

WILDAF WEST AFRICA

Newsletter

Women in Law & Development in Africa

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EDITORIAL

WILDAF Ghana is one of the oldest national networks in Africa of which officers were also those members who founded WILDAF in 1990 in Harare, Zimbabwe. This issue is a special one focussing on this network's activities: two articles give account of the status of women's rights in this country and of a bill being passed which will ensure to women more protection against violence they are subject to on DAILY basis.

In this issue we will also meet Mrs Akua KUENYEHIA, Dean of the Faculty of Law, University of Legon in Accra. She has just been elected, along with two other African women, at the International Criminal Court established by the UN and which comprises 18 judges.

In addition, we are reporting an exceptional event : a decision of the Benin Constitutional Court stating that the provisions contained in the new persons and family code relating to polygamy are inconsistent with the constitutional law because they are discriminatory and contrary to the principle of equality affirmed by the Constitution.

Furthermore, through this issue we wish to tell you that WILDAF-Benin has just launched a centre for right and development which will essentially manage women victim of violence and will undertake IEC in order to fight in sustainable manner against the phenomenon in Benin.

Every year and during 16 days, a campaign to denounce the various forms of violence perpetrated against women is conducted by national networks: the heading "network's news" gives you a report on the 2002 edition of this campaign. This heading also gives you information on the launching of the WILDAF West Africa's web site which is now functional.

Finally, the heading "Did you know that?" in this issue draws your attention to the Financial auditing of a project which is quite important as its technical assessment.

Enjoy your reading

Kafui KUWONU, Program officer

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The Wildaf West Africa Newsletter is also available on our website

WARNING

Our website address is changed. It is now: www.wildaf-ao.org

E-mail address: wildaf@cafe.tg

PROMOTING WOMEN'S RIGHTS IN GHANA FOCUS ON THE WORK OF WILDAF GHANA

In the last census of 2000, the population of Ghana stood at 18,412,247 million with women forming 51 percent of the total population of Ghana. Of the total population of Ghana, about 70 percent reside in rural areas and the remaining 30 percent in urban areas.

General Role and Status of Women in Ghana

Women in Ghana, in their reproductive roles are the nurturers of the family, providing food as well as health care. In addition, they produce a substantial amount of the food consumed in the country and also form an important labour force in cash crop production.

Women are also found in the formal and informal sectors of employment. In the formal sectors, they are concentrated mostly in the service industries, in less prestigious and low paid jobs as teachers, nurses, secretaries etc. A large percentage of the female workforce is in the informal sector engaged in diverse activities. In spite of the important role played by the women of Ghana in the socio-economic sector, they still occupy the bottom rungs of the economic ladder. Women's important role and significant contribution to the economy and social life have largely been ignored.

Legal Status of Women in Ghana

In Ghana, both women and men have equal status under the law. All Ghana constitutions since Independence have guaranteed women equality under the law. Similarly, legislation is generally gender neutral. In spite of these constitutional and legal guarantees, women still play subservient roles to men. Under our customary systems, women are expected to give precedent to men in all things, with the men taking all decisions

affecting the family. Wives are expected to assist their husbands to acquire property, both financially and otherwise and yet if there is divorce, the woman is not entitled to any of the property. Until 1985 when the Intestate Succession Law (PNDCL 111) was passed, a widow, whether under the patrilineal or matrilineal system of inheritance, was not considered part of the husband's family and therefore was not entitled to any of the property of her deceased husband who died intestate.

Again under customary law, men are usually appointed family heads even when there is female who is older. This leads to the situation where family properties are usually controlled by men to the exclusion of the female members who are supposed to be equal beneficiaries. Under the patrilineal system of inheritance, even though all children of a deceased male are equal beneficiaries under his estate, in distributing the property, male children are given much more than the females and it is not uncommon for the females to be excluded altogether with the excuse that they are married and therefore must be provided for by their husbands.

It is also these same socio-cultural factors that influence families to decide which of their children to educate, most often at the expense of the girl. In spite of the law, Ghanaian women are generally not encouraged to assert themselves or aspire to the level of their male counterpart.

WILDAF Ghana

WILDAF Ghana, is one of the oldest network countries in Africa. Six individuals from Ghana participated in the first conference held in March 1990 which brought WILDAF into existence. Since then, members of WILDAF Ghana

have played a very active role in all activities of WILDAF both regionally and sub-regionally.

Membership of WILDAF Ghana is made up of lawyers and women from other disciplines. Currently, there are about thirty individual members and ten organizational members. Some of the organization members are; FIDA-Ghana, Association for Advancement of Women (ASAWA), Women's Research Group of the University of Ghana, Trades Union Congress (Women's Desk), Centre for the Development of People (CEDEP), Green Earth Organization, United Women's Front (UNIWAF), Gender Studies and Human Rights Documentation Centre (Gender Centre), Abantu for Development and Women in Agricultural Development, (WAGTECH).

Activities of WILDAF Ghana:

Since 1992 when WILDAF Ghana was established, the network has carried out several activities based on the priority issues identified at the Regional level. These four priority areas are:

(1) fostering rights awareness and action; (2) advocating law and policy reform; (3) access to and control over economic resources and (4) confronting violence against women.

Having identified ignorance as one of the factors that hinder the development of women, WILDAF (Ghana) has consequently embarked on a rights awareness programme in the country to address some of the issues.

In line with its objectives, WILDAF (Ghana) has since September 1992 trained over three hundred

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INTERVIEW WITH PROF AKUA KUENYEHIA

Out of 18 posts at the International Criminal Court, seven have just been attributed to women through election. Among these seven women, there are three African women: Fatoumata Dembele Diarra from Mali, Navanethem Pillay from South Africa and Akua Kuenyehia from Ghana. WiLDAF NEWSLETTER met Professor Akua Kuenyehia for you. She is the Dean of the Faculty of Law, University of Legon, Accra, Ghana and an activist of women's rights. Here are her impression, appreciation and feeling.

WiLDAF NEWSLETTER: Prof. Kuenyehia, we have just learnt of your election as a judge to the International Criminal Court, (ICC) which is a great honour, not only to you but to the women of Africa. Could you tell WiLDAF Newsletter a little about yourself as a professional and a women's rights activist?

Prof. Kuenyehia: I started off my professional career as a lecturer at the faculty of Law, University of Ghana, Legon after my Masters Degree from Oxford University in 1972 and have for the past 31 years worked there except for a brief period in the eighties when I worked as the company secretary for UNILEVER in Ghana. I am currently the Dean of the Faculty of Law, but still teach regularly in two subjects. For nearly twenty years now, I have also worked actively to promote the rights of women, not only in Ghana, but in Africa and internationally as well. I am a member of WiLDAF Ghana and for about nine years served on the Regional

Board of WiLDAF. I was also the chairperson of WiLDAF for two terms. I was the President of International Federation of Women lawyers (FIDA) from 1987 to 1989 and have been active in providing legal aid to indigent women and men in society. I have also a number of publications to my credit.

WiLDAF NEWSLETTER: What are the requisite qualifications needed to be nominated and elected to the ICC?

Prof. Kuenyehia: Nominations are made by State Parties and so I was nominated by the government of Ghana. However, before you can be nominated you have to fall within one of two categories. The first category was candidates who were already judges and had experience in criminal jurisprudence. The second category in which I fell comprises academics with experience in international human rights as well as knowledge in criminal law and gender issues, especially gender violence. I have taught criminal law for several years and my activist

work, as some of my publications are on gender issues. Candidates nominated by their governments are then elected on their own merit by state parties. It is worthy to mention here that during the negotiations for the setting up of the Court, NGOs lobbied successfully for the inclusion of at least 6 women in the 18 member Court.

WiLDAF Newsletter: What does this election mean to you personally?

Prof. Kuenyehia: For me, my election to this high office is a culmination of all the work I have done over the years, whether as an academic or as an activist. I also see it as a big opportunity to put all I have written about to good use.

4. WiLDAF Newsletter: What can women, especially African women, expect from the Court?

Prof. Kuenyehia: For the first time, the Rome Statute that set up the ICC defined crimes against humanity to include sexual violence, forced pregnancy and other sex related violence committed against women in conflict and war situations. This means that women can expect justice if they are victims of any such crimes, whether occurring internally or externally.

WiLDAF Newsletter: What do you think as a woman you bring to your new position?

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PROMOTING WOMEN'S RIGHTS IN GHANA FOCUS ON THE WORK OF WILDAF GHANA

women leaders of grassroots organisations on legal education and leadership skills, with a view to:

(1) Helping the women articulate their needs by identifying issues which could form the basis for future planning for rights awareness programmes or law reform and (2) Equip the women leaders with the basic knowledge and skills to enable them train their members and their communities to be able to make use of the laws.

These training workshops have been carried out in all ten regions of the country. In order to achieve the objectives of the training, participants are:

(1) informed about laws affecting women in particular such that they are enabled to disseminate information to others in their groups specifically relating to Intestate Succession, Marriage and Divorce Laws, Wills and Maintenance of children and violence against women. In addition they are informed about rights under the constitution with emphasis on participation in political processes at local, district, regional and national levels;

(2) exposed to leadership skills and enabled to practice and internalize skills necessary for working with and managing groups;

(3) Enabled through personal growth exercises to raise their self-esteem and develop enough assertiveness to enforce their legal and other human rights.

These trained women, who are referred to as Legal Literacy Volunteers (LLV's) are drawn from grassroots organizations, social groupings, church groups, workplace associations, governmental and non-governmental organizations.

These women come from varied backgrounds such as teachers, nurses, community development workers, agricultural extension workers, social welfare officers, non-formal educators, market women etc. The common denominator among the participants is that they all have proven leadership ability in their various groups. Young women leaders are also targeted to take part in the training with a view to encouraging them to take up leadership roles in future. It is also ensured that there are participants from every District in each Region.

The Legal awareness Programme (LAP)

Following the training of the Legal Literacy volunteers in the Western Region, a project was put together to set up a Legal awareness programme in the Western Region. The Programme has two full time legal officers and other support staff to provide legal aid and counseling services to poor women and children.

The work of the legal officers is also to support the activities of the volunteers in the communities. This first programme, which started in April 1995 is almost nine years old. The benefits of this programme were such that the funders, SNV/ Netherlands Development Organisation supported WILDAF to replicate it in the Volta Region. This one started in 1998.

OBJECTIVES

Having identified ignorance of rights as one of the key factors that hinder the development of women, and in order to address this problem and improve the status of women in Ghana, the LAP has as its main goal awareness creation and protection of women's rights.

The intermediate objectives are:

(a) A developed and sustainable legal education programme;

(b) Improved access to legal services;

(c) Improved collection and dissemination of information on women's legal rights and

(d) Increased awareness of legal and human rights of women.

The expected outcomes are:

(1) increased awareness of legal and human rights of women at all levels,

(2) assertion of women's rights,

(3) increased advocacy for women's rights and

(4) reduced incidence of violation of women's rights.

As at the end of 2002, over one thousand cases had been recorded at the legal aid clinic in the Western and Volta Regions. Some of these cases had been referred to the office by LLVs, whilst the majority of the clients had sought assistance as a result of the outreach programmes by both the legal officers and the LLVs,

The training for the volunteers has been embraced by other organizations, using the training module developed by WILDAF resource persons. These training programmes have been carried out for Associates in Development (ASSID) in the Upper West Over the Region, The Hunger Project in Mfantseman and Kwahu South Districts and the Dangbe West District under its Women Empowerment Project as part of the poverty Alleviation activities.

Action Aid Ghana, an international NGO is currently assisting WILDAF to raise funds to replicate the programme in the three Northern Regions of the country.

Capacity Building of network members:

Over the years, WILDAF has undertaken to build the capacity of its

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INTERVIEW WITH PROF AKUA KUENYEHIA

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GOOD WEBSITES

Prof. Kuenyehia: I believe that women and men view things from slightly different perspectives. It is my view that looking at issues from both angles brings a more balanced view.

WiLDAF Newsletter: Who are the other Africans on the ICC? Are there any other women apart from you?

Prof. Kuenyehia: Indeed, it is interesting to know that the three judges elected to represent Africa are all women. The two others come from Mali and South Africa and for me, this is an indication that African governments are gradually beginning to recognize the potential and capability of professional African women. I think we should see more and more women being nominated by our governments to international positions.

WiLDAF Newsletter: Finally, any personal objectives to improve women's rights on the continent?

Prof. Kuenyehia: I believe that my election to ICC offers an opportunity to further the cause of women and I intend to use this opportunity to the fullest.

Thank you Prof. Kuenyehia members of WiLDAF/FeDDAF wish you good luck in your new post.

Subject: Mapping the World of Women's Information Services Database of the International Information Centre and Archives for the women's Movement, Amsterdam, Netherlands. About 350 libraries and information centres for women's, in more than 120 countries and a reference guide (available online and in paper).
Languages : English and Dutch. More than hundred references of French centre.

Address : <http://www.iiav.nl/mapping-the-world>
From La toile d'elles issue 65, January 03 2002 (by Femmes-Afrique). Femmes-afrique@enda.sn

Subject : The Global Fund for Women is a grant making foundation supporting women's human's rights organisations around the world working to address issues such as gaining economic independence, increasing girl's access to education and stopping violence against women. In addition to that, they accept urgent requests for support to organize meetings, conferences, and networking of women or for women's participation in local, regional, or international meetings and conferences. You will find on their website every needed information to make a grant application and other very useful resources like the document: *The Women fundraising Handbook*.

Languages : English, French, Spanish, Portuguese, Arabic....
Website : <http://www.globalfundforwomen.org>

Subject : The Gender section of the Organisation for Economic Cooperation and Development includes useful gender mainstreaming guidelines, reports and research as well as publications and a very useful source book on concepts and approaches. Another strength with this website is the link to other related sites on gender equality and women's rights. *From : UN-Habitat Gender Policy, de United Nations Human Settlements programme*

Languages : English, French
Website : <http://www.oecd.org/dac/gender>

You are member of WiLDAF/FeDDAF West African Network and wish to publicize your activities? Your realisations? Your association ?

Send us your text (Long or short, what counts is the content!) by e-mail to WiLDAF West Africa to the following address: wildaf@cafe.tg. The deadline for the reception of the texts are : May 26 2003 (for July 2003 issue), August 25 2003 (for October 2003 issue)

Who are the Newsletter readers? The Wildaf West Africa Newsletter is distributed to WiLDAF West Africa members in 9 countries of the sub-region, to our partners in Africa, Europe and America BUT ALSO to magistrates, judges, lawyers, medical doctors, policemen, traditional rulers and religious leaders trained in the frame of EU2 project and theirs peers.

For any question or comment, don't hesitate to contact us

Second Meeting of Experts and Ministers on the Protocol... took place at long last

The meetings of Experts and Ministers for the consideration of the Protocol to the ACHPR relating to the African Women's Rights finally took place from 24 to 28 March 2003 in Addis Ababa at the Headquarters of the African Union after being postponed several times.

We are awaiting the return of our representatives to brief you on the outcomes of these meetings whose holding leaves a ray of hope that the text could be included on the agenda during the next Summit of African Heads of State.

For further information, contact: The Regional Committee on the ACHR Protocol relating to Women's Rights: Tel. (228) 22-26-79, Fax: (228) 222-73-90, Email: wildaf@cafe.tg

Departure from the West African network coordination team.

At the end of her term of office, Suzanne OUELLET who was in charge of communication, returned in March to Canada, her fatherland. The WILDAF network hereby shows her its gratitude for the tremendous job she has done during her two-year term of office. In the next issue, we will meet her so that you better know her.

Network News

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Do you think that this training session will change something in your daily professional practice? Yes! Yes! *Because as far as I am concerned personally, there are a number of practices which I had in my profession but I wish to indicate that with the training, my opinion has changed and I will be more committed to demanding the application by the judges of the conventions ratified by Mali and the constitution of Mali which are instruments which maintain equality between Man and Woman.*

Tièoro KONARE, Lawyer

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This training has met our expectations which were, inter alia, to upgrade our knowledge on women's rights. I think that the daily exercise of our profession we will be able to exploit these documents which were offered to us. I wish to draw the attention of the Malian Authorities to the fact that they have to assume their responsibilities in respect to the harmonisation of the texts which they ratified to facilitate the daily exercise of their task as law professionals involved in women's rights.

Mrs. KEITA Diarra Magistrate, Prosecutor.

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16 days of Campaign of activism on violence against women, 2002

WILDAF-Senegal organised a panel on the theme marital violence with the financial support of AWDF. The panel was facilitated by prominent Muslims and the Chairperson of WILDAF-Senegal. With regard to the audience, it comprised men and women from all walks of life (particularly several participants in the activities of the UE2 programme).

The panel had three highlights in its activity. First of all, the intervention of the imams who, referring to religious precepts, formally reiterated the special place reserved for women in the Koran. Thereafter, the Chairperson of WILDAF-Senegal reviewed all the national laws and conventions signed by Senegal which punish the perpetrators of violence and protect women and the various types of impediments which inhibit their implementation. Finally, a very lively debate followed the presentations.

WILDAF-Benin integrated its campaign activities into a one-year project for *Improving the Conditions of Women and the Girl Child in Benin*, supported by *Développement et Paix (Development and Peace)*, a Canadian NGO. The activities of the campaign proper consisted in a series of sensitisation exercises which benefit 8 colleges on the theme "*Sexual Harassment in Schools*". The following participated in the production of this campaign: Member NGOs (AFB2D, AFJB, CAO, CBDIBA, Oeil Aujourd'hui, ECHOPPE, Gayes, Philanthrope), the WILDAF Coordination and a number of individual members.

Furthermore, WILDAF-Benin benefited from the financial support of AWDF for the dissemination of spots aimed at denouncing and sensitising public opinion on violence

DECISION OF THE CONSTITUTIONAL COURT ON WOMEN'S RIGHTS IN BENIN : A GREAT NOVELTY IN AFRICA

WILDAF-Benin, in the wake of the voting of the code of persons and the family, took the offensive to denounce the violations of the Constitution as contained in this text.

The Constitutional Court, by decision DEC 02-144 of 23 December, 2002 echoed the views of WILDAF-Benin by declaring that it were against the Constitution particularly articles:

12 – Paragraph 1 which does not allow the woman to maintain her maiden name like the husband and 74 which allows the man to be polygamous whereas the woman can only be monogamous.

It is now up to the Parliament of Benin to harmonise these articles with the Constitution of Benin which stipulates in its article 26 paragraphs 1 and 2 that "The State shall ensure for all equality before the law without discrimination (...) of sex (...). Man and woman are equal before the law ..."

The following is an excerpt of the Constitutional Court's ruling which, undeniably, is a novelty in Africa where few legislation has so far succeeded in abolishing polygamy except some countries like Tunisia since 1956. The full text of the Court's ruling can be consulted on WILDAF's website.

RULING DCC 02-144

The Constitutional Court,

Served with an application **dated 20 June 2002, filed in its Secretariat on the same date, under the number 031-C/09/REC**, by which the President of the Republic, **on the basis of articles 117 and 121 of the Constitution**, subject to its consistency with the Constitution, law n° 2002-07 setting forth the Code of Persons and the family **passed on 07 June 2002 by Parliament:**

Served also with a **letter dated 24 June, 2002 filed at its Secretariat under the number 140/082/REC** by which Mrs H. Rosine VIEYRA-SOGLO, law-maker in the Parliament and leader of the "RB" Parliamentary Group, referred to the High Jurisdiction for inconsistency with the Constitution, articles 126, 143, 168, 185 and 335 of the same law;

Mindful of the Constitution of 11 December 1990;

Mindful of Law n° 91009 of 04 March 1991 spelling out the organic law on the Constitutional Court as amended by the law of 31 May 2001 ...

Following deliberations,

Whereas the two writs concern the same law and are geared towards the same purpose; whereas it is proper to combine the two writs for a single ruling to be made in respect thereof, Whereas Mrs Rosine VIEYRA-SOGLO further contends that article 143 of the aforementioned law is discriminatory and violates "the principle of equality between man and woman" on the grounds that "if this provision allows a man to marry several women, it does not allow a woman to marry several men"; whereas the applicant alleges further that the provisions of articles 185, 168, 2nd

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DID YOU KNOW THAT?

DID YOU KNOW THAT PROJECT AUDITING IS QUITE IMPORTANT AS ITS TECHNICAL ASSESSMENT?

One has often tendency to ignore the forecasting of auditing in project or programme design, for it is thought that financial reports are enough to efficiently justify expenses thereto. This is an error!

Indeed, auditing is the checking and the analysis of a project account (resources and application of funds) by a specialist (whether an auditing firm or a chartered accountant) in conformity with pre-established accounting rules. It enables the checking of the regularity and the accuracy of accounting records of which the relevant documents on expenses, cash books, account ledger as well as financial status drawn up under the project. The auditor can, on the basis of his analysis, detect any possible book-keeping errors committed, and make, if need be, recommendations in order for a better accounting procedures. Auditing may be made at the end of a project or at the end of an organisation's fiscal year.

In brief, auditing allows for having reliable elements for the appraisal of the financial management of a project or a programme on the basis of the estimated budget and the financial statements.

While deliberately submitting to this exercise, you enable donors to have more confidence in you, you increase your credibility which in nature is to facilitate access to new funding.

Béatrice Ajavon
Administrative and Financial Officer

DECISION OF THE CONSTITUTIONAL COURT ON WOMEN'S RIGHTS IN BENIN : A GREAT NOVELTY IN AFRICA

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dash, which were adopted under common law, the regime of separation of assets instead of that of communal estate acquired comprising only property acquired after marriage “violate not only the principle of equality but are at variance with other provisions of the code such as articles 143, 74 (3rd dash) etc...”; whereas finally, she affirmed that according to article 335 of the law under consideration: “the action to determine the paternity is not open, hence unacceptable for any alleged child once he/she attains adulthood, to regain his dignity of a human being, in violation of the fundamental rights of the human person”;

Whereas she consequently pleaded that the High Jurisdiction declare articles 126, 143, 168, 185 and 335 of the deferred law inconsistent with article 26 of the Constitution, its preamble and articles 2, 3 and 5 of the African Charter on Human and People's Rights;(.....)

ARGUMENT FOR THE VIOLATION OF ARTICLE 143

Whereas according to the Applicant, article 143 violates the principle of equality between man and woman; whereas the said article stipulates “*The two forms of marriage monogamous or polygamous are recognised. Future spouses must however make an option prior to the celebration of the marriage*”;

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Network News

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The peculiarity of **WILDAF-Burkina** is that the network initiated a plethora of activities of information and sensitisation concerning female genital circumcision, forced and/or early marriage, social exclusion on the grounds of witchcraft, domestic violence in 2002 and their Campaign was therefore added to an eventful year. In this year, the campaign made it possible to sensitise, through drama, plays-debates, 4 sectors of the city of Ouagadougou concerning the texts in favour of women. This activity, financed by AWDF mobilised over 5,000 persons.

WILDAF-Nigeria marked the beginning of the campaign by a press conference which received an extensive media coverage which succeeded in drawing attention on the various forms of violence perpetrated against women and the activities of WILDAF-Nigeria in this regard. The Eastern zone office began an activity in collaboration with other NGOs and the Ministry of Women's Affairs. A seminar was organised on the theme of succession rights. The case of an 86-year-old widow, namely Mrs Nwanna, who was expelled from the husband's house to the house of her father where she was once again expelled by her own brothers, was given a special attention. Mrs. Nwanna was finally found sleeping in the Market by Members of the zone. During the campaign, Mrs. Nwanna received the protection of the network which succeeded in making her to return to her father's house with the assistance of the police and the NGOs.

The campaign of **WILDAF-Togo** covered rape and was mainly given media coverage: more than about a forty radio broadcasts were made in the whole country and two television networks carried two lectures-debates. These broadcasts were live debates which involved the viewers.

At the end of the campaign, there was the creation of a rapid chain reaction to the violence and particularly rape in each of the five administrative regions of the country. It brought together apart from paralegals, at least a representative of each of the judicial and extrajudicial stakeholders trained in connection with the “capacity building of the judicial and extrajudicial stakeholders for the effective implementation of women's rights in West Africa” project. The putting in place of the chain also provided these stakeholders with the opportunity to begin together a dialogue on the roles and responsibilities of each stakeholder in the implementation of the rights of Togolese women.

The *Legal Awareness Programme* (LAP) a programme emanating from a partnership between **WILDAF-Ghana** and the Netherlands Development Organisation (SNV) paved the way for the organisation within the framework of the Campaign, a workshop with the support of AWDF in order to determine the prospects and concerns of each and sundry on the nature and scope of violence perpetrated against women and children. The discussions covered the causes of gender-related violence, the legal solutions available as well as their effectiveness, the gaps between the law concerning gender-related violence and the legal provisions which could be put in place to protect women.

Thus, the network, in collaboration with 6 other NGOs, organised a round table on the ways of initiating the discussion on the bill on violence in order to ensure a large participation of women countrywide.

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DECISION OF THE CONSTITUTIONAL COURT ON WOMEN'S RIGHTS IN BENIN : A GREAT NOVELTY IN AFRICA

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Whereas under article 26 paragraphs 1 and 2 of the Constitution: "The State ensures for all **the equality before the law without distinction of sex. The man and the woman are equal under the law...**" **whereas in the light of the affirmation of this Constitutional rule there is unequal treatment between man and woman as regards the option set forth under paragraph 2 of article 143 which allows the incidentally man to be polygamous whereas the woman can only be monogamous; whereas article 1032 of the law under consideration stipulates:** "*Customs shall cease to have force of law in all matters governed by this code*" **with the exception of the transitional measures set forth, inter alia, under article 1023 paragraph 1 according to which "marriages contracted in conformity with the law prior to the entry into force of this code shall remain, subject, for their validity, to the conditions of presentation and substance in force during the formation of their matrimonial link ..."**

whereas it emerges from the foregoing that article 143 under consideration is inconsistent with the Constitution; (...)

Concerning the law as a whole

Whereas it results from the consideration of law 2002-07 that a number of these provisions **are consistent with the Constitution subject to observations, whereas Article 74: under the provisions of article 26 paragraphs 1 and 2 of the Constitution:** "The State shall ensure for all *equality before the law without distinction of sex, male or female shall be equal before the law...*" In the light of the provisions of this rule ..., there is unequal treatment between man and woman as regards the option provided for ... allows the man to be polygamous whereas the woman can only be monogamous; **under all circumstances, article 1032 of the law under consideration provides that "customs shall cease to have force of law in all matters governed by this code" with the exception under consideration is**

inconsistent with Constitution.

DECIDES:

Article 2: The following are inconsistent with the Constitution namely articles 12 paragraph 1; 74; 125; 127; fourth dash; 1128; 137, 141, 143, 144; 150; 154 paragraphs 2; 156 of Law n° 2002-07 voted on 07 June 2002 by the National Assembly.

Article 5: This decision shall be notified to the President of the Republic, the Speaker of Parliament, Mrs Rosine VIEYRA-SOGLO and published in the Official Gazette.

The following sat at Cotonou on 13, 14, 15, 21 November, 16, 17, 18 and 23 December two thousand two,

Rapporteur President

**Violence
against women
is violence
against society**

DOMESTIC VIOLENCE BILL IN GHANA

Ghana, like many other countries, has subscribed to the Convention on the Elimination of all forms of Discrimination Against Women. However, the Convention and other international statements of the equality of all people have failed to secure equality for women. Laws must be changed, developed and adapted to conform to the ideal of equality.

Domestic violence is a serious social evil. It appears from media reports that the incidence of domestic violence is on the increase. Spousal death has occurred many times and there is a need for special protection for the victims of domestic violence particularly women and children.

Violence within domestic situation takes many forms. The regime of customary law appears to permit the right of chastisement by some husbands in some ethnic groups. It has led to the prevalence of wife beating in some communities. In the home setting; house helps, the aged, sick and physically challenged members in a family may be abused. A recent national study on violence reveals that one in three women had been beaten, slapped or physically punished by a current or most recent partner.

The criminal act of domestic violence under the Criminal Code of 1960 {Act 29} has its shortcomings. Assault and battery, incest, rape and defilement of a child less than sixteen years in this Code are crimes which are punishable. The code also provides protection against customary practices which dehumanises people such as widowhood rites, early customary marriage and the like. Customary servitude and female genital mutilation are also offences under the code. The punitive measures under the code such as arrest and jail sentences do not promote the family as a unit of society. For this reason, many people try to rather than justice against perpetrators of

such crimes. Custodial sentences after protracted court processes often do not provide the victims with the redress they need in a large number of cases. What is required is a prompt, cost effective and less traumatic means of redress.

The Law Reform Commission in 1999 examined the phenomenon of domestic violence and came up with proposals for legislation. This was followed by initiatives from the International Federation of Women Lawyers {FIDA} together with other NGO partners to prepare a private members Bill in 2000. The Government has however taken over the enactment of the legislation to specifically make domestic violence a specific crime, hence this Bill.

The object of this Bill is to provide victims of domestic violence with a broader set of remedies in the form of protection orders. Legislation on domestic violence will uphold provisions in the constitution on respect for human dignity as in Article 15 of the 1992 Constitution of the Republic of Ghana, amongst other human rights provisions.

It will also accord with the international commitments and obligations of the republic under the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) which was ratified by Ghana in 1986 and the Convention on the Rights of the Child 1989 (CRC) also ratified by Ghana. By ratifying these conventions, the Republic has taken on the obligation to protect these vulnerable groups and provide special care and assistance required for their physical and mental well being.

The enactment of domestic violence legislation will also confirm the commitment of government to be proactive about domestic violence, an issue raised in the 2002 Amnesty International Ghana report.

The bill is divided into three parts namely, Domestic violence, Civil Protection orders and miscellaneous provisions. Clause 1 of the bill defines domestic violence and follows the definition of the term in the Declaration on the Elimination of Violence Against Women (DEVAW). It covers physical, sexual, emotional or psychological abuse as well as intimidation and harassment amongst others. In clause 2, domestic relationship is defined. (Research in the country and elsewhere consistently demonstrates that a woman is more likely to be injured, raped or killed by a current or former lover). The clause reflects on this relationship and includes house helps. It extends the relationship to someone providing refuge to the complainant and a person acting as an agent to the respondent.

Domestic violence is prohibited in clause 3. The sanction is a fine or imprisonment for two years or both.

The procedure to file a complaint with the police is stated in clause 5.

A child may be assisted to file a complaint by a next friend and complaints may be filed by a social worker, probation officer, health care provider or the personal representative of the deceased person.

The police play a vital role in the enforcement of domestic violence legislation since the police station is likely to be the first port of call for the victim of violence. The co-operation of the police is stated in the mandatory terms in clause 6. It is for this reason that many women organizations like WILDAF are organizing training workshops and seminars to prepare the police and other such persons to handle cases of domestic violence.

DOMESTIC VIOLENCE BILL IN GHANA

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Clause 7-9 deals with the receipt of a complaint by the police and arrest by a person without warrant. Part II of the bill provide for protection orders. A court of original jurisdiction is to have jurisdiction to hear and determine matters of domestic violence and may issue a protection order (Clause 10). The application may be filed where the applicant or respondent resides or carries on business or may be filed where the domestic violence took place. It is to be ex-prate unless the court otherwise decides (Clause 11). A social and a psychological enquiry report may be prepared to assist the court, (Clause 12), and the court shall or may impose an interim order depending on the type of application. The duration of the interim order is for a period not exceeding three month (Clause 13). A protection order cannot exceed one year at first instance but may be extended, modified or rescind as the court determines, (clause 15).

The court conditions of order are spelt out in clause 16. These include counseling, relocation of the respondent, relinquishment of property and others. The social and psychological enquiry report may also guide the court on the nature of the order as in the children's Act, 1998 (Act 560).

Issues related to child custody within the context of domestic violence and the right of the child are to be referred to the family tribunal (clause 17). Protection orders may be extended to other person under certain circumstances as provided for in clause 18.

The court under clause 19 may issue an occupation order. This is an order to vacate the matrimonial home after consideration of the social and psychological enquiry report.

The clause, further, offers protection to the applicant who is not a party to a lease agreement.

Protection orders may be discharged by a court on an application on notice by the applicant or respondent (clause 20) and contravention of a protection order is a criminal offence (clause 21).

The miscellaneous issues in part III in the bill cover the relationship of the bill and the criminal code 1960 (Act 29) in clause 22. Under clause 23 provision is made, in consonance with the courts Act, 1993 (Act 459), for the court to promote reconciliation in criminal trials. Provision is also made for the appointment of a probation officer where cases are referred for settlement process. The right to privacy of victim of domestic violence is provided for in Clause 24. No person may publish a report of proceedings under the A except where there are criminal charges and this must be with leave of court. There is a similar provision in section 39 of the children's Act.

Criminal charges are in to rights under the Act, clause 25 and the minister for Justice may make Regulations under clause 28 for the training of police and court officials, the education and counseling of victims and perpetrators and the forms required for the Act.

Included in the clause 29 the interpretation clause is the meaning of harassment and Intimidation, which have been given wide interpretation.

The exception in section 42 (g) of the criminal code, 1960 (Act 29) on rape in marriage is repealed in clause 30. The provision prevents a wife from prosecuting her husband for rape in a marriage. It traces its origin from English law in the reign of Henry IV that " the wife hath given up herself in this kind which she cannot retract". The English as protagonists of the law have abolished it, being out of touch with the status of women.

The advocacy to challenge Ghana's domestic law on women's rights led by women and women organizations will have a positive impact on the empowerment of women in this country. The entire society has been challenged to re-think the patriarchal structure of male superiority and the status of women.

There has been a lot of public debate on the issue and women, hopefully, will soon become vigilant. They will be one another's keeper and helper towards a common goal – the Advancement of Women.

Janet AMEGATCHER, Program officer, WILDAF-GHANA

EVENTS

Fifth Pan African Workshop on the procedures of the African Regional Systems for the promotion and protection of human rights, 11-20 August 2003, Fajara, The Gambia

The workshop (organised by the Institute for human rights and development) was aimed at imparting participants with practical and concrete skills on the utilisation and the implementation of African Human Rights Treaties. The Workshop will focus more particularly on the procedures of the African Commission on Human and Peoples' Rights, the African Court as well as the Committee on the Rights and Welfare of the African Child. Thus, each participant should put to use, through a project or within its organisation, the knowledge and expertise acquired during the workshop.

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BÉNIN REINFORCES ITS LEGAL AND INSTITUTIONAL ARSENAL FOR BETTER PROTECTION OF WOMEN'S RIGHTS

On 21 January, 2003, the Parliament deliberated on and adopted the law n° 2003-03 on repression of the female genital mutilation practices in the Republic of Benin.

On 24 January, 2003, the law n° 2003-04 pertaining to sexual and reproductive health was also passed by the members of the Parliament.

You can read the whole of these two laws on our website wildaf-ao.org.

Furthermore, WILDAF-Benin is launching as from Friday 14 March, 2003 the «**Centre for Women's Rights and Development in Benin**». This centre is funded by the «National Council of Negro Women/ Conseil National des Femmes Noires (NCNW), an American institution of which aim is to assisting women to improve their living conditions, that of their families and their communities. By establishing this centre, WILDAF-Benin wishes to bring further to the activities it has been implementing until now to improve the Status of women and girl children in Benin. The project comprises the following three components:

1 – Management of women and girl children victims of violence. The centre will be staffed with a jurist, a psychologist, a doctor, a social worker.

2 – Organisation of IEC sessions on issues relating to violence against women. IEC sessions will be conducted in

15 villages on various themes relating to women, not only to sensitise the population, namely women, but also to make the centre be known.

3 – Capacity building for the members of the network and the centre's staff. The network members and the staff of the centre will benefit from an institutional support, training in various areas including computer.

NCNW will establish in Benin a centre to facilitate for women access to information and to new technology.

The life span of this project is 9 months.

In an interval of 6 months, Benin has made up for a lost time of several years.

Geneviève BOKO NADJO
WILDAF/BENIN Coordinator

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The workshop will be bilingual and open to citizens of all the AU member States working with human rights NGOs. Candidates are not required to be holders of diplomas in law but should have a knowledge in law or experience therein will be an advantage. 2003. The candidates selected will be informed towards 16 July 2003. The workshop is free for the candidates selected. The cost of the trip (round trip) to the Gambia shall normally be borne by the organisation of the participant, even though a limited number of concessions is available to cover some costs of the trip

Contact: For any further information as well as the application form: **Institute for Human Rights and Development in Africa, Fax (220) 494 178, Tel.: (220) 495 398, Email: Info@Africaninstitute.org, internet www.africaninstitute.org site:**

WILDAF WEST AFRICA Newsletter

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