LAW AND SOCIETY TRUST

Fortnightly Review

No 3 Kynsey Terrace, Colombo 8
Fax 696618 Tel 686843/691228
1 & 16 April 1993 – Volume III Issue No 56

OBJECTIVES

The Law and Society Trust Fortnightly Review keeps the wider Law and Society community informed about the activities of the Trust, and about important events of legal interest and personalities associated with the Trust.

Women's Day was celebrated on March 8, 1993. It is an appropriate time to look at the status of women today, and the progress made on securing women's rights since the 1981 Convention on the Elimination of All Forms of Discrimination Against Women was promulgated. The Asia Pacific Forum on Women, Law and Development is a relatively new regional organisation. At a recent Interregional Conference of Women Lawyers and Judges held in Colombo, the papers presented showed APWLD's great potential for promoting much needed amendments to the laws affecting women. We publish two thought provoking papers on the status of women today, and the rights still to be struggled for, and two reports, one on the findings of a preliminary Workshop held in Dhaka last year, and one on its 1993 Colombo Conference.

WOMEN'S DAY, 1993

The Struggle for WOMEN'S RIGHTS continues

IN THIS ISSUE

"THE STRUGGLE FOR GENDER EQUALITY AND THE CRISIS OF HUMAN RIGHTS"

By

Neelan Tiruchelvam

(Inaugural address at the South Asian Conference of Women Lawyers and Judges organised by the Asia Pacific Forum on Women, Law and Development – Colombo, February 18, 1993)

It gives me great pleasure to be with you this evening and to participate at the inauguration of this important meeting. I am particularly pleased to do so for several reasons. Firstly, several of my colleagues at ICES and LST have been actively engaged in the work of APWLD and have in no small measure contributed towards its success. Secondly, APWLD has been one of the few effective and imaginative human rights organisations within the region which has had visible impact in raising our collective consciousness on issues of gender equality, violence against women and the strengthening of domestic and international measures to empower women within the region. As a result of these efforts there has been a significant and qualitative change in the human rights discourse within our region. Issues of gender surface at the centre of both the human rights and constitutional reform agenda in several of our societies. For these intellectual, policy and institutional initiatives, we are particularly indebted to Nimalka Fernando, her Board of Directors and her small and dedicated staff at Kuala Lumpur.

This evening I would like to devote myself to more general remarks with regard to the crisis of human rights and the system of justice in our respective societies in the hope that Asma in her key-note address would deal with more concrete issues relating to gender equality. I hope the more general remarks would provide a backdrop to the more specific issues.

I believe, Madam Chairperson, that despite the optimism of the past few years arising from the dramatic transitions in Eastern and Central Europe and the triumph of the movement for democracy in Bangladesh, Pakistan and Nepal, we are in the midst of a major crisis which threatens to place in jeopardy many of the significant achievements of the human rights movement within the past four decades. We have been shattered by the recent incidents in Ayodhya arising out of the destruction of the mosque and the retaliatory destruction of temples in Pakistan, Bangladesh and even London, and the consequent orgy of death and destruction which swept the Sub-continent. These developments have profound implications for the core values which shaped the Indian polity, such as secularism, federalism and affirmative equality. More deeply they pose a challenge to the rule of law, the effectiveness of the judiciary, and to the moral legitimacy of the state. What is particularly alarming is that it points to the rise not merely of an ideology of ethno-populism, with its emphasis on exclusiveness, intolerance, and bigotry but that this ideology threatens to capture the social imagination of a new generation and to polarise the social forces which have hitherto constituted the base of support of the human rights movement. We should have no illusions about this

movement. It is confined within certain special regional boundaries. It is not specific to any one country and finds resonance in similar ideologies of populist authoritarianism and religious and ethnic exclusiveness in each of our nations. It is important for your conference to recognise that these are unequivocally anti-feminist ideologies, and pose a serious setback to all our efforts to reconceptualise the South Asian region as one which is held together by a common commitment to values. These developments therefore threaten the program of regional cooperation both at the governmental and civil society levels. Your Conference must examine how the movement for the empowerment of women can respond to these ideological challenges. Does the human rights movement need to reexamine its methodology and its effectiveness? Can it for instance adopt the techniques and methods of mass mobilization, conscientisation, and even confrontation which the environmental movement has successfully adopted? Would the human rights and women's movement be able to command the resources, the organizational capacity which is at the disposal of the anti-feminist movements?

Another issue of importance to the concerns of this conference relates to the continuing victimisation of women during internal conflicts and civil wars. We need in this regard to take note of the shocking reports of mass rapes in Bosnia and in other parts of the former Yugoslavia. Modest estimates arising out of extensive investigations conducted by a group of officials of the European Community suggest that 20,000 rapes have occurred during the civil conflicts.Some other reports suggest that 50,000 rapes have occurred in horrible concentration camps which were set up for this purpose, and where some victims were less than seven years old. Serb militia have been particularly accused of using mass rape as a political weapon, at times with the explicit encouragement of Serb military commanders. Bosnian Muslims have been one of the principal targets of this campaign of systematic rape. It has now been documented that even Muslims and Croats have counter-attacked with similar attacks on helpless women. It is outrageous that the present international humanitarian law does not clearly regard mass rape as a war crime. Within the European Parliament systematic rape has been regarded as an act of 'murderous madness' and it has been demanded that rape be regarded as a war crime. There have been further demands that an international war crimes tribunal be immediately established to investigate these crimes and to hold the perpetrators of these atrocities accountable. Even in our own societies women continue to be principal victims of internal conflicts. Women and children constitute the majority of the internally displaced persons, languishing in refugee camps exposed to disease, deprivation, violence and innumerable indignities and humiliations. Women lawyers must actively engage themselves in the development and recategorisation of international law and more specifically international human rights and humanitarian law. You need to particularly ensure that the protection of international humanitarian law is extended to internally displaced persons.

Rebecca Cook in surveying the international law relating to women identified three important areas where there has been a failure to enforce women's rights. These include (a) the lack of adequate understanding of the systematic nature of the subordination of women, (b) the failure to characterise the subordination of women as a human rights violation, and (c) the lack of state practice to condemn discrimination against women. She further points out that there is a qualitative difference in the violation of women's rights from other human rights abuses in that it is located within the structural imbalance of power between men and women.

Recent international consultations have emphasised the need for new strategies to improve the effectiveness of international law in promoting the goals of gender equality. One of the important strategies in this regard is the promotion of feminist presence in human rights committees, courts and commissions which remain dominated by men. The improved presence of women in these institutions is more likely to ensure that the women's concerns are imaginatively addressed and that new doctrine relating to the systemic nature of women's subordination be developed. One of the interesting proposals in this regard is the reconstitution of state sovereignty so that entities such as women and minority groups may be endowed with quasi-international legal personality whereby they are entitled to participate directly in the evolution of international law. Another important area relates to the evolution of new doctrines on state responsibility for breaches of international human rights obligations. These principles have been evolved in other areas of international human rights law and need now to be extended to the violation of women's rights. Principles of governmental accountability for human rights abuse should be extended to situations where the government had been held responsible for its failure to protect women against private acts of violence directed against women. Under these principles, it is not enough for states to make minimalistic approaches to combating domestic violence against women but to show the same degree of diligence to and to utilise the same resources to enforce criminal laws in respect of crimes against women as in the case of crimes against men. There are interesting concepts relating to non-discrimination in the utilisation of state resources which can be invoked to ensure that the criminal justice system addresses more vigorously problems of domestic violence and other incidents of violence against women.

Within the women's movement there has been a great deal of debate on the nature and content of women's rights discourse and how this discourse can gain legitimacy and acceptance in different cultural and social contexts. There are some like Hilary Charlesworth of the University of Melbourne who have rhetorically posed the question whether legal rights really do offer anything to women since women's disadvantages are often based on structural injustices and the vindication of individual rights often does little to alter these conditions. Others have argued that in particular in countries which are experiencing severe social and economic hardships and are compelled to adopt structural adjustment policies which further marginalise the poor and the disadvantaged, that what is required is a basic needs strategy rather than a rights strategy. Radhika Coomaraswamy has argued that "the rights discourse in Asia is weak because it in parts privileges free and independent women, whereas Asian women tend to be attached to their communities caste, or the ethnic groups". She has therefore argued that for the rights discourse to be effective it must find its resonance in the culture and traditions of a given society and the legal strategies need to ensure that the women touch base with their traditional sources of empowerment.

Ratna Kapur has also in her thoughtful essay contributed to the volume on 'Legal Literacy, the Tool for Empowerment' pointed out that while rights and law have played an integral part in the women's movement for social change, it has prevented a deeper understanding or inquiry into the relationship of oppression which is underlined and sustained by the law and particularly of the economic relationship that makes people unequal. She has pointed to the persistence of the demand for dowry, and of dowry murders despite significant reforms of the dowry law. Similarly she has argued that despite the challenge and amendment to the rape Law, rape continues to happen, and women do not often report them, and the percentage of acquittals in reported cases is alarmingly high. She concludes that the failure of the Rape Law reflects the

movement's failure to sufficiently question the concept of sexuality that informed the law, and of the social/economic conditions that prevent women from having access to their rights. She concludes that formal rights cannot in and of themselves transform women's lives. She therefore argues in favour of linking the rights discourse to broader political struggles towards the mobilisation of women. There are others however who see many advantages in this discourse. One of the important arguments made in this regard is that the rights discourse offers a significant vocabulary to formulate and articulate political and social grievances.

We need to be mindful that the human rights discourse in the global arena is becoming increasingly polarised along North–South lines.

A question which has become central to the relationship between human rights and development is the issue of political conditionalities. This means that the continuance of developmental assistance would be dependent on the observance of political conditions such as 'good governance' and the observance of civil and political rights.

The European Council in its Development Council Resolution on Human Rights, Democracy and Development of 28th November 1991 has emphasised that respect for human rights, the rule of law and the existence of political institutions which are effective, accountable and enjoy democratic legitimacy are the basis for equitable development. In this regard, it reaffirmed that safeguarding human rights is an essential part in the relations between the community, its member states and other countries. The Resolution further pointed out that in the event of grave and persistent human rights violation or the serious interruption of democratic processes, community and member states will consider appropriate responses. Such responses will include confidential or public 'demarches', as well as changes in the content or channels of cooperation or, when necessary, the suspension of cooperation. In addition to human rights, the Council Resolution attaches importance to the issues of good governance. This has been defined to include democratic decision–making, adequate government transparency and financial accountability, respect for the rule of law and the freedom of the press and of expression. The Commission Resolution also attached importance to the question of military spending and emphasised that excessive military expenditure not only results in the diversion of funds from developmental purposes, but is often used for the purposes of internal repression and denial of human rights. In Canada the House of Commons Standing Committee on External Affairs and International Trade recommended in May 1987 that progress on human rights should be a central element of developmental assistance. It however recommended that where gross human rights violation prompts interruption of government to government assistance, alternative ways should be sought to channel such assistance to civil society. It further argued that emergency humanitarian assistance should never be denied.

Developing countries by and large, have resisted the link between human rights and aid on the ground that such conditions infringe on their national sovereignty. They see these intercessions in political terms as efforts to appropriate human rights as an instrument in the political and ideological hegemony of the North over the South. They see attitudes of moral condescension and cultural superiority implicit in many of the pronouncements on the human rights situations in the countries of the South. Human rights groups on the other hand, have welcomed such initiatives as they believe that they are likely to result in improved

compliance with international human rights standards. They also argue that there are no issues of national sovereignty which should serve as a barrier to international concern on human rights and humanitarian issues. They further argue that developing countries, by becoming a signatory to international human rights instruments, voluntarily accept international scrutiny of their domestic human rights records.

Bertram Ramcharan argued in 1990 that sovereignty is abused when it seeks to shield gross violation of human rights or grievous human suffering. Sri Lanka's Civil Rights Movement issued a statement in 1991 that "it is accepted law today that the doctrine of sovereignty of states no longer holds good so far as the state treats the fundamental rights of its subjects. The concept of national sovereignty has in this respect given way to the concept of international responsibility".

But this question of the link between human rights and development threatens to further polarise the international community along North-South lines.

In East Timor in November 91, Indonesian soldiers fired at a funeral procession killing and injuring dozens of civilians. The Dutch government had suspended developmental assistance to Indonesia. In response to international protest against the incident, Indonesia appointed an inquiry tribunal. In consequence of the report, the Government expressed regret and suspended two senior military officials who were in charge of the soldiers. Many observers mistakenly interpreted the Indonesian response as an acknowledgement of the legitimacy of international human rights concerns. However, within a few weeks the Indonesian Government terminated its aid relationship with the Netherlands which had been one of the more severe critics of the East Timor incident. There was similar retaliatory action by Kenya when it severed diplomatic relations with Norway in response to Norwegian criticism of Kenya's treatment of political dissidents. China and India have opposed any attempt to link human rights to aid, trade or multilateral assistance.

If the donor community is to be effective in maintaining this policy, there is a need for both credibility and consistency. Credibility is related to the ability of the North to ensure that the 'South' within its national borders guarantees that groups such as refugees, migrant workers and its own under-class, are not subject to discriminatory and arbitrary treatment. There can be no such credibility if there is conspicuous disparity between domestic practices and international policies on human rights questions. The issue of consistency arises when there is selectivity with regard to the countries who are subject to punitive measures. Is the decision to suspend or terminate developmental assistance based solely on human rights considerations or is it more probable that factors such as geo-political importance, the economic model pursued by the recipient country and the domestic politics of the donor country are likely to influence such decisions?

The women's movement needs to articulate a clear position on the links between women's rights and development cooperation. Should developmental assistance be legitimatively and explicitly linked to compliance with the Convention on the Elimination of Discrimination against Women or of effective measures to combat violence against women? Can good governance criteria be redefined to include the effectiveness of the criminal justice system in addressing questions of domestic violence? Should anti-discrimination rights be reconceptualized as a special category of human rights and be expressly linked to

development co-operation? Will such an approach advance the agenda for gender equality or further erode the credibility and legitimacy of the indigenous feminist movement?

The whole question of political conditionalities has also resulted in criticism that developed countries are seeking to impose western values and institutions on non-western societies under the guise of promoting good governance and human rights. The result is that the universal character of human rights is now being challenged by many nations in the South. Aung San Suu Kyi recently argued that it is a puzzlement to the Burmese why concepts which recognise the "inherent dignity, equal and inalienable rights of human beings, and which accept that all men are endowed with reason and conscience, and which recommend the universal spirit of brotherhood can be inimical to indigenous values... It is also difficult for them to understand how any of the rights contained in the 30 articles of the Universal Declaration of Human Rights can be seen as anything but wholesome and good. If ideas and beliefs are to be denied validity outside the geographical and cultural bounds of their origins, Buddhism would be confined to North India, Christianity to a narrow tract in the Middle East and Islam to Arabia".

While cultural relativism cannot serve as a basis for diluting or derogating from universal human rights standards and obligations, we also need to recognise that the discourse on human rights takes place in an esoteric language and idiom, which is unintelligible to vast sections of the polity. A conspicuous failure of the human rights movement has been its inability to expand the base of support for secular, democratic and pluralistic values. The social imagination of an entire generation is being captured by the ideologies of ethno-populism, of exclusion, and of intolerance.

Therefore the discourse on human rights and development needs to be enriched by explicit reference to the religious and cultural traditions of South Asia. The rhetoric on basic rights and freedoms is based on statist and individualistic conceptions. The base of support for fundamental rights can be expanded if it is linked to belief systems which have traditionally given content and meaning to the social and religious experiences of the people within South Asia. These indigenous cultural and religious traditions emphasise communitarian conceptions of justice, and conciliatory and consensual approaches to the resolution of conflict.

Obligations of reciprocity within a family facilitate attitudes and values supportive of the rights of the child and the needs of the elderly. Such an approach leads to more effective protection of social rights than what could be available in a legal culture which views these issues exclusively in terms of an individual's claim against the state.

There are other ideas such as 'dharma' which are central to the Hindu-Buddhist theory of justice and define the moral limits which rulers may not transgress if they are to command the allegiance of their subjects. Very little effort has been made to imaginatively build on such concepts and to articulate principles of governance and democratic accountability which draw on the language and idioms which form part of the Hindu-Buddhist tradition. Similar attempts need to be made to draw the linkages between constitutional values and the rhetoric of rights on the one hand, and the concepts, ideas and institutions which are central to the belief systems and the world view of Islam, on the other.

This point is perhaps illustrated by the recent intercession of the Thai monarch in the constitutional confrontation between pro-democracy forces and the military. It is significant that most comparative constitutional lawyers have commented on the transient and evanescent nature of Thai constitutions. Between June 27, 1932 and January 29, 1959, Thailand had as many as seven constitutions of which two were described as provisional, (1932, 1947) and one as interim (1950). One scholar described this process as the practice of factional constitutionalism, which is the "process of drafting a new constitution to match and protect each major shift in factional dominance". But the more perceptive observation is that Thailand had 'two constitutions, the written constitution, which is ephemeral, and the more enduring substantial structure of law and custom which have remained as the foundation upon which government rests'. Tambiah points to the Theravada doctrine of Kingship (the king as Boddhisatva - the cosmic liberator - and as Chakkravarti - the terrestial emperor) as being resilient throughout Thai history, and legitimating changing forms of state power.

Tambiah refers to a remarkable myth which leads to the assimilation of Manu's Dharmasatra and indigenous customs in the Theravada Buddhist countries of Burma and Thailand. This process of reincorporation required the creation of a new Manu to legitimise his code. The myth described him as a cow herd who, because of his flair for adjudicating disputes, was made the King's minister, while he was a child. Dissatisfied with one of the decisions involving the ownership of cucumber, he decided to retreat, practise meditation and to endure severe austerities. Eventually, he ascended to heaven, where he found the "dhammathat laws engraved on the boundary wall of the solar system". He brought these laws back to the King, who is reconstructed as 'the embryo Buddha and an embodiment of justice'. In the Thai tradition of kingship, this leads directly to the 'amalgamation of rajastham (the individual acts and applications of law by the king) with dhammastham (absolute moral law).

Universal principles of gender equality and the group rights of ethnic groups come into conflict in the area of personal laws. Ethnic groups and religious minorities resist any efforts by the state to interfere with their personal laws, as they perceive such encroachments as a threat to their own identity. On the other hand there is serious concern that discriminatory personal laws undermine the universality of the international prohibition of discrimination against women. Coomaraswamy has argued that while personal law is most impervious to change, it governs the most important area of women's lives - the family. She has further pointed out that "without equity in the family there is no equity in society".

These scholars therefore question the effectiveness of invoking traditional concepts and ideas to broaden the social base of the human rights movement. They would argue that religion and culture are often the sources of women's oppression.

Your conference would be mindful of the wider crisis of human rights which inevitably reshape and redefine the agenda for gender equality. The polarization of global human rights movements, the ideological threats to secular and egalitarian values, and the continuing victimization of women in internal conflicts, provide the wider context within which the agenda of the Conference needs to be advanced. Within the domestic sphere there is a need to reassess the strength and limitations of the rights discourse, and whether it is now necessary for the movement to be linked to broader political struggles.

There is also a great danger in believing that domestic measures to empower women can be improved by an exclusive or dominant focus on state structures. It is dangerous to slip into the belief that you resolve the problem of abuse by creating another domestic institution. We have many examples in our region of Ombudsmen who have received no human rights complaints; National Human Rights Commissions which have been diverted from their mandate; of Women's Commissions with no legal authority or powers of enforcement; and Supreme Courts which have used their constitutional jurisdiction often to limit and not to expand the frontiers of human rights. Domestic measures are strengthened by empowering civil society institutions; by creating a legal and political culture which is supportive of women's rights; and by strengthening the institutional capacity and professional competence of women's groups to document abuses, to engage in advocacy, and to broaden the base of support for such work through human rights education. There is therefore a need for new strategies, and a need for new forms of intellectual, legal and political engagement if law is to become an effective tool for women's empowerment.

Keynote address made at the
South Asian Conference of Women Lawyers and Judges

GENDER EQUALITY

By

Asma Jahangir

Honourable judges, colleagues, ladies and gentlemen:

The issue under discussion is gender equality, a subject as old as time. A problem which has been with us for centuries. I, therefore, am under no illusion that we can satisfactorily resolve the matter during the course of this conference. This should by no means deter us from continuing to discuss it over and over again, not only because of our quest to find a perfect answer, but also in the hope of improving upon the situation and to be able to examine different perspectives and dimensions of women's rights. Repeated calls may induce others -- who till now have been sitting on the fence -- to join the struggle for women's rights.

Women have "popularized" their movement. It is not an insignificant achievement. It is now fashionable to support the struggle for women's rights -- despite the inherent prejudices the supporters carry. One is often complimented by male colleagues who patronizingly remind us that "they almost forget that we are women". In other words they feel we have reached the male excellence.

Gender based double standards are visible in every society. Women to this day are expected to have different emotional demands and reactions. Men maintain the irrational expectation of being forgiven for infidelity. In the reverse they reserve their right to react violently against "straying" females "in their control". Such double standards have been recognized as valid and justified.

In 1840 an English judge ruled:

> "The question raised in this case is, simply, whether by common law the husband, in order to prevent his wife from eloping, has a right to confine her in his own dwelling -- house, and restrain her from liberty, for an indefinite time, using no cruelty... There can be no doubt... the husband hath by law power and dominion over his wife, and may keep her by force... one may beat her, but not in a violent or cruel manner."[1]

In the early nineteenth century, a husband, in England, could get a divorce on the ground that his wife committed adultery, but a woman could get a divorce only on the grounds that her husband committed adultery and extreme cruelty. Only Parliament could grant divorces and almost all divorces were granted to men. Only four women got divorces in 200 years; all four were cases of incest and/or bigamy plus adultery plus cruelty. Some divorces were rejected even where adultery and cruelty was established. A Ms. Dawson, was refused divorce, where it was admitted that her husband committed adultery and beat her with a horsewhip and hairbrush.[2]

Indian and Pakistani courts have, by and large, allowed huge concessions to male convicts on being provocated into committing crimes on the instigation of female promiscuity. The Bombay High Court ruled that no higher provocation can be imagined than finding a wife being unfaithful. The husband who murders his unfaithful wife must be visited with a very light sentence. In these circumstances the accused was awarded six months' rigorous imprisonment.[3]

A deceased widow was beaten up with shoes and sticks by her husband's relatives for having an affair. The woman was beaten to death. The Court held that it could not be established that the accused persons had a common intention to cause the death of the deceased. They may, however, have guessed that the violence could cause her death. The sentences of the accused was reduced to five years imprisonment, which the accused had already undergone.[4]

---

1 O'Faolain, Julia and Lauro Martines, Not in God's Image (New York: Harper and Row 1973).

2 Quoted from: The Women's Movement by Barbara Sinclair Dechard (Harper and Row Publishers, New York).

3 Asha Gopal (1987) Cr.R.No.42, 1897.

4 Kundan Singh 1975 Cri.L.J.1985 (SC).

"The husband suffered for a long time through the obstinacy, viciousness and flagrant immorality of his wife" whom he drowned in the river Jehlum by giving a push while bathing. It was held that the above circumstances entitled him to a lenient sentence and the Court imposed three years' rigorous imprisonment.[5]

In another case the Allahbad High Court passed a sentence of two years' imprisonment, observing that sentence in such cases should be so low as is commensurate with the nature of the offence and as the facts would justify.[6]

An accused murdered his wife under a mistaken impression that she was "unchaste". The High Court in India set aside the sentence of death (for murder) and converted the nature of offence to culpable homicide.[7]

The Lahore High Court (Pakistan) reduced the sentence of Faqeer Mohammed on the grounds of suspecting his wife of adultery. The Court recounted:

> "He (the accused) told his wife to accompany him but when she replied that she would accompany him tomorrow after attending the rejoicing ceremony of the son of Amir Mohammed, he killed her."

The court held that the refusal was no provocation, yet reduction of sentence was granted "on the ground of the suspicion of illicit intimacy of the deceased."[8]

The Supreme Court of Pakistan ruled:

> "We are unable to see anything in the circumstances to justify the view of the learned judges that by going in search of his sister, whom he did not find on her cot, when he woke for Sehri (early morning), the appellant can be said to have done anything to cause, or to provoke his sister to give cause for grave and sudden provocation to himself. Under village conditions, and even in many other parts of society in this country, the right of the male members of a family to control the actions of their womenfolk, particularly in the field of sexual relations, is fully recognized and is forcefully maintained. The idea that a young unmarried girl in a village family is entitled to leave her bed during the night and go where she pleases, and that a male member of the family going in search of her is only asking for provocation if he finds her misbehaving in a sexual way simply

---

5 Ghulam Muhammad (1934) 35 PLR 746.

6 Raj Kishore (1953) Cr.L.J. 1034.

7 Dina Bandhu Moitra (1903) 8 C.W.N.218.

8 1988 P.Cr.L.J.574 Lahore Faqeer Mohammad.

cannot be entertained."[9]

In another judgement the Karachi High Court admonished a trial judge for presuming that "nothing short of sexual intercourse and presence of semen marks would have evoked the "ghairat"[10] of the accused.

A wife was killed on her refusal to work. Her work brought "disgrace" to the husband and his family. The accused also suspected his wife of immorality. The wife's refusal to obey her husband was justified by the court of having provided enough provocation.[11]

It is surprising that courts have not, in their enthusiasm for a moral society, public policy and reasonable behaviour provided compensation to the accused husbands for getting rid of "immoral wives".

Not only husbands but other male relatives are also given lighter sentence, if found to control the sexuality of the female relatives. An accused male killed his aunt for having an affair. He was awarded a lighter sentence.[12]

If public policy favours a moral society, then the same principle is to apply to males and females alike. However, women are not expected to lose control on the infidelity of their male relatives. On the other hand, they are expected to swallow the bitter pill with grace.

An Indian Court ruled:

> "The state of mind of a person has to be gathered from proved facts. The appellant (husband) for years devoted himself to the deceased (wife) and her general welfare. In return the deceased wife suspected him of infidelity and told him to get out of the house because her children had grown up. She constantly abused him and did not serve him food for four days. When he attempted to cook food for himself she hurled one of the most intolerable invectives on him. He picked up a mathai (pestle) which was lying close to him and struck her on the head".

The woman died. The court held that the circumstances were sufficient to warrant loss of self control. The accused was awarded the lesser sentence of five years.[13]

---

9 P.L.D. 1965 S.C. 466 Mohammad Saleh "gairat" - male pride.

10 1990 M.L.D. 1996 Karachi Mohammad Bux.

11 1975 P.Cr.L.J.448 Safdar Ali.

12 P.L.D. 1966 Lahore 104 Mohammad Sadiq.

13 48 Cr.L.J.229 Pancham Versus K.E. (Qud).

Equality has long been a rallying cry for feminists. But the paradox of gender equality is that it gives the kind of power to women, which in fact feminists hope to correct. It strengthens the existing societal norms. Equality has to be tested against a set standard. Mostly, against the culture developed for male chauvinism. Should women be asking for equal right to be equally hard and unfair? Surely, feminists are not asking for a license to kill promiscuous males. They are striving for a more tolerant, non-egalitarian and gender neutral society. How can such a change be possible without being equally empowered? The answers to this riddle are not easy. Even the more developed societies have erred from time to time and are still looking for an ideal solution. The principle of equality alone has so far not served the purpose entirely. For one it has developed too slowly and given women "too little, too late".

The U.S. Supreme Court applied only minimal security to gender classification until the 1970s. Even some of the more liberal judges who were open to addressing the question of racial inequality, had a closed mind to the emancipation of women. Justice Bradely, who had dissented in the Slaughter-House Cases,[14] did not strike down a state law refusing to grant license to women to practice law. He wrote:

> "The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood, the harmony, not to say identity, of interests and views which belong or should belong to the family institution, is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband...
>
> It is true that many women are unmarried and not affected by any of the duties, complications, and incapacities arising out of the married state but these are exceptions to the general rule. The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator. And the rules of civil society must be adapted to the general constitution of things, and cannot be based upon exceptional cases.

Even when the US Supreme Court began to invalidate other legislation on due process and equal protection grounds, it resisted application of these clauses to gender discrimination. They maintained the different but equal approach. A protectionist approach, which was applied selectively. In most such cases women gained to lose. In Muller versus Oregon, for example, the Court upheld an Oregon statute prohibiting the employment of women in factories for more than ten hours per day. In doing so, it distinguished its earlier decision in which it had held that the liberty of contract implicit in the due process clause prohibited a

---

[14] In the Slaughter - House Cases Bradely had written that "a law which prohibits a large class of citizens from adopting a lawful employment deprives of liberty as well as property without due process of law.

similar restriction on the working hours of bakers.[15] In Muller the Court maintained that "the inherent difference between the two sexes" justified limitation on a women's right to contract.

Similarly, the US Court upheld a Michigan statute prohibiting a woman from working as a bartender unless she was the wife or daughter of a male owner; the court wrote:

> "The fact that women may now have achieved the virtues that men have long claimed as their prerogatives and now indulge in vices that men have long practiced, does not preclude the States from drawing a sharp line between the sexes, certainly in such matters as the regulation of the liquor traffic. The Constitution does not require legislatures to reflect sociological insight, or shifting social standards, any more than it requires them to keep abreast of the late scientific standards".

It was only in early 1970s that the US Judiciary became more receptive to constitutional attacks on gender classification. In a large number of these cases, it was men and not women who were direct beneficiaries of these judgements.[16]

Feminists usually warn the advocates of the equal rights theory to resist the temptation of "having it both ways", but it appears that there is an equal chance of "losing it both ways", if women do not watch out.

Court actions by women have been disproportionately low. To be the same as men poses certain difficulties to a large number of under privileged women. Some feminists rightly argue that the strict equality approach only benefits women who meet male norms. It leaves out the millions of women who engage in the traditional female activities. The struggle for equal rights is, therefore, poorly supported by women themselves.

The affirmative action approach has its own flaws. It not only sits on the fringes of reverse discrimination, but can also discriminate against women themselves. For example, some co-educational medical colleges in Pakistan reserved a certain amount of seats for females, so that they do not have to compete on merit for admission. It was an affirmative action policy for female students. Within a few years, more and more girls joined medicine and got better results than the boys. The same quota system now discriminated against the girls as many more could get admission on merit alone.

Affirmative action has a tendency to reinforce conservative gender images. The Indian Penal Code does not punish a female for adultery. The Indian Courts held that sex was a sound classification for protecting

---

15 Muller Versus Oregon, 208 U.S.412 (1908).

16 1) Frontiero V. Richardson 411 U.S.677 (1973) concerning benefits for male dependant spouse.

2) Weinberger V. Wiesenfied 420 U.S.636 (1975) Social security for widowers.

women, therefore, the wife could not be punished for adultery.[17] This assumption of protection promotes the "property image" of women.

Gender equality and discrimination on the basis of sex alone has another failing. It does not recognize any other form of difference. For example an employer may not discriminate against white women or coloured men, but may refuse to employ coloured women. It would, in the conventional sense, not amount to sexual discrimination.

In De Graffenreid, five coloured women brought suit against General Motors, alleging that the employer's seniority system perpetuated the effects of past discrimination against coloured women. Evidence adduced at trial revealed that General Motors simply did not hire coloured women prior to 1964 and that all the coloured women hired after 1970 lost their jobs in a seniority-based layoff during a subsequent recession. The district court granted summary judgement for the defendant, rejecting the plaintiffs' attempt to bring a suit not on behalf of Blacks or women, but specifically on behalf of Black women.[18]

In Moore versus Hudges Helicopters the court upheld that, "Moore had never claimed that she was discriminated against as a female, but only as a Black female... This raised serious doubts as to Moore's ability to adequately represent white female employees".[19]

This curious logic not only reveals the narrow scope of sexual equality but also its failure to embrace other differences within the same sex.

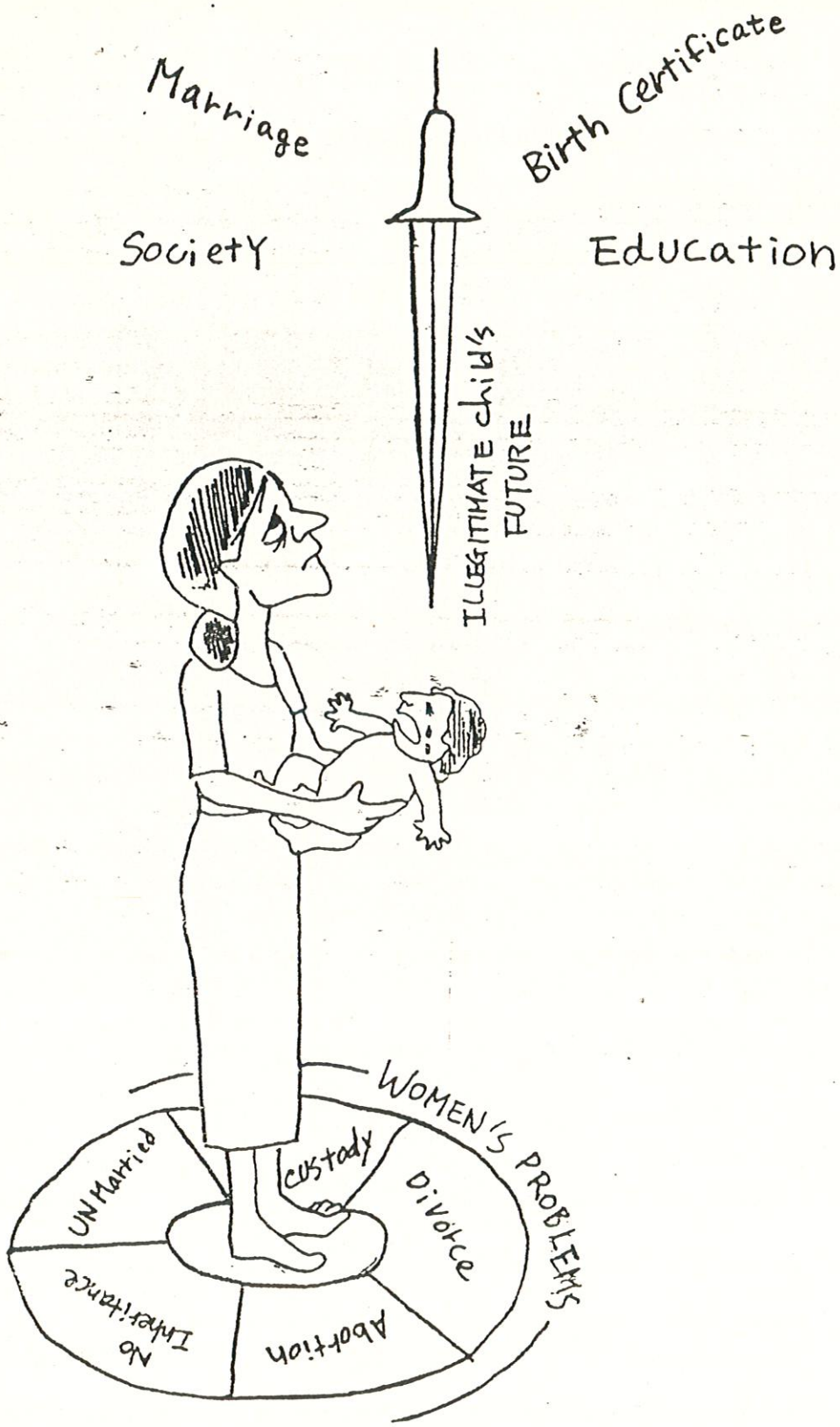
The game of equality has to be played well and in a team. Law, legal theories and activism have to go hand in hand. Women must recognize that the issue of women's rights is a political issue. It has to be politicized. Political struggles have to be waged with some amount of callousness. So far women have played the game in a sportswoman spirit. This spirit will go unrecognized if women do not concentrate on their goals. They must reach out for it and not be shy of playing foul when need be -- After all it is only the victory which is eventually recognized.

---

17 Yusuf Abdul Aziz V. State of Punjab (1954) SCJ 385.

18 De Graffenreid V. General Motors 413 F Supp. 142 (ED MO 1976).

19 Moore V. Hughes Helicopters 708 F2 D at 580.


Marriage
Birth Certificate
Society
Education
ILLEGITIMATE child's FUTURE
WOMEN'S PROBLEMS
UNMarried
custody
Divorce
No Inheritance
Abortion

WOMEN, RELIGION AND LAW

By

Nandini Samarasinghe

(based on the APWLD Workshop at Dhaka, 1992)

"Women, Religion and Law" are all very central issues in the people's struggles of the Asia-Pacific region during the last 2 decades. At the APWLD Workshop held in Dhaka (October 1992) at which prominent feminists and lawyers from the Asia Pacific Region participated, the national situations on Women and Religion were discussed with reflections on international provisions relating to them. The identification problems of women within the context of religion and law was seen as a part of the global effort made by women to participate in terms which make a difference to the course of the development of women's rights in such a way that genuinely assists women's welfare.

The role of rights in the feminists' political struggle was a main area of discussion, as the Feminist political strategies since 1970's has centered around women's rights and law. While recognising the achievements of positive campaigns which have resulted in improved laws (eg. the reformed Indian rape and dowry laws), during the discussion a strong self critique was made of pursuing certain strategies without a proper definition and understanding of rights.

This situation is epitomized in the diverse cultural and religious backgrounds of nations. The critique of rights had a direct link to the increasing religious fundamentalism and nationalistic trends in the region. One of the main points put forward was that "Right" as a notion represents the interests of the dominant class, and therefore cannot represent the interests of the disadvantaged and marginalised groups.

However, often minority rights are not taken up in the name of protection of their cultures, traditions and beliefs. But then it was contended that there we have to be careful in analysing the character of the state and also the character and nature of the minority representatives. In order to make a correct assessment of their attitudes towards change in their legal rights, a proper assessment of the state policy towards the minority groups and their access to political and economic resources is essential.

In situations where religion has been appropriated and abused by power groups, without any political analysis to clarify the situation, it is not easy to intervene in the legal sphere of the minorities. The term 'minorities' here is not limited to religious minorities, but applies to power and economic minorities as well.

Attention was drawn to the links between patriarchal relations and the state. In the context of religious fundamentalism, it is not necessarily the case that women are just the victims of the state's quest for ideological legitimacy, that is, the calculation that it will get more legitimacy supporting a fundamentalist

position on women then it will get from supporting a liberal secular position on women. It is possible that the state is actively reinforcing patriarchal control over women for other, possibly economic, reasons. Or perhaps both of these reasons apply. In any event the group finding was that the relationship is a complicated one and needs to be further examined.

Many felt that upto now the women's groups have been working outside the religious perspectives adopting a very "secular" approach to the whole issue. Religious Fundamentalism was of oppression perceived as a major oppressive instrument and some groups had therefore rejected it altogether as being a counter force against the protest of development of women. The recent upsurge of religious fundamentalism has mirrored a 'pseudo liberation' for the women as it was discovered that in a majority of country profiles women were the main field force or participants in the religious fundamentalist movement. Particularly women have gained self and social esteem by being portrayed as the guardians of religion. Hence, they have rejected, spurned and marginalized the efforts of the women's groups to incorporate them in the momentum of development strategies devised by the women's groups.

However the personal, spiritual harmony which religion alone grants was considered an important factor which needs recognition. Contrary to the negative experiences often equated with women and religion, women have also shown that it is their inner spiritual dimension that has helped them to survive in many instances. The group attempted to make a clear distinction between the institutionalization of religion and religion per se.

It also surfaced that religious development, which greatly influenced cultural development was in turn greatly influenced by culture. That men primarily determined the course of cultural development has its parallel in other forms of development. For the most part, we do not attempt to arrest development on the other levels, but try to change its course by including women's input in a dynamic and comprehensive way. It was agreed that women are as much marginalized in religious development as they were and still continue to be in other material and technological developments, globally and locally. Therefore, the answer is, not the wholesale abandonment of religion, but simply a re-assessment of the strengths and weakness of various religious constructs, be they institutions, laws, interpretations, forms of participation or spiritual dimensions.

However, as an effective strategy to protect the rights of women, it was suggested that, recognizing the divergences and pluralism associated with societies, nations etc., the agenda for women's rights should be formulated within the framework of universally accepted concepts of human rights and not necessarily be derived from religious scriptures. The group also felt that while they agreed that religion is a personal and a private matter, the vested interest groups such as fundamentalists and other power groups should be exposed by women's groups through a process of conscientization of grassroot organizations. It was proposed that for this purpose, a liberal and progressive interpretation of religious scripture to serve its original purpose be attempted by women's groups.

A Review of the

SOUTH ASIAN CONFERENCE OF WOMEN LAWYERS AND JUDGES

Asia Pacific Forum On Women, Law and Development

by

Rangita de Silva

Despite the explosion of Human Rights activities in the region gender issues are yet to be accorded the status of human rights. Women continue to be abused due to their sexuality and their relation to a man or due to inequities in the family laws that govern women's lives.

From the 19th to the 21st February 1993 the APWLD, which is a non-governmental organization committed to enabling women to use law as an instrument of social change for equality, justice and development, brought together legal professionals in South Asia to discuss some of the major issues concerning women and the law.

The APWLD is specifically committed to empower women in the Asia Pacific region to make the law a truly effective instrument to further justice and equality for all women. APWLD promotes the basic concept of human rights in the Asia Pacific region as enshrined in the Universal Declaration of Human Rights and in the Convention on the Elimination of All Forms of Discrimination Against Women. (1981)

The South Asian Conference on Women Lawyers and judges attempted to analyse recent legislation, judgments and lawyering practices impacting on women's rights, to raise awareness of problems faced by women related to access and administration of justice and to identify areas for common action as well as reforms with regard to the legal position of women, eg. family laws pertaining to violence against women.

The APWLD brought together distinguished Judges and Lawyers from India, Pakistan, Bangladesh, Nepal, Malaysia and Sri Lanka.

On the 19th the issue under discussion was Violence Against Women. The Universal Declaration of Human Rights protects everyone "without distinction of any kind, such as race, colour, sex, language.... or other status" (Art. 2). Furthermore, "everyone has the right to life, liberty, and security of person" (Art 3) and "no one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment" (Art. 5). Despite the United Nations affirmation, through the ages violence has been used against women as a reassertion of patriarchal power.

Vasudha Dhagamwar in her paper on violence against women highlighted the various sources of violence against women and the attitudes of the criminal justice system in South Asia. She points out the need for an all out attack on the formal legal system. She asserted that greater vigilance must be paid to bad judgments, offensive behaviour by the police and sexist language used by lawyers. She brought out the fact that it was most often the family that created anti-woman values and norms. This situation had great poignancy since a woman cannot escape easily from her family.

A general discussion on women and violence was followed by workshop discussions on women and violence. These Reports were presented on the 22nd at the conclusion of the seminar.

The main issues that ensued from the Reports of the workshop revolved around the issue paper presented for discussion.

ADVERSARIAL SYSTEM

There was a general consensus that the adversarial system as adopted in our courts was not suitable for vindicating the rights of women. Family courts it was felt should not be adversarial. Professional social workers, child psychologists, etc should assist the judges. Judges in family courts should play an active role similar to that in an inquisitorial system.

INTERNATIONAL HUMAN RIGHTS NORMS

International Human rights norms should govern local laws. Violence against women is a violation of human rights. It is a crime committed against humanity. The 1993 United Nations World Conference on Human Rights must address women's human rights comprehensively.

TRIALS IN CAMERA

The victim in a rape case should have the choice as to whether she would prefer an 'In Camera' trial. The victim should have a choice of who should be with her in court to provide her with support. The rigours of the adversarial system should be mitigated especially during cross examination so that a comfortable environment be created for the victim to tell the truth without shame or intimidation. The judge should consciously prevent the harassment of the victim.

BURDEN OF PROOF

Regarding the burden of proof in rape cases it was thought that in certain types of cases the presumption of innocence should be shifted so that the onus will be on the accused. Custodial rape and gang rape were cited as examples.

EVIDENCE OF CHARACTER

It was argued that a woman's past sexual history should not be put on record. It could in fact be argued that the law has an inherent bias in that it protects the "chaste virgin" in situations of violence but penalises the woman who has had past sexual experience. The notion of a hierarchy in rape where the chaste woman is believed and the woman with a past sexual history is not should be rejected both by the judiciary and the legal system.

CORROBORATION OF WOMEN'S EVIDENCE

Even though judges should act with caution as regards uncorroborated evidence, independent corroboration is not essential for a conviction. Though this should not become an inflexible rule of law it was suggested that it should be a rule in practice.

VICTIMISATION IN CONFLICT SITUATIONS

The plight of women during external or internal tension has been a matter of grave concern. Women have been severely victimized as objects of revenge, vengeance or as part of a vendetta. This is especially poignant in the context of the Bosnian violence where rape has become an indispensable instrument of war and the atrocities of ethnic cleansing. The battle ground is not only territory but women's bodies. What is horrifying is that most often rape is not the random indiscipline of soldiers but committed as a matter of deliberate policy. The notion that a woman is the property or is bound up with the honour of a man has heightened the violence committed to her.

CULTURAL PERCEPTIONS

It was discussed that cultural perceptions such as family honour should not be used as mitigatory or extenuating circumstance in cases of violence against women. Cultural stereotyping it was felt would only freeze the law and cramp judicial innovation.

REDRESS FOR VICTIMS OF VIOLENCE

With regard to rape victims, in addition to imposing punishments to the culprit the courts should also impose a fine which if the victim so chooses could be awarded to her.

Another recommendation was the setting up of special courts for women victims of violence. Special investigation agencies should be established and agencies like "Crime against Women" cells should be established.

A woman police officer being present at the time a woman is being taken to custody or at least the presence of a matron would prevent to some extent the risk of custodial rape.

Regular police meetings with human rights and women's organizations would be a "confidence building" process which would grow to be a healthy practice.

A special prosecutor or Attorney General's unit for cases with regard to violence against women whether in rape or domestic violence cases, which specialises in these crimes, should be established.

EQUALITY BEFORE THE LAW

It was argued that the notion of equality before the law cannot be applied rigidly in the context of women and their special susceptibilities. There cannot be real equality among unequals.

NEW JURISPRUDENCE ON WOMEN'S ISSUES

It was proposed that a new jurisprudence on women's issues be developed and new ethics for lawyers and judges dealing with cases of violence against women which must be dealt within the framework of renewed humaneness and compassion. Welfare legislation must be heightened and not considered as being gender biased.

Judges and law enforcement officials too should be extra sensitive to the notion of "shame" that deters a woman from seeking redress. Without their help a woman could not have the courage to seek access to justice.

On the 20th of February the issue under discussion was Personal Laws and Family Courts. Sara Hossain and Silu Singh made presentations on Bangladesh and Nepal respectively. Silu Singh in her presentation on The Legal Position of Nepalese Women in Family Law argued that not only was a woman's right to share in family property limited but her right to enjoy the property which she has obtained as her share is also under severe restraint. Laws of inheritance too are discriminatory against women. A daughter cannot succeed to her deceased parent's property, so long as the deceased is survived by his or her spouse, son or son's daughter. A daughter's turn comes only after that of the grandson.

Once again after a general discussion the participants broke into working groups whose reports were presented on the 22nd of February.

The working groups followed the discussion guidelines provided by the APWLD.

FAMILY

Discussing the definition of the "family" and the valid definition given by the law and judicial decisions it was acknowledged that there was no statute in any South Asian country which defined the term family. The term family was a social construction. However it was commonly agreed that apart from the notion of the traditional nuclear family the term "family" in South Asia encompassed even the extended family. The joint family system is a widely accepted feature in South Asia.

It was uniformly agreed that the term family should be defined to empower women and no definition detrimental to women should be used. Women of every status married, divorced, widowed, single should find a place in the family. In this regard a single woman with a child should be regarded as a family for the sake of gaining concessions in law, for example, labour law.

UNIFORM CIVIL CODE

The groups discussed the difficulties faced by women in minority communities and their double victimisation not only as women but as members of minority communities who suffer communal violence. It stressed the difficulties of women from the Christian community who because of lack of numerical and political strength, have not benefitted from any statutory reforms in their personal law in Bangladesh, India and Pakistan.

The groups discussed the question of whether a uniform civil code should form part of the strategies for ensuring women's rights in the family. It was felt that it was important to identify women's needs and interests in the family and then to identify the common legal modalities, like a uniform civil code, for ensuring such rights.

Some groups felt that given the South Asian scenario it was not the correct psychological moment to push through a Uniform Civil Code. Instead it was agreed that the personal laws be reviewed and reformed and where such laws are found to be discriminatory and inequitable strategy should be implemented to challenge them.

It was also agreed that Public Interest Litigation and creative strategies could be adopted in reinterpreting the Personal Laws which would actively enhance the protection of women and work towards their empowerment.

Legal literacy programmes, lobby groups and networking of women could be utilized in reforming the personal laws. It was also felt that a special commission should be formed devoted exclusively to lobbying the government to enact the recommendations.

At the time of drafting the Civil Code it must be kept clearly in mind that all groups should be consulted and a public consensus taken. Arbitrary inclusion of provisions should not be encouraged.

It was felt that legal reforms contribute towards the empowerment of women. It was agreed that legal reforms can change patriarchal biases. However it was felt that it was the implementation of these reforms which is of great importance. Women who are the recipients of these reforms are most often ignorant of the reform provisions. It was necessary to see that there be no pressure by vested interest groups who might obstruct women's access to information and knowledge.

There was general agreement that the APWLD sessions should be used to lobby for the signing of CEDAW by the South Asian countries which are still not signatories.

FAMILY COURTS

It was also agreed that Family Courts be reconstituted/restructured to obtain expeditious relief for women. Family courts should possess power over issues concerning matrimonial home, maintenance, community of property and Habeas Corpus applications in cases of adoption and custody.

The groups discussed the composition of family courts and made the following recommendations:

- that judges of the family court have at least the experience of district court judges to ensure that they have minimum legal and sufficient practical experience in family matters;

- that all applications for maintenance, dower, divorce and custody applications be heard together and in the same forum;

- that qualified counsellors be available for the purpose of reconciliation before the family court, at a stage prior to hearing;

- that stringent guidelines be established for the appointment of counsellors, with Supreme Court/High Court making such appointments; a panel of counsellors could be maintained, including members of women's organisations, with a guideline that where there is a choice between candidates, all other things being equal, a woman should be appointed.

It was also suggested that the family courts jurisdictions should extend to cover the grant of injunctions. It was strongly suggested that all land mark gender cases be interchanged within the region. It was further suggested that the APWLD should appoint one member from each country to form a committee to report on such cases and disseminate information on them among Bar Associations, Women's and Human Rights Groups in the Region.

CONCLUSION

Some of the strategies that were discussed at the conclusion of the dialogue between South Asian Judges and Lawyers on the issue of Women's Rights were that such a dialogue should be continued and be made effective. Towards this end the APWLD should identify further areas of study such as the following:

- family laws, including marriage, divorce, maintenance, guardianship and custody, rights of children born out of wedlock, inheritance:

- violence against women, including for example reproductive violence, domestic violence and custodial violence.

- women and labour rights, including issues relating to organized and unorganized workers, particularly domestic workers;

- trafficking in women, prostitution;

- conditions of women in prisons or in custodial homes.

It was also suggested that national level meetings be held prior to the regional meeting. It was further proposed that material developed by women's organizations relating to women's rights be disseminated to the participants to facilitate discussion and law reform. Examples of such material are as follows:

- the Nepali code which is an example of a uniform civil code;

- the Draft Uniform Personal Code developed by women's organisations in Bangladesh;

- the Pakistani Women's Charter developed by Women's organisations;

- the Indian reforms to rape law;

- the Malaysian Laws on Domestic Violence;

- relevant statistical material.

It was also proposed that participation should be expanded to include Bar Association representatives eg. Presidents/Secretaries, Parliamentary Representatives, Trade Union Representatives and representatives of every community, including particularly minority communities.

In order to ensure that the development of women's rights jurisprudence in South Asia is adequately documented, the group recommends that major decisions relating to women's rights be reported in the APWLD Newsletter and distributed to judges and lawyers in the region. It was also suggested that a Charter on South Asian Women's Rights be drafted, circulated to Women's NGOs in the region and subsequently be discussed at a follow up meeting of APWLD Lawyers and Judges Workshop.

What came across strongly at the meeting was that gender violence, which was a universal phenomenon which takes many forms across culture, race, and class should be recognised as a violation of human rights requiring immediate action. Violence against women though gender specific is a flagrant violation of human rights. Entrenched patriarchal norms continue to discriminate against women in civil society as well as in the family. Legal institutions which pride themselves on equal justice are gender biased and clearly distort "gender neutral" notions of law. The Asia Pacific Forum of Women Lawyers and Judges will have deep resonance at the UN World Human Rights Conference in June 1993 which it is hoped will accord universal recognition of women's human rights.

SUBSCRIPTIONS

The LST Review is published about 20 times a year. Annual subscription rates inclusive of postage are as follows:-

Local	Rs.	250/=
Overseas		
South Asia/Middle East	US $	20.00
S.E. Asia/Far East	US $	24.00
Europe/Africa	US $	26.00
Americas/Canada/Pacific countries	US $	30.00

Spiral bound copies of the Review are available at the following prices:

***Volume I** (Aug 1990 - July 1991)*	*Rs 325/ or US $ 25*
***Volume II** (Aug 1991 - July 1992)*	*Rs 425/ or US $ 30*

Cheques should be made payable to the Law & Society Trust and envelopes addressed to the 'Publications Officer'. Individual copies at Rs. 12.50 may be obtained from the Trust at 3 Kynsey Terrace, Colombo 8 (Tel: 686843 or 691228 Fax: 94 1 696618), and Vijitha Yapa Bookshop, Colombo 3.

Printed and published at the Law & Society Trust, No,3, Kynsey Terrace, Colombo 8, Sri Lanka