

# Editorial: Legal Voice: Challenges and Prospects in the Documentation of African legal feminism

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"While one should always be sceptical about the law's pretensions, one should never be cynical about the law's possibilities."

Albie Sachs<sup>1</sup>

## Introduction

Feminist struggles in Africa are fought from various fronts, with the law representing but one of them. While law and judicial reforms are not a panacea for gender inequalities, the legal front is a central plank in this struggle as both shield and sword—a shield to protect women against discrimination and the violation of their fundamental rights, and a sword to challenge and overturn unjust sexist practices and to effect fundamental change to the status quo. While by no means a magic bullet the law can indeed be a critical game changer in the gender political landscape.

Not only are legal feminists on the continent actively lobbying for women-friendly laws but they are also filing test cases designed to achieve social change. Legal advocacy for women-friendly legislation goes back several decades in post-independent Africa while the use of strategic action litigation (SAL) is relatively new and only gained serious attention in the late 1990s. SAL is a process in public interest law whereby members of a marginalized group deliberately and proactively take a test case to court for the purpose of establishing a positive legal precedent whose effect goes beyond the immediate litigants. Such litigation has the broader goal of achieving social change. More recently, African legal activism has turned serious attention to issues of gender and sexuality, and a number of cases have been filed in order to shift the frontiers of sexual liberation.

Despite these tremendous strides, a major weakness that continues to affect much feminist activism on the continent is the lack of high quality

documentation. We generally do not give documentation the attention it deserves. And yet, documentation is an important and necessary element in the overall struggle of any social movement; it captures the complexity of historical process and social change and it is from this that people and movements can reflect and learn. So whether victory is won through the enactment and enforcement of new women-friendly laws or via strategic action litigation, it is extremely important to carefully document these processes. The documentation referred to here encompasses much more than simply an archival project. The documentation itself may take the form of paper or electronic (digital) files, microfilms, booklets, newsletters, photographs, audio or video recordings, art, blogs, music or any other media. It is also important that documentation goes beyond academic papers to include more popular and accessible forms. But an equally important and integral element of documentation is communication. This requires a comprehensive feminist dissemination strategy for maximum reach and impact.

Documenting and archiving *both* the processes and the outcomes of the activist work for any social movement serves several purposes, including the following:

- i. Forming a reference record that can be used by future change agents in building the movement and in the forging of potential coalitions; they will know what worked and what did not within a given context. Hence, documentation provides retrospective wisdom, allowing for the “institutionalisation of memory” and saving future activists from “reinventing the wheel.”
- ii. Creating an opportunity for marginalised groups to reflect upon their position and stimulates their collective introspection, discussion and action (what Paulo Freire termed *praxis*). Documentation provides the tools for such groups to visualise and interact with their social problems through various media, spurring them into further action.<sup>2</sup>
- iii. Providing a counter-hegemonic discourse on the position of men and women in society that challenges the ideal gender/power relations. In other words, feminist documentation offers an alternative discourse to the dominant sexist, heteronormative, classist, and racist one. It is one way of feminist conscientising.
- iv. Legitimizing the process of change by demonstrating to the world the detailed and wide range of individuals, groups, activities and resources that was involved in achieving the end product. In this way, documentation may also be used as a future advocacy tool.

- v. Acting as an ideological and organisational bridge between periods of abeyance in social movement activism.
- vi. Highlighting unsung heroines and heroes. Documentation serves to memorialise and celebrate the legacy of ordinary people that did extraordinary things in the struggle for gender equality.
- vii. Forming an invaluable data base for research and analysis in deepening and advancing theory and practice.

The starting point for legal feminist documentation is women's lived experiences with the law. How do women engage with justice/law? What legal discourse have they constructed for themselves while engaging with the various justice systems? What language should be used and what etiquette followed when writing about sexuality? Whose story gets documented and whose is left out? Is the lawyer's narrative similar to that of the litigant? Such documentation allows us to be feminists historically through the narrative analysis of time, space and identity. Documentation is a *process* that involves observation, reflection, interpretation, reviewing, analysis and recording. In other words, it is a political process that has historically involved gendered "gatekeeping" powers and systems.

### **A brief overview of feminist legal activism in African contexts**

Legal feminist activism on the continent came of age during the late 1980s when women lawyers who doubled as gender activists organized to pursue gender equality. Prominent among such national and regional organizations/networks were the various country chapters of FIDA (*Federacion Internacional De Abogadas* or International Federation of Women Lawyers)<sup>3</sup>, Associations of Women Jurists (Francophone Africa), Women and the Law in Southern Africa (WLSA), Women and the Law in Eastern African (WLEA), Women and the Law in West Africa (WLWA), Women Living Under Muslim Laws (WLUML) and Women in Law, Development for Africa (WiLDAF). In 1998 the African Women Lawyers Association (AWLA)—the umbrella body of African women lawyers—was launched to strengthen networking between women lawyers in the region in their common goal to promote gender equality. It must be noted, however, that the brand of legal activism that arose at that time generally skirted around issues of gender and sexuality with the exception of sexual violence. Some of the landmark cases at the time included *Sara Longwe v. Intercontinental Hotels*<sup>4</sup> [Zambia]; *International*

*Criminal Tribunal for Rwanda, The Prosecutor v. Jean-Paul Akayesu*<sup>5</sup>; and the series of post-1994 constitutional court cases from South Africa that recognized various rights of homosexuals, including the recognition of same-sex marriage unions.

At the turn of the twenty-first century, the largely uncharted territory of gender and sexuality began to be more deeply explored by African feminists, led in the main by social scientists. Anxious to deepen our own understanding of the link between women's sexualities and their subordinate status in society, in 2003 the African Gender Institute (AGI) at the University of Cape Town in collaboration with the Institute of African Studies (IAS) at the University of Ghana organized a pan-African workshop on "Mapping African Sexualities". This initiative spurred off several case studies undertaken by a network of African intellectuals, including lawyers. The African Feminist Forum (AFF) that was launched in 2006 in Accra, Ghana provided fresh impetus to efforts to engage in complex analyses of gender and sexuality to legal feminists. A multi-disciplinary model of engaging with the law was extremely important, involving activists that were not professional lawyers.

In Uganda, for example, a series of test cases were filed to challenge state control of women's sexuality: *Uganda Association of Women Lawyers & Others v. A-G* [Const Petition No.2 of 2003] that declared the sexist grounds for divorce discriminatory and unconstitutional; three years later in the case of *Law & Advocacy for Women in Uganda v. A-G* [Const. Petition Nos 13/05 & 05/06], the constitutional court struck down the double standards which existed for men and women in the law on criminal adultery; in the same year, a landmark judicial decision recognized the rights of lesbians to privacy, personal liberty and protection from torture, cruel, inhuman and degrading treatment in the case of *Victor Mukasa and Yvonne Oyo v. Attorney General* [Misc. Cause No. 247/06]. These judicial victories were a remarkable feat that shook the very fibre of Uganda's patriarchal-heterosexist society.

While legal feminists across Africa have succeeded in stirring a significant 'change of wind' to effect women-friendly legislation in the area of land law, domestic violence and sexual violence, little has been done to shift the laws that maintain a stranglehold on women's sexual autonomy and reproductive capacities.<sup>6</sup> So for example, little has changed in the post-independence laws relating to abortion, prostitution and homosexuality. African jurisprudence on homosexuality seemed to have been decided by a series of cases—the Zimbabwean case in which former president Canaan Banana was charged

with homosexuality (1997), the Namibian case of Elizabeth Frank (1999) involving lesbian's rights and the Botswana case in which Utjijwa Kanani (2001) challenged the constitutionality of sodomy laws.<sup>7</sup> Ironically, while Africa is holding onto these archaic colonial laws, countries from which they were imported have largely scrapped them from their statute books. In some African countries, the limit of legal feminists' activism has been tested by the patriarchal state actually tightening sex laws in a bid to deepen its stranglehold on women's sexuality. The recent anti-homosexuality bills in Nigeria, Uganda, Rwanda and Burundi are cases in point. Cultural sexual practices that degrade women such as female genital mutilation, virginity-testing and widow cleansing are still widely practiced around the continent. Indeed, the challenges facing legal feminist activism and documentation are still enormous. Below we outline some of them before discussing future prospects for developing better documentation.

## Challenges

There are several challenges involved in legal activism and documentation by African feminists in the area of gender and sexuality. In addition to what I have discussed above, the following pose additional hurdles to this agenda:

- i. The stigma that is attached to the label "feminism" acts as a serious impediment to the documentation agenda. Society stereotypically believes that feminists are militant men-haters. These perceptions alienate many African female lawyers from activism as they would rather be perceived as moderate "professionals." It is well known that society is neither benevolent nor rational when addressing issues of gender and sexuality.
- ii. Despite the fact that the law is a formidable tool in regulating and controlling human sexuality (particularly when it concerns women) relatively little research has been conducted in this area by African legal feminists. Indeed, legal and gendered analyses of the various sex laws and customs are only beginning to take root on the continent. Capacities thus need to be strengthened in order to achieve the required goals.
- iii. Even the little research conducted by African legal feminists on gender and sexuality does not receive sufficiently wide dissemination. There is a wide gap between legal feminist theory (jurisprudence) and praxis. Legal feminists in the African academy and the activist

practitioners on the ground tend to operate in separate cocoons. Yet theory leads to informed activism. Theory is about understanding the ‘what?’ the ‘why?’ and the ‘how?’ questions about women’s oppression, and about power. When jurisprudence does not speak to activism and when the latter does not inform the former, the unfortunate result is a half-baked and truncated feminism.

- iv. Strategic action litigation in the area of gender and sexuality is also in its infancy. Apart from the fact that SAL is extremely resource consuming, its process is brutal and controversial. Most women’s rights NGOs that engage this strategy take their cases to mainstream lawyers due to limited capacity and the fact that most female lawyers shy away from overly aggressive lawyering. This means that lawyers who argue such cases in court lack the requisite empathy with feminist issues and methods.<sup>8</sup> With the support of organisations such as Interights, this strategy could be pursued with more vigour coupled by a coherent agenda across the continent.
- v. Even where successes have been recorded in SAL, the impact seems to resonate more at the international level than on the ground. Hence while landmark cases like Sara Longwe and Unity Dow<sup>9</sup> have become part of international jurisprudence, they have had little knock-on effect locally and are hardly ever referred to in their home countries where women continue to suffer the discriminations that they sought to strike down. Such disconnect needs to be addressed by the legal feminists on the ground.
- vi. Strategic action litigation is more likely to have an impact in countries with common law jurisdictions (former British colonies) than those with civil law jurisdictions (former colonies of continental European countries). This is because, in making court decisions, judges in the latter system rely more heavily on written codes than those in the common law system which also takes into account former court decisions (precedent).
- vii. Reducing the information that resides in the memories of NGO executive directors and other activists to print/digital record requires investment in time and finances. Recently, when Lillian Mwaura—a founder member of FIDA (Kenya)—wrote a proposal to write a book about the organisational history, potential donors were sceptical about the process, arguing that it was not part of FIDA’s core activities.

- viii. The institutional and language barriers that have perennially afflicted Anglophone, Francophone, Lusophone and Arabophone countries in Africa also impede successful pan-African activism.
- ix. Compared to the rest of the world, the Internet is still a marginal medium on the African continent. Challenges range from the cost of computer hardware and software, to the lack of electricity or the intermittent power supply, to limited bandwidth and its high costs. In addition, many legal feminists are technologically challenged and few can utilize the computer beyond word processing and e-mail. All these have implications on efficient documentation and archiving strategies.

## Future Prospects

Global advances in technology and communication have opened up numerous opportunities and avenues for easy and convenient documentation. The internet in particular erases borders, obviates geography and unlocks many restrictions on sharing information, laws, policies, judgments and other documents.

There are several donor-funded projects on the continent that are part of the global, “Free Access to Law” movement in common law countries. For example, the Southern African Legal Information Institute (SAFLII) collects and publishes legal materials from southern and eastern Africa for free online access [[www.saflii.org](http://www.saflii.org)]. Their collection of laws, superior court judgments and other legal material covers 15 countries in the sub-region. Some of the spin-offs from SAFLII include the Uganda Legal Information Institute (ULII), which publishes online country-specific public legal information [[www.ulii.org](http://www.ulii.org)]. Another Uganda-based online law reporting service is JurisAfrica [[www.jurisafrica.org](http://www.jurisafrica.org)]. Its database includes significant human rights cases (particularly on customary law), laws and other legal materials from Uganda and the rest of Africa.

The Kenyan National Council for Law Reporting maintains online publications of superior court decisions as well as other relevant legal materials [[www.kenyaLaw.org](http://www.kenyaLaw.org)]. The International Centre for the Legal Protection of Human Rights (Interights) maintains a rich online database of significant human rights decisions from both domestic commonwealth courts and from tribunals applying international human rights law such as the African Commission on Human and People’s Rights [[www.interights.org](http://www.interights.org)].

Other useful databases outside Africa that publish important legal materials on Africa include the University of Minnesota human rights library [[www1.umn.edu/humanrts](http://www1.umn.edu/humanrts)] and the University of Toronto law library [[www.law-lib.utoronto.ca](http://www.law-lib.utoronto.ca)]

Although most of these online databases carry general legal materials, they provide an invaluable primary source from which legal feminists can sift relevant documentation materials. But there are a few collections which specifically index cases of gender equality. For example, under their “Jurisprudence of Equality Program,” the International Association of Women Judges (IAWJ) document summaries of select judicial decisions on gender equality, including those from Africa [[www.iawj.org/jep/jep.asp](http://www.iawj.org/jep/jep.asp)], conference papers and useful links to various human rights resources.

Apart from online resources, there are some local digital or printed collections found in small resource centres of legal feminist organisations and offices. Many of these scattered, ephemeral materials fall in the category of “grey literature” and include annual reports, newsletters, proceedings, policy documents, conference papers, bulletins, dissertations and NGO study reports. While a few of these may be available on the organisational websites, access to such grey literature is generally limited and its management leaves a lot to be desired.

While it will take a while before African legal feminists develop electronic databases on the scale of legal databases such as Lexis-Nexis or Westlaw, it is not unrealistic to radically transform legal activism and documentation in the area of gender and sexuality. Some of the first creative steps we could take towards this journey include launching an African Legal Feminist Journal; introducing a legal feminist caucus at the African Feminist Forum (AFF); initiating an African Legal Feminist online Documentation Centre with national chapters that would be linked to the main central website; undertaking nuanced research of legal feminist activism including life stories/narratives, constitutional reform processes, cases settled out of court, abortion, sex work and LGBTI (lesbians, gays, bisexuals, transgendered and intersexed) and enhance cyber activism through building or posting web sites, creating blogs, creating legal alerts on twitter, sharing e-files, podcasts and making linkages among multiple databases.

By publishing material which documents something of the nitty-gritty of legal feminist work, this special issue of *Feminist Africa* aims to contribute to work done by Women in Law in Southern Africa, different national chapters



of FIDA, and the reports of hundreds of legally-oriented NGO's with a whole, or partial, focus on questions of gender and sexuality (such as Ditswanelo, in Botswana), or the Law, Race and Gender project at the University of Cape Town. While we recognize that this collection of pieces offers a very small glimpse of the range of feminist legal work throughout the continent, it is also critical that the arduous, and often poorly understood, battles of strategic litigation, legal reform, and/or legally-oriented advocacy remain within the debates of how, and why, certain questions of inequality remain obdurate. At the same time as countries such as Cameroon, Uganda, Malawi, Nigeria and Uganda face newly intense attempts to re-criminalize homosexual relationships, many of the familiar zones of discrimination against women continue to engage the time and effort of legal activism: access to property, independent control of reproductive health, protection from violence. It is vital that we continually move towards a "deep accounting" of all that has been done, and – of course – all we still have to do.

### **Introduction to Special Issue: *Feminist Africa 15: Legal Voice***

In an article published in the *Stanford Law Review*, in 1990, Angela Harris explores the question of "legal voice" in relation to the potential of strategic litigation to change the realities of racism within the USA legal system<sup>10</sup>. She introduces her argument by noting that "legal voice" is commonly understood to be the "voice" of "We, the People," an authoritative abstraction which gestures at a (long-lost) political moment but reifies this at a point far beyond the notion of an individual (Harris, 1990:585). She calls this version of locution "the first voice", and adds that, of course, within legal processes "legal voice" constitutes a self-referential conversation, where the challenge is to apply – through interpretation – governed by a rigid set of rules – the language of the law to the dilemmas of everyday life. Her article goes on to worry at the essentialism of the category of "women," drawn on by the late twentieth century Northern legal feminists such as the renowned Catherine McKinnon. Harris names these feminists' approach to a homogenized "woman" an effort to create a "second voice" (Harris, 1990: 586). Her own article demands the possibility of a "third voice," capable of representing the experiences of women differentiated through class, race, sexuality, and context, and battles with the history of "the first voice" which is, by very definition, intolerant of the unique and inhospitable to the notion of differentiated relationships to justice.

Difficult as it is, the dilemma with which Harris works is simpler than those with which African legal feminists wrestle. The question of “finding a voice” within legal terrain is complicated not only by the construction of identity (through gender, race, ethnicity or nationality), but simultaneously through plurilegalism, multilingualism, vast contextual differences of literacy and education, and through the fact that many post-independence states have equated legal reform with the meaning of political liberation. Taking opportunities offered by broad legal reform, instituting legally-oriented advice clinics and NGOs, making connection to international women’s rights movements, and fighting particular legal battles have nonetheless constituted a rich layer of African feminist engagement in the past three decades, one that has seen some extraordinary achievements. For example, fifty years ago (and still, in some contexts), a woman raped by a man, whether a stranger or someone known to her, would not have been approached as a legal “entity” in her own right; whatever system of law was in operation, what had happened to her would have centrally involved the men in her family; her assault would have been read and understood as an attack on their dignity and status, and processes of adjudication and resolution would have focused primarily on the repair of that attack. Although the idea of raping a woman as a route to attacking something else (a nation, a community, a family) is far from dead, and although the raped woman legally constitutes a witness in State prosecution (in most contexts), her identity is nonetheless recognized in ways that would once largely have been unthinkable. The shift here is almost entirely due to the unremitting advocacy and legal reform work of feminists, operating at multiple levels: survivors, NGOs, movements, parliamentarians, professional lawyers, judges.

To argue that African legal feminists have achieved a powerful body of work in the past decades is not to deny the realities of ongoing, and sometimes mind-numbing, discrimination. In addition, feminists without legal training sometimes struggle with the law: its language is arcane and dense, its institutions seemingly impenetrable, and its practitioners operating in a class of their own. To gain “legal voice” seems to require either endless translation or transition to a professional space reliant on specialist education and enormous resources. From the notion that “the law” is quintessential patriarchal, and steeped in colonial legacy, to the idea that legal activism is the province only of the elite, legal feminism may find herself relegated to the margins of discussion about contemporary activism or locked into the “constitutional/traditional” dichotomies in ways which refuse nuance.

The articles in this special issue of *Feminist Africa* assume however that African legal feminism involves conversations central to what can be understood by theorising the processes of change. While it is true that these conversations demand patience with details of law, and an interest in the formalities of legal processes, they suggest that the work of pushing the boundaries of what is possible for women's lives and happiness (in their relationships, their work, their motherhood, their properties and goods, their bodies) is occurs across and within myriad places within each of which a courageous, intelligent, and often very feisty, battle for "voice" is on-going. "Legal voice" for African legal feminism is a dynamic, hard-to-track, and intricate mesh of liaisons wrought at a daily level within and between courts, legal advice offices, lawyers' rooms, NGO training centres, village-based negotiations, and within writing itself. This notion of "voice" suggests that legal activism demands a complex grasp of institutions, political interests, "ordinary" experiences, and of the slow and dehumanized violence of being legally insignificant. It simultaneously raises, as Sylvia Tamale notes above, the need to document what it takes to create feminist "legal voice" with sufficient resonance to be audible (especially to other feminists).

In 2010, the African Gender Institute, based at the University of Cape Town, ran a project, supported by the IDRC in Canada, which addressed aspects of the task of exploring the need to document processes of feminist legal reform in African contexts. The thinking was not that no such documentation exists, but that it is – in general – the outcomes of legal advocacy and reform processes which make it into the record, rather than the details of the very complex, and context-specific, dynamics of the process itself. There is research which seeks to capture this complexity (the writing of Julie Stewart and Amy Tsanga is especially valuable here), and the project sought to build on this. The project was linked to two other concerns: one, the importance of offering support to those working in the field of legal reform as feminists, through cross-national dialogue and capacity-building, and two, the need to build the capacity of young professionals, working in the legal and policy-making arenas, with an interest in the integration of gender and sexuality frameworks into their writing skills.

Given that the African Gender Institute's primary expertise lies in the social sciences, rather than the law, a small team of legal advocacy activists, lawyers working in NGO's focused on feminist issues, and lawyers working within multi-national organizations on the continent (such as FIDA and

WLSA) worked to develop case-studies on specific instances of legal reform in African contexts with which they had been involved. The team discussion was very lively, and rigorous feedback was given to the presentations made. There was overwhelming consensus among the group that the project had touched on an area critical to understanding the past few decades of legal reform work around issues of gender justice in African contexts. The small number of participants allowed for frank and challenging discussion and a number of serious questions arose during discussions:

- Although cases such as *Longwe v Intercontinental Hotel* (presented in this issue by Sara Longwe, from an autobiographical position) did set legal precedents for gender equality in Zambia, we do not know (a) how often this precedent is drawn upon (b) how often it is in fact held up in similar cases of public harassment. This question applies to all the ‘landmark’ achievements of legal feminism in the past 20 years, and we need to know much more than we do about the trajectory of so-called “land-marks” for gender justice in the law.
- The commonalities of the legal systems under discussion (arising of course from the Roman-Dutch/British systems) were marked, but what was important to note was that despite this, our countries are unevenly placed in terms of the fundamentals of gender justice. The differences between a context in which the king retains strong political influence (including influence over legal discussion and possibilities for reform) and one in which new constitutional principles are being fought through, in a politically tense environment, are immense – what can be achieved in the name of “feminist legal activism” in one context may not be easily understood in another. This is despite the reality that we fight very similar legal battles for both positive and negative rights.
- The question of women’s movement alliances with feminist legal work deserves much more research. The stories of both Sara Longwe and Doo Aphane (again, both in this issue) suggest that they were very isolated, particularly in the early phases of their activism, and that building movement support for a particular legal battle is not critical to the success of the battle, but is vital in terms of the resilience of the women bringing cases to court as ‘test cases’, and also to the resilience of a favourable court decision in terms of advocacy around a new possibility.

- The issue of teaching and training weighed heavily on participants' minds; despite the rich history of feminist legal reform work, there is little recognition of this in most law school syllabi, and it was recognized that capacity building of young lawyers around the realities and processes of taking up gender justice work is essential.
- The use of gender/sexuality issues as political touchstones, often engaged with through the law, also held our attention. The recent focus on the recriminalization of homosexuality has been driven through legal channels (the Bahati bill in Uganda; the Chimbalanga/Monjezi case in Malawi; the Anti-Homosexuality and Same-Sex Marriage Bill in Nigeria). With the exception of a handful of feminist activists, lawyers who have been willing to engage with gender justice arguments are unwilling to be seen to support homosexuality. The need to draw on feminist experiences of tackling widely unpopular issues (such as the criminalization of marital rape ) to develop a platform of research-backed arguments to withstand the vitriol and violence of legal/political homophobia is pressing.
- We recognized that even as those centrally involved in legal activism of different types, we are woefully thin in terms of deep knowledges of one another's legal contexts, and that we need a strategic review of what has been achieved, how, and with what consequences. We recognize that there are already organizations (such as FIDA, and WLSA, and the prolific work of the Women's Law Centre of the University of Zimbabwe, and of the Law, Race and Gender Unit at UCT) with long 'memories' and much wisdom to share, and that we would like to think through ways of building a research project to create such a review.

Many of the pieces created through this project are now presented here in a special issue of *Feminist Africa*. The pieces from the workshop process collated in the issue are in some cases edited versions of longer studies (which can be accessed on request from the African Gender Institute), and as editors, we have tried to profile a range of studies: those tracking particular legal battles, from legally-focussed organizational locations, those written in the autobiographical voices of women who have undertaken to drive strategic litigation processes in their own name, those describing activist intervention. The articles are often written in a "case-study" style, less conventionally

academic than is usual for *Feminist Africa* but seeking to retain the rigour demanded by profiling the trajectory of legal processes. The decision to do this came from our sense that the material warranted dissemination beyond a feminist circle primarily interested in questions of law. We are interested in feedback on the questions raised by the different pieces on what it means to sustain “legal voice” in contexts where the fight for the recognition of rights as diverse as equal access to land tenure and recognition of the right to live as lesbian occupies our minds, work, and hearts.

## Endnotes

1. Sachs, A. 2009. *The Strange Alchemy of Life and Law* Oxford: Oxford University Press at p. 50
2. Singhal, A., L. Harter, K. Chitnis and D. Sharma. 2007. Participatory Photography as Theory, Method and Praxis: Analysing an Entertainment-Education Project in India, *Critical Arts: A Journal of South-North Cultural Studies* Vol. 21(1): 212-227. Available at: <http://utminers.utep.edu/asinghal/Articles%20and%20Chapters/Singhal-harter-chitnis-sharma-2007-critical-arts-participatory-photography.pdf> (last accessed on September 08, 2010).
3. Most of the FIDA chapters found on the continent are in east and west Anglophone Africa. In southern Africa the common practice is to have a human rights or women’s rights committee within the national legal professional Law Society offices.
4. [1993] 4 Law Reports of the Commonwealth 221. In this 1984 case, Sara Longwe successfully challenged a discriminatory policy held by the Intercontinental hotel that prohibited unaccompanied women from entering the hotel premises.
5. ICCTR-96-4-T (Sept. 2, 1998).
6. The exception is South Africa, which has seen a radical transformation in its legal landscape. The South African Constitution explicitly prohibits discrimination on grounds of sexual orientation.
7. See Horn, N. 2008. Religion and Human Rights in Namibia, *African Human Rights Law Journal* 8(2)
8. This, for example, happened in the recent Ugandan case of *Mifumi (U) Ltd. & 12 Others v. Attorney General & Another* (Const. Petition No. 12 of 2010) where the women’s rights NGO, Mifumi unsuccessfully challenged the traditional practice of bridewealth, associating it with domestic violence. Instead of directly challenging the deeply entrenched practice per se, perhaps it may have been more strategic to focus on and argue against its oppressive aspect that requires a wife to “reimburse” bride price in full in order to gain divorce from her abusive husband.
9. In 1991 Unity Dow successfully challenged the government of Botswana for denying her the right to pass on her citizenship to her children borne of a foreign husband. See *The Attorney-General v. Unity Dow* (Civil Appeal 4/91).

10. Harris, A. P. 1990. Race and Essentialism in Feminist Legal Theory. *Stanford Law Review*, 42, 3, February 1990

