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Using Rights and the Law to Reduce Women's Vulnerability to HIV

Cathi Albertyn's paper, an edited and updated version of her presentation at "Putting Third First," argues that both human rights and the law can play an important, if limited, role within a wider set of national and international strategies to reduce women's vulnerability to HIV. It analyzes the nature of women's vulnerability to HIV/AIDS, and highlights some of the issues and lessons in using rights and the law to advance gender equality and reduce women's vulnerability to HIV/AIDS.

Introduction

Of the 34.3 million people living with HIV/AIDS at the end of 1999, an estimated 24.5 million (71 percent) were in sub-Saharan Africa and about one in six (5.6 million) in South and Southeast Asia. Women represent 55 percent of all people with HIV/AIDS in Africa, and in Africa and South and Southeast Asia, women and girls (15-24 years) experience the highest rates of infection.⁽¹⁾ Indeed, it is women and girls who are increasingly bearing the brunt of the HIV/AIDS epidemic. Underlying this is the fact of women's and girls' inequality that shapes their increased vulnerability to HIV infection and their disproportionately high responsibilities as caregivers for the sick and dying as well as for the living. Thus, while physiology affects women's greater risk of HIV transmission, it is women's and girl's lack of power over their bodies and their sexual lives, supported and reinforced by their social and economic inequality, that make them such a vulnerable group in contracting, and living with, HIV/AIDS.⁽²⁾

The concentration of HIV/AIDS not only within the developing world, but also within the more vulnerable groups within that world, suggests that the extent of the epidemic is directly related to global and national social and economic inequalities. It also means that strategies for dealing with the epidemic must have at their core a comprehension of these inequalities. It is therefore a fundamental assumption of this paper that (a) if we agree that changing sexual behaviour is at the core of reducing HIV infection, and that (b) if efforts to change sexual behaviour require changes in the social and economic power relations in society, then our ability to address the HIV/AIDS epidemic is inextricably linked to our ability to address gender inequality at all levels.

The HIV/AIDS epidemic therefore involves greater attention to changing gender and global inequality,

including poverty. This long-term task of transforming gender and economic relations can be accompanied by more short-term legal and rights-based strategies to address HIV/AIDS. These relate to (a) the need to insert gender and gender equality concerns into laws, policies, and programs that address HIV/AIDS (in relation to prevention, treatment, and care) and to (b) the related need to address the status of women and girls more generally. Within this broad context, we need to identify where, and how, rights and legal strategies can make a difference in various national contexts.

Women's Vulnerability to HIV/AIDS

The claim of a causal connection between HIV/AIDS and gender inequality is a deceptively simple one. The reality is much more complex where unequal gender relations necessitate an understanding of men's relative power and women's relative powerlessness in a way that does not deny male vulnerability to HIV/AIDS, but seeks to understand how and why women are relatively more at risk.

Although women are more vulnerable than men, statistics suggest that not all women are equally vulnerable to being infected and affected by HIV/AIDS, because women are not all equal. Not only is women's vulnerability to HIV/AIDS rooted in their sexual, social, and economic inequality, but this gender inequality is further fragmented by factors such as race, class, urban/rural location, sexual orientation, religion, and culture. Understanding the differing vulnerability of specific groups of women is crucial, not only for (a) identifying the complex causes of women's vulnerability, but also for (b) finding effective solutions that address the many causes and manifestations of this inequality.

Demographic portrayals of the epidemic in South Africa, for example, suggest that it is the women who are most unequal in social and economic terms who are most at risk of infection. People with HIV/AIDS are not only more likely to be women; they are more likely to be poor, African women. Young African women and girls are increasingly at risk. However, infection rates are also particularly high among monogamous married women. Vulnerable groups also include sex workers, migrants, and refugees.

Research suggests that for African women, HIV vulnerability emerges from an intersection of poverty with culture, since African women are more likely to be subject to social and cultural norms that result in their having no say over sexual relations. It is widely held that men have the right to make all decisions regarding sexual relations. Klugman writes that "[i]f a husband initiates sex, his wife may not refuse him; the same applies in relationships outside of marriage. This makes it impossible for women to protect themselves from HIV/AIDS by initiating non-penetrative sex ... or insisting on fidelity or condom use. Women are ... also products of this culture and may themselves have internalized ideas of manhood that make it appropriate for men to have many partners and to manage sexual relations while they accept their partner's dominance and remain faithful."⁽³⁾ Violence against women and girls also plays a major role in the spread of HIV. Often, violence is so pervasive that men and women come to accept coercive, even violent, sex as "normal."⁽⁴⁾

The intersection of poverty (or economic inequality), culture (or social inequality), and gender in increasing vulnerability to HIV is illustrated by the reality that poor women may resort to bartering sex

for survival. This not only occurs in the form of commercial sex work, but also in other forms of "bartering" behaviour that are not seen as "sex work." Here women form sexual relationships to ensure food and maintenance for themselves and their families. Thus, in many societies, men provide women with desired goods in return for sexual access on a one-off, or short- or long-term basis. Sex may also be traded for a job, permit, or promotion in the employment sphere, and for marks or fees in the educational sphere. Most of this sex is unsafe because women risk loss of economic support from men by insisting on safer sex.⁽⁵⁾

While it seems that African women are more vulnerable because of their greater inequality, not enough is known about the pattern of the epidemic to understand how the varied and complex interplay of economic status, sociocultural norms, and the ability (or lack thereof) to negotiate sexual relationships plays out in all communities here and across the world.⁽⁶⁾ It is only from a clear understanding of this within discrete national and cultural contexts that effective strategies for prevention, treatment, and care can be developed. At the same time, more needs to be known about men and masculinity in different cultural and national settings.

Gender-specific roles combined with poverty and sociocultural attitudes toward women and girls mean that they bear the burden of caring for the sick.⁽⁷⁾ Research has also found that HIV-positive women face discrimination in health care, education, and legal rights. They are also more likely to be blamed, stigmatized, and even abandoned by their families. Rural women are particularly at risk.⁽⁸⁾

It is this intersection of different aspects of gender inequality with HIV vulnerability that has prompted the call for a more integrated and holistic approach to HIV prevention and care.⁽⁹⁾ This involves a focus both on risk reduction and the removal of social, cultural, and economic barriers to effective prevention behaviour. It also means addressing the health, social, and economic needs of those who are HIV-positive or living with AIDS, as well as protecting people with HIV/AIDS from discrimination and stigma. Easing the burden of care through a variety of measures is also critical. Importantly, one has to move beyond questions of health and science to address critical questions of poverty, development, and human rights. Given the multiple levels of inequality that converge to shape women's particular vulnerability to HIV/AIDS, these issues can be categorized according to "levels of gender inequality" rather than the more conventional division of prevention, treatment, and care. This model could serve as a basis for a more extensive comprehension and audit of gender equality and its relationship to HIV/AIDS within particular national settings. It is set out very briefly here, together with some indication of the legal and human rights issues involved.

Women's personal autonomy

This refers to women's actual autonomy over her "self" – physical, mental, and moral. It not only relates to (and is measured by) decisions and choices about reproduction and sexuality, but also to moral autonomy more broadly and to freedom from physical or emotional violence. It relates directly to women's ability to protect themselves from HIV infection in sexual relationships, and includes the ability to decide when and whether to have sex, to engage in certain sexual practices, and to use contraception. It

implies good reproductive health and the ability to make reproductive choices. Importantly, it means that women should be free of violence and coercive sex. This area is particularly, but not exclusively, addressed by a range of rights and laws encompassed in reproductive and sexual rights and violence against women.

Clearly, the development of rights campaigns under the "umbrella" of sexual or reproductive rights, the right to be free from violence, or the right to equality are all highly relevant to the question of HIV/AIDS. Such campaigns would bring together legal and non-legal strategies and could include the following critical gender areas:

- access to female condoms and microbicides;
- a focus on male practices and attitudes;
- access to information about safe-sex practices and reproductive health services;
- access to prevention of parent-to-child transmission; and
- access to post-exposure prophylaxis for rape survivors.

While these issues can be framed in terms of rights and can form the basis of advocacy, research, educational, and other strategies; they are less likely to be the subject of legal strategies such as law reform or litigation. An exception to this is in legal contexts where it is possible to advocate for law reform or litigate on the basis of socioeconomic rights, such as the right to health care (see below). Law reform and litigation initiatives could be targeted at the following issues:

- ensuring a legal framework for protection against violence, and effective enforcement of the law;
- ensuring an appropriate legal framework for sex work (decriminalization, but without punitive measures);
- ensuring the right to choice, both in terms of termination of pregnancy and in terms of the rights of HIV-positive women to have children;
- developing regulations for, and enforcement of, a right for rape survivors to be informed by the police/district surgeon about the need to access antiretroviral drugs to prevent possible HIV transmission;
- undertaking legal action to obtain drugs to reduce parent-to-child transmission if it is possible in a national context to rely on the right to reproductive choice or the right of access to health care.

Women in relationships and the family

In many countries, women still do not enjoy equal rights within relationships, including marriage, and the family. Some women are still subject to forced, arranged marriages, often at an early age. Women may also be denied equal rights to marital property and may lack the authority or equal ability to initiate or oppose divorce. Inequality within the family emerges from and is reinforced by stereotypes of women as subordinate that render them vulnerable to violence and coercive sex within marriage. Such inequality reinforces women's powerlessness in sexual relationships and their economic dependence on men.

In India, the legal status of women in practically all spheres of law – eg, consent to sex, marriage, divorce,

maintenance, and inheritance – is subordinate to that of men, on the basis of profound gender discrimination. A woman's ability to protect herself from unsafe, forcible sex depends on the balance of power in the relationship with her partner. We all know that gender is about power. In terms of power, the woman is the subordinate partner.⁽¹⁰⁾ This pattern is reflected in different settings across the world.

Women's position within the family or household also shapes their burden of caring for the sick and the stigmatization (or abandonment) they suffer as a result of their HIV status.

Some of the legal issues include ensuring a legal framework of equal rights within the family, in marriage, divorce, guardianship and custody of children; and protecting the rights of HIV-positive women within relationships or the family, especially in relation to abuse, abandonment, and discrimination.

Cultural inequality

Many cultural and social attitudes and practices undermine and negate women's equality, and directly or indirectly increase women's vulnerability to HIV/AIDS. These vary from country to country. In South Africa, the practice of bridewealth or lobola has been linked not only to patriarchal attitudes of "ownership" of women, but also to increased violence (and hence vulnerability to HIV/AIDS).⁽¹¹⁾

In Africa there is an increasing concern to develop sociocultural institutions to support women and families living with HIV/AIDS. This may involve legal activism within customary law, but the degree of cultural variation means that the strategies will be very specific to particular contexts. Some legal issues include:

- ensuring access to resources through inheritance in customary law;
- providing access to land; and
- providing equal status and rights within the family.

Socioeconomic inequality

Women's economic inequality, coupled with their sexual inequality, shapes their vulnerability to HIV/AIDS. Contracting and living with HIV/AIDS or caring for the sick also deepens women's poverty and their need for basic services from the state. This category encompasses a broad range of issues that relate to meeting women's basic needs and empowering them economically. There are numerous areas of legal and non-legal interventions here to reduce women's economic dependence on men and to ensure equitable access to services to meet their basic needs.

Women's capacity for economic empowerment is linked to the extent to which their basic needs are met, including access to education, health care, food, security, housing, etc. Access to these basic needs becomes even more critical where women have HIV or AIDS (often in addition to caring for other sick family members).

Many of these issues relate to women's social and economic rights. Here opportunities should be sought to participate in the development of policy frameworks, laws and regulations that shape women's access to, and enjoyment of, these rights. It is often difficult to litigate issues that involve choices about policies or the allocation of resources by the state. For this reason, some argue that social and economic rights are not justiciable. Despite this, there are many examples of the innovative and creative use of the law to hold governments accountable for these rights.

For example, if an antidiscrimination law is in place, it could be used or extended to address discrimination in access to these rights, such as discriminatory treatment of HIV-positive women by the health system. One could also think about using a *mandamus*, ie. an order requiring the state to perform its functions. This kind of legal procedure may be useful to compel proper delivery of social welfare grants. The removal of an existing service could also found a legal case, if socioeconomic rights are entrenched in some form in the legal system. It is, however, perhaps most difficult to use the law to enforce the provision of services that do not exist and require additional resources. Some countries have sought to rely on the notion of a basic minimum content of these rights, while others have sought to develop mechanisms to engage the state in a dialogue over the delivery of such rights.

Access to health care

Health-care needs in relation to prevention are for the most part listed under the section on personal autonomy above. People with HIV/AIDS need access to proper health care for opportunistic infections and to obtain access to drugs that are currently unaffordable to them. This right also touches on the needs of women who care for those who are sick, such as access to gloves and equipment.

Campaigns on socioeconomic rights relating to treatment and health care are central to all women's needs. Here direct legal action is possible, although difficult. It is partly dependent on the extent to which the country permits legal action on the basis of socioeconomic rights. However, there are positive international frameworks on health rights in both the Cairo Platform for Action⁽¹²⁾ and the Outcomes Document of the Beijing+5 review⁽¹³⁾ that can be used by advocates in this area.

Access to nutrition, clean water, and sanitation

Clean water and sanitation and adequate nutrition are necessary for people with HIV/AIDS to maintain their health status and for effective home-based care.⁽¹⁴⁾

Access to social security

Women engaged in home-based care have an urgent need for resources.⁽¹⁵⁾ Where countries can afford social welfare systems, legal activities can be devised to ensure that the right to social grants caters to the needs of this group of women, for example, that there is a child maintenance grant that is payable to a surviving cousin or aunt, or a special cash grant to those involved in home-based care. Legal action can

also help to ensure the efficient delivery of these grants. However, these legal activities would have to be accompanied by broader advocacy and monitoring work to ensure rights and effective payments. Legal rules could also be developed to provide rights and protections for those involved in home-based care.

Access to housing

Shelter and housing for women who lose their housing upon becoming sick (because it is tied to work, often her husband's work, or her husband's family throws her out of her home) is also a critical need. Legal action has proved effective here. For example, in Kenya, court action forced a husband to accept his ill wife back into the home.⁽¹⁶⁾ In South Africa, in a slightly different context, a woman was permitted to stay in the house attached to the work that both she and her husband did on a farm, after her husband had been dismissed.⁽¹⁷⁾

Access to education

Girl children have often been removed from school to carry out household work or care for the sick. The AIDS epidemic has increased this trend, with girls being taken out of school to help care for sick people with HIV/AIDS. This has critical consequences for development, in view of the positive returns on an investment in the education of girls.

Access to resources through inheritance

In Africa, women's access to resources through inheritance is also critical, and the removal of legal barriers to this should be a priority. In customary law, women have no right to inherit from their husbands and fathers but are entitled to maintenance from the (male) heir. However, the customary protection of widows and children via such maintenance obligations of the heir has largely broken down and many women and their families are left destitute after the death of a father or husband. This has devastating consequences for women who are living with HIV/AIDS or caring for those who are sick. In addition, the economic vulnerability of widows makes them particularly susceptible to sexual demands by male relatives, thereby increasing their vulnerability to HIV.

This is a key area of legal action. Litigation and law reform have proved successful in different contexts.⁽¹⁸⁾

Reducing women's economic dependence on men

Given the intersection of poverty and vulnerability, there is a need to ensure a proper legal framework to reduce the economic dependence of women on men. There are a variety of areas for legal intervention here, ranging from greater legal protection for women in the informal sector and vulnerable categories of workers in the formal sector to the laws affecting access to credit and the establishment of small and medium enterprises.

- Women need access to resources for economic advancement, including jobs, land, property, and credit. They also require this to cope with their increased burden of care arising from HIV/AIDS. The law can be an effective tool in these areas.
- Women's actual predominance in the lower levels of the economy and the informal sector increases their economic vulnerability. Legal reform and other measures that target these sectors, including the informal sector and small and medium enterprises, are critical to women's greater empowerment.
- Antidiscrimination measures in the workplace must protect against discrimination on the basis of gender and HIV status.
- Within the formal sector, economic policies are increasing women's vulnerability as atypical workers (falling outside traditional labour law protection) and as migrant workers (increasing their vulnerability to exploitative work conditions and sexual risks).⁽¹⁹⁾ Increased legal protection is critical.

Women's political equality, equal status, and citizenship

This is a general category that can be used to identify and assess the extent to which women are accepted as equal to men within a particular society and nation, as well as its laws, policies, and programs.

It includes the extent to which women and men are equally protected by human rights and the law in a society generally, and particularly with reference to the areas set out above. Important here is the extent to which there is an enabling legal framework of principles and rights that affirms gender equality. The extent to which gender equality is recognized as a principle and a right within a political context can influence the opportunities for effective political and legal advocacy to advance women.

A second aspect is the extent to which gender is integrated into a government's policies and programs. In other words, is the commitment to gender equality translated into effective policies and programs with (i) a sufficient allocation of resources and (ii) a system of monitoring and evaluation to ensure that the gendered objectives of the particular policy or program are met? This measures women's programmatic vulnerability.

The Role of the Law and Human Rights in Different National Contexts

Given (a) the fact that HIV/AIDS occurs in differing political, economic, and social contexts for women across the developing world and at the margins of the First World, and (b) the many ways in which gender inequality impacts on HIV/AIDS; there can be no uniform set of priorities or strategies across all countries and even for all women within a particular country. Domestic strategies have to be tailored to the needs of diverse groups of women within any country and mindful of the opportunities offered by that country's political culture, economic policies, legal system, and cultural and religious values. This final section highlights some of the issues and lessons in using law and rights to advance gender equality and reduce women's vulnerability to HIV/AIDS.⁽²⁰⁾

The role of rights struggles

Human rights have played an important role in global and national struggles for gender equality, both as an important political resource for mobilizing groups and in providing an enabling framework for the task of advancing gender equality. Rights struggles are more likely to be successful (based at least on the South African experience) when they are pursued by a broad alliance of organizations committed to clear goals and engaged in a variety of legal and non-legal strategies. These presume a vibrant civil society and include alliance building, research, media, law reform and litigation, educational lobbying, etc. The objectives should also be framed by a "rights message" that resonates with the community for whom it speaks. Importantly, the value of human rights lies as much in our capacity to use them strategically as it does in the norms and values that they espouse.

There are several rights that could potentially be used to mobilize people, groups, and communities on HIV/AIDS issues. A range of first-generation rights (equality, dignity, privacy, security of the person) can be used as part of a broader call for reproductive or sexual rights or the right to be free from violence. Here the campaign could focus specifically on women and HIV/AIDS, or on women more generally. A particular campaign targeted at the reproductive health of HIV-positive women could include a wide range of issues relating to pregnancy, birth, and freedom from discrimination in health care. Sexual and reproductive rights could frame campaigns for increased access to female condoms and research and development of microbicides.

Legal strategies

Improving the legal status of women through the establishment of a basic threshold of legal rights is a necessary, but not a sufficient, step in addressing gender inequality (and hence reducing women's vulnerability to HIV/AIDS). Legal strategies (whether targeted at law reform or litigation) also have to worry about implementation and enforcement of the rights enshrined in the law. This has been a major obstacle to women's rights worldwide. The effective implementation of rights often depends upon factors such as the institutional capacity of the state, available human, financial, and technical resources, and economic policy frameworks. Overcoming these barriers requires creative legal and non-legal strategies to hold governments accountable to women.

At the same time, there may be value in securing a law or a right in the absence of immediate opportunities for implementation, even if this is largely symbolic. Strategic engagement with the law in a manner that is clear about objectives and works within the constraints of the particular political and legal national context can have significant results. Importantly, this can achieve not only "rule-making" but also "culture-breaking" results. ⁽²¹⁾ "Culture-breaking" law reform can challenge and shift dominant norms and values. For example, law reform on abortion in South Africa was accompanied by a shift in the dominant public discourse on abortion from that of immorality and crime to that of women's rights (although many in society remained opposed to abortion). What is significant here is that legal strategies for changing the law took place within a broad human rights context and were accompanied by a range of non-legal (political, educational, media) strategies targeted at the same objective. This was critical, as legal change does not in and of itself change the public understanding of an issue, let alone attitudes within society. ⁽²²⁾

Building alliances across borders, sectors, and issues

Successful rights struggles and law reform initiatives emerge from broad alliances and an active civil society. National and international women's organizations have a rich history and experience of effective activism and successful rights struggles. In recognizing the links between gender inequality and HIV/AIDS, it is important to build bridges between organizations working on "gender" and on "HIV/AIDS." These new partnerships may focus on process (how to go forward) or substance (what issues?) to enrich the work of both partners.

Although there is some recognition in the international arena of the links between HIV/AIDS and gender equality (most noticeably in the UNAIDS program),⁽²³⁾ HIV/AIDS has remained largely ghettoized within health.⁽²⁴⁾ This expresses an ongoing dissonance between the activities clustered around "gender" and "HIV/AIDS" that is unfortunate at a time when the partnership needs to be deepened and extended. Importantly, it needs to move beyond issues of women's health and sexual and reproductive rights to include broader developmental and human (especially socioeconomic) rights concerns. Inherent in this is a greater emphasis on the experiences and context of women (and men) in the developing world who live directly in the shadow of the epidemic, and who are often most dependent upon international norms for leverage back home.

Rights and legal strategies – organized at the community, national, or international level – can help to reduce gender inequality and women's vulnerability to HIV/AIDS. The challenge is to find the correct strategic partnerships and interventions within a particular national or international context.

– Cathi Albertyn

Professor Cathi Albertyn is the Head of the Gender Research Project at the Centre for Applied Legal Studies, University of the Witwatersrand, Johannesburg, South Africa. She can be reached at cathi@wn.apc.org. She would like to thank Richard Elliott, David Everatt, Beth Goldblatt, Sofia Gruskin, Mark Heywood, Joanne Manchester, E Maxime, and Geeta Rao Gupta for their insightful and valuable comments on the longer version of this paper, which is available on the website of the Canadian HIV/AIDS Legal Network at <http://www.aidslaw.ca/durban2000/e-durban2000.htm#cp>. She is grateful to the participants of the roundtable discussion on HIV/AIDS and Gender, hosted by *Agenda* on 19-20 June 2000 in Durban for providing the opportunity to debate some of these issues.

1. All international figures are from the UNAIDS *Report on the Global HIV/AIDS Epidemic*, June 2000.
2. Roah Gupta G, Weiss E. *Women and Aids: Developing a New Health Strategy* Washington: International Centre for Research on Women, 1996.
3. Klugman B. Sexual rights in Southern Africa: A Beijing discourse or a strategic necessity. *Health and Human Rights* 2000; 4:2: 145 at 146-147. See also McFadden P. Sex, Sexuality and the Problem of AIDS in Africa. In: R Meena (ed). *Gender in Southern Africa: Conceptual and Theoretical Issues*. Harare: Sape Books,

1992.

4. Recent research in Gauteng, South Africa, found that nearly one-third of women and men surveyed agreed that forcing sex on someone you know is never sexual violence. A study of the Southern Metropolitan Local Council of Johannesburg and CIETafrica, reported, inter alia, in *Sunday Times* 25 June 2000. See also Pendry B. The links between gender violence and HIV/AIDS. *Agenda* 1998; 39: 30; and Watts C, Garcia-Moreno C. Violence against women: its importance for HIV/AIDS prevention and care. *Women's Health News* May 2000, no 34 (Women's Health Project, Johannesburg).

5. See for example, Weiss E, Roah Gupta G. *Bridging the Gap. Addressing Gender and Sexuality in HIV Prevention*. ICRW, 1998; and Gender-Related Vulnerability and Obstacles to Prevention and Coping, prepared by the Royal Tropical Institute (KIT) and the Southern Africa Aids Information Dissemination Service (1995/6).

6. Although South Africa is used as an example, this seems to be true across many developing countries. See, for example, the recent report commissioned by UNIFEM: Gender Related Socio-Economic Impact of HIV/AIDS in Zimbabwe. Harare, April 2000. See also the references in the previous footnote.

7. The Zimbabwean study found that 76 percent of children who left school to care for sick people were girls.

8. UNIFEM, supra, note 6.

9. See, for example, Roah Gupta & Weiss, supra, note 2; and Abdool Karim Q. Women and AIDS – the imperative for a gendered prognosis and prevention policy. *Agenda* 1998; 39: 15.

10. Dhaliwal M. Creation of an enabling and gender-just legal environment as a prevention strategy for HIV/AIDS among women in India. *Canadian HIV/AIDS Policy & Law Newsletter* 1999; 4(2/3): 86 at 88.

11. White C. Close to home in Johannesburg – gender oppression in township households. *Women's Studies International Forum* 1993; 16(2): 149. See also Mthembu P. A positive view. *Agenda* 1998; 39: 26. More generally, see Pieterse M. The Impact of Customary Laws and Practices on HIV/AIDS. Occasional paper for the Aids Law Project, Centre for Applied Legal Studies, University of the Witwatersrand, 1999.

12. The Cairo Programme of Action of the International Conference on Population Development, 1994.

13. See the unedited final outcome document of Beijing +5, June 2000 (available at <http://www.un.org/womenwatch/daw/followup/beijing+5.htm>).

14. See, for example, *ibid*, paras 9 and 107d.

15. UNIFEM, supra, note 6.

16. Reported in *Sunday Independent* 6 August 2000.

17. See the decision of the South African Land Claims in *Conradie v Hanekom* LCC/8R/99 (22/04/99).

18. In South Africa, a process of law reform will, hopefully, see women access property through inheritance. See the discussion paper of the South African Law Commission (available at <http://www.law.wits.ac.za/salc/salc.html>).

19. I am grateful to Geeta Rao Gupta for this point.

20. These are largely lessons drawn from the South African experience. Some of them are documented in Albertyn C et al. *Engendering the Political Agenda. A South African Case Study*. Centre for Applied Legal Studies, University of the Witwatersrand. Soon to be published by the UN Institute for Research and Training for the Advancement of Women.

21. Stoddard T. Bleeding heart: reflections on using the law to make social change. *New York University Law Review* 1997; 72(5): 267.

22. See: Reproductive health and the right to choose – policy and law reform on abortion. In: Albertyn et al, *supra*, note 20.

23. The 1996 HIV/AIDS and Human Rights International Guidelines identify women as a vulnerable group (Guideline 8). The program of the 1999 International Partnership Against HIV/AIDS in Africa goes further, to call specifically for the strengthening of the status of women through legal and other means to reduce their vulnerability (policy area 10).

24. Unfortunately, the central place accorded to the relationship between HIV/AIDS and gender in the work of UNAIDS and within the African region did not find its way into the final document of Beijing +5. While the language on health included positive and progressive statements on HIV/AIDS, areas relating to poverty, development, and human rights were disappointingly silent.

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