. The unleashing of women's resources and skills can only be seen as an asset to a society. Allowing women to be agents of change should be seen as a major priority for governments and policy-makers, and formal and rigid methods of effecting change should also be reviewed. Encouraging women to enter a structure which implicitly works against them will not necessarily result in an increase in the number of women in the formal political and economic areas of life. The creative role of African women has been denied for years; extracting and nourishing that creative force which women possess must be at the heart of any real programme of change. Time is not an ally of Africa; heavy external debts and natural disasters have almost crippled some economies, so it cannot afford to foster unsuitable development schemes which ignore women. The vigour of the nationalist movements in their fight against colonialism must also be harnessed in the cause of women.

FOOTNOTES

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- ¹⁸ *Ibid.* p.143.
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- ²⁵ S. Urdang, in Hay and Stichter (Footnote 3) p.157.
- ²⁶ *World Survey on the Role of Women in Development*, Report of the UN Secretary-General, World Conference to Review and Appraise the Achievements of the UN Decade for Women: Equality, Development and Peace, Nairobi, Kenya, July 1985, p.43 A/conf. 116/4.
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- ³⁶ See Footnote 26, p.44.
- ³⁷ See Footnote 30.
- ³⁸ UNICEF (Footnote 2) p.41.
- ³⁹ *Ibid.*
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- ⁴⁷ *Ibid.* p.24.
- ⁴⁸ UNICEF (Footnote 2) p.50.
- ⁴⁹ C. Robertson, in Hay and Stichter (Footnote 3) p.44.
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- ⁵⁵ M. Ndulo, *Widows under Zambian Customary Law and the Response of the Courts* (unpublished, 1984) p.22.
- ⁵⁶ Much of the material for this section is taken from Bennett and Peart (Footnote 53).
- ⁵⁷ See Hirschon (Footnote 54) and in particular the article by S. Burman, 'Divorce and the Disadvantaged: African Women in Urban South Africa' at p.117 of this collection.
- ⁵⁸ Bennett and Peart (Footnote 53) p.151.
- ⁵⁹ *Ibid.*
- ⁶⁰ *Ibid.*
- ⁶¹ See for example the case of Mrs. Otieno described later (Footnote 83). See also the contributions in Parts 1 and 2 of Armstrong (Footnote 52).
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- ⁷² Gillick v. West Norfolk Health Authority [1984] 1 All E.R. 365.
- ⁷³ The customary law on abortion is sparse. Poulter and his colleagues at Lesotho found that there was no law or punishment in Basuto custom with respect to abortion. Ndeti in Nairobi concluded from his study of six East African tribes that abortion was used when pregnancy resulted from a taboo relationship or could result in a social or psychological crisis for an individual, family or community. See R. Cook and B. Dickens, *Emerging Issues in Commonwealth Abortion Laws* (Commonwealth Secretariat, London, 1982) p.11.
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- ⁷⁶ Cook and Dickens (Footnote 73) pp.72-4.
- ⁷⁷ Isaacman (Footnote 66).
- ⁷⁸ Termination of Pregnancy Act (1977).
- ⁷⁹ Termination of Pregnancy Act (1972).
- ⁸⁰ Cook and Dickens (Footnote 73).
- ⁸¹ *Women: Progress to Equality*, a wall chart prepared for the International Planned Parenthood Federation in 1985 by Cook, Cairns, Heckel and Isaacs.
- ⁸² The Convention was opened for signature in 1979. The African countries which have signed or ratified are the Malagasy Republic (Madagascar), Mali, Rwanda, Kenya, Nigeria, Ghana, Lesotho, Zambia, Uganda, Zaire and Burundi.
- ⁸³ *New York Times*, Saturday May 16 1987. Mrs. Otieno later indicated that she would take the case to the International Court of Justice as the decision was in contravention of the Convention on All Forms of Discrimination Against Women, which Kenya ratified in 1984.
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⁸⁸ Dina Shiekh el Din Osman, 'The Legal Status of Muslim Women in the Sudan', *Journal of Eastern African Research and Development* Vol. 15 (1985) p.124.

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⁹¹ UN statistics, United Nations Voluntary Fund on Women, Vienna, Austria.

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Foundation for Women's Health and Development (FORWARD)
Africa Centre
38 King Street
London WC2E 8JT, UK

Branch for the Advancement of Women (United Nations)
Room E-1283
Vienna International Centre
P.O. Box 500
A-1400, Vienna
Austria

Oxford University Centre for Cross-Cultural Research on Women
Oxford University
Oxford
Oxon, UK

Institute of Development Studies
University of Sussex
Falmer
Brighton
Sussex, UK

CHANGE
55 Half Moon Lane
London SE24, UK

African Women's Association
(primarily a community organization)
135 Clarence Road
London E5 8EE, UK

Association of African Women for Research and Development
Dakar
Senegal

Akina Mama wa Afrika
(a voluntary development organization for African women)
4 Wild Court
London WC2B 5AU, UK

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¹The Internationalist; ²New Society; ³Times Lit. Supplement; ⁴Belfast Newsletter; ⁵Irish Post; ⁶International Affairs; ⁷Sunday Independent; ⁸S.Asian Review; ⁹The Friend; ¹⁰Afro-Asian Affairs; ¹¹E. African Standard; ¹²Sunday Times; ¹³New Community; ¹⁴The Times; ¹⁵Information; ¹⁶The Observer; ¹⁷Irving Horowitz; ¹⁸The Guardian; ¹⁹Peace News; ²⁰The Freethinker; ²¹The Spectator; ²²The Geographical Magazine; ²³New World; ²⁴Melbourne Age; ²⁵The Economist; ²⁶Neue Zürcher Zeitung; ²⁷Resurgence; ²⁸Feedback; ²⁹Time Out; ³⁰Evening Standard; ³¹Tribune of Australia; ³²The Scotsman; ³³The Financial Times; ³⁴New Statesman; ³⁵The Nation; ³⁶Bernard Levin; ³⁷BBC World Service; ³⁸International Herald Tribune; ³⁹Education; ⁴⁰Times Ed. Supp.; ⁴¹The Middle East; ⁴²City Limits; ⁴³South; ⁴⁴Choice; ⁴⁵S. Asia Research; ⁴⁶New African; ⁴⁷Voluntary Action; ⁴⁸India Weekly; ⁴⁹The Jerusalem Post; ⁵⁰Race Relations Abstracts; ⁵¹Third World Affairs; ⁵²Tarzie Vittachi; ⁵³Lord Lyell in House of Lords debate; ⁵⁴Workaway; ⁵⁵Prof. Lemarchand; ⁵⁶Prof. Banton.

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Justice for African Women

Women constitute half the world's population, perform nearly two-thirds of its work hours, receive one-tenth of the world's income and own less than one-hundredth of the world's property. This statement (from a 1980 United Nations Report) applies with particular force to Sub-Saharan Africa, where women have long provided the bulk of the region's food supply. Yet until recently most governments and aid donors ignored the essential role played by women, and they were not consulted about major development schemes.

Women in Sub-Saharan Africa, Minority Rights Group Report No. 77, is written by three authors with experience of the region. *Edda Ivan-Smith* covers the position of women in the urban economy, and details their limited access to health and education services in both town and country. *Nidhi Tandon* concentrates on women in rural areas, the 'forgotten farmers'. She describes one of the classic planning blunders that ignored the role of women, and pinpoints the difficulties that women face in gaining access to credit and technology. *Jane Connors* surveys the legal position of women and its wide variation across the region. She describes the complex mixture of legal systems Africa inherited from its colonial and pre-colonial past: many wives still have the status of a perpetual minor, unable even to receive medical treatment without the husband's permission.

All three authors discuss the particular problems of women living in South Africa and in countries which are economically tied to it. The system of migrant labour imposes a heavy burden on women who have to maintain their families while the men are away. In many cases the women themselves are obliged to leave the countryside in search of work in the towns.

The report details some advances as well as the obstacles that remain. In some areas women have emerged as entrepreneurs and are increasingly challenging the domination of men. The legal position of women has improved in several countries. Finally, there is formal recognition by African governments (as in the 1980 Lagos Plan of Action) that women have a vital role in achieving the continent's goal of self-sufficiency in food. That recognition may have come only just in time.

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