



WOMEN & HUMAN RIGHTS DOCUMENTATION CENTRE

NEWSLETTER

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A RESOURCE FOR ADVANCING GENDER EQUALITY: THE WOMEN AND HUMAN RIGHTS DOCUMENTATION CENTRE

Sandy Liebenberg, Karrisha Pillay and Farahnaaz Safodien

The Women and Human Rights Documentation Centre is a specialised reference library and information centre based at the Community Law Centre, University of the Western Cape. It focuses on a variety of areas related to human rights and gender equality at national, regional and international levels. The Documentation Centre is a complementary component of the Women and Human Rights Project of the Community Law Centre which was initiated in 1992 by Ms. Brigitte Mabandla (now Deputy Minister of Arts, Culture, Science and Technology). The Project played a significant role in advancing women's rights through research, advocacy, education and legal advice during South Africa's transition to democracy. Subsequent to Ms. Mabandla's departure for political office in 1994, the Project continues to promote the adoption of laws and policies that will advance substantive gender equality in South Africa. The apartheid legacy of social and economic disadvantage is a major structural cause of the unequal status of the majority of women in South African society. A key focus of the project is redressing these disadvantages through the effective implementation of the human rights recognised in the South African Constitution and in international human rights instruments.

The Documentation Centre has been open to the public since August 1996, although it was officially opened at a reception hosted by the Centre on 2 December 1996. We were delighted to have Ms. Rhoda

Kadale of the South African Human Rights Commission deliver the guest speech at the reception. She highlighted the important role of the Centre as a resource in research, advocacy and lobbying aimed at



The Documentation Centre

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The subject-matter covers a broad spectrum relating to women's human rights such as violence against women, reproductive rights and health, the right to development, civil and political rights as well as economic, social and cultural rights.



Left to right: Karrisha Pillay (Researcher), Farahnaaz Safodien (Documentalist), Leticia Davey (Assistant), Sandy Liebenberg (Senior researcher)

advancing the equal status and development of women in South Africa. A speech was also read on behalf of Ms. Brigitte Mabandla who was unable to attend the reception due to pressing official engagements.

The Centre houses a substantial collection of material including books, journals, UN materials, CEDAW reports, comparative case law and legislation, research reports, conference papers and newsletters. The subject-matter covers a broad spectrum relating to women's human rights such as violence against women, reproductive rights and health, the right to development, civil and political rights as well as economic, social and cultural rights.

One of the primary objectives of the Centre is to be accessible to a broad community of users involved in advocacy and research on women's rights in South Africa. To this end the Centre is open to all groups on and off-campus as a reference library. The Centre has photocopying facilities, and users will be assisted in their searches by our documentalist, Ms. Farahnaaz Safodien. Regular acquisitions lists and subject bibliographies will also be prepared and disseminated. This newsletter represents the first in a regular series aimed at stimulating awareness and debate on

topical issues related to human rights and gender equality.

The Centre places a high priority on building linkages with similar Centres both nationally and internationally. We are particularly interested in establishing ties with similar institutions on the African Continent with a view to sharing information, materials and skills, and strengthening co-operative efforts to promote women's rights.

Interested groups and individuals are invited to visit the Centre and to explore the relevance of its materials for their work. Suggestions for the improve-

ment of our collection and facilities are also welcomed. It is hoped that optimal use of this resource will be made in efforts to achieve real and meaningful equality for women in South Africa.

Any queries regarding the Centre can be made to Ms. Farahnaaz Safodien at the contact numbers below. The Centre is open Monday to Friday from 9.00am - 1.00pm and from 2.00pm - 4.00pm.

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GENDER EQUALITY AND WELFARE RIGHTS IN SOUTH AFRICA: THE LUND COMMITTEE ON CHILD AND FAMILY SUPPORT

Vivienne Bozalek

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A central question which arises out of the polemics surrounding the Lund Commission

Report is whether familist assumptions have influenced the recommendations contained in the Report. My major arguments in analysing the Lund Committee's Report are that, while on the one hand the Report has taken cognisance of the diversity of family forms in South Africa, some of the decisions in the Report have been made using implicit assumptions about the naturalness of concepts such as the male breadwinner. The idea that families or parents are independent and self-reliant and so can be divorced from their social and historical context is also challenged in this critique of the Report. One is mindful of the fact that the Committee's task was a difficult one in that they were operating under severe constraints. They had to make proposals that would be based on principles of equity, rather than privileging certain groups of women as was the case in the past. However, it is still necessary to look closely at assumptions implicit in the recommendations of the Report and to consider their implications for social policy in South Africa.

Homogenising 'Parents'

The Report takes a conservative stand from the start in arguing that it is primarily the parents, rather than the state, who should shoulder responsibility for the support of children. In

abstracting the category 'parents' both from an historical context as well as from the impact of race, class and gender, parents are assumed to be an homogeneous group. This approach assumes that it is within parents' power to support their children, even though it is evident that the majority of South Africans live in abject poverty and could not hope to maintain

Welfare has often been associated with surveillance of poor women

their children. The Report states that it is only when '[m]others are unable to provide for themselves, and cannot get support from the fathers of their children', that the state should offer social security. Women are not regarded as individuals in their own right. The assumption is that the man will have access to the 'family wage' and be able to provide support for his children, although we know that Black men have not been remunerated in this way in South Africa.

If this attempt to get fathers to pay up fails, the Lund Report proposes a flat-rate child support benefit to all children who qualify in terms of a test of the care-givers means. The Report argues that the benefit should be paid to the primary care-giver, which can be seen as a positive step, since this will not disadvantage those who are not biological mothers who are caring for children, as was the case in the past.

Issues of Surveillance

The linking of the child care benefit with 'certain health related activities in relation to the child' which the care-giver would 'be obliged' to carry out, is a means of surveillance of women which would not apply to the non-poor. Welfare has often been associated with surveillance of poor women, linking welfare benefits

to their familial responsibilities e.g. with being a 'fit mother' and scrutinising their budgetary skills. Could we welcome this as a

progressive step in welfare policy for women and children in South Africa? This would penalise women who do not have the resources in terms of time and money to get their children to the clinic for growth monitoring and immunisation, assuming that clinics are available to all women in all areas. The fact that the birth must be registered in order to receive a child benefit may be disadvantaging those mothers who are illiterate or who do not have easy access to registering offices.

Making the child benefit conditional upon certain behaviour is a form of discriminating against care-givers. Feminist writers have pointed out the gender and class distinctions in benefits which result from formal employment or paid work, as opposed to informal caring or unpaid work. Whereas unemployment benefits are regarded as an entitlement of the individual and do not carry any form of stigma, maintenance or child benefits are regarded as a privi-

lege. They are given to women not as individuals, but as members of families. Those who receive the latter form of benefits are subjected to scrutiny by social workers who have the authority to withdraw the benefit. Rather than continuing with these distinctions in South Africa, we could use the opportunity to improve on this position.

An Ethic of Care Stance?

With regard to the Care Dependency Grant, which is paid to caregivers of 'children whose intellectual or physical impairment is so profound as to require full time care', the Report proposes that it continues. It states that this will save the state money in that it 'saves the costs of expensive institutional care'. The caring work that is being done by these women (I assume that the majority of these carers are women) is not granted adequate recognition as the current position is seen as useful by saving the state money. It could be compared to the rhetoric of community care in Britain which used the labour of women and volunteers for providing intensive care within the community without acknowledging them for this work. This ethic regards the work of caring as essential to society and recognises interdependence rather than independence.

Phasing-out the State Maintenance Grant

The Committee proposes that the child support benefit be financed by the phasing out of the parent allowance part of the State Maintenance Grant. This would amount to taking away resources from the poor to finance other poverty stricken households and could lead to political tensions. What will happen to these women and their children is not dealt with by the Report. Although diversion to training opportunities is advised, there is no indication of

how the state will provide caring services to these women's dependants to free them to pursue the training possibilities.

Practical Links Between Professional Welfare and Social Security Staff

The Committee suggests that professional welfare and social security staff in provincial and national departments should form links so as to 'divert as many applicants for social security as possible to opportunities which would increase their independence'. This is predicated on a number of assumptions. Firstly, that people are using social security as a soft option to other means e.g. employment. Social security is not regarded as a right although it is recognised as such in the Constitution. Secondly, welfare and social security personnel are being positioned as gatekeepers carrying out surveillance, a role which contrasts to the 'developmental approach' endorsed by the Department. Thirdly, the desired status is one of independence. This fails to acknowledge that dependence is part of life and that we are all dependent at some stage during our lives.

The Reality of South African Lives

The Report provides valuable information by highlighting the reality of South African lives, which has not previously been adequately documented or acknowledged when planning policy. For example, the Report points out that many South African children, especially those in poor circumstances, have multiple care-givers who are usually not either of their biological parents. They also point out that households are fluid, with people coming and going to seek work or care for their children, and that children are also moved between those able to provide care.

Fiscal Constraints

In commenting on the fact that the government is working with 'real fiscal constraints' and that social security is a politically sensitive issue, the Report does not adequately emphasise the importance of social security as an entitlement rather than a privilege. Starting from the premise of an ethic of care, the Committee could have called on the state to acknowledge dependence and its responsibilities in this regard. We cannot condone the fact that all the unpaid caring tasks fall on women and that they should continue to shoulder this burden. What is the point of bringing women into the economy without provision for care of children and other dependants? As one author observes:

'There is the common assumption that poor countries cannot afford to provide the services associated with a 'welfare state', and this view is increasingly taken by richer countries as well. Yet, it is unacceptable and unsustainable for economic policy to be formed around an assumption that women's work will subsidise cuts in social spending.'

(C. Sweetman, 1996 'Women and the Family', *Gender and Development*, 4(2), 5-6)

On 5th March 1997, the Cabinet and Ministry of Welfare announced their acceptance of the Lund Committee's recommendations subject to certain adjustments. The Parliamentary Portfolio Committee on Welfare have decided to hold public hearings on the matter. These hearings will take place on 21st and 22nd of April 1997. For more information contact Sandy Liebenberg at tel 959 2950, or Alison Tilley of the Black Sash at tel 461 7810

TRAFFICKING IN WOMEN: DOES IT EXIST IN SOUTH AFRICA?

Karrisha Pillay

The African Regional Conference on Trafficking in Women held in Uganda in January of this year bore testimony to the magnitude of the problem of trafficking in women not only in Asia, Europe, Latin America and the Middle East, but also in Africa. Though trafficking in women might have assumed different forms over the years, it is by no means a new phenomenon. In fact, there have been attempts to eradicate this form of slavery for nearly a century by international agreements and conventions as well as national measures, but unfortunately with little success.

The Veil of Secrecy

The greatest obstacle to addressing the issue of trafficking in women seems to be the clandestine nature of the practice itself. Trafficking in women is often carried out in conjunction with other legitimate business in an attempt to deflect suspicion, or in a manner that masks the reality of the practice by an almost impregnable veil of secrecy. This secretive nature of the practice has led to dire con-

sequences in so many countries not only abroad, but also in Africa should raise questions of its possible existence in South Africa.

Defining Trafficking in Women

Furthermore, trafficking in women lacks a precise and coherent definition which the Global Alliance Against Trafficking in Women [GAATW] acknowledges is a fundamental problem in responding to the issue. A

number of different definitions have existed over the last century, reflecting the complex nature of the practice. Central to any legal definition of trafficking in women is the element of consent. If consent is uncritically accepted as a defence against trafficking, the danger exists that traffickers will rely on voluntarism as a defence in a context where they have exploited the economic, social

Studies undertaken abroad have revealed that deception forms a common strategy by which women are trafficked.

An additional problem inherent in the definition is the fact that trafficking in women has historically been associated solely with prostitution and, most penal provisions dealing with the issue still bear this preoccupation with sex. However, over time it has emerged that trafficking may occur for purposes other than prostitution such as domestic labour or forced marriage and it is vital that a definition of the practice take account of this. This becomes especially pertinent in South Africa where rural women are often promised jobs involving domestic labour, and end up working under slavery-like conditions.

If the consent of women is totally ignored, it undermines the autonomy of women and respect for their decisions.

sequences, the most obvious being the fact that the practice has been barely recognised as a serious problem in most African countries until recently. Linked to this is the paucity of information on the subject, thereby making the issue extremely difficult to address. However, notwithstanding these odds the fact that trafficking does exist on the scale that it

and personal needs of the women concerned. On the other hand, if the consent of women is totally ignored, it undermines the autonomy of women and respect for their decisions.

Related to the element of consent is the issue of deception. Studies undertaken abroad have revealed that deception

The definition proposed in the preliminary report of GATTW has taken all these issues into account in a commendable fashion. The proposed definition recognises that the abuse of trafficking in women can operate on two equally important but separate levels: the process of recruitment and the context in which work or services are performed. This separation recog-

nises that whilst one can be an act of choice, the other can involve force, deceit or other abuses. It proposes the following definitions which seek to give women greater protection at all stages of the process:

Trafficking in Women

All acts involved in the recruitment and/or transportation of a woman within and across national borders for work or services by means of violence or threat of violence, abuse of authority or dominant position, debt bondage, deception or other forms of coercion.

Forced Labour and Slavery-Like Practices

The extraction of work or services from any woman or the appropriation of the legal identity and/or physical person of any woman by means of violence or threat of violence, abuse of authority or dominant position, debt bondage, deception or other forms of coercion

Causes of Trafficking in Women

In an attempt to address the problem of trafficking in women it is crucial that the causes of trafficking in women be examined. Research undertaken by GAATW has revealed that trafficking in women can be attributed to numerous factors. Poverty and unemployment are significant factors rendering women vulnerable to trafficking. Migration laws and policies are considered another cause. As permits for foreign workers are being reduced and border controls are being reinforced, legal migration and working abroad have become increasingly difficult for women. This exposes them to traffickers who offer them assistance obtaining visas and work permits. The fact that trafficking in women holds relatively few risks for the traffickers and offers financial gain that significantly outweighs this limited risk, contributes substantially to its existence on a large scale in many countries. Re-

search by GAATW has also revealed that corruption of authorities and certain traditional practices play a significant role in trafficking. Finally, the position of women in the gender hierarchy that persists in our society undeniably contributes to the phenomenon of trafficking in women.

The Role of the Law

The law can play a vital role in combating the practice of trafficking. Formulating effective legal responses is complex, as it involves

of movement, freedom from slavery and forced labour, the right to human dignity and the right to equality. In addition, trafficking in women is specifically dealt with by both the Beijing Platform for Action and the Convention on the Elimination of all forms of Discrimination Against Women [CEDAW], both of which are binding on South Africa.

Given the extensive violation of women's rights and the detrimental effects of trafficking in women, it is a subject that re-

The position of women in the gender hierarchy that persists in our society undeniably contributes to the phenomenon of trafficking in women.

an intersection of the laws relating to prostitution, immigration, labour and gender equality. In dealing with trafficking in women in South Africa there are several constitutional provisions that are of relevance including, the right to security and control over one's own body, freedom

quires extensive investigations and research on the part of government and NGO's. A high priority is to ascertain the nature and extent of its existence in South Africa, and to make concrete recommendations for its eradication.

THE AFRICAN REGIONAL CONFERENCE ON TRAFFICKING IN WOMEN:

The Community Law Centre was represented at the Conference which was held in Kampala, Uganda from the 29th to the 30th January of this year. The Conference was held to discuss research carried out in East and West Africa. The research findings will be forwarded to the UN Special Rapporteur on Violence Against Women, its Causes and Consequences. Copies of the Global and African Reports on Trafficking in Women are housed in the Documentation Centre.

RESOURCE REVIEW: INFORMATION KIT ON INTERNATIONAL LABOUR STANDARDS AND WOMEN WORKERS

Helène Combrink

Lecturer: Department of Public and Adjective Law (UWC)

The International Labour Organization (ILO), was created in 1919, bringing together governments, employers and workers in an effort to promote social justice and better living and working conditions world-wide. In 1946 the ILO became the first specialized agency of the United Nations system. Throughout its history, the principal means of action of the ILO has been the establishment of international labour standards. These have influenced international action in the fields of human rights, social policy and sustainable development. In addition, the Conventions and the Recommendations adopted by the International Labour Conference have inspired national legislation. National policies are also influenced by ILO declarations and resolutions.

Against this background, this information kit produced by the International Labour Office (secretariat of the ILO) sets out the accepted international standards regarding women workers. Its purpose is summarized as follows:

'Lack of awareness of women workers' rights has increasingly been recognized as a constraint in the effective use of the rights enshrined in both national and international standards. Dissemination of information about these rights is, therefore, a vital instrument for improving upon the status of women in society.'

The Information Kit consists of:

■ A booklet on the ILO and women workers' rights, setting out the organization's role in promoting women workers. Specific reference is made to the ILO's programme of activities on women workers, its means of action, and its structure for the promotion of equality. Examples of recent ILO publications on women are also provided.

■ A brochure entitled 'Women Workers Rights: International Labour Standards and Women Workers'. This brochure sets out the impact of international labour standards on women workers and examines the issue of protectionism versus equality. This is followed by the ILO's Conventions and Recommendations concerning women workers under the headings of: equality of opportunity and treatment; employment and development of human resources; and working and living conditions. The final section contains information about the procedures of adoption and supervision of international labour standards.

■ A pocket guide containing key provisions of ILO Conventions and Recommendations concerning women workers.

■ A video entitled 'International Labour Standards on Women Workers'. The video provides further information on the adoption of international standards, and specifically examines the areas of maternity benefits, equal remuneration for work of equal value, equal op-

portunity and treatment, employment and unemployment protection, human resources development and workers with family responsibilities.

■ 'ABC of Women Workers' Rights: A Practical Guide'. This guide defines and explains selected terms and concepts frequently used in the field of employment. In particular, an effort is made to highlight those specific terms and concepts which women workers may be able to use in the defence of their rights and in the establishment of goals.

Given the recent introduction of the Labour Relations Act, and the increasing awareness of international standards in the formulation of national policy in South Africa, this information kit should serve as a useful introduction to this particular area of law. The documents and video, compiled in clear accessible language, provide concise information on the relevant international labour standards concerning women workers. This information kit will be of specific interest to trade unions, researchers and other groups working to promote gender equality in the field of labour relations.

The information kit, dated 1993, is produced by the Interdepartmental Project on Equality for Women in Employment of the International Labour Office.

The following books represent a selection of the books recently acquired by the Documentation Centre. They are highlighted for their topical interest and relevance to South Africa. For a more comprehensive list of material in the Centre, acquisitions lists for 1996 and for January-March 1997 are available from the Centre.

Human Rights of Women: National and International Perspectives

Rebecca Cook (editor)

University of Pennsylvania Press, 1994

ISBN 0812232615

This volume of essays explores how the United Nations Conventions and other institutions of international human rights law could be used as effective tools in promoting women's equality and human dignity. The book analyses how international human rights law applies specifically to women in various cultures, and explores various strategies to ensure the equal application of human rights law at international, regional and domestic levels.

The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam

Fatima Mernissi

Addison-Wesley, 1991

ISBN 0201523213

This book is a study of the religious literature of Islam in an effort to shed light on the attitude of Islam to women's rights. It attempts to recapture some of the atmosphere in the first Muslim city in the world, Medina, in the year 622 when women were drawn to a new religion which spoke of human dignity and equal rights. Going back in time and memory, Dr. Mernissi argues convincingly that neither the Prophet, nor Allah as the source of the Holy Law, desired anything other than equality between the sexes.

Women, Class and the Feminist Imagination: A Socialist-Feminist Reader

Karen V Hansen (editor)

Temple University Press, 1990

ISBN 087722630X

This volume collects together the most thought-provoking and self-reflective articles

written from a socialist-feminist perspective in the 1980's. It discusses family life, sexuality and work from a socialist-feminist perspective, and introduces ways of looking at that perspective's relevance for the future. It includes reflections on the movement itself, discussions on sexuality and pornography, work and the labour movement and the viability of socialist-feminist strategies in a liberal world.

The Women's Budget

Edited by Debbie Budlender

Idasa, 1996

ISBN 1874864322

Women all over the world have suffered the brunt of conservative economics. This book examines the South African government's programmes which influence the lives of women, the economic impact of the sexual division of labour on women, and key alternatives for the reprioritisation of budget issues affecting women. The Women's Budget Initiative is a joint research project, initiated in 1995, which provides the first serious attempt to examine the gender impact of key aspects of the total budget. It focuses on welfare, education, housing and work and looks at issues of taxation and public sector employment. The budget is clearly central to ensuring that women enjoy full and equal access to all human rights.

A Manual for Socio-Economic and Gender Analysis: Responding to the Development Challenge

Barbara Thomas-Slayer; Andrea Esser; Elvina Mutua; Rachel Polestico and Octavia Taylor.

Ecology Community Organisation [ECOGEN], 1995

This manual has grown out of the collective experience in processes of community change among the co-authors, extending over many years. It is intended to be used by development professionals and residents of communities in the North and South in addressing constraints to equitable, effective, and sustainable development. The authors hope that socio-economic and gender analysis [SEGA] will contribute to empowering those who seek livelihood security, basic human rights and the opportunity to participate more fully in their own society. It offers a conceptual framework, participatory strategies and tools, and ways of measuring effectiveness.