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THE WORLD BANK AND THE REALIZATION OF THE RIGHTS OF WOMEN IN AGRICULTURE AND RURAL DEVELOPMENT PROJECTS IN SUB-SAHARA AFRICA (SSA)

Lauren McGlynn*

Introduction

The need to protect and promote rural women's rights is a growing concern that stems from the widespread recognition of the crucial roles that women play in agricultural and rural development. Statistics show that women account for nearly three-fourths of food production in Africa.¹ Seventy-eight percent of all women are active in agriculture, exceeding male activity by fourteen percent.² Women also perform multiple roles as caretakers of the home and children. The growth in the number of female-headed households makes discrimination all the more serious.³ Thus, the necessity to relate agricultural and rural development projects to the needs of women is crucial to the economy, community and family.

There is widespread agreement that various discriminatory practices limit the value and effectiveness of projects designed to increase or improve agricultural production, food security, community services and grassroots income-generating activities, and they limit women's economic, political

* J.D., Rutgers-Newark, The State University of New Jersey. Special acknowledgment is given to Professor James C.N. Paul as editor and mentor. Special thanks are also given to the World Bank staff for their assistance.

1. WORLD BANK, *WOMEN IN DEVELOPMENT: ISSUES FOR ECONOMIC AND SECTOR ANALYSIS 2* (Policy, Planning and Research Working Papers, Women in Development Div., Population and Human Resources Dep't, The World Bank, 1989) [hereinafter WID ISSUES].

2. KATERINE A. SAITO & C. JEAN WEIDMANN, *AGRICULTURAL EXTENSION FOR WOMEN FARMERS IN AFRICA 3* (Policy, Research, and External Affairs Working Papers, Women in Development Div., Population and Human Resources Dep't, The World Bank, 1990) [hereinafter AGRICULTURAL EXTENSION].

3. INGRID PALMER, *WOMEN'S ROLES AND GENDER DIFFERENCES IN DEVELOPMENT: THE IMPACT OF MALE OUT-MIGRATION ON WOMEN IN FARMING* (1985) [hereinafter PALMER]; T. PAUL SCHULTZ, *WOMEN AND DEVELOPMENT — OBJECTIVES, FRAMEWORKS, AND POLICY INTERVENTIONS* (Policy, Planning and Research Working Papers, Women in Development Div., Population and Human Resources Dep't, The World Bank, 1989) [hereinafter SCHULTZ].

and social roles. These discriminatory practices are rooted in inherited attitudes, culture and various forms of law, and they are maintained by various power structures, ranging from the household and extended family to governmental agencies including the courts, to bureaucracies such as development agencies.

The International Bill of Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the African Charter on Human and Peoples' Rights, as well as other public pronouncements condemn these discriminatory practices. The instruments impose legal obligations on all governments and international development agencies to take steps through development processes to abolish these discriminatory practices by promoting the recognition of women's rights.

As the most significant development actor in SSA, the World Bank can play a crucial role in developing these strategies, notably by helping women help themselves by articulating, asserting and securing their rights in development processes. In order to play this role, the Bank, which is certainly aware of the problems and their importance, must set out a Human Rights policy governing development projects and aggressively pursue it.

These efforts must be joined with "bottom-up" strategies which help the victims of discrimination (through education, organization and other "empowerment" efforts) to participate as self-reliant actors in the processes of change leading to the realization of rights. This participatory approach to the development of women's rights is essential, both to produce changes within societies and to anchor those changes in culture and community acceptance.

Nongovernmental organizations (NGOs) can press the Bank to adopt a Human Rights policy. Equally important, they can utilize Bank policies and its internal law as resources to help promote grassroots (as well as official "top-down") efforts to use Human Rights law to empower rural women.

The Human Rights approach to development for women, and for all project-affected people, calls for this conjuncture of efforts by the Bank and by NGOs. This paper outlines a methodology for realizing this approach.

I. Forms and Sources of Discrimination

A. Practices

Bank documentation of practices that discriminate against women is not only abundant, it is derived from many studies from the field, and

it is an important resource for women's NGOs.⁴ In general terms, the Bank has found that: "Women farmers and laborers often encounter difficulties because of limited access to production resources including land, capital, credit, marketing channels, time and appropriate equipment and technologies."⁵

1. Discrimination in the Allocation of the Right to Control Land

Through much of Africa those who control land tenure give women limited or derivative rights in land. As the Bank states, "women have less secure tenure, land which is more fragmented, or simply smaller plots . . . [which] are frequently far from their villages and far from other plots the women cultivates [W]omen tend to [be] over-represented among farmers with little land . . . [and] are less likely to have secure title to land."⁶

2. Discrimination in Opportunities for Credit

Bank studies show that "women are bypassed by formal credit systems . . . because of their lack of education, . . . their 'home bound' traditions, or . . . [because] title to land and other assets, often required as collateral, is held by men."⁷ Even where land is held by a woman, lenders often require a male co-signer. These discriminations are exacerbated by the "distance and cost of travel to credit institutions and the small scale of many women's operations."⁸

4. See accompanying Bibliography in addition to footnotes. An index of current bank publications along with those cited in this article can be obtained (in Africa) by ordering through: Africa Book Service (E.A.) Ltd., P.O. Box 101 Kwangwhamun, Seoul, Kenya; University Press Limited, Three Crowns Building Jericho, Private Mail Bag 5095, Ibadan, Nigeria; Oxford University Press Southern Africa, P.O. Box 1141, Cape Town 8000; or if your country is not listed you may order from World Bank Publications, Box 7247-8619, Philadelphia, PA 19170-8619, U.S.A.

5. WORLD BANK, WOMEN AND AGRICULTURE IN AFRICA: A GUIDE TO BANK POLICY AND PROGRAMS FOR OPERATIONAL STAFF 4 (Agricultural Div., Technical Dep't, The World Bank, 1989) [hereinafter WOMEN AND AGRICULTURE]; Christina H. Gladwin ET AL., *Providing Africa's Women Farmers Access: One Solution to the Food Crisis*, 13 J. AFR. STUD. (Winter 1986-87) [hereinafter *Providing Access*].

6. AGRICULTURAL EXTENSION, *supra* note 2, at 8.

7. WORLD BANK, THE WORLD BANK INITIATIVE FOR WOMEN IN DEVELOPMENT: A PROGRESS REPORT 3 (Women in Development Div., Population and Human Resources Dep't, The World Bank, 1990) [hereinafter PROGRESS REPORT].

8. AGRICULTURAL EXTENSION, *supra* note 2, at 8.

3. Discrimination in Allocation of Work Roles and Control of Household Income

Bank studies show: “[W]omen tend to be disproportionately represented among the poor . . . [and] the poorer the household, the larger the share of total output . . . provided by the unrecognized work of women.”⁹ This is caused, in part, by “a division of labor [T]he male head of household . . . controls the production and marketing of cash crops . . . [and] utilization of any profit [Women] contribute their labor on all crops . . . but [only] have individual control . . . [over the income derived from] . . . that portion [of crops] grown on their personal fields.”¹⁰

With only limited capital, women are often expected to provide “production inputs, hired labor or food for reciprocal labor . . . for their personal fields . . . [and] food, clothing and medicine for themselves and their children . . . [and] partial school fees.”¹¹

According to Bank estimates regarding labor within the household, women provide “ninety percent of the labor for processing food crops and providing household water and fuelwood; eighty percent of the work in food storage and transport from farm to village; ninety percent of the work in hoeing and weeding; and sixty percent of the work in harvesting and marketing.”¹²

In addition, women “care for the children and see to the family’s basic needs.”¹³ The resulting time constraints impose excessive burdens on women and impact adversely on children.

4. Discrimination in Access to Markets and Cooperatives

Marketing, as a full-time or part-time occupation, is an important source of income for women in many regions. Yet “numerous constraints . . . ranging from lack of access to formal credit to having to juggle the ‘double day’ of productive and reproductive activities . . . [coupled with] state regulatory policies” negatively affect women who are without the capital for licenses, fees or fines.¹⁴ State sponsored cooperatives discrim-

9. WID ISSUES, *supra* note 1, at vi, 3.

10. WOMEN AND AGRICULTURE, *supra* note 5, at 4.

11. AGRICULTURAL EXTENSION, *supra* note 2, at 14.

12. WID ISSUES, *supra* note 1, at 2.

13. *Id.*

14. R.L. BLUMBERG, MAKING THE CASE FOR THE GENDER VARIABLE: WOMEN AND THE WEALTH AND WELL-BEING OF NATIONS 53 (U.S. Agency for Int’l Dev. 1989); WID ISSUES, *supra* note 1, at 45.

inate against women by requiring land ownership or restricting membership to the head of household, whereas cooperatives aimed at women have not been successful due to the failure to account for time constraints and women's lack of managerial skills.¹⁵

5. Neglect in Provision of Technologies and Services

Bank research shows that "technological improvements in agricultural production are mostly intended for cash crop production, [and most] are geared to tasks largely performed by men [W]hen technological innovations do address women's tasks and make them more profitable, men often take over."¹⁶ The inability of women to gain access to new technologies reflects "women's poorer access to information and credit as well as cultural traditions."¹⁷ Studies show how new technologies geared to large scale agriculture led to "increased women's workloads, and increased demand for women's labor without additional compensation."¹⁸ Women farmers cannot adopt a technology for their own use if it increases their labor requirements, e.g. fertilizers that increase water needs, or alternatively, women may be displaced by technology that they cannot adopt, e.g. hired female harvesters replaced by machines.¹⁹ Furthermore, designs for services (electricity, water supply, fuel, roads) to relieve women of drudge work are often absent in development schemes. All in all, the planning of projects fails to reflect women's lack of access to and need of labor-saving technologies and services.

The above discriminations manifest harshly on the female-headed household. Studies have shown that these households are generally poorer than male-headed households.²⁰ In addition, unlike male-headed households, these women generally do not have the additional labor to replace the missing family member nor can they afford to hire replacement labor.²¹

B. Structures Which Maintain Discrimination

Discriminatory practices are established by custom and often maintained by practice within the family, by local authorities, court systems

15. AFRICAN WOMEN IN COOPERATIVES: TOWARDS A REALISTIC AGENDA (Conference Report, Institute for African Alternatives 1989); WID ISSUES, *supra* note 1, at 45.

16. J. PRICE GITTINGER, HOUSEHOLD FOOD SECURITY AND THE ROLE OF WOMEN 10 (World Bank Discussion Papers No. 96, 1990) [hereinafter FOOD SECURITY].

17. WID ISSUES, *supra* note 1, at 54; see FOOD SECURITY, *supra* note 16, at 11.

18. FOOD SECURITY, *supra* note 16, at 11.

19. *Id.*

20. PALMER, *supra* note 3; SCHULTZ, *supra* note 3.

21. *Id.*

and development agencies. A Bank staff member observed: "Women's capacity to work is often particularly constrained — their productivity reduced — by culture and tradition, sometimes codified into law or policy."²²

For example, land allocation may be decided by male chiefs, village or lineage leaders, or male heads of households. They apportion land to men according to their needs.²³ The Bank has noted: "Land tenure legislation, whether it assigns full ownership or usufruct rights only to individuals, often does so through the male head of household. Women may in return receive usufruct rights from the male 'owner,' but this has no legal basis and therefore no formal recognition in legal terms"²⁴ There is an apparent reluctance by the courts and land tribunals to interfere with this distribution.²⁵

Education, often cited as the panacea for the problems faced by rural women, is affected by work and gender roles determined by household heads. As the Bank notes,

parents are often more reluctant to educate — or even to provide health care or food for — daughters, perhaps because women have (or are expected to have) fewer income-earning opportunities than men, because girls are expected to do more household chores, because girls leave their families when they marry, or because tradition discourages aging parents from accepting help from daughters.²⁶

In SSA "the adult male literacy rate is almost twice that of females [and] males are twice as likely to be enrolled in secondary school."²⁷

Those who control community health care services have often failed to take account of women's position in society. Problems involving maternal mortality, timed births, malnutrition, pneumonia and diarrhoea, immunization, and breast feeding cannot be adequately addressed until discriminations (reluctance to educate women, exclusion from design and management of services) are removed and infrastructure (accessible potable water supplies, access roads) provided to make the provision of health

22. *WID Issues*, *supra* note 1, at v.

23. *AGRICULTURE, WOMEN AND LAND: THE AFRICAN EXPERIENCE* (J. Davison ed., 1988) [hereinafter *AGRICULTURE AND LAND*].

24. *WOMEN AND AGRICULTURE*, *supra* note 5, at 4.

25. *AGRICULTURE AND LAND*, *supra* note 23; *WOMEN, LAW AND DEVELOPMENT — ACTION FOR CHANGE* (Series on Women, Law and Development: Issues and Strategies for Change No. 2, OEF International, M. Schuler ed. 1989) [hereinafter *WOMEN AND DEVELOPMENT*].

26. *PROGRESS REPORT*, *supra* note 7, at 2.

27. *AGRICULTURAL EXTENSION*, *supra* note 2, at 10-11.

care services meaningful. Furthermore, attaining the goals of the Convention on the Rights of the Child (which mandates the removal of traditional practices prejudicial to the health of children) are dependant upon the realistic provision of health care services to women.²⁸

Customs are often extended by officials and agencies into projects: "Agricultural extension programs customarily focus on male farmers."²⁹ This is due to the fact that:

cultural norms circumscribe male-female interaction . . . [E]ven where women have equal legal status, rural women may be shy and reluctant to speak up in extension meetings in the presence of male agents or men from the same village . . . [Lacking] confidence because of lower educational levels and less contact with the outside world. Men are seen as authority figures whose decisions are to be followed. Male extension agents, raised in the same cultural traditions, often expect women to follow their direction and do not encourage their questions.³⁰

Where women are not present at meetings, "[d]evelopment planners have assumed that information . . . will be passed along . . . [but] men are not usually expected to share their information [and] it is improper for a wife, especially a junior wife, to query her husband about what he learned."³¹

Family and lineage heads perpetuate customs which affect women's legal status as well. "Women's legal positions remain inferior *de jure* in some countries and *de facto* in more, and women are often reluctant to use what legal channels they have to enforce claims against men."³² The absence of female judges and officials reinforces this problem.³³

Women are thus unable to change their own positions and a vicious cycle results: "Women can produce and earn less, so parents invest less in education and health care for their daughters, who will, as a result, also produce and earn less. The daughters will also lack some of the skills and resources they need to care for their own families."³⁴

In overlooking rural women's position and participation, development planners have exacerbated the harms women face and inhibit planners

28. UNITED NATIONS CHILDREN'S FUND, THE STATE OF THE WORLD'S CHILDREN 1991 64 (1991).

29. PROGRESS REPORT, *supra* note 7.

30. AGRICULTURAL EXTENSION, *supra* note 2, at 3.

31. *Id.*

32. PROGRESS REPORT, *supra* note 7, at 3.

33. See WOMEN AND DEVELOPMENT, *supra* note 25.

34. PROGRESS REPORT, *supra* note 7, at 3.

and managers of development efforts.³⁵ Underdevelopment contributes further to the inequalities that women face. Human capital is wasted along with development capital.

Development agencies, in an effort to assist women, have established special units and funds. Often the result of this effort is the creation of special projects for women. These "women's projects" seldom address causes and are often temporal in effect. The marginalization of women in development processes reinforces gender distinctions.³⁶ The incorporation of women into mainstream development projects through their self-reliant active participation is now *the* agreed-upon standard. The Bank has realized that "[e]nabling women farmers to reach their full production potential, and to improve their working and living conditions . . . is to be reached by integrating gender-related issues into normal sectoral and operational work, and not necessarily by funding special women projects."³⁷

Power relations between women and the structures which maintain discrimination must be altered to ensure this active participation. The legal obligation of ensuring participation is enunciated in the various international conventions and declarations. They impose an obligation on the Bank as well as governments to incorporate women into mainstream development processes.³⁸

II. The Human Rights Approach to Combatting Discrimination

A. Sources of Universal Rights for Women

In the Human Rights approach to development, emphasis is placed upon the participation of the affected population and on their efforts to protect and promote their rights. This approach was born through need, experience, insight and an emerging consensus of the development experts.³⁹

35. See *Providing Access*, *supra* note 5; WORLD BANK, COTTON DEVELOPMENT PROGRAMS IN BURKINA FASO, COTE D'IVOIRE AND TOGO (A World Bank Operations Evaluation Study, 1988).

36. Katarina Tomasevski, *Women in Development Cooperation: A Human Rights Perspective*, 6 SIM NEWSL. & NETH. Q. HUM. RTS. 50 (No. 4, 1988).

37. WOMEN AND AGRICULTURE, *supra* note 5, at 1.

38. James C.N. Paul, *The Human Right to Development: Its Meaning and Importance*, J. MARSHALL L. REV. (forthcoming) [hereinafter *Right to Development*].

39. See *The Declaration on the Right to Development*, G.A. Res. 128, U.N. GAOR, 41st Sess., Annex., Supp. No. 53, at 186, U.N. Doc. A/41/53 (1986) [hereinafter *Declaration*]; RIGHT TO DEVELOPMENT, *supra* note 38.

1. *The International Bill of Rights* mandates equality of men and women in the realization of all economic, social and cultural rights, the enjoyment of basic rights to food and health, and in access to processes to protect these rights.⁴⁰

2. *The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* is a development orientated body of law created to change social and cultural patterns that discriminate against women and to protect and promote the rights of rural women. The Convention envisions development processes as the means to achieve these rights.⁴¹

3. *I.L.O. Convention No. 141* provides rural women with the rights to organize *their* organizations to promote and protect *their* interests in rural development.⁴²

4. *The Declaration on the Right to Development* obligates States and IDAs to ensure the full participation of women in development and it obligates them to adopt measures to promote and protect women's rights in the processes of development.⁴³

5. *The Convention on the Rights of the Child* mandates the protection of children's rights (notably girls), particularly in developing countries, through international efforts and cooperation.⁴⁴

6. *The African Charter on Human and Peoples Rights* (African Charter) requires governments to "ensure the elimination of every discrimination against women" and "ensure the protection of the rights of the woman and child as stipulated in international declarations and conventions."⁴⁵ It thus appears to incorporate CEDAW and the Convention on the Rights of the Child.

The implications arising from this body of law are broad. The consensus and repeated reiteration of these rights formulates "hard law." As

40. *International Covenant on Economic, Social and Cultural Rights*, Articles 3, 11, 12. [Opened for signature, Dec. 19, 1966. Entered into force Jan. 3, 1976.] G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, at 49, U.N. Doc. A/6316 (1967); *International Covenant on Civil and Political Rights*, Articles 2, 3, 14. [Opened for Signature, Dec. 19, 1966. Entered into force, March 23, 1976.] G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, at 52, U.N. Doc. A/6316 (1967).

41. *Convention on the Elimination of All Forms of Discrimination Against Women*, G.A. Res. 180, U.N. GAOR, 34th Sess., Supp. No. 46, U.N. Doc. A/REA/34/180 (1980) [hereinafter *CEDAW*].

42. International Labor Organization, *Convention Concerning Organizations of Rural Workers and Their Role in Economic and Social Development*, Convention No. 141 (1975).

43. *Declaration*, *supra* note 39.

44. *Convention on the Rights of the Child*, G.A. Res. 25, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/Res/44/25 (1990).

45. *The African Charter on Human and People's Rights* [Adopted June 27, 1981; entered into force Oct. 21, 1986.] O.A.U. Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 59 (1982).

of 1989, thirty-nine out of forty-five SSA countries had ratified either the African Charter or CEDAW (with two additional signatories to CEDAW).⁴⁶ A total of 105 countries worldwide have ratified CEDAW as of 1990.⁴⁷ Most SSA countries have now ratified the Convention on the Rights of the Child, with worldwide signatories exceeding 100. These developments call for the progressive realization of rights established by these conventions through continuous implementation of their provisions in development projects. These provisions in turn state the many specific measures to be taken to protect and promote rights; they direct the relevant parties to actions they must take.

B. Applying Human Rights Law to Development Projects

CEDAW, whether adopted directly or through the African Charter, is a legal tool to be utilized in development efforts. It directly addresses many discriminatory practices and the structures which maintain them. The Bank, the governments and rural women through NGO efforts thus have the power and “right” to use the provisions of CEDAW to structure development projects.

Article 1 of CEDAW defines discrimination as:

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.⁴⁸

Development projects that exclude women’s participation and adopt or condone the discriminatory practices noted above fit within this definition of discrimination.

Article 14(1) of CEDAW obligates States Parties to:

take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the

46. *The International Law of Human Rights in Africa* (1988); Multilateral Treaties Deposited With the Secretary-General (ST/LEG/SER.E/5), E.87.v6.

47. Elizabeth F. DeFeis, *An International Human Right: Gender Equality*, 3 J. WOMEN’S HIST. 106 (No. 1, 1991).

48. *CEDAW*, *supra* note 41.

application of the provisions of the present Convention to women in rural areas.⁴⁹

Article 14(2) of CEDAW directs States Parties to

take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on the basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right "(a) [t]o participate in the elaboration and implementation of development planning at all levels."⁵⁰

This provision of CEDAW has been taken as a call for "restructur[ing] rural development schemes to respond to women's needs [and] allocating resources between men and women in mixed projects."⁵¹ Projects for food security are to provide "opportunities [for women] to hold official positions. . .[and] training in leadership, administration and financial management."⁵² Also, programs to introduce crop rotation, new crops, conservation methods and other modern techniques must integrate women farmers, not exclude them.⁵³ Technologies are to be designed and introduced "in a manner that ensures women's access to the new technology and to its benefits and does not displace women from means of livelihood when alternative opportunities are not available."⁵⁴

Overall:

the incorporation of women's issues in all areas and sectors and at the local, national, regional and international levels should be

49. *Id.*

50. *Id.* One Bank study showed that the failure to involve grassroots organizations to ensure beneficiaries' participation was the main reason for project "failure"; "failure" meaning "failing the long-term sustainability test." MICHAEL M. CERNEA, *NONGOVERNMENTAL ORGANIZATIONS AND LOCAL DEVELOPMENT* 28 (World Bank Discussion Papers No. 40, 1988) [hereinafter *NGOs and Local Development*]; MICHAEL M. CERNEA, *FARMER ORGANIZATIONS AND INSTITUTION BUILDING FOR SUSTAINABLE DEVELOPMENT* (World Bank Reprint Series No. 414, 1987) [hereinafter *Farmer Organizations*].

51. *Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, The Nairobi Forward-Looking Strategies for the Advancement of Women* ¶ 179, U.N. Doc. A/Conf.116/28 (1985), No. E.85.IV.10 [hereinafter *Strategies*]. This conference document was adopted by the consensus of 157 countries represented at the conference. It was then adopted without a vote by the 40th session of the U.N. General Assembly in Resolution 108 on Dec. 13, 1985. See *Document, Re-examining the U.N. Convention on the Elimination of All Forms of Discrimination Against Women: The U.N. Decade for Women Conference in Nairobi*, 10 *YALE J. INT'L L.* 384 (1985).

52. *Strategies*, *supra* note 51.

53. *Id.* ¶ 183.

54. *Id.* ¶ 184.

institutionalized. . . . [A]ppropriate machinery should be established or strengthened and further legislative action taken. Sectoral policies and plans should be developed, and the effective participation of women in development should be integrated both in those plans and in formulation and implementation of mainstream programmes and projects and should not be confined solely to statements of intent within plans or to small-scale, transitory projects relating to women.⁵⁵

Article 14(2)(b) of CEDAW requires that women be assured the right to have “access to adequate health care facilities, including information, counselling and services in family planning.”⁵⁶ This provision includes the obligation to provide education that addresses “attitudes and values and actions that are discriminatory and detrimental to women’s and girls’ health.”⁵⁷ It also mandates “access to and control over income to provide adequate nutrition for themselves and their children.”⁵⁸

The Convention on the Rights of the Child, at Article 24, sections (1) through (4), supports Article 14(2)(b) of CEDAW in the recognition of the right to: “the provision of adequate nutritious foods and clean drinking water . . . appropriate pre-natal and post-natal health care for mothers . . . [in recognition that] parents and children are to be informed, have access to education and are supported in the use of basic knowledge of child health and nutrition”⁵⁹

Article 24 goes further to say: “States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.”⁶⁰ It particularly addresses development efforts: “States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the rights recognized in the present Article. In this regard, particular account shall be taken of the needs of developing countries.”⁶¹

Article 14(2)(c) of CEDAW mandates that women have the right to “benefit directly from social security programmes.”⁶² This provision means that women can demand “equality in conditions and opportunities of employment, including remuneration [and] equality of educational opportunities and training.”⁶³

55. *Id.* ¶ 155.

56. *CEDAW*, *supra* note 41.

57. *Strategies*, *supra* note 51, ¶ 150.

58. *Id.* ¶ 154.

59. *Convention on the Rights of the Child*, *supra* note 44, Article 24(2)(b), (c).

60. *Id.* Article 24(3).

61. *Id.* Article 24(4).

62. *CEDAW*, *supra* note 41.

63. *Strategies*, *supra* note 51, ¶ 54.

CEDAW Article 14(2)(d) requires that States Parties guarantee to women the right to “obtain all types of training and education, formal and nonformal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency.”⁶⁴ This provision means that women can demand rights to participate “at all levels of national educational policy and in formulating and implementing plans, programs and projects.”⁶⁵ It also mandates that support for education be increased and distributed equally to boys and girls; gender stereotyping and the division of studies by sex must be eradicated from school systems; women studies are to be increased, and boys must be educated in child care and domestic duties.⁶⁶

Under Article 14(2)(e), women are assured the right to organize “self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment.”⁶⁷ This provision means that women can demand rights to:

financial, technical, advisory and institutional support to women’s organizations and groups to enhance the self-reliance of rural women; co-operatives should be promoted . . . by improving farm input provisions, primary processing and the wholesale marketing of women’s production; comprehensive support . . . to women’s organizations to facilitate the acquisition of farm inputs and information and to facilitate the marketing of produce.⁶⁸

In recognition of the informal sector, “[t]raditional craft and cottage industries, as well as the small industrial efforts of women, should be supported with credits, training facilities, marketing opportunities and technological guidance . . . Producer’s co-operatives should be supported and women should be encouraged to establish, manage and own small enterprises.”⁶⁹

Under CEDAW Article 14(2)(f), women are guaranteed the right to “participate in all community activities.”⁷⁰ This simple phrase means that women can demand the right to become:

64. CEDAW, *supra* note 41.

65. *Strategies*, *supra* note 51, ¶ 163.

66. *Id.* ¶¶ 166, 168, 171, 173.

67. CEDAW, *supra* note 41.

68. *Strategies*, *supra* note 51, ¶ 185.

69. *Id.* ¶ 195.

70. CEDAW, *supra* note 41.

an integral part of the process of defining development strategies and measures for their implementation [in recognition of] the need for women to participate fully in political processes and to have an equal share of power in guiding development efforts and in benefitting from them.

....

Organizational and other means of enabling women to bring their interests and preferences into the evaluation and choice of alternative development strategies should be identified and supported. This would include special measures designed to enhance women's autonomy, bringing women into the mainstream of the development process on an equal basis with men, or other measures designed to integrate women fully in the total development effort.⁷¹

Article 14(2)(f) also requires that:

governments, international and regional organizations and NGOs . . . intensify their efforts to enhance the self-reliance of women. . . . Such efforts should focus on increasing women's access to gainful activities [with] grass-roots participatory processes and planning approaches using local talent, expertise and resources.⁷²

These efforts also extend to "worker participation in management, industrial democracy, worker self-management, trade unions and co-operatives."⁷³

Article 14(2)(g) assures women's rights of access to "agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes."⁷⁴ This provision calls for an end to

the gender bias evident in most development programmes . . . and the prejudices hindering the solution of women's problems.

Particular attention should be given to the restructuring of employment, health and educational systems and to ensuring equal access to land, capital and other productive resources. Emphasis should be placed on strategies to assist women in generating and keeping income, including measures designed to improve women's access to credit . . . [focusing] on the removal of legal, customary and other barriers and on strengthening women's capacity to use existing credit systems.⁷⁵

71. *Strategies*, *supra* note 51, ¶ 111.

72. *Id.* ¶ 113.

73. *Id.* ¶ 117.

74. *CEDAW*, *supra* note 41.

75. *Strategies*, *supra* note 51, ¶ 115.

To this end, Article 14(2)(g) requires that

rural women's access to land, capital, technology, know-how and other productive resources should be secured. Women should be given full and effective rights to land ownership, registration of land titles and allocation of tenancies on irrigation or settlement schemes and should benefit from land reform. Women's customary land and inheritance rights under conditions of land shortage, land improvement or shifts into cash-cropping should be protected. Implementation of inheritance laws should be modified so that women can inherit a fair share of livestock, agricultural machinery and other property. Women's access to investment finance to increase their productivity and income should be supported by removing legal and institutional restrictions and by promoting women's saving groups and co-operatives and intermediary institutions, as well as training in and assistance with financial management, savings and investments and reallocation of land resources, with priority placed on production, especially of staple foods.⁷⁶

Finally, Article 14(2)(h) requires that women have the right "to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications."⁷⁷ By this provision, credit is to be extended for housing construction and improvement and "programmes aimed at increasing the possibilities of sources of income for women should be promoted and existing legislation or administrative practices endangering women's ownership and tenancy rights should be revoked."⁷⁸ Sanitation, water and irrigation projects must involve women in the planning and implementation stages and provide training in the maintenance of such systems.⁷⁹ Communications must be used not only to promote the role of women in development, but also to eliminate stereotyped images.⁸⁰

Articles 2 and 5 of CEDAW address the elimination of customs and social or cultural patterns that discriminate. States are to ensure this action not only through legislative changes and the modification or abolition of laws, regulations and customs, but by helping grassroots efforts to change the structures which maintain customs. All practices "based on the idea of inferiority or the superiority of either of the sexes or on the stereotyped roles of men and women" are to be targeted.

76. *Id.* ¶ 182.

77. *CEDAW*, *supra* note 41.

78. *Strategies*, *supra* note 51, ¶ 211.

79. *Id.* ¶¶ 151, 183, 210.

80. *Id.* ¶¶ 206, 207.

Empowerment, necessary to help women understand and define in their own terms their rights and demand the protections they want, is also addressed by Human Rights law. For example, Article 8 of CEDAW ensures the participation of women in government and organizations at the international level. Article 14(2) and subsection (2)(a) ensure the right to participate in all levels of development. Article 25 of the African Charter states that governments have the duty to promote and ensure the respect of rights and to “see to it that these freedoms and rights as well as corresponding obligations and duties are understood.” And, Articles 9, 10 and 11 of this Charter ensure the freedom of assembly, the right to receive information, and the right to express and disseminate opinions.

Governments and development agencies are legally obligated to protect and promote the rights of rural women in development projects through these kinds of concerted efforts that empower women. The removal of structures which maintain discrimination must be advanced in order to ensure that project-affected women are brought into development processes with their full understanding and participation. This obligation legitimizes the efforts of NGOs to mobilize women, to demand recognition and protection of them, and to engage in activities to assist project-affected women to become self-reliant, full participants in development processes.

III. Human Rights Law and the World Bank

A. Bank Policy

International law, in the form of treaties, conventions and U.N. declarations, imposes on international organizations duties to promote all Human Rights which have become widely recognized through their adoption by the majority of governments worldwide. In recent years, this law has focused on developing countries in an effort to rectify inequalities in resource distribution. The Bank itself was founded in an effort to help in the development of “less-developed” countries. But the Bank has yet to fully incorporate Human Rights law into its “development” processes. This tenuous position is no longer viable, particularly in light of the Bank’s realization that economic development includes environmentally sustainable development which in turn includes full protection for peoples affected by the environmental consequences of development policies.

1. Environmental Policy

The Bank’s acknowledgment of the relationship between environmental wrongs and human rights is largely a result of experience, NGO effort

and international law. The recently established policy for environmental protection in projects, found in the Bank's Operational Directive 4.00 (O.D. 4.00), outlines the purpose and preventative steps to be taken:

to ensure that the development options under consideration are environmentally sound and sustainable, and that any environmental consequences are recognized early in the project cycle and taken into account in project design. EAs [Environmental Assessments] identify ways of improving projects environmentally, and minimizing, mitigating, or compensating for adverse impacts. By alerting project designers, implementing agencies, and borrower and Bank staff to issues early, EAs (a) enable them to address environmental issues in a timely and practical fashion, (b) reduce the need for project conditionality, because appropriate steps can be taken in advance or incorporated into project design, and, (c) help avoid costs and delays in implementation due to unanticipated environmental problems. Eas also provide a formal mechanism for inter-agency coordination and for addressing the concerns of affected groups and NGOs.⁸¹

The EA *Sourcebook* is a reference manual to accompany O.D. 4.00. It is of major Human Rights significance because it outlines legal and social issues to be evaluated in project preparation. Directives to adhere to international treaties and agreements on the environment and natural resources are found in Chapter 2. Here the staff is directed to identify the international environmental law obligations of each borrower, to evaluate the feasibility of compliance and to suggest measures to ensure compliance.

Evaluation of social and cultural issues (Chapter 3) is mandated in order to assess the environmental impact of projects. The *Sourcebook* recognized that "[d]evelopment projects . . . modify social and natural environments in order to create or enhance the economic, health, educational and other benefits . . . valued by society."⁸² It alerts staff to the various adverse social impacts of many development projects which can affect resources and thus the environment. The staff is directed to identify variations within communities, control over local resources, and variations within production systems and institutions. This research is deemed necessary to avoid "unanticipated or unintended negative social or environmental impacts that reduce desired benefits, or if severe enough, threaten the sustainability of the project."⁸³ A very important example given by

81. WORLD BANK, I ENVIRONMENTAL ASSESSMENT SOURCEBOOK: POLICIES, PROCEDURES, AND CROSS-SECTORAL ISSUES 27 (World Bank Technical Paper No. 139, 1991) [hereinafter SOURCEBOOK I].

82. *Id.* at 107.

83. *Id.*

the Bank states: "A project that changes access to resources in fragile ecosystems may have unanticipated impacts on local women who use those resources for income or domestic purposes."⁸⁴ Involuntary resettlement must include "strategies for direct or indirect participation in decision-making, implementation, operation and evaluation of the resettlement of both settlers and host populations" and, new land settlement must include "an appropriate form of title guaranteeing security for women and their children."⁸⁵

In assessing local capabilities and institutions (Chapter 5), the staff is to "identify approaches for strengthening, modifying and supplementing them in ways that are implementable and effective within the political and sociocultural context."⁸⁶ If the staff ascertains that new laws are necessary, recommendations or considerations for policies governing lending are brought forth in "dialogue."⁸⁷ The capacity to monitor and enforce compliance is assessed with the caveat that the "option of withholding disbursements or canceling loans or credits [exists] if an executing agency does not adhere to requirements."⁸⁸

The *Sourcebook* also cites impediments to "good agricultural practice," i.e., soil conservation, cultivation practices, and safe fertilizer and pesticide use. These impediments include:

lack of land tenure or other sense of ownership and thus feeling of responsibility for the natural resource; lack of well-developed extension service or other outreach institutional structure for education and technical assistance; lack of attention to the differential access of male and female farmers to technologies and inputs; lack of legal basis for enforcement action in cases of environmental damage or violation of requirements; lack of developed alternative practices that are acceptable to farmers; and, weak or non-existent provisions for dialogue between farmers and agricultural researchers.⁸⁹

This broad, comprehensive policy linking environmental issues to Human Rights articulates not only the jurisdiction of the Bank, but also the "enforcement" measures for compliance and preventative procedures which it should follow. In contrast to the environmental policy stands the

84. *Id.* at 109.

85. *Id.* at 127-128.

86. *Id.* at 157.

87. *Id.* at 166.

88. *Id.* at 161.

89. WORLD BANK, II ENVIRONMENTAL ASSESSMENT SOURCEBOOK: SECTORAL GUIDELINES 3 (World Bank Technical Paper No. 140, 1991).

absence of Bank policy on other aspects of Human Rights law, notably women's rights.

2. Women's Rights Policy

The Bank has, with experience at its back, taken steps to promote and protect women's interests in development projects. To this end, the Women in Development Division (WID) was established as an operational approach to improve assistance to women. As a division of the Population and Human Resource Department, WID is involved in:

policy framework and provision of operational guidelines; research and review of analysis and experience to inform policy and operational work; country assessments and action plans for key sectors; operations in education PHN (population, health and nutrition), agricultural extension and credit, forestry, water supply, and the informal sector; support for special areas of emphasis — food security, safe motherhood, education and training, and agricultural support services, such as extension and credit; and, staff training on women in development, e.g. workshops, lunches and seminars.⁹⁰

It is the responsibility of country departments to "incorporate" "WID issues" into Bank activities; task managers are responsible for the implementation in sector work and operations. A Bank review indicates that in fiscal year 1989 over one-third of its lending operations in Africa included WID-specified actions. This may suggest that in more than one-half of Bank operations women's issues were either not addressed or considered unimportant. A Bank review of Economic and Sector Reports (used as an analytical basis for policy dialogue with borrowers and for lending and technical assistance) indicates that "twenty-five percent addressed WID issues in some detail, while sixty-seven percent make little or no mention of women."⁹¹ Thirty percent of the reports that did address WID issues related to agriculture (for a total of ten reports).⁹²

This somewhat discretionary policy of incorporating women's issues into development efforts contravenes the intentions of international law, and in particular, CEDAW. A concise, articulate method of incorporating women into all development efforts is the officially agreed-upon standard for SSA. Accordingly, the Bank should alter its policy on women's rights.

90. WORLD BANK, SECTOR STRATEGY PLAN FOR WOMEN IN DEVELOPMENT DIVISION FISCAL YEARS 1989-91 (1989); WOMEN AND AGRICULTURE, *supra* note 5, at 2.

91. PROGRESS REPORT, *supra* note 7, at 18.

92. *Id.*

B. The Bank's Legal Obligation to Incorporate Human Rights Law into Its Policies?

The Bank, as a major development actor in the Third World, can and should do more to protect and promote "rights" in projects. It can no longer claim that Human Rights are political and outside the scope of its competence. These rights are essential to assure that the economic benefits of projects are equitably allocated and that each project does economic justice to project-affected people. Human Rights provide universally agreed-upon, guaranteed standards to govern economic development policies and projects.⁹³

The Bank itself states that it is an international public organization governed by public international law and that it "undertakes its operations in compliance with applicable public international law principles."⁹⁴ To discharge its Human Rights obligation, the Bank should formulate Operational Directives that enunciate the basic rights of all project-affected people, as propounded by the relevant conventions. These Directives should set out the steps to be taken to prevent practices that inhibit participation and should serve as a guide to prevent potential harms in each project, setting firm guidelines for observance of Human Rights law. The legal department and other staffs in the Bank should also be educated in the protection of rights to avoid violations of this law.

On a national level, the Bank should be aware of the pertinent laws of the country with which it works. It has the duty to know if the country ratified CEDAW, the African Charter, or the Declaration, etc. Most SSA countries have signed at least one of these and thus have made clear to the international community their position on rights and development. The constitution or local legislation may also have specific mandates on development or the equal rights of women. If so, a reading of these instruments will inform the Bank of the standard that country has set and what must be incorporated into the project. The Bank is bound under international law principles and by the country's standard to promote and protect the Human Rights of persons affected by its activities.

C. Revision of the Project Cycle

At the project level, the Bank should revise its entire project cycle to align with Human Rights policy. The full participation of project-affected

93. *Right to Development*, *supra* note 38; James C.N. Paul, *Rural Development, Human Rights and Constitutional Orders in Sub-Sahara Africa*, in *PLURALISM, PARTICIPATION AND DECENTRALIZATION IN SUB-SAHARA AFRICA*, *THIRD WORLD LEGAL STUD.* 54 (1989).

94. *SOURCEBOOK 1*, *supra* note 81, at 63.

people should be included as mandated by the various conventions.

In the Identification stage of a project, development strategies are analyzed and recommendations for policy and institutional changes are made. The Country Dialogue should address the national and international laws binding on the country, with focus on the commitment to ensure the participation of the affected population. The Economic Analysis should include feasibility studies of the value of women's participation and the "costs" of allowing discriminatory practices to prevent or impede that participation. The Sector Analysis should address women's needs in a given sector. NGOs should be included in this process to assure that the objectives and principle goals of the project will "benefit" and not harm the affected population and to assure that groundwork is laid for full participation. In effect, the obstacles to the achievement of Human Rights law should be identified in this early stage.

In the Preparation stage of the project, technical, economic and sociological studies are conducted. These studies could include impact assessments on women. Traditional divisions of labor and income streams should be recognized and accounted for in each project in order to assure the equal flow of benefits. Systems of land tenure that discriminate should be changed, either through legislation or through ad hoc protections. Accessibility to and the utilization of technologies for women should also be planned and implemented. Strategic management positions for women participants should be identified. Since it is critical at this juncture to isolate and target discriminations, NGOs should be utilized for their knowledge of customs and biases that impede participation.

In the Appraisal stage of the project, technical, institutional, economic and financial aspects of the project are reviewed by Bank staff. The Appraisal Report is used to recommend and finalize the terms and conditions of the loan. At this point, a review of the completed project stages for compliance with international law could be made. NGOs, as consultants or independent protagonists for affected groups, should be utilized to assess project impact, delivery of services and technologies, cost and benefit analysis, etc.

In the Negotiation and Board Presentation stage, loan agreements are finalized between the Bank and borrowing government, and are presented to the Bank's Executive Directors for approval. NGOs should work in concert with governments on loan agreements. Since project units that administer or coordinate the project are specified within the loan, they should include adequate representation of women on an official level. Women's NGOs could be used to administer the positions within these units. As international treaties, the loan agreements should specify and

incorporate the provisions of the relevant conventions. Provisions for the redress of harms, such as the cessation or suspension of money under the loan (until provisions are complied with), replacement of officials, legal sanctions and remedies should be included within the loan agreement.

In the Implementation and Supervision stage, governments begin to implement the project under Bank supervision. Feedback for future projects is gathered. Along with representatives of other project-affected people, local women and women's groups should be selected to implement and supervise the project and provide feedback. NGOs could assist in selecting and training capable women. NGOs could also serve as intermediaries between the Bank and government. Bank supervision could generally focus on ensuring active participation of the project-affected people. To this end, loan provisions could be made known to the affected population so that they can exercise their rights under it.

In the Evaluation stage, a Completion Report of the project is prepared by the project staff or the government. The Operations Evaluation Department then conducts the audit and reports to the Executive Directors. Here, the Human Rights participatory approach could again be monitored (the effects of implementation on sustainability, the distribution of benefits, the redress of harms, etc.) and refinements of policy made. It is important that NGOs participate in the Completion Report and evaluation to ensure objectiveness.

Other steps that the Bank should take include encouraging governments to utilize NGO participation in the project cycle.

The education of governments to the value of NGOs as a resource for development should be stressed. Educational projects should develop strategies for legal resources that create "legal literacy" among rural women, so that rights are understood and needs and concerns can be expressed. A plan of action for compensation of "development victims" should be created, guided by universal tort concepts, that is, a fund for victims could be established in loan agreements. These steps are examples of the measures necessary to provide humane development in accordance with international law. NGOs can demand that these steps be taken.

IV. NGOs and the Realization of Women's Rights in Development Projects

A. Bank Policy on NGOs

The Bank recognizes that NGOs have become a valuable resource for development planners. Their ability to influence policies, design and

implement projects, and effect participation is unique. Moeen Qureshi, Senior Vice-President of Operations for the Bank, has stressed the need for cooperation between the Bank and NGOs in order to promote "empowerment of poor people to help make government programs more efficient and effective."⁹⁵ More importantly, NGOs enable people to assert their rights. According to the Bank, "the essence of the NGO approach is . . . to mobilize people into organized structures of voluntary group action for self-reliance and self-development."⁹⁶

It has already been said that without grassroots organization (which creates and maintains participation) projects may fail. A Bank officer has stated: "If participation is indeed to occur, then the grandstanding but fuzzy rhetorical pledges to 'peoples participation' must give way to the precise identification of *who* 'the people' are and *how* are they *organized* for development action."⁹⁷ Since NGOs are recognized for their expertise in identifying "who" and "how," their input is essential.

The Bank has also stated that project failure is often caused by the failure to identify the needs of intended beneficiaries.⁹⁸ Needs analysis includes sociocultural compatibility, which significantly improves project sustainability.⁹⁹ Here again, NGOs are recognized as efficient, economic means to provide this information.

Bank policy for incorporating NGOs is articulated in the Operational Directive 14.70 (O.D. 14.70). This Directive defines NGOs as "private organizations that pursue activities to relieve suffering, promote basic social services, or undertake community development." It encourages the use of NGOs in the analysis of development issues, in project identification, design, financing, and implementation, as well as in monitoring and evaluating projects. Bank involvement, however, has centered on those NGOs demonstrating "professional expertise and managerial capabilities" or those with "specialized experience. . . in managing foreign assistance."¹⁰⁰ The Directive also limits NGO activity to "the framework of the relevant government's policies regarding NGOs."¹⁰¹

95. *Meeting of the World Bank-NGO Committee and Recent Progress in Bank-NGO Cooperation* 5 (unpublished Committee Report, Feb. 13, 1989).

96. NGOs AND LOCAL DEVELOPMENT, *supra* note 50, at 7.

97. MICHAEL M. CERNEA, *USER GROUPS AS PRODUCERS IN PARTICIPATORY AFFORESTATION STRATEGIES 1* (World Bank Discussion Papers No. 70, 1989).

98. *See* FARMERS ORGANIZATIONS, *supra* note 50, at 5-8.

99. *Id.*

100. OPERATIONAL DIRECTIVE 14.70: INVOLVING NONGOVERNMENTAL ORGANIZATIONS IN BANK-SUPPORTED ACTIVITIES (World Bank Operational Manual, Aug. 1989).

101. *Id.*

The drawback of centering on “professional” NGOs is that it can exclude grassroots organizations who are not in contact with the Bank or with larger, more experienced NGOs. One suggested activity for “experienced” NGOs is to network with grassroots organizations. This would ensure that the Bank is aware of the wants and needs of these smaller organizations. Networking can focus on: identifying the female “leader” or “voice” within a given area; identifying local clubs or groups; contacting, training and organizing leaders and groups; ascertaining the needs and wants within this given community; and, delivering this “finished product,” either in the form of a “new,” experienced NGO or by representation, to the Bank. Another suggested activity for “experienced” NGOs is to lobby the Bank to include a mandatory outreach program, i.e., a systematic effort to identify and include grassroots organizations in development-affected communities.

In addition, the limitation on working within government policies on NGOs provides a possible paradox. While the Bank and international and regional law recommend and mandate NGO activities in development, governments are sometimes fearful of the effect of NGO activity which produces “democratization of African countries by pluralizing and strengthening civil society.”¹⁰² Governmental policies which are not in step with their own legal instruments addressing NGO participation should be altered because they violate international Human Rights law. NGOs could bring these violations of law to the Bank’s attention and demand that the Bank, too, pressure governments for appropriate changes.

B. International Law and NGOs

In recognition of the need for NGO activity, international and regional instruments have endorsed the vital roles that NGOs play in development efforts:

International non-governmental organizations, including such organizations as trade unions, should be encouraged to involve women in their day-to-day work and to increase their attention to women’s issues. The capacity of non-governmental organizations at all levels to reach women and women’s groups should receive greater recognition and support. The potential role of those non-governmental organizations

102. Alan Fowler, *The Role of NGOs in Changing State-Society Relations: Perspectives From Eastern and Southern Africa*, Address Before the African Studies Association Conference (Nov. 1990).

could be fully utilized by international and governmental agencies involved in development co-operation.¹⁰³

Specifically, Article 7(c) of CEDAW entitles women, on equal terms with men, "to participate in non-governmental organizations and associations concerned with the public and political life of the country." Article 14(2)(e) of CEDAW ensures women the *right*: "to organize self-help groups and co-operatives" Article 14(2)(e) is further supported by ILO Convention 141. The African Charter, Article 22, mandates:

All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. States shall have the *duty*, individually or collectively, to ensure the exercise of the right to development (emphasis added).

The African Charter for Popular Participation in Development — a manifesto of many SSA NGOs — demanded this kind of popular involvement, and called on the international community "to support popular participation by [s]upporting African NGOs, grass-roots organizations, women's and youth organizations and trade unions" ¹⁰⁴ NGOs could pointedly remind the Bank and the governments of their commitments. Conflicting national legislation could be altered though lobbying. The Bank could be lobbied to support NGO activity in the "enforcement" of the participatory mandate.

C. *The Bank as a Resource*

The "right to development" cannot be delivered "top-down." The Bank has stressed the need for "bottom-up" participation, and notes that "governments cannot do everything."¹⁰⁵ Furthermore, "[t]he Bank has found that working with many nongovernmental organizations often provides an important resource to assist both governments and the Bank [to] achieve improvements in the quality of life of poor people."¹⁰⁶

103. *Strategies*, *supra* note 51, ¶ 332.

104. *African Charter For Popular Participation in Development and Transformation* 26, U.N. Doc. ECA/CM.16/11 (Feb. 1990). The *Charter* was adopted by acclamation by the participants of the International Conference on Popular Participation in the Recovery and Development in Africa, Arusha in February, 1990.

105. LAWRENCE F. SALMEN & A. PAIGE EAVES, *World Bank Work With Non-governmental Organizations* 1 (Policy, Planning and Research Working Papers, Public Sector Management and Private Sector Management, Country Economics Department, The World Bank, 1989).

106. *Cooperation Between The World Bank And NGOs: Progress Report for 1989* 1 (unpublished Preliminary Draft for Discussion at the 1989 Meeting of the World Bank-NGO Committee).

A parallel position supporting NGO activity has already been taken in O.D. 4.00:

The Bank expects the borrower to take the views of affected groups and local NGOs fully into account in project design and implementation, and in particular in the preparation of EAs. . . . This is important in order to understand both the nature and extent of any social or environmental impact, and the acceptability of proposed mitigation measures.

NGOs could readily contact Bank resident missions, the Bank external affairs department and the Bank NGO-Committee for project participation in their areas.

Another source of contact for NGOs is the International Economic Relations Division of the Strategic Planning and Review Department (SPRIE). SPRIE sends out a Monthly Operational Summary of projects listed for NGO involvement. Acting as the secretariat for the Bank-NGO Committee, SPRIE's resource center maintains databases on NGOs and NGO directories. NGOs could register themselves with SPRIE and mobilize other NGOs to do the same.

Direct correspondence aimed at the Bank's country officers, legal department, or the Women in Development Division could also be attempted in order to gain access to information.

The Bank states in the *EA Sourcebook* that: "the 'right-to-know' of any community should be respected." This includes knowledge of "how and when they may intervene, and how they can influence the project cycle. . . whether [they be] government officials, community representatives, affected people or local NGOs — [all] should receive the same basic information about the project." The Bank recommends "developing effective communications in order to apprise people fairly about their role in decisions that will affect them," and has developed various methods with which to accomplish this goal. "Experienced" NGOs could take advantage of these methods in order to educate the rural population and those smaller NGOs struggling to bring about change at their level. Networking amongst NGOs for information (such as training or funding) and support should be a priority.

D. Other Methods of Ensuring Rights

NGOs could monitor government compliance with CEDAW and report noncompliance to the State representative of the Convention, who in turn reports to the U.N. Committee on the Elimination of Discrimination

Against Women.¹⁰⁷ NGOs can also report noncompliance directly to the U.N. Commission on the Status of Women.¹⁰⁸ Evidence of noncompliance can be adduced through statistics on women or, just as important, the lack of statistics. (Bank publications and government agencies are a good source of statistics.) “Project harms” could be reported as well as the exclusion of women’s participation from projects. These procedures should not be overlooked because they are a source of applying international pressure on governments for compliance, working only when utilized.

Communications (newspapers, radio and television) could be utilized to create public awareness of violations of rights and interference with or non-action in processes to deliver rights. Equally important is the dissemination of success stories, particularly to the rural poor who may doubt their own abilities to demand rights.

NGOs could concentrate their efforts on educating rural women on their rights under national, regional and international law. Efforts could include mobilizing rural women to participate in their own development through utilization of the mandates of CEDAW (and the analysis of the Strategies) listed in Section II. Focus should continue on demands for food security, realistic health care, education, and technology to ease work burdens.

Conclusion

Cultural modifications to remove discriminations in a given society should come from within that society. Women can be empowered — in Africa as much as elsewhere — to effectuate that change not only through education, communications and legal resources, but also through development processes.

The Human Rights participatory approach to development is recognized as the most viable method for empowerment. This approach has become a “right” in itself and is guaranteed under international and regional law. CEDAW and the African Charter, supported by other conventions and declarations, mandate that special measures be implemented in development processes in order to ensure the empowerment of women.

107. Margareta Wadstein, *Implementation of the U.N. Convention on the Elimination of All Forms of Discrimination Against Women*, 6 SIM NEWSL. & NETH. Q. HUM. RTS. 5 (No. 4, 1988).

108. Herta Kaschitz, *The Commission on the Status of Women*, 6 SIM NEWSL. & NETH. Q. HUM. RTS. 22 (No. 4, 1988).

The World Bank is obligated by law (and common sense) to formulate a Human Rights policy to protect and assist this approach. The Bank is also obligated to ensure that borrowers abide by this policy. While the Bank has traditionally been concerned with protecting its relationship with the borrowing government, it has recently found that protection of the beneficiaries of development must be incorporated into that relationship. The “rights” of the borrower and the beneficiary must now be balanced. Consequently, women can no longer be overlooked or excluded. They must be accorded the assistance and protection necessary to take their places in development.

With the recognition that rural women need special assistance and protection in order to guarantee their rights, NGO activity in this area should be supported and promoted by the Bank and governments. NGOs, in return, can utilize the Bank as a resource to assist rural women. The Bank’s internal body of law, such as that found in the Environmental Assessment Sourcebook volumes, can serve as a guideline for the protection and promotion of rights. The various Bank departments, such as the WID Division and SPRIE, and Bank publications can be utilized for information, assistance and networking (as suggested in the text). NGOs can also press the Bank and their governments for support through the utilization of international, regional and national laws which endorse NGO effort. Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it’s the only thing that ever has.
Margaret Mead

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