

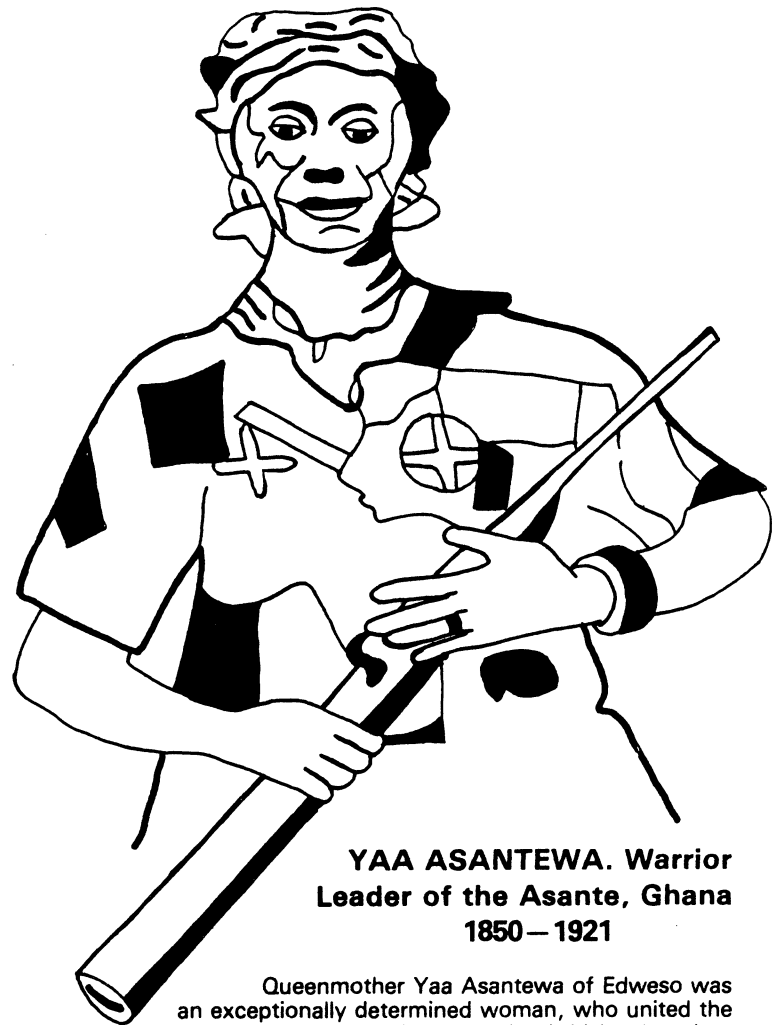
THE STATE, THE LAW AND WOMEN'S POLITICAL RIGHTS

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A.R. Jagge, juge à la cours Suprême de Justice au Ghana et Présidente du Conseil National sur le Statut de la Femme, examine la lutte pour les droits de la femme dans le contexte de la Commission des Nations Unies sur le Statut de la Femme (établie en juin 1946). Elle discute le progres accompli par les états membres des NU vers l'amendement de lois discriminatrices afin de se conformer à la Charte des NU et la Convention sur les Droits Politiques de la Femme (1952). Comme exemple démontrant comment les femmes peuvent s'organiser avec succès, elle présente les stratégies spécifiquement employées par les femmes du Ghana afin de forcer le rappel d'un projet de loi gouvernemental pour l'abolition de la polygamie.

L'auteur raisonne que des changements législatifs ne suffisent pas pour garantir l'obtention de l'égalité complète: les femmes doivent s'éduquer et se conférer une mesure de pouvoir; elles doivent développer une analyse des traditions et coutumes qui leur sont détritmentales, obtenir de meilleurs services de santé et donner à leurs enfants une éducation non sexiste. Les féministes de l'Ouest devraient pousser leurs gouvernements à stipuler que les octrois pour le développement incorporent les priorités des femmes dans le processus de planification du développement.

A confidential report on Human Rights in the 1960's was like all other confidential reports considered in a closed session. The report noted that in the writer's country, when human heads were being



**YAA ASANTEWA. Warrior
Leader of the Asante, Ghana
1850 – 1921**

Queenmother Yaa Asantewa of Edweso was an exceptionally determined woman, who united the Asante people against the advancing british rule, when their chief Prempeh was exciled in 1884. After several battles with the british forces, she was eventually captured and exiled to the Seychelles in 1900. A few years after her death in 1921, the british at last recognized the strength and unity of the Asante, by bringing back Prempeh from exile. He was reinstalled as ruler over the Asante and was succeeded by his son in 1934. Ghana became an independent nation in 1957.

counted, women and girls were excluded. Another report revealed that in the writer's country, while it was lawful for a brother to kill his sister for defaming the family name and honour by comitting adultery, a brother did not forfeit his life for the same offence. Other confidential reports urged the Commission to stimulate greater understanding of the Human Rights Declaration among Member States to ensure that the Declaration was accepted as applicable to men and women without distinction.

All over the world women have, at one time or another, been subjected to various forms of discrimination, sometimes under

the guise of so-called 'protection;' women on the whole have accepted such discrimination as privilege. Women have also accepted discrimination as justifiable on regligious grounds. Women themselves are conditioned into thinking that there is only one way of life for them, only one means of fulfilment – in motherhood and as home-maker. And so women have connived at the inferior status imposed upon them and 'willingly' submitted themselves to male domination.

When women started fighting for their rights, it was considered unnatural. In fact, anything outside passive, modest, gentle, submissive and demure behaviour

was condemned as not being feminine. Women fighting for the right to vote in the early years of this century were given stiff jail sentences, but the struggle continued.

When the United Nations was founded in San Francisco in 1945 only half the Member States had extended the franchise (the power to vote) to women. The UN Charter includes among its purposes "the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedom for all without distinction as to race, sex, language or religion." When the Commission on the Status of Women came into existence in June 1946, its mandate was to prepare recommendations and reports for the Economic and Social Council (ECOSOC) on promoting women's rights in political, economic, civil, social and educational fields. From its inception the Commission has worked steadily for the achievement of political rights for women in all countries. The Commission considered as essential the possession of political rights as the means of securing other rights – political rights ensured participation in Government, in Legislature and the Judiciary. The UN General Assembly in 1946 adopted a resolution 56: (1) calling on "All Member States which have not already done so, to adopt measures necessary to fulfil the purposes and aims of the Charter in this respect by granting to women the same political rights as men."

In 1952 the UN General Assembly adopted the Convention on the Political Rights of Women providing that:

- (1) women shall be entitled to vote in all elections on equal terms with men without distinction;
- (2) women shall be eligible to all publicly elected bodies established by National Law on equal terms with men without any discrimination;
- (3) women shall be entitled to hold public office and to exercise all public functions established by National Law on equal terms with men without any discrimination.

The Commission on the Status of Women through ECOSOC requested the UN Secretary-General to prepare annual reports on constitutions, electoral laws, and other instruments affecting political rights of women in all countries and to

submit these reports to the General Assembly. Every year the Secretary-General sent questionnaires to Member States on these matters and presented the yearly reports compiled from the answers to these questionnaires. These soon began to indicate progressive reforms in National Legislation to give effect to the political rights of women as spelt out in the Convention on Political Rights of Women.

The strategy of sending a yearly questionnaire to inquire about laws affecting the political rights of women focussed the attention of Member States on the condition of women and influenced public opinion. This strategy had notable success: today women in almost all Member States of the UN have the right to vote. The new independent states in the 1960's incorporated into their National Constitutions substantial human rights provisions. The strategy of a constant reminder of actions to be taken to conform with the provisions of the UN Charter and the Convention on Political Rights of Women worked: discriminatory laws were amended, and more and more women took their seats in Parliament, served as Cabinet ministers, judges of the Superior Courts and several other posts that hitherto had not been accessible to women.

The constant focus on laws discriminatory against women is, in a way, educative of public opinion. This strategy requires vigilance, perseverance and the dedication of women's groups to the removal of such laws. Women, as well as men of understanding, must endeavour to draw public attention to all discriminatory laws and in various ways to seek their abolition. The mass media and other appropriate means of communication can play a vital part in educating public opinion. Few governments can effectively resist the pressure for change from well-informed sources which have the support of the majority. Organization is a necessary tool for this strategy.

In the early 1960's in independent Ghana a Bill was laid on the table in Parliament seeking in effect to abolish polygamy. There are two forms of marriage in Ghana – the monogamous marriage which is in accordance with statutory law and the polygamous marriage conducted under customary law. The parties are free to choose one or the other form of marriage, but not both. A person married

under customary law loses the capacity to marry under the statutory provisions, while the marriage under customary law exists. Any purported marriage under statutory law by a person already married under customary law while this marriage subsists, is void *ab initio*. The Bill before Parliament was intended to make all marriages monogamous. The intention was good and would have enhanced the status of women. The Bill, however, made no provisions for the 2nd, 3rd and 4th wives all already married under customary law. The Bill, if passed, would have deprived the 2nd, 3rd and 4th wives of marital status and conferred illegitimate status upon all their children.

When women of Ghana learnt of the Bill and sought explanation of all the implications, they realised that women married under customary law would suffer great injustice if the Bill was passed as law. The women making use of the political parties' organizational set-up communicated with women all over the country. Women leaders met and planned a strategy to oppose the Bill. On the day the Bill was to be debated, women from all over the country descended on Accra and grouped themselves at the market; from there they marched on Parliament House, beating on pots and pans and demanding the withdrawal of the Bill. The Bill was withdrawn and has not seen the light of day since then. This strategy may seem unorthodox, but it worked and provides some useful lessons about the importance of good communication links, the effectiveness of good organization, and the determination to pursue a cause to its successful end.

Various factors go into the structure of a good strategy. A strategy that succeeds in one country may not necessarily succeed in another. Each case must be dealt with on its own merits, but women all over the world can learn from the experience of women in other countries, adopt and adapt, if necessary, a strategy that is appropriate to their situation. The nationals of each country would know what a good strategy is under the conditions in which they live. They would know how best to mobilize public opinion in support of their demand for the abolition of laws discriminatory against women.

Legislation is, however, only a first step – but an important first step. Laws may be amended by simple words, but tradition can be modified only by radical changes in



Forum '85 participants

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attitude, outlook and behaviour. With the backing of the law, a strategy of vigorous campaign to educate women on their rights and responsibilities is necessary. Unless women know and understand the law, there can not be any meaningful awareness of the rights and liabilities created under the law. A strategy to make women aware of the laws that govern them is important: knowledge and understanding of the law is a useful tool in any strategy. When women realise what needs doing to improve their condition of life and appreciate that they themselves must act, then political maturity has begun. It is up to women to liberate themselves. Although outside help is useful, there are few examples of oppressed people being freed by others. The real liberation struggle takes place in the camp of the oppressed and there are quite a few male allies anxious to help.

Take, for instance, the case of women in Southern Africa. Under customary law, women remain minors all their lives. Before marriage they are wards of their fathers; after marriage the masculine authority over the woman is transferred to the husband. Women are not free to sue and be sued. They can not transact any business in their own right. They can not own or inherit landed property. During the battle for independence, the women of Zimbabwe played such a vital part in winning the battle that it became inconceivable that they continue under the disqualification of remaining minors all through life. In 1982 legislation abolished

this disqualification: all women of age are now free to transact business of any kind in their own capacity. But customary practices die hard and the women of Zimbabwe are still struggling for equal rights with men in such areas as ownership and inheritance of landed property.

Legislation alone cannot abolish deep-rooted prejudice and structural obstacles. These demand other supportive measures. The most effective of these measures is education, starting with the woman herself. Years of male domination have resulted in women underrating their own potential and thereby failing to undertake the necessary struggle to

sharpen their capabilities. No strategy for the advancement of women can work without women realising the truth about themselves – that they are endowed with talents and that talents, like rough diamonds, must be cut and polished to shine.

One of the many strategies that can help shake women out of inertia is to publicize the achievements of the few women who have successfully ventured into areas that used to be male preserves. If one woman can make it, others can too. Role models are very useful in this respect. In Ghana, for instance, until recently law was the domain of men. Then a girl broke in and made a success of her legal profession. Now there are several women lawyers giving creditable service both at the Bar and on the Bench. Recently the top science prizes of the West African Examinations Council went to girls; unfortunately this was not given the publicity it deserved. For years, domestic science dominated the curricula for girls. Maths and pure science were considered subjects for boys. With the present free choice of subjects, the excellent performance of girls in these subjects should inspire and encourage other girls.

Women, especially those in the rural areas, are the custodians of tradition and custom; too often women hold on to these traditions and customs even though they are detrimental to their welfare. No strategy can succeed if women themselves are not motivated to remove the obstacles that impede their advancement. Many



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traditions and customs are detrimental to women. In Ghana, a married woman is entitled to work, earn an income and use it for what she needs.

Work is not only an economic necessity but a fulfilment of a personal need. A personal income can boost a woman's self-made image and self-confidence. In the informal sector, women happily combine their role as mother and wife with some economic activity in self-employment. In the modern sector, a woman who works outside her home is forced to do a double day's work. In addition to her task at work, she must take opportunities available for training on the job to qualify for promotion. Her activities outside the home do not in anyway minimize her work load at home. She is still responsible for housekeeping and looking after the husband and the children. These make very heavy demands on the woman. Strategies to develop men's interest in cooking and other housekeeping activities must be developed to make it possible for husband and wife to share the work inside the home. Recently in Ghana, boys have been allowed to choose domestic science subjects and many boys enjoy their cookery lessons. This is a step in the right direction. But a good strategy is for mothers to teach their sons and daughters domestic science and remove the bias that housekeeping is for girls only. If boys develop the capacity to cook and perform housekeeping activities, this will make sharing of the work inside the home between husband and wife easier.

The 1975 International Women's Year has brought solidarity among women in the struggle for their rights. Nonetheless we must sound a note of caution where customary practices and traditional attitudes are concerned. Some of these issues are linked with the culture of the people and better dealt with by the nationals affected. Women have to help women at the national level to overcome the many obstacles and to be given the chance to prove themselves. However, the International Solidarity of Women is very important to help and to inspire women who give up the struggle in the face of opposition; to exchange ideas and experiences; to build mutual confidence and respect; and also to learn from one another. Paternalistic attitudes from women of one country to another may undermine the best of strategies for the advancement of women.

There are other strategies that will enhance the International Solidarity of Women. Where grants for development are made or where credit lines exist, women in the developed countries may urge their governments to stipulate to the receiving governments that a certain percentage of the funds be set aside specifically for the advancement of women. Until national planners appreciate the role of women in development and eradicate the neglect of women's needs in the development planning process, this measure will be necessary for some time to come. In development planning it is not realistic to assume that men and women take off from the same starting point. Historical and cultural antecedents, and the effect of masculine domination on woman's self-image and self-confidence, have created a gap between the sexes that must be closed.

Finally, women as pre-school teachers of all children must be given priority in such matters as education and health. Mothers are capable of leaving permanent

impressions upon their children in their formative years. Some childhood habits are difficult to break and even university discipline may fail to eradicate bad habits acquired in childhood years. A malnourished mother gives her children a poor start in life and they may be subjected to stunted growth physically and mentally. A good strategy to ensure the calibre of future leaders is to make sure that women are well educated and well-nourished. The qualities of leadership, courage, honesty and perseverance are more likely to be passed on to her children by a well-educated mother than a subservient and timid one. Health care services must reach women everywhere, as women are in charge of health care in the home. For these and other reasons, education of women must be the nation's priority.

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