

## **YOU STRIKE A WOMAN, YOU STRIKE A ROCK**

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56 years ago a group of 20 000 women stood up for what they believed in, and won. The march to the Union Buildings in Pretoria on 9 August 1956 marked an important moment for women in the history of South Africa and demonstrated their strength and courage. The story of their march and their petition for the end of pass laws is retold proudly throughout the country, and continues to inspire women and men alike.

Women in South Africa have come a long way. In the short span of 56 years we have done what it took other countries centuries to do. We have gone from laws that drastically restrict women's rights, to the situation today where women occupy powerful positions in government, business and their communities. Our Constitution and international treaties such as the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) and the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provide an important legal framework for the progress that women have made.

While we celebrate these achievements, we must also recognize the obstacles we must overcome in order to advance women's social, political and economic status. One of the obstacles is the continuing tension between the position of women in traditional societies and the requirements of the Constitution. This tension is reflected in legislation such as the Traditional Courts Bill and the Recognition of Customary Marriages Act of 1998, which some feel undermine the position of women in society by upholding patriarchal systems.

Fortunately, the Traditional Courts Bill is now being reconsidered after it was rejected by human rights and women's organisations. The Bill was criticised for not adequately providing for women's representation and participation, and because it did not protect women in the traditional court system. These concerns were expressed by a rural woman, Shirhami Shirinda, with firsthand experience, when she spoke out against the Traditional Courts Bill. She is currently serving on the traditional committee of her village and has witnessed traditional court proceedings for more than 50 years. She believes that the Bill would have served only to disempower women by entrenching patriarchal processes. She explains that many rural women prefer social workers and magistrate's courts above traditional courts because they view the latter as being biased in favour of men. Even in the communities where women are allowed to participate in trying cases, men still dominate traditional court proceedings.

Traditions and culture play an important role, especially in more traditional South African families. While delivering her Budget Vote Speech on the 18th of May, the Minister of Women, Children and People with Disabilities, Lulu Xingwana, drew attention to the fact that the Traditional Courts Bill did "not prohibit harmful traditional practices, such as ukungenwa, ukuthwalwa, (abduction and forced marriages) [among others]. South Africa has made commitments through the Constitution, various pieces of legislation and international conventions to respect, promote, protect and advance the rights of women."

Ukuthwala is an ancient Zulu and Xhosa tradition which would be roughly translated in English as, "to pick up" or "to take", or more fully "to pursue and carry off in marriage". In its original form, the tradition was primarily connected to the family unit. In many cases, it was a mock abduction, used to initiate marriage negotiations if a girl's family did not approve of her choice of suitor. Increasingly, Ukuthwala has resulted in violence against women, and their objectification. In these cases, Ukuthwala is a clear violation of human rights because it allows the girl/woman no choice on whether or not she will be married. In so doing, the 'tradition' also threatens the woman's rights of survival, development, protection and participation in choosing how she will lead her life.

Another challenge to the rights of women (and children) is human trafficking. According to a March 2010 research report by the Human Sciences Research Council (HSRC), women constitute the largest group of victims in all trafficking streams - including those within the continent and within national borders - who

are trafficked primarily for sexual exploitation. There are increasing reports on the seizure of houses where women have been kept against their will and forced into prostitution and drug use. Such actions are gross violations of fundamental human rights and contravene the principle that “no one may be subjected to slavery, servitude or forced labour”.

South Africa has signed and ratified the United Nations Convention Against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol). The country’s commitment to this Protocol involves criminalising trafficking, investigating and prosecuting traffickers and undertaking border control measures. However, comprehensive national legislation to address human trafficking is still absent. Parliament’s Justice Portfolio Committee has yet to pass The Prevention and Combating of Trafficking in Persons Bill, which has been before Parliament for five years, despite its importance in protecting vulnerable persons.

Beyond new legislation and government responsibility, upholding the rights of women and girls also depends on the commitment and advocacy of the public and civic society. Discrimination and violence against lesbians, gays, bisexual and transgender people is a reality across South Africa. Such hate crimes violate the human rights enshrined in both the Constitution and CEDAW. The recent murders of, and assaults on, lesbians in Cape Town, Gauteng, Limpopo and Northern Cape provinces serve as stark reminders of the ongoing threats to women’s rights and security.

In the 56 years since the march to the Union Buildings, the advancement of women’s rights and status has encountered significant challenges. While some of these obstacles have been overcome, others still remain. Celebrating the achievements of women today requires reflection on the past and a vision for the future. Until all women, regardless of race, class or sexual orientation, enjoy and benefit from the full spectrum of rights afforded to them in both national and international law, the march - that began in Pretoria 56 years ago - must continue.

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