

## Is Gender Equality Still an Issue? Tensions and Contradictions Embedding the Work of Feminists Today

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**ABSTRACT** Equality between men and women exists when both sexes are able to share equally in the distribution of power and influence. Although the gender gap in labour market participation has narrowed, gender differences in everyday experiences persist in developing countries. This article reviews the place of feminists today in the advancement of gender equality in the Southern African Development Community (SADC) region and measures taken by the Member States to address the issue. The article is based on secondary data collected through review of studies, reports, policy documents and surveys from various data sets from national, regional and international organisations. Key issues with reference to unequal power relations investigated include economic empowerment, educational empowerment, political empowerment and land tenure empowerment. Conclusions drawn from the review indicate tensions and contradictions that embed the work of feminists and this has serious implications on the achievement of gender equality in society. Although States, through feminist organizations, have put in place legislation and other measures to outlaw gender inequality, practices continue unabated due to persistence of cultural attitudes, lack of capacity, resources and commitment among the implementers.

### INTRODUCTION

Tensions between feminists and the supporters of traditional patriarchal society still persist (Iyanuoli 2008). However, when one compares the unprivileged position of women in Less Economically Developed Countries (L.E.D.C's) today with that of their counterparts in the past, it becomes evident that there has been a notable improvement (Jepson 2004). Feminist organizations have led to and are contributing to social, political and economic change and the creation of increased opportunities for women and girls. Feminist organizational interventions have led governments to concede to gender equality. This has broken ground for women's political involvement. On the other hand, political change should not be used as the only important indicator of feminist successes because most of the decision makers in L.E.D.C's have embraced policies for the advancement of women as a result of mere political maneuvers (Taylor 1999). To attract the greater number of votes from women, political parties tend to field women candidates, only as a means to achieve their objectives. The problem arises when the performance of these women outmatch that of their male counterparts usually precipitating calls for, perhaps, a woman presidential candidate. Such political incidents clearly show that the political arena is not a level and unrestricted field for women.

Gender equality implies a society in which women and men enjoy the same opportunities, outcomes, rights and obligations in all spheres of life (Juru 2002). A critical aspect of promoting gender equality is the empowerment of women, with a focus on identifying and redressing power imbalances and giving women more autonomy to manage their own lives. Experience has shown that addressing gender equality and women's empowerment requires strategic feminist organizational interventions at all levels of programming and policy-making (Kerr 1994).

The Universal Declaration of Human Rights of 1948 (UDHR) provides in Article 27 that everybody has the right to participate in the cultural life of the community, to enjoy the arts and share in scientific advancement and its benefits (UNICEF 2007). This is repeated in similar words in Article 15 of the International Covenant on Economic, Social and Cultural Rights of 1966 and Article 17(2) of the African Charter on Human and Peoples' Rights (ACRWC) adopted in 1981 (SADC 2005). The preamble of the ACRWC emphasises the need to discourage practices that are not consistent with the obligations and duties contained in the Charter. In 2001, The UN General Assembly passed a resolution to the effect that states had a responsibility of developing policies and programmes that outlaw traditional or customary practices affecting women and girls (Kerr 1994; Hansen 2007).

In addition, Article 5 (a) of the Convention on the Elimination of all Discrimination Against Women (CEDAW), which South Africa has ratified, calls on state parties to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices and practices which perpetuate discrimination on the basis of sex. Implicitly, governments that ratified this Convention undertook to act against practices that promote discrimination in their countries. However, Siddique (1998) observes that the discourses on democracy and human rights picked up by African countries are tarnished with clinches that do not react to the needs and aspirations of the basic groups and communities, more so to women who suffer most from inequality and oppression. Article 2 of the CRC has urged states to prohibit gender discrimination and recognize the principle of equality (UNICEF 2003; The African Child Policy Forum 2007).

This article reviews the place of feminism today in the advancement of gender equality in SADC. Successes achieved so far will be highlighted. Factors that militate against the smooth implementation of policies that are meant to address gender inequalities will be unearthed. The article will also assess measures taken by member states to address gender inequalities. Information reviewed was gathered from research reports, policy documents and reports from different SADC Member States, official documents from the United Nations, African Union and SADC, reports from international organizations, conference papers, unpublished dissertations, newspaper articles and other grey materials.

### Key Issues and Linkages

The participation of women in politics especially in the legislative process has scored some success to the feminists (May 2000). The average proportion of women in National Assemblies increased from 9% to 16% in 1995, in 2004 this changed to 30% (Monro 2005). There continue to be breakthroughs and gains for feminists as measures are passed on issues such as extended parental leave and introduction of options for flexibility in working hours. In South Africa for example, important new legislation on rape (although in 2000 it was reported that 8% of rape suspects were convicted), domestic violence and abortion were introduced as a result of

the promotion of these issues by women office-holders (Iyanuoli 2008). The implication is that though improving women's political representation is a challenge, it is vital in achieving gender equality.

Quite similarly, when most policy-makers are asked about the progress they have achieved in the advancement of women, they tend to give a list of women appointed to positions of authority. Yet this has been prejudicial to the ordinary women walking on the streets and even the girl child. Perhaps to counter this, the former British Prime Minister Margaret Thatcher notes:

*In general, more nonsense was written about the so-called 'feminine factor' during my time in office than about almost anything else. I was always asked how it felt to be a woman prime minister. I would reply 'I don't know. I've never experienced the alternative' (Thatcher 1993).*

Gains for feminists have not been limited to politics only. In religious circles the advancement of women and gender equality has scored some successes, albeit creating differences in opinion as to whether women should be appointed into positions such as bishops, priests and deacons. The head of the newly formed Province of Zimbabwe Archbishop Kunonga insists that his province will never subscribe to the ordination of women priests or archbishops (Moyo 2005).

The feminist agenda must be a bottom to top approach. It must start at home by uplifting gender equality. Tagwira (2006) aptly captures how precarious the position of women is on their day-to-day lives. He gives insight on the fact that despite the gains achieved on the feminist cause there still remains a need for women to fight rather than cry for their rights. As Tagwira puts it, the starting point is to aptly capture their day-to-day turmoil.

Kerr (1994) also emphasises the need to work at grassroot level. Targeting grassroot levels helps to curb the problems of illiteracy, traditional practices and superstition and continued gender discrimination and inequality. A closer look at the rural areas where the agricultural system is usually based on shifting cultivation shows that most of the tasks related to food production continue to be left to women. Improvements in farming tend to be concentrated in the male sector while the female sector continues with traditional low-productivity methods. To break this cycle of disempowerment on women, methods of agricultural

training and instruction must not follow along the lines of traditional sex roles.

Changes in land tenure have also impacted feminists greatly. A smooth historical construction on land reform in Zimbabwe suggests that in 1957 there were changes in land reform creating reserves such as the Bikita Reserve (Juru 2002). It was turned into a female farming area. This is because land was only allocated to men and widows only at the expense of married women, thus 23% of those who received land were absent men who worked as wage labourers outside the region, while wives lived as cultivators. Women were usually left homeless if divorced (Juru 2002). To some extent the current land reform in Zimbabwe addressed this problem albeit lacking the development from subsistence to commercial production, in that case shifting cultivation as an agricultural system is still practiced. Seguino (2007: 24) also observed '...the bulk of work is done by women.'

Against the background of international financial recession, plans for a modern industrial input are frustrated. Despite changes in land tenure, women continue to be subdued. Even the process of land reform needs checks and balances to ensure that farming improvements are not concentrated in the male sector while the female sector continues with traditional low-productivity methods. Sustained discrimination against women in the agricultural sector will hinder women's participation in commercial farming thus sustaining gender inequality. The need to provide agricultural training and instruction to women and to shift them from subsistence to commercial farming is an area that has brought feminists gains in the sphere of education. Such education has brought about programs to eradicate illiteracy. There has been a departure from the education of women for narrow range of tasks such as office skills or shorthand typing. To this end, the admission requirements of women into universities have been adjusted to widen access for them.

Although three of the eight Millennium Development Goals address gender issues, the global economic crises and economic marginalisation have reinforced gendered vulnerabilities. According to May (2002), this situation has led to an unequal distribution of wealth that does not favour the empowerment of the previously deprived, instead there is an increased productivity gap between the sexes. In any situation, the financial collapse results in the withdrawal of the state from direct roles in social and economic

development. The much needed efforts in eradicating illiteracy are also impeded. A case in hand is the recent global economic crisis which adversely affected Women's agencies and organisations. Two organisations were hit hard, namely: the South African Self Employed Women's Union and the Self Employed Women's Association (SEWA) in Gujarat, India (Taylor 1999). Such a development has the unavoidable effect of strengthening the prestige of men and lowering the status of women. In the end the ant is pitted in a fight against the elephant.

In spite of the mentioned setbacks, some notable success has been scored in the fair distribution of employee benefits, employment conditions and social policy (Cantillon 2007). Specific labor legislation, such as the Employment Equity Act (55 of 1998) in South Africa ensures that no employer may unfairly discriminate against anyone on the basis of gender (Hansen 2007). Even in the legal profession there has been some change. Kleyn and Viljoen (2002) concur that, 'the legal profession was until recently, an exclusively male domain. In terms of an old statute any 'person' could enter a contract to do articles. But because women did not comply with the description of 'person', Ms Wookey was not allowed to enter into such a contract for articles. This reflected women's status in society. Before the constitution took effect in 1994, South Africa had only one permanent female judge (Jonas 2006). At the end of 1999, 29% of all attorneys were female, despite the fact that nearly 50% of all law graduates were female (Semafumu 2005).

Such glaring gender inequality is the reason why feminists have taken the agenda of gender equality to another dimension. A concerted effort has maintained pressure from all angles. Some court decisions have also enforced and protected women's rights and gender equality. For example, the South African Constitutional Court considered, in *State vs Jordan*, the question whether Section 20 of the Sexual Offences Act 23 of 1957 discriminate unfairly against women. The court held that it did not, since the section penalizes any person who engages in sex for reward (Badlender 1997). The section clearly applies to male prostitutes as well as female prostitutes. The section is therefore gender neutral.

In South Africa, racial, class and sexual tensions have been curbed by the Bill of Rights. It is, however, not without contradiction because in *Mthembu v Letsela* case, the constitutionality of the rule in customary law that excluded women

from intestate succession was tested (Juru 2002). The judgment was unfavorable to the work of feminists since the court found that the rule does not constitute unfair discrimination. Nonetheless, some decisions have contributed to gender equality. In *National Coalition for Gay and Lesbian Equality v Minister of Justice*, the constitutional court found that the Roman-Dutch rule on sodomy infringed the constitutional rights of gay men to equality and privacy (Budlender 1997). Stromquist (2007) remarked as follows (Para 112):

*Such laws deny equal respect for difference, which lies at the heart of equality, and become the basis for the invasion of privacy. At the same time, the negation by the state of different forms of intimate personal behavior becomes the foundation for the repudiation of equality.*

In Namibia, Section 10 of the constitution stipulates that all people, notwithstanding gender, are equal before the law (Juru 2002). Parallel to this, Uganda's step back to punish these relations illustrates the continuing tensions and contradictions. These also include differences amongst feminists. For instance, trans and bisexual people are ostracized and excluded by the lesbian and gay communities.

Nonetheless there continues to be differences amongst feminists. All these constitutional provisions in South Africa have led to the establishment of state institutions to promote and protect the minority sexual groups. Two such institutions in South Africa include the Human Rights Commission and the Commission for Gender Equality that have been created to advance the equality of women and men (Hani 2006). The commission monitors legislation, conducts educational programmes, and investigates complaints on gender and sex discrimination. These institutions help all those that do not have ready access to courts. People may direct complaints through the more informal and non-judicial procedure of these commissions.

### **Measures Taken by SADC Member States in Response to Feminists Agendas**

#### ***International and Regional Instruments/Treaties***

A number of international and regional instruments have been adopted to ensure that the violation of the rights of women and girl children is recognized and receives the required attention by the international community and

individual states (Olivetti and Petrongolo 2008). The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted in 1979 to address the broader issue of discrimination against women. Other international instruments which draw attention to gender-based inequalities include: The Universal Declaration on Human Rights (UDHR); Convention on the Rights of the Child (CRC); Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and Covenant on Civil and Political Rights (CCPR). The regional instruments include: The African Charter on the Rights and Welfare of the Child (ACRWC); and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Dijkstra 2006).

#### ***Domestication of International and Regional Human Rights Norms and Standards***

Countries in the SADC region have signed and ratified most of the international and regional instruments. All of them have ratified CEDAW and CRC (UNICEF 2007). Six of them have signed and ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women while six (Madagascar, Swaziland, Tanzania, Mauritius, Zimbabwe and Democratic Republic of Congo) have signed but have not ratified the Protocol. Two (Angola and Botswana) have not yet signed it (Stormorken et al. 2008).

Unless specifically allowed by the constitution, the implementation of international and regional treaties requires enabling legislation in order for the norms established in the international and regional instruments to be effective in the domestic sphere. Studies have shown that many of the countries in the region have failed to incorporate norms and principles provided in international and regional instruments (SADC Gender Unit (SADC GU) 2005; Stormorken et al. 2008). Seguino (2007) gives example of Malawi which has ratified CEDAW, CRC, and the African Charter on the Rights and Welfare of the Child and the African Charter on Human and Peoples' Rights on the Rights of Women but has not incorporated any of these instruments into domestic law.

#### **Legislation and Policies at the National Level**

All the SADC member states have gender empowerment policies in place. They have also identified critical areas of concern from Beijing

Platform for Action, namely gender and poverty, women's health including HIV and AIDS, economic empowerment and education (SADC 2005; Semafumu 2005; Harris 2006). A study commissioned by SADC GU on the implementation of provisions for gender equality in key regional and international instruments showed that thirteen out of the fourteen SADC member states have constitutions that explicitly outlaw discrimination based on sex (SADC GU 2005). However, twelve of them have a dual legal system with customary law controlling the lives of women and exposing them to inequalities that the constitutions are required to address.

The SADC Declaration on Gender and Development (SDGD) obligates all member states to put measures in place to address escalating violence against women (SADC 2005; Semafumu 2005). All the SADC member states have signed the Addendum on the Eradication of Violence against Women and Children (SADC GU 2005; Semafumu 2005). "The Addendum makes reference to enacting specific laws such as sexual offences and domestic violence legislation" (SADC GU 2005:12). The study by SADC GU found that only 7 out of the 12 countries which participated in the study have passed specific Domestic Violence Acts and 5 have passed Sexual Offences Acts (SADC GU 2005). Those which do not have specific Domestic Violence Acts use fragmented pieces of legislation which are not adequate to deal with the complex issues of violation of women's rights which also include those which result from harmful traditional and cultural practices.

### CHALLENGES

What emerged from the above discussion is that feminism today is faced with the challenge of negotiating better prospects and greater gender inequalities. Besides the issue of inadequate financial and human resources, there is lack of political will and entrenched patriarchal attitudes of most implementers (Dollar and Gatti 2001). Siddique (1998) provides an example from the Central part of Tanzania where three daughters ran to a Church Minister seeking help because their father wanted to have them circumcised. The Minister took the girls to a police station for protection. Instead the police officers who were entrusted with the girls took them back to their father where they were circumcised on the same

day. This shows that because of entrenched patriarchal attitudes and lack of commitment, the Police who are supposed to offer protection and discourage the practice have become accessory to the practice (Semafumu 2005).

Studies have also concluded that among the barriers to the enforcement of the law addressing traditional cultural practices in most countries in the region generally and in lower courts in particular is that judges, magistrates and law enforcers are predominantly male, very traditional and resistant to change (Harris 2006; Hanzi 2006). The above perception is supported by Okin (1989). Okin's first accusation against the current system of justice is that the contemporary systems of justice almost completely ignore women. Commenting on this ignorance she says:

*Most contemporary theorists assume, though they do not discuss, the traditional, gender-structured family and they often employ gender neutral language in a false, hollow way.*

Okin also points out that almost all liberal theorists have made the assumption that the individual who is the basic subject of the theories is the male head of a patriarchal household. These current theories completely ignore the consideration of gender in the situation of justice.

Due to the acceptance of the patriarchal system philosophers had their theories of justice neglect the issue of inequalities towards women (Siddique 1998). Many of these philosophers view women as a subject outside the realm that their theories operate (Hansen 2007). Okin (1989) maintains that the family must be structured to show equality between husbands and wives. Women are currently handicapped by the division of labour in the family, which has created a series of psychological barriers for women to overcome (Okin 1989; Cantillon 2001). The barriers are based on the belief that since husbands usually hold superior jobs to their wives, husbands are superior to their wives. It is believed that divorce is more devastating to the wife and the children than to the husband (Jepson 2004).

In California, for example, upon divorce, men's average standard of living goes up by 42% while for women the average goes down by 73% (Seguino 2007). Hence, Seguino says "*it is highly probable that most wives, well aware of this fact, take this into consideration in deciding how firm a stand to take on, or whether to raise important issues that are likely to be conflicting*".

Hansen (2007) supports the above arguments

and agrees that the current system of justice allows grave injustices to women. He believes that women have become dependent on men because men hold the most valued positions in society while women are concentrated in lower-paying and part-time work. In this regard men are going to be much more hesitant to change the current view of justice in regards to gender.

### CRITIQUE

There are many things women can do to change the situation in their everyday life.

Gender discrimination cannot be considered an issue unable to be solved, because in today's western society if a woman wants to be successful she can, since she is backed up by western society's law which believes in equality between men and women (Stromquist 1998; Jepson 2004). In my opinion reducing gender discrimination even more than it already has been, would take less than what it took in the past to eliminate racial discrimination. The world is evolving and if women all over the world are really keen on overcoming gender discrimination in societies, I believe that all systems are in place to help them succeed. The American president Barack Obama said, "Your voice can change the world," in same way a woman can stand up and change the situation, in her everyday life. Whenever she feels discriminated because of her gender, she should speak up or seek justice.

### CONCLUSION

From the above discussion, there is no doubt that tensions still persist between feminists and the supporters of traditional patriarchal society. Feminism today is faced with the challenge of negotiating better prospects and greater gender inequalities. For this reason civil society must remain active in efforts to cultivate the promotion of human rights, as seen in the works of organizations such as Lawyers for Human Rights and the Legal Resources Centre. It is important, indeed crucial to remain firm on the cause of women because gains in one sphere have produced new detrimental forms of gender inequality, so the battle for the total emancipation of women is far from over.

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