

**SITUATING THE LEGAL STATUS OF WOMEN IN DEVELOPMENT
PROCESSES: THE CASE OF BOTSWANA**

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by

*Dr. Godisang B. Mookodi
Department of Sociology
C/O Faculty of Social Sciences
Private Bag UB 00705
University of Botswana
Gaborone
BOTSWANA
Email: mookodi@mopipi.ub.bw*

Abstract

The process of 'engendering' development in Southern African countries has spanned three decades. Much of the process has been driven by international policy-oriented gender discourses such as Women in Development (WID) and Gender and Development (GAD). Whilst much of the discourse around the successes and failures of development has focused on economic welfare, little attention has been devoted to the interface between the legal status of women, and development.

My paper looks at the interface between 'gendering' development frameworks, the state and legal reform in Botswana. The discussion identifies two trajectories: the state-based *integrationist* approach, and the *transformative* approaches of civil society organizations. The state-based *integrative* approach has focused on making women more visible within existing development efforts without effectively transforming the underlying cultural structures that shape their status. The *transformative* interventions facilitated the landmark case of *Unity Dow vs. the Attorney General* [of Botswana] which took place from 1991 to 1994, in which a Motswana woman successfully challenged the constitutionality of the Nationality Law in Botswana. The ruling of this case was interpreted as rendering discrimination on the basis of gender as unconstitutional, which resulted in the need to review all laws that discriminate against women in Botswana.

My paper argues that the pace of change is slow for three reasons. The first reason is that the WID and GAD approaches as applied by the state in Botswana have not adequately addressed the legal status of women. Secondly, many of the actions taken by the Botswana state to address women's subordination illustrate the lack of political commitment to effect holistic and far-reaching reforms. Thirdly, the efforts of civil society organizations and individual feminists at challenging the status quo continue to have limited coverage with respect to changing the status of many women in Botswana. As a result, the Botswana state's development agenda does not holistically include changing the status of women.

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Introduction

As we re-think African development, it is important to take stock of research and policy directions over time – progress achieved as well as barriers that prevail with a view to examining ways of refining our approaches. The process of ‘gendering’ African development has taken various forms in different countries – spanning two or even three decades. Much of the engendering process has been situated within state machineries framed within the international policy-oriented Women in Development (WID) and later Gender and Development (GAD) perspectives. Within that context, the gendering process in Botswana can be regarded as state-interventionist -- directly affected by state-prioritised developmental agenda which placed great emphasis on the westernisation of social and production relations.

This paper suggests that the status of women in the Botswana developmental state is characterized by two parallel trajectories: the first being the state-based ‘gendering’ development frameworks which fostered ‘integration’ and ‘participation’, and the second being that of legal reform on the status of women in Botswana – which has taken a more ‘transformative’ stance. The first trajectory is marked by a focus on the integration of women in economic development and a concentration on welfare issues such as access to education and the improvement of maternal child health. The second is marked by discourses of transformation – of women’s rights within the context of citizenship, marriage and family law. While much of the impetus for legal reform has come from feminist civil society organizations, it generally falls outside the rubric of development discourse.

My paper is divided into three sections. The first section situates *gender and development* within the context of Botswana. The section will begin with a brief explanation of the WID and GAD approaches, and how they have been implemented within the context of the Botswana State. My discussion of the case of Botswana illustrates that the state’s stance has mainly been concessionary – guided more by international than local agenda. While the State’s actions reflect a willingness to acknowledge the role of women in economic development, this has happened outside the rubric of a comprehensive appraisal of the intersection between the socio-cultural realities of women’s lived experiences, legal rights (whether customary or general law-based) and development processes. The second section focuses more directly on the *process* of legal reform using the case of *Unity Dow Vs The Attorney General of Botswana* as a point of departure. Here, I illustrate the instrumental role played by feminist civil society organizations in lobbying for legal reforms such as the *Abolition of Marital Power Act of 2004*. While these are arguably more transformative, – to what extent have the legal reforms been mandated on a *popular* women’s platform? In conclusion, I argue that the development agenda of the Botswana state does not include changing the status of women.

Gender and Development: Botswana State Intervention

At independence (1966), Botswana could be described as a pre-dominantly rural-based agricultural economy, and one of the poorest countries on the world with a per capita income of Pula 60 per year which was equivalent to US\$80 (Colcough and

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McCarthy, 1980: 54). Within that context, the first pre-occupation of the post-colonial State was to address poverty – particularly within the rural areas. The discovery of mineral deposits -- particularly diamonds in the early 1970's -- fuelled rapid economic growth that facilitated the creation of employment and government investment in social services. During the first development planning period, there was literally no mention of the roles that women and men occupied within the various sectors of the economy. The trajectory of state-based women in development activities has been framed by external Women in Development and Gender and Development discourses since the mid 1970s.

At the international level, the observation United Nations observation of 1975 as the International Women's Year and the subsequent declaration of the First Decade for Women (1976 – 1985) marked the literal globalisation of the Women in Development (WID) paradigm. Using what came to be known as the efficiency approach (Moser 1989; 1993) scholars alerted national governments and international agencies to the inefficiency of development efforts that excluded half of the world's population (Rogers 1980; Moser 1989). WID advocates such as Ester Boserup (1970) indicated that the key to women's emancipation and gender equality lay in the promotion of policy measures and projects that facilitate their advancement in economic production. The period was marked by the establishment of national women's machineries (NWMs)¹, which served to identify the key barriers that prevented women's active participation in economic development, to develop measures for their removal, and to promote gender sensitivity in national development planning processes (Beneria 1982). These measures were implemented through the United Nations Development Fund for Women (UNIFEM), which was primarily established to provide direct support to development projects for women.

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During the United Nations Decade for Women, researchers commissioned by UN agencies², worked in collaboration with national machineries and local researchers in developing countries to identify gaps in information on the status of women, as well as data in national statistics. The research pointed to the under-enumeration of women's work in the economic production, including subsistence agriculture and the formal employment sector and unpaid work in the home (United Nations 1984). On the basis of results of empirical studies conducted in different countries, various United Nations agencies such as the International Research and Training Institute for the Advancement of Women (INSTRAW) and the United Nations Statistical Office collaborated to develop social indicators on the situation of women, and guidelines for the generation of gender disaggregated data at national levels. The social indicators and guidelines effectively facilitated the generation of data on the economic status of women focusing primarily on their participation in development processes as agents and beneficiaries.

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The establishment of the Women's Affairs Unit (WAU) in 1981 was in line with international efforts to institutionalise the integration of women in development through NWMs. In the case of Botswana, this was facilitated through an inter-ministerial committee (the Women's Development Planning and Advisory Committee – WODPLAC) that also drew membership from the then main women's civil society organisations – the Young Women's Christian Association and the Botswana Council of Women. The initial years of the WAU activities and WODPLAC were largely situated at programme level. Much of the efforts were concentrating on the establishment of a database of women's economic production effectively institutionalising the production of gender disaggregated by the Central Statistics Office through national (census and

household surveys) and sectoral data collection exercises (such as labour force, agricultural, health, educational and other surveys). The production of gender disaggregated data paved the way for several internationally-funded interventions that were targeted at women. While some of the projects were aimed at integrating women into existing programmes such as in the case of training female agricultural extension officers and industrial extension officers, others were new women-only projects in various sectors³.

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An example of the application of the WID perspective in the 1970s was in the area of agricultural production. A study undertaken under the auspices of the Ministry of Agriculture (Bond, 1974) aimed at enhancing women's participation in agricultural production. The study undertook to investigate the role of women in agriculture with respect to the extent of their participation in field operations and decision making; to determine the effectiveness of extension programmes in influencing rural women; to examine the content of extension programmes which might be directed specifically towards women; and to examine evidence for and against the introduction of women Demonstrators in the Ministry of Agriculture. The results of the study illustrated the important role that women played in subsistence agriculture, and pointed to male-bias of existing services, as they primarily targeted households that were headed by men. To address these limitations, the recommendations advocated for the improvement of extension services, particularly the initiation of new extension services for women which would include agriculture and home economics to cater for women's responsibilities as mothers and home-makers – reconfirming women's roles.

This study utilised a 'typical' WID framework that was primarily aimed at making women more visible within the context of economic production. It succeeded in providing (hitherto unavailable) gender disaggregated data on the agricultural cycle, illustrating the areas where contact with agricultural extension could enhance production. The study focused on modernising farming practices – issues such as the time of ploughing, type of grain, the use of tractors, sale of cattle and fencing of farming areas. This pre-occupation with modernising practices excluded any discussion of women's cultural knowledge systems – those significant 'traditional' farming practices that women utilised within the agricultural cycle. The study pointed to the male-bias – particularly with respect to seemingly preferential access to extension services by male headed households. The study's reference to women's decision-making role is that:

"In the absence of a husband many women make all decisions, while among married couples women have much influence during the discussion of farm decisions. It would appear that within most households there is free exchange of ideas". (Bond, 1974: 2)

Rather than conducting an in-depth analysis of intra-household organisation and decision-making, the study concludes that:

"...there is rarely one decision-maker, rather the process is a result of a complicated pattern of interactions dependent in part on personality" (Bond, 1974: 35).

The absence of a holistic analysis of women's decision-making precluded any discussion of issues of access to and control over property. The overall conclusions and recommendations were made on the basis that all the women (whether single or married) had legal access to and control over land for arable agricultural production.

The Women's Affairs Unit conducted a series of seminars in various districts of Botswana in the beginning of 1985. These fora – which were funded by the Norwegian Organisation for International Development (NORAD), were aimed at identifying the needs and problems of women in various districts, and assess the impact of national policies and programmes on women. The seminars also provided an opportunity for disseminating information on government policies and programmes. The information from these seminars was in the Botswana report to the Nairobi Conference marking the end of the United Nations Decade for Women in 1985. The Women's Affairs Unit responded to the following concerns raised at the mid-decade conference in Copenhagen in 1980: lack of attention to the needs of women in planning; shortage of women in decision-making positions; women's lack of financial resources; lack of awareness by women about opportunities available to them.

The seminar reports (Ministry of Labour and Home Affairs 1985a - e) point to three areas of emphasis: the enhancement of women's role in economic development; health and social welfare issues; the legal status of women. With respect to economic development, discussions were aimed at identifying limitations in women's access to education, information, resources and technical advice to enhance their productivity in agricultural and commercial activities. The seminars alluded to the limited input of women in development planning processes.

The coverage of health and social welfare issues reiterated the social and reproductive roles of women within the domestic context. The seminars provided women with legal education on legal rights of single and married women, maintenance laws and practices. With the agenda effectively set by the NWM, the seminars effectively *validated* the issues identified from internationally-set agenda rather than providing an opportunity for discourses that fell outside the rubric of the blueprint that was provided by the UN and other international organisations. Whilst the Copenhagen conference referred to the lack of sufficient political will as hampering women's ability to exercise their constitutional rights, this matter was not addressed by the women's seminars.

The *integrative* WID approach was succeeded by the *transformative* Gender and Development (GAD) approach, which, rather than focusing on women in isolation, emphasises the need to understand gender relations – interaction between women and men in all spheres of political, social and economic organization. While the WID perspective focused primarily on including women in economic development as a means of empowering women and improving development outcomes, the GAD approach points to the need to examine the ways in which gender relations impact on, and are affected by development processes.

Shifting From WID to GAD?

The shift from an integrative to a transformative approach is effectively a political process. It requires interrogative agency with the necessary ideological conviction to conduct a comprehensive deconstruction of the key concepts – 'women', 'gender' and 'development'. In my view, changing gender relations should necessarily include an understanding of women's roles and status in society, particularly how their social positions are embedded in socio-cultural and legal traditions, including sources of formal and informal power that women have at their disposal. This has not been evident within the context of state intervention in Botswana. A study on the experiences of NWMs

points to an inherent conflict between welfarist, efficiency and equity approaches; between strategic and practical needs:

“Most NWMs have their origins in the welfarist approach, because that was the dominant approach at the time of their establishment and also because of the tendency to locate NWMs within social sector ministries.”

Byrne et. al., 1996: 19)

This statement rings true for many NWMs across Africa. The establishment of the Botswana NWM was in response to strategies adopted during the 1st United Nations decade for women. The Women’s Affairs Unit was effectively established utilising a top-down strategy – wherein the overall agenda for the Unit was driven more by internationally defined agenda rather than locally-identified interests⁴ and needs. The placement of the NWM in the Ministry of Labour and Home Affairs suggests that women’s issues belonged in the realm of social welfare as opposed to mainstream economic, political and development that would require the NWM to be situated in either the Ministry of Finance and Development Planning or the Office of the President.

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It is not clear exactly when the concept of ‘gender’ was incorporated into the NWM language in Botswana. However, it can be broadly said that it came as a response to shifts in approaches by international donors – spearheaded by organisations such as the United States Agency for International Development⁵ (see Overholt et. al. 1985; Razavi and Miller, 1995) and facilitated through the UNIFEM advisor based within the Botswana NWM. A series of UN-funded workshops were held in various districts to introduce the gender-responsive planning approach and tools. Whilst this marked a significant paradigm shift --- from *women-only* to *women and men*, the socio-cultural dimensions of gender roles were not debated.

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The Policy on Women and Development was drafted in 1988. Since its initial draft in 1988, the Policy was returned for numerous amendments until its final approval in 1996. The rationale (need) for the policy was based on the realisation that many of the (programme based) efforts to integrate women that took place in the 1970s were ‘piecemeal’ and uncoordinated and thus failed to bring about holistic and lasting changes. Within that context, the Policy aimed at bringing attention to the need for government ministries and departments, parastatal organisations and the private sector and non-governmental organisation to the address the disadvantages and discrimination faced by women. In addition to co-ordinating and facilitating programmes and activities aimed at uplifting the status of women, the Policy serves as a monitoring and evaluation tool for the integration of women in development. It focuses on women, and most of its wording relates to women with little reference to the concept of gender, or men. The key principle of the Policy states the following:

In consonance with the national principles of Democracy, National Unity, Development and Self-Reliance, and in conjunction with the planning principles of rapid economic growth, sustained development, and social justice, government is taking steps to enhance women’s participation and involvement in national development. (Ministry of Labour and Home Affairs, 1995: 18)

The Policy identifies several principles necessary to facilitate improvements in the status of women in Botswana; that all policies of the government should recognise that women and men are guaranteed equality before the law, and recognise women and men as equally important human resources for economic, social and political development. The

Policy also calls for recognition of women's multiple roles (in production and community management), and the recognition of women's central roles as transmitters of culture, and primary socialising agents with a view to creating a wholesome and enriched family and community life -- effectively re-affirming women's existing roles in society. With respect to women's socio-cultural and legal status, the Policy notes the existence of constraints to women's rights and freedoms that stem from a variety of factors:

- Roman Dutch Law⁶, Customary Law and Acts of Parliament;
- Cultural values and practices that subordinate women to men with respect to their reproductive rights, access and control over resources and decision-making within their families.

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The Policy does not make reference to gender systems and/or gender ideology, illustrating that a) women are a homogenous group – assuming that b) generalisations can be made with respect to their subordinate roles and status in society, and that c) integrative strategies were the appropriate means for rectifying their situation.

The Policy also aims at promoting women's health, education and eliminating poverty among women – with specific reference to female headed households. The Policy also called for the upgrading of the NWM to the status of Department, and the establishment of a National Council on Women in Development (Ministry of Labour and Home Affairs, 1995). Some of the recommendations of the Policy have been implemented – for example, the NWM has been upgraded to Departmental status. The Botswana National Council on the Status of women was set up in the year 2000.

The National Gender Programme Framework (NGPF) was commissioned by the NWM in collaboration with the United Nations Development Programme and the United Nations Fund for Population Activities in 1998. The NGPF focused on six critical areas of concern which were identified as priorities⁷ in Botswana:

- Poverty and Economic Empowerment
- Power and Decision-Making
- Education and Training
- Health
- Violence Against Women
- The Girl Child

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The development of a national gender programme was regarded as an opportunity to shift from to the WID to the GAD approach:

“Experience with the WID approach has clearly demonstrated its limitations in achieving the desired outcomes or improved socio-economic and political advancement of women. Globally, trends are now shifting to a GAD approach, which recognises the need to address both men and women in order to attain the goals of equity and empowerment. This programme is premised mainly on the GAD approach”. (Government of Botswana, UNDP and UNFPA 1999: ii)

Two key issues emerge from this statement. Firstly, the reference to the limitations of the WID approach implies that the approach was assessed at the national level – yet it was not. Secondly, the explicit statement that the shift from WID to GAD was in response to ‘global trends’ suggests that the agenda was driven more by external processes than local priorities. The conceptual approach of the NGPF states that:

“A critical component of the GAD approach is gender analysis because it assists in understanding gender relations and resulting issues and constraints which put

women at a disadvantage. As a result, this programme focuses more on women than men” (ibid: 4)

While the authors of the NGPF acknowledge that the concept ‘gender’ refers to relationality of women and men’s realities, they produce a programme framework that focuses almost exclusively on women; that seems more like a continuation of the WID approach than a shift to GAD. I suggest that the continuation of WID is partly due to the lack of home-grown approaches and over-reliance on international trends. In addition, I concur with the observation of Byrne and her colleagues (1996) who indicate that while the activities of NWMs are effectively hampered by conflicting roles of continuously questioning the shortcomings of State policies with respect to gender equity, while advocating for them at the same time. All in all, integrative approaches, with little or no reference to political transformation are more readily accommodated by hosting Botswana state.

The more ‘radical’ interventions came to be associated with feminist academics and non-governmental organisations. The following section centres on legal reform. My analysis identifies two factors that I regard as determining the process: a) the structure of women’s civil society movement; b) what the Citizenship case has come to signify within the context of women’s status in Botswana.

Legal Reform

The relationship between the state and civil society in Botswana has been the subject of debate and speculation among academics. One position is has been that civil society is weak, largely due to the interference of the State (Taylor, 2003). Another position (see Ntseane and Youngman, 2002; Maundeni, 2004) suggests that the development and activities of civil society organizations in Botswana has been determined in part by historical process – particularly the absence of nationalist struggles that took place in other parts of Africa.

Women Civil Society Organisations

The Young Women’s Christian Association (YWCA) – established in 1992 is the earliest recorded women’s civil society organization in Botswana. The Botswana Council of Women was established immediately after independence. Both were welfare organizations primarily involved in providing training and education for women⁸. Neither of these organizations has taken an active role in criticizing government policies, but rather served to compliment existing welfare programmes with specific emphasis on women.

Much of the critical activism that has driven legal reform occurred in the 1980s and 1990s – mostly directly associated with women academics as well as professional women in urban areas. While Emang Basadi [meaning ‘Stand Up Women’] was registered as Association in 1986, its activities had started four years earlier, in reaction to the 1982 amendment of the Citizenship Act – which they regarded as discriminatory against women. Some of the Association’s objectives can best be described as ‘generic’ WID language– relating identifying women’s problems, and raising awareness on their role and development. The language of transformation is embedded in the objectives that aim at developing action-oriented strategies, and mobilizing and empowering women to change the **social, political and economic** status quo, and working toward the removal of

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cultural and legal barriers that hinder the advancement of women (Emang Basadi Association, 1986).

The Women and Law and Southern Africa Research Project (WLSA) was established in 1988 at a conference in Harare by a group of lawyers concerned with the legal status of women. The Project⁹ identified and discussed gaps in previous research in the legal status of women, identified methodologies and methods relating to women's legal, political, economic and social status. In the early years WLSA concentrated on filling research gaps by conducting research on maintenance law, the administration of justice, and family forms. In later years the name of the organisation was changed to Women and Law in Southern Africa Research and Education Trust, to signify increased emphasis on advocacy through legal education and law reform. In my view, Emang Basadi and the Botswana chapter of WLSA¹⁰ came to form an effective front clamouring for legal review of laws on the status of women¹¹. These two organisations provided the impetus for Unity Dow to challenge the constitutionality of gender discrimination by the Citizenship Act of Botswana in her landmark case *Unity Dow Versus The Attorney General of Botswana*. It must be noted that Botswana has a dual legal system of common law – a combination of Roman-Dutch law that was received during the period of British protection, as well as the customary law which consists of a body of rules and principles which have their roots in cultures of Tswana groups (Molokomme, 1991). While it can be argued that the dual legal system provides a certain degree of choice, the practice of the two systems can at times be contradictory – the consequences of which have implications for various groups of women in Botswana.

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The Citizenship Case

“Nationality signifies the legal relationship between an individual and a State. It not only provides individuals with a sense of belonging and security, but also creates a legal link between the individual and her State”. (UNDAW~DESA, 2003: 1).

Many States have adopted the patriarchal position that women's legal status is acquired through a 'significant' male by relationship – first her father, then her husband. Within this context, a female receives her nationality from her father by birth, but within the context of marriage, she leaves her husband's patrilineal affinity to join her husband's (Schapera 1970). A woman married to a foreigner would therefore be expected to automatically acquire the nationality of her husband, thus losing her own citizenship. The nationality of the children follows the line of descent – they automatically acquire their father's citizenship.

The law regarding citizenship was contained in the Citizenship Act of 1982 which was amended in 1984. Prior to its amendment in 1995, the citizenship law provided unequal treatment between married male and female citizens of Botswana. The law effectively discriminated against married women in comparison to married men and single women by effectively denying them the legal right to pass their citizenship to their children regardless of where they were born. This discrimination was also evident with effect to passing on citizenship. Section 13 of the Act made special provision of wives of Botswana male citizens to acquire citizenship after two and a half years of residency provided that they satisfied certain conditions to ensure that they did not threaten national security. This did not extend to the husbands of Botswana women, to

whom the mandatory 10 year waiting period applied (Ministry of Labour and Home Affairs, 1998; SARDC, 2005).

In 1991, Unity Dow, a Motswana woman who was married to an American national challenged the constitutionality of the Citizenship Act. Her main complaint was that she was not entitled to pass her citizenship on to her two minor children. Whilst her domicile was Botswana, her children were required by law to remain in Botswana on their father's residence permit which expired in December, 1991. The renewal of his residence permit was not guaranteed due to his alien status. She argued that as a result of the Citizenship Act, she was denied protection of the law that is in similar circumstances afforded to her male Botswana counterparts. She was precluded from passing citizenship to her children purely based on her status as a female which relegates her to a position beneath that of a Motswana male. The Citizenship law is an Act of Parliament was duly informed by customary law which effectively justified discrimination against women. The Act stood in direct contradiction of the Constitution. The High Court ruled in favour of the respondent on the basis of unconstitutionality of the Act. In 1995 some sections of the Citizenship Act were repealed and replaced with gender neutral provisions, providing right to both mother and father to pass their citizenship to their children. The ruling and the subsequent amendment of the Citizenship Act were in compliance with international conventions such as the Convention on the Elimination of Discrimination Against Women (CEDAW).

The fact that the State lost the case gave impetus for the review of legislation that discriminates against women. The review was ultimately commissioned in 1997 after considerable lobbying by the women's organisations. This shift in state interventionism also came as a direct result of international attention that the Dow case received fostering the urgency on the part of the Botswana government to comply with United Nations standards. The Botswana State also had vested interests in conserving its reputation as a democracy. The laws that were reviewed included the Marriage Act, The Married Persons' Property Act, Abortion (within the context of the Penal Code), Deeds Registry Act. The review of laws (Ministry of Labour and Home Affairs, 1998) consisted of a review of laws and relevant literature, as well as field research focusing on ethnic groups. The focus on ethnic groups was aimed at establishing the status of women under Customary Laws and practices situating it within the context of social change, as well as within the context of Common Law. Additional methods included focus groups with individual women, and key informant interviews with Chiefs, and other implementers of Customary and Common Laws.

Legal Reform Following The Review of Laws: The Abolition of Marital Power

Whilst the review of laws made recommendations with respect to a wide range of laws, the only recommendation that has been implemented is with respect to the Marriage Act of 2001. The Act regarded husbands as the heads of families with overall decision-making power. This position was contained within *marital power*, which effectively limits women's legal capacity to that of a minor within marriage. The choice of marrying in or out of community of property has certain implications for women's control over property within marriage. Marriage in community of property effectively creates a joint estate, with the husband as the custodian. As a result women had no *locus standi* to bring or answer legal proceedings without being 'assisted' by their husbands. There absence of

a joint estate and community of profit and loss means that the husband does not have powers to administer his wife's estate. Wives are, nonetheless, subjected to their husbands' marital power in its personal aspect. An example is that the marital power effectively conferred husbands with the status of guardian over children of the marriage – meaning that the husband makes final decisions with respect to issues such as the domicile of his wife and children (Ministry of Labour and Home Affairs 1998).

The motion to abolish marital power was tabled before Parliament in 2004. The Act was enacted by the Parliament of Botswana effective on the 31st of December, 2004. The Abolition of Marital Power Act of 2004 abolishes the common law rule that provides husbands with marital power over the persons and property of their wives. The effect of this abolition is the removal of restrictions on the legal capacity of wives as well as the removal of the position of the husband as head of the family. The provisions contained in the Act effectively foster equality between the spouses with respect to domicile and guardianship of minor children. The Act covers marriages under the Common Law, and excludes marriage under Customary Law as well as religious marriages. While regarded as a victory and further challenge to one of the key bases of patriarchy, the exclusion of customary and religious marriages poses a problem, thereby limiting its benefits:

“...it is regrettable that customary and religious marriages have been excluded from the ambit of the Act...women in these marriages face the same problems, perhaps to a greater extent, than their counterparts in statutory marriages and deserve to benefit from the provisions of the Act.” (Quansah, 2005: 27)

The political basis of African feminisms and women's advocacy has been the subject of debate and speculation (see Sow, 1999 for example). Much of the reaction, and indeed backlash from male and female quarters in Botswana (in the State, academia and society in general) has essentially relegated feminism and women's advocacy to the 'views of a few urban, elitist disgruntled women'. The forgoing discussion has demonstrated that the emphasis of legal reform has been on common law, leaving customary laws and practices virtually intact. This limits the *transformative* nature of interventions as it does not effectively challenge the basis of patriarchal practices that impinge on the status of women.

Conclusions

This paper has illustrated 'gendering' of development by the Botswana state has been characterized by *integrative* rather than *transforming* processes. This stance can be regarded as 'safe', as it does not effectively challenge those aspects of women's status, as well as their roles in society in tact, precluding any holistic challenge to the patriarchal status quo. Most of the measures taken by the NWM have illustrated the centrality of the status of the Botswana state as a bastion of democracy and observer of human rights with respect to international law. These processes, however, have been void of political commitment – as evidenced by the delay in passing the Policy on Women in Development.

Certain civil society organizations and individual feminists have challenged the status quo, with the aim of bringing about meaningful transformation in the status of women. While the Citizenship Case and the Abolition of Marital Power Act have illustrated the *possibility* of women's legal reform within the context of Botswana, their benefits do not cover a significant proportion of women in Botswana.

The two parallel trajectories discussed in this paper illustrate the ongoing dilemmas in African countries with respect to making gender equality a reality. There is no easy solution to this dilemma. What it does illustrate, however, is the importance of identifying the interface between gendered state interests, as well as the expressed lived realities of the people that development is aimed at serving.

Notes

1. The United Nations facilitated the establishment of administrative structures such as Women's ministries, bureaux, departments and units within national governments to facilitate the integration of women in development.
2. The Department of International Economic and Social Affairs Statistical Office, the International Research and Training Institute for the Advancement of Women.
3. Two examples of women-only projects include: Oodi Weavers – a weaving project established funded by the Norwegian Agency for Development (NORAD), and a horticultural project for low income female-headed households in Gaborone funded jointly by the Swedish International Development Agency (SIDA) and UNIFEM. In both project, the government of Botswana undertook to integrate them into existing sectoral activities by providing resident (government-funded) extension officers who provided the women with technical advice in commercial and agricultural production techniques.
4. I was employed as the Assistant Coordinator – the second of two members of staff in the Women's Affairs Unit in 1985. Much of our initial years were spent consulting women in the various districts – effectively conducting a situational analysis of the key areas identified in the Women's Decade in preparation for the end of decade conference in 1985. The subsequent activities of the Unit focused on implementing the forward looking strategies from the Nairobi Conference.
5. Many will recall the gender roles framework that was developed as a collaborative effort between USAID Office of Women in Development and the Harvard Institute of International Development. The framework suggested more of a 'mainstreaming' approach that was aimed at ensuring that women's roles and responsibilities were assumed in project design and implementation.
6. Botswana has a system of legal plurality which consists of the Roman Dutch Law and Customary legal traditions.
7. The Priorities were identified in collaboration with NGOS. The programme was in line with Botswana Vision 2016, the National Policy on Women in Development, and the recommendations of the UN Fourth World Conference on Women.
8. These organisations focused on women's domestic responsibilities, providing sewing on home economics activities such as sewing and cooking. Both of these organisations have day care centres in the urban areas, providing an important service to the growing labour force at more affordable prices. The YWCA has provided the opportunity for teen mothers to resume their studies, and both are also actively disseminating information to women on HIV/AIDS.
9. This regional organization has 'satellite' branches in Botswana, Lesotho, Malawi, Mozambique, Swaziland, Zambia and Zimbabwe with its headquarters in Harare.

10. The Women and Law in Southern Africa Research Trust (Botswana) has over the years been comprised of an inter-disciplinary team of Research and Action Associates including lawyers, sociologists, education specialists and social workers.
11. It must be noted that the human rights organization Ditshwanelo has been active in the promotion of human rights in Botswana. The organization does not consistently address women's rights as a matter of focus, but situates them in the arena of human rights.
12. While the customary law initially represented the customs of the majority *Tswana* ethnic group (labeled as the native law and custom in the colonial era), its content and practice is determined at the local level, meaning that there exists a plurality of customary laws reflecting the cultural beliefs and practices of various ethnic groups.

← --- **Formaterat:** Radavstånd:
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