ASR Forum on Women and Gender in Africa: Part 1

What Are Women's Rights Good For? Contesting and Negotiating Gender Cultures in Southern Africa

Judith Van Allen

Abstract: Currently, feminist activists are engaged in problematizing and reframing "rights" claims in southern Africa. This article discusses three cases of such activism, all of which show the limitations but also the potential of using rights claims to transform gender cultures and gain economic and gender justice. These cases involve the successful challenge to the gender discriminatory 1982 Botswana Citizenship Act; the policy shift of Women and Law in Southern Africa from a focus on legal rights advocacy to a synthesis of rights and kinship-based claims; and initiatives by South African gender activists to confront the contradiction between the country's constitutional guarantees of women's rights and high levels of gender violence.

Résumé: A l'heure actuelle les militantes féministes sont engagées dans la problématisation et la reformulation des "droits" des réclamations en Afrique australe. Cet article traite de trois cas d'un tel militantisme, qui tous trois montrent les limites, mais aussi le potentiel de l'utilisation des revendications de droits pour transformer les cultures de genre et acquérir plus de justice économique et d'égalité des sexes. Ces cas comportent en premier lieu la contestation couronnée de succès, de la discrimination à l'égard des femmes de la loi sur la citoyenneté du Botswana de 1982; en deuxième lieu le changement des politiques concernant Femme et Droit en Afrique australe qui se concentraient tout d'abord sur les droits légaux puis ont évolué pour se concentrer sur les réclamations fondées sur la parenté; et en troisième lieu des

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initiatives des militantes pour l'égalité des sexes qui affrontent la contradiction entre les garanties constitutionnelles du pays sur les droits des femmes et les niveaux toujours croissants de violence contre les femmes.

Keywords: Gender; human rights; kinship; family; gender-based violence; Botswana; South Africa; TRC

On August 9, 2012, as the annual South African National Women's Day march delegation led by Gauteng Premier Numvula Mokonyane slowed to turn a corner, about thirty young black women rushed into the street, stopping the march. They carried twenty life-size female "corpses" and laid them out in front of a banner proclaiming "No Cause for Celebration." They were protesting what they called the ongoing war on women in South Africa. The Gauteng premier agreed to the protesters' demand to observe a minute of silence for the women being killed in widespread gender violence in the country.[1] The protestors withdrew and the march continued, as have gender violence and the protests against it.

Just sixteen years earlier, South Africa's new Constitution had been lauded as the most gender progressive in the world. The broad coalition of women's groups that had campaigned for those provisions were looking forward to steady improvements in the lives of the mass of South African women. Since 1996 "women's rights as human rights" has become a strong campaign in many parts of the world, not least southern Africa. Much progress is claimed, and the South African constitutional gender protections are often held up as a mark of success in that claim. But the reality in South Africa, and elsewhere, is rather different. By 2014 most of the black women in South Africa were still poor, and South Africa had become known as having one of the highest rates of gender violence of any country not engaged in civil war.

What happened, and what can it tell us about the problematics of and possibilities for using women's rights claims as a way for women to gain more control over their own lives and to engage effectively in contestations over gender power relations—in Africa, or elsewhere? In what situations do rights claims work most effectively? How are "rights" being reconfigured or transformed for different contexts? How are women using alternative ways of claiming obligations from others?

To explore these questions for women in southern Africa, this article examines three instances of feminist contestation involving rights claims. First, it looks at the controversy over the Botswana Citizenship Act of 1982, in which feminist activists successfully claimed rights as entitlements from the state, but later encountered serious difficulties when they tried to use the law to challenge personal power relations between men and women. Second, it considers the choice of Women and Law in Southern Africa (WLSA) to shift from a focus on legal rights in maintenance, inheritance, and land ownership law to an alternative mode of making claims by invoking

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kinship-based obligations. Third, it looks at attempts by South African feminist activists to confront the seeming contradiction between the country's constitutional guarantees of women's rights and ever-growing levels of gender violence.

In all these situations women's rights travel across borders not as impositions of "cultural imperialism," but as concepts and practices that become transformed through interactions with local practices, local constructs of the moral order, and local structures of hierarchy and exploitation: what Anna Lowenhaupt Tsing (2005) calls the "friction" of universals in engagement. My analysis examines this often contentious engagement, from the words chosen to translate "rights" to the ways that engagement transforms meanings. This process also "engages" the past and historicizes culture, as feminist activists invoke women's greater historical inclusion in structures of power to challenge contemporary male power. Other structures, of kinship and affiliation, gave women potential collective power within their societies, and continue to provide non-rights-based modes of claiming obligations from others. The historical context also includes constitutional ambiguities resulting from framers' attempts to negotiate between human rights and customary law, ambiguities that create both difficulties and opportunities for women seeking gender equality.[2]

Powerful actors from within and outside Africa continue to deploy rights discourses for their own purposes. Like other universals, rights are not politically neutral, but are "implicated in both imperial schemes to control the world and liberatory mobilizations for justice and empowerment" (Tsing 2005:9).[3] The goal of this article is to explore how rights discourses are being translated, transformed, disrupted, and deployed by women to meet their own local needs. Within the zone of friction between rights discourses and lived realities, African women are creating their own new meanings as they attempt to challenge and change the structural inequalities of gender regimes—what I am calling "gender cultures."

(Individual) Rights as Entitlements: Botswana's Citizenship Law

By the early 1980s the particular political economic history of Bechuanaland/Botswana had produced a critical mass of educated, employed women, both professional and working class, in the capital, Gaborone. In the Bechuanaland economy, girls went to mission schools while boys were sent to cattle posts, and young men went to South Africa as migrant mineworkers. As diamond-led development expanded education and opened jobs after independence in 1966, even more girls went to school and some to university, and young women moved to urban areas to fill the new jobs. Some of them went to the University of Botswana and entered professional work.[4] Men, however, continued to dominate politics and government.[5] When that male-dominated government acted against women's legal equality, the critical mass of educated women reacted strongly.

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In the early 1980s women activists had identified marital property laws in particular as discriminatory, and educating women about the law as a primary goal. Under pressure, government created a (two-woman) Woman's Affairs Unit, which produced pamphlets about women's legal rights (Molokomme 1984a, 1984b, 1986). But the real catalyst for the women's movement was the passage in 1982 of the Citizenship Amendment Act, which denied women citizens the right to pass on their citizenship to their children if they married noncitizens, but allowed male citizens to do so.[6]

Provoked into action, a small group of women professionals formed the organization called Emang Basadi (Stand Up, Women) in 1986. They lobbied the government to change the law and also attempted to educate both urban and rural women about their existing rights through conferences, workshops, and pamphlets. During the next few years the intransigence of government radicalized women activists, transforming a polite request for reform into a movement intent on challenging the male dominance of the whole political and social system (Selolwane 2006; Van Allen 2000). In 1990 Emang Basadi joined forces with regional women lawyers' groups to support a suit brought by the lawyer and activist Unity Dow challenging the Citizenship Amendment Act on both constitutional and international agreement grounds.

In court the government appealed to customary law. The attorney general argued, first, that the Botswana Constitution was premised upon "the traditional view" that a child born to a married couple belonged to the father. He argued, second, that the framers of the Constitution had not intended to forbid discrimination on the basis of sex (Dow 1995). Both of these arguments had some validity. Setswana patrilineal custom certainly gave "ownership" of children to the father's lineage, and the Constitution exempts "matters of personal law" from its nondiscrimination provisions, giving priority in this area to customary law.[7] Both the High Court and the Court of Appeal upheld Dow's challenge, however, and the Citizenship Amendment Act was referred back to Parliament in 1992 for revision. A new, nondiscriminatory citizenship law—granting citizenship equally to the children of female and male citizens but still eliminating citizenship based on birth in the territory—was passed at the end of 1995. The decision of High Court Judge Martin Horwitz, upheld on appeal, explicitly argued that since society had changed, women "can no longer be viewed as being chattels of their husbands" (Dow 1995:39).

Political opponents of the claim to equal citizenship characterized Emang Basadi members as "Westernized women," "elite women," "divorcees," or "women married to foreigners." They argued that Emang Basadi did not represent "the women of Botswana," whom the government claimed it had consulted within *dikgotla*—village meetings—around the country. Certainly the founders of Emang Basadi were privileged women—university lecturers, lawyers, journalists—and the civil and political rights they were claiming did not necessarily appear to address the needs of poor rural or urban women. But a closer look at the origins of the law, at whom it affected,

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and at what citizenship means in Botswana reveals another and more complicated story.

The debates over the citizenship law involved complex negotiations over gender, class, ethnicity, and race as they intersect with one another and with questions of tradition and custom, human rights, refugees, and immigration. They involved how a country decides who will be a loyal, productive, "deserving" citizen. Understanding how the issues came to be articulated as they did, and how the various discourses drawn upon by parties to the debates became available and powerful in this context, requires some history of the political economy of southern Africa and Botswana's particular place within it.

During the period preceding the passage of the Citizenship Amendment Act, when the bill was being publicly debated, it was generally understood—despite the unwillingness of the Botswana government to say so explicitly—to be aimed at South African refugees. With its long and largely unguarded border with South Africa, Botswana had increasingly become the primary road for refugees, starting after the Soweto uprising in 1976 and then even more so during the civil conflict of the 1980s. After the 1984 Nkomati Accord formally closed the Mozambique border, Botswana became the ANC's main route for moving Umkhonto weSiswe (MK) guerrillas across the South African border, despite the Botswana government's official position that Botswana would not allow its territory to be used for armed attacks on South Africa. Botswana openly offered sanctuary for nonmilitary South African refugees, but preferred that they transit to another venue. The government tried to steer refugees who remained in Botswana into (not particularly desirable) camps built for them. The Botswana–South Africa border was a generally porous one, with people moving back and forth, visiting, trading, and marrying across the border between Botswana and the bantustan that the apartheid government called Bophuthatswana.

Elements in the Botswana government were particularly hostile to members of MK. Even the presence of non-MK exiles, including students and cultural workers, was seen by some as an undesirable provocation to South African security forces, an attitude intensified by the murderous South African Defense Force raids in the capital, Gaborone, in 1985 and 1986. Under the pre-1982 law, marriage to Botswana women citizens provided some legitimacy for South African male exiles. Their children became citizens of Botswana, since it provided for citizenship on the basis of birth in the territory. But since South African exiles, having fled the apartheid regime, were "stateless," the provision in the 1982 law that children take the citizenship of their father left children born to exiles married to Botswana women also stateless.

As the bill was being debated, members of the exile community became concerned about its potential for creating hardship for Botswana women citizens connected to exiles. The British journalist Gwen Ansell interviewed the attorney general and wrote a story about the bill that was illustrated by a striking photo of the attorney general with an accusatory finger raised to

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accompany his statement that if Botswana women wanted their children to be citizens, they should marry Botswana men (interview, Johannesburg, July 1, 2013). The attorney general's statement stirred up indignation among the women, who came together to found Emang Basadi, and they collected hundreds of statements from women along the border and within Gaborone who would be adversely affected by the law—"ordinary, upstanding women," in the words of Leloba Molema, one of those who collected signatures, "not university lecturers and lawyers like us!" (interview, Gaborone, June 23, 2012). Emang Basadi was prepared to bring one case after another to court until the government got tired of cases and, they hoped, changed the law. That strategy was pre-empted by Unity Dow, who decided to go ahead and file her case. Emang Basadi decided (along with the Botswana branch of WLSA) to support the Dow case (Emang Basadi group interview, Gaborone, June 23, 2012).

The campaign against the Citizenship Amendment Act thus had a cross-class base that reflected the cross-class implications of the law, implications that went well beyond the civil and political rights we often associate with citizenship. Botswana women citizens, like women in virtually all independent African states, already could vote, and the law did not take away their own citizenship or civil and political rights. But it had very clear impacts on access to entitlements for their children and therefore their families. Many entitlements in Botswana, including education and many forms of employment, are based on citizenship, even though before the passage of the 1982 law citizenship requirements were not always enforced. But with the new law and the new identity cards that accompanied it, more and more entitlements were effectively restricted to citizens.

The 1982 Citizenship Amendment Act also reinforced the presumption in both customary and statutory marriage law that women were not legal adults, but subject to the marital power of husbands over their property. Founding members of Emang Basadi recounted with anger the numerous experiences they had had in trying to assert various forms of economic independence as married women. Again and again they were told that since they were not legal adults, they could not open bank accounts, dispose of property, buy houses, or own cars in their own names (Emang Basadi group interviews, June 23, 2012; June 22, 2013). These are clearly economic rights useful primarily to higher income women, but the same restrictions operated for poor women seeking to access government programs for housing assistance or land allotments. The successful suit against the Citizenship Amendment Act partly in itself removed the non-adult status of women. It then led to many further changes in Botswana's laws that increased women's access to economic entitlements, including provisions about nondiscrimination in employment and the removal of the marital power in statutory marriage.

This successful use of legal rights to address gender inequality in citizenship and other laws can be seen as depending significantly on the particular translation of "rights" in Setswana, the dominant African language

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in the country. Harri Englund (2006) argues that in Malawi the translation of "rights" into Chichewa words associated with "freedom" undermined the possibility of demanding entitlements as rights and weakened possible challenges to structural inequality, leaving the poor "prisoners of freedom." By contrast, the translation of "rights" into Setswana derives from the language of "duty" and of "claims," that is, obligations and entitlements. This particular translation would seem to offer greater possibilities for challenging class as well as gender inequality. Given Botswana's diamond wealth and its policies of putting that wealth into infrastructure and services rather than foreign bank accounts, there are in fact possibilities for working-class and poor Botswana citizens—women and men—to claim greater government entitlements.

However, in claiming the entitlements for women that have expanded with the cascade of legal changes following the citizenship case, women may often enter the zone of friction between women's rights discourse and lived reality. Most Batswana live their lives not as isolated legal and economic individuals, but as members of lineage networks with multiple and complex mutual obligations. Individuals may claim housing subsidies or receive pensions and share them with kin as needed. Young unmarried women live and work in cities, have children, and send them to their mothers (and fathers) in the village for care, along with some support money. When laws attempt to regulate personal relations between women and men in the name of women's rights, they may come into conflict with the obligations and meanings of exchanges within kinship networks. When laws try to deal with gender violence, they become even more problematic. In the early 2000s the press in proudly peaceful Botswana started to report what it called "passion-killings," murders of young women by their young male partners. Embarrassed by this violence, the government of President Festus Mogae allowed a much-resisted private-member Domestic Violence Act to be brought before Parliament in February 2007. The Ian Khama–led government enacted the law in August 2008, but it seems to have had little effect on "passion-killings."[8]

These crimes have brought the costs to women of contested Botswana gender culture into public view in a way that disputes over citizenship did not. They belie in a brutal way Judge Horwitz's declaration that women "can no longer be viewed as being chattels of their husbands." In 2008, speaking before a National Conference on Crimes of Passion among the Youth in Botswana, former President Mogae argued that "these crimes are new to Botswana and are not part of our culture as a peaceful and compassionate nation" (quoted in Dikobe 2010). Emang Basadi and other gender activists have long argued, however, that gender violence reflects a conflict between young women's greater independence and the continuing power of Setswana cultural constructs of women as minors under the control of husbands who have the authority to physically "chastise" wives.[9]

"Rights" may translate as "duty" and "entitlements" in Setswana, but when those duties and entitlements are personal ones claimed between a woman

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and a man, formal state remedies may be difficult to create and enforce, even if the state is willing. There are in fact indications of such willingness in Botswana. The emergence of a partnership between government and gender activist nongovernmental organizations and donors has been recognized as a regional and international best practice (Gender Links 2012). Its actual effectiveness and impact will be measured by future studies. However, other avenues of change also exist. Although homicide cases must go to statutory courts, about 80 percent of family disputes in Botswana are handled in customary courts (Sharma 2009). As we will see in the next section, customary courts in southern Africa are adapting customary law to new social and economic gender relations. Such local courts may offer a useful site for women to negotiate changes in gender power relations—new gender cultures—despite these courts' history of reproducing male advantages.[10]

Law as a Resource: Woman and Law in Southern Africa

Women and Law in Southern Africa (WLSA), an activist-based research organization, was first established in Zimbabwe in 1989 and expanded into Botswana, Lesotho, Malawi, Mozambique, Swaziland, and Zambia in the 1990s.[11] WLSA began with a focus on individual women's statutory rights, first researching the laws on the books in different countries, then moving to field research. The goal was to develop projects to educate women about statutory laws so that they would use them, as well as to advocate for legal reform. WLSA thus began with a legal centralist approach that privileges formal law. However, this understanding of law and of "the problem" was disrupted by the results of WLSA's adoption of Freirean and feminist participant research methods.[12] Activists developed a "grounded research" approach that involves gathering extensive data in each country that "not only describes lived realities of women's lives but also explores both directly and indirectly women's expectations and women's values" and leads to questioning the "way in which rights are conceptualized, 'administered' and delivered" (WLSA 1997b:27).

Using this approach in the field, WLSA found that a lack of understanding of the formal judicial system by women was not the primary problem. Many women simply refused to use the formal system—magistrates' courts and the rest of the hierarchical colonially and postcolonially created criminal and civil justice system—even when they understood it. Instead, in some urban as well as many rural areas, women were turning to the system of customary law and the kinship/family systems of dispute resolution that underlie and overlap with it. They were finding that customary law was adapting to their changing conditions and needs. Women with problems involving marital violence, lack of support in marriage, maintenance for children after divorce, inheritance, and other claims that have an impact on family relations would go first to the extended family, then to the customary court, then to the "chief," and then as a last resort to the magistrate's court if they still wanted to pursue an unresolved case. WLSA came to

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describe seeking justice in this system as "chasing the mirage" through a "maze" (WLSA 1999:68). Understanding women's preferences for customary law over statutory law led WLSA to a greater appreciation of the contradictions and difficulties created by formal law. They continued to advocate for reforms in statutory law, but gradually shifted to a pluralist concept of law that includes customary law, understood as a system of living law that changes to meet changing conditions.[13]

WLSA pointed, for example, to the contradictions created for women by statutory maintenance law and its judicial application in the context of the still common institution of *lobola* (bridewealth), which is generally understood to convey ownership of children not only to the father but also to his extended family.[14] If there is a divorce for any reason, even including severe and repeated violence against the wife, customary practice is that she loses custody of the children when they turn a certain age, no matter what the formal law says.[15] A woman is very likely, therefore, to try to resolve marital problems within the extended family, choosing to negotiate adjustments in marital relations by appealing to kinship obligations rather than to engage in direct confrontation by appealing to rights. For women who have children outside marriage, as increasing numbers of women do in southern Africa, contradictions and problems may also be created by statutory law, and customary courts may offer attractive solutions.[16]

By 1997 WLSA researchers felt as if they were "standing at the crossroads" of the "rights dilemma"—the problem of applying rights originally created for white men of property in the North to the lives of African women today (WLSA 1997b). By 2001 they were expressing clear frustration with the promises of women's rights law to improve women's lives and were seeking new, potentially transformative, strategies:

> New statutes and constitutional provisions guarantee gender equality and redress on paper. . . . But legal modernization, in keeping with its own cultural provenance, promotes individuals' legal rights [by] setting the new rights against older social entitlements as guaranteed by membership in social groups. It is difficult then to benefit simultaneously from both statute and custom. In opting for statutory rights in the context of one specific dispute, litigants run the risk of jeopardizing, if not destroying, their 'customary' social entitlements. It is on the basis of those entitlements that most women survive. So, before asking them to risk their very capacity to continue living, we must understand exactly what they risk and why, in seeking the protection of the law. Some have offered conservatism and poverty as explanations for women's failure to defend their own interests in law. It is precisely that messy interface between law and social practice that is of greatest importance to women seeking some degree of justice within the framework of their existing social entitlements and obligations. (WLSA 2001b:187)

In the same document WLSA argues for rejecting what is "oppressive" in customary law, in the context of the colonial distortions that reflected the

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interests of "the male elite" and eroded some of women's precolonial economic and social rights. It argues instead for a "creative synthesis of what is liberating in our heritages . . . with the very different but complementary synthesis of the general law" (WLSA 2001b:169).[17]

WLSA's preferred synthesis of customary and general law is therefore one that is located within the difficult economic and social circumstances of women's lives. WLSA conceptualizes law as a "regulatory instrument that connects women to resources," a "means of empowerment for the rural poor," whom it identifies as "mostly women" (2001b:41,223). Its analysis starts with the focus on individual property within liberal rights and expands it to a more collective demand for poor women to have access to land. WLSA argues that for the law to work as a resource for advancing the shared interests of the poor, it must be understood as including "widely shared perceptions of justice"—perceptions rooted in custom and culture or in popular conceptions of "natural law" or derived from principles set out in international declarations of "universal human rights" (WLSA 2001b:223)—that is, "engaged" universals transformed by "friction" in particular situations.

This approach to law as based in "widely shared perceptions of justice" potentially creates transformative spaces, locations in which women can bring together their whole experiences within the particular and varying conditions of their lives in southern Africa in order to recreate themselves and attempt to recreate their societies. The goal is negotiation within the existing unequal power relations of kinship mutuality, so that some of the power men hold in those relations is weakened while obligations for care and support are strengthened. This offers a potentially powerful model of social change from within existing bonds of obligation between women and men, a model based on choices women are making on the ground as they find themselves in the conflictual and contested gender cultures of neoliberal southern Africa.

Perfect Constitution, No Gender Justice? Women in South Africa

The protesters who disrupted the National Women's Day march in 2012 were demanding that the South African government act to make the promises of the South African Constitution a reality. South Africa today has the most gender progressive constitution in the world, with its prohibition of discrimination on the basis of sexual orientation as well as gender. An impressive percentage of the seats in Parliament and the positions in government ministries are held by women, and South Africa has signed all the proper conventions and protocols on women's rights. It has passed additional legislation promoting gender equality, including the Domestic Violence Act of 1998, and it has created an extensive gender-rights machinery, including the creation of the National Council for Gender-Based Violence in 2012. The country's peaceful transition to nonracial democracy has been praised widely, and its Truth and Reconciliation Commission has been emulated widely (though minus its amnesty provision). Despite these accomplishments,

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South Africa arguably has the highest incidence of gender-based violence in any country not engaged in civil war.[18] Feminist activists argue that violence against women has become so normalized that there is de facto impunity for perpetrators.

Many explanations for South Africa's high level of gender violence and the seeming intractability of this problem point to the legacy of apartheid and the struggle against it: the normalization of violence at all levels of society; the use of the "law" to enforce racial domination and a consequent disrespect for the law and mistrust in the legal system as a source of justice; and the continued secondary victimization of survivors of gender violence. Many explanations focus on the unfulfilled economic promises of liberation: the lack of jobs, housing, and services and the consequent continued and increasing poverty, now put at 54 percent of the population. Poverty is seen as exacerbating gender conflict, as men seek to control women in a situation that denies men control over other parts of their lives. Others place the blame on the government's inaction: unenforced laws, unfunded support services, and inactive commissions, all of which tacitly suggest that violence is not considered an important issue. Other explanations focus on social constructions of masculinity, in both apartheid and postapartheid society, and suggest that any solution to the problem will have to involve a change in men's concept of "manhood."[19] Helen Moffett, for example, argues that there is an "unacknowledged gender civil war" going on, with women trying to assert more control over their lives and men using sexual violence as "a socially endorsed punitive project for maintaining patriarchal order" (2006:129). She draws on the argument of Meintjes et al. (2001:4) that liberation struggles offer women new opportunities to gain greater control over their own lives, often through collective female action, but that in the "aftermath" of conflict and the transition to democracy, "the rhetoric of equality and rights tends to mask the reconstruction of patriarchal power, despite . . . emphasis on women's human rights."

Each of these explanations presents a piece of the answer, but they need to be assembled into a structural analysis of the contemporary South African system of racialized and capitalist patriarchy. They also need to be understood in the context of the historic compromises that "ended" apartheid. Democratic elections brought the ANC government to power but left economic apartheid in place. The process of "reconciliation" left the major agents of apartheid untouched and the great majority of even those directly injured without reparations. Within this context, we need an analysis that construes current debates about gender violence as part of a struggle over reconfiguring appropriate gender culture—or cultures—for a new South Africa, within the context of continuing struggles over the political economy of the nation.

The broad-based Women's National Coalition (WNC) that pushed gender rights into the Constitution lost its influential voice after 1995, as the ANC government successfully claimed hegemonic legitimacy as the representative of the new South Africa. Many ANC women leaders moved into

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Parliament and the new gender machinery structures, but in a few years many found themselves sidelined or forced out, or they resigned out of frustration with underfunding or male-dominated parliamentary processes and party politics.[20] Feminist organizing now operates largely outside government, combining campaigns to get government to take action with projects to provide direct help to women. Other organizations have emerged that target men with projects intended to change concepts of masculinity and to recruit men to oppose gender violence. These groups operate on the assumption that formal government commitment to women's rights is radically separate from a willingness to engage with the realities of male power as it is expressed in everyday situations, including domestic and sexual violence. As Moffett, quoting Pregs Govender, argues, for men in government, even strong supporters of women's legal rights, "Democracy ends at my front door" (2006:142).[21]

That disconnect helps explain the apparent intractability of gender violence in South Africa. But another powerful obstacle to creating a progressive national discourse on gender violence is past and continuing racism: the frequent explanations of gender violence in terms of an apartheid-enforced "breakdown" of the African family, the "emasculation" of African men, and a "crisis of masculinity," with the implicit assumption that gender violence is perpetrated only by black men. In the late 1990s President Thabo Mbeki— himself a strong supporter of women's legal rights—closed down the temporary introduction of gender violence into public discourse with angry charges that activists were motivated by racism; in one notable example he accused a former white female ally of perpetuating the racism of colonialism and apartheid and of calling "all" African men violent rapists when she went public with an account of her own rape and a demand for action.[22] If campaigns against gender violence are to avoid the charge of racism, the "legacy of apartheid violence" needs to be framed to include not only the historical dispossession of land, enslavement, the break-up of families, and the murder, torture, and detention of apartheid opponents, but also the sexual and physical abuse of black women by white "masters" and the domestic violence within families across racial and class lines. In a country that is 80 percent black, black women, especially poor black women, are the predominant victims of gender violence and black men the predominant perpetrators.[23] Many organizations opposing gender violence therefore focus on poor black women. But to gain traction, a feminist strategy must be carefully framed as challenging male power across racial lines.

Understanding that what feminists face is a cultural struggle over patriarchy has become even more significant since President Jacob Zuma took office. His self-interested construction of "traditional Zulu manhood," initiated during his trial for rape in 2006 before he was president, has the potential effect of legitimizing certain forms of male domination as "African" and therefore criticism of such behaviors as "racist."[24] As his presidency has been criticized and challenged, Zuma has used appeals to "Zulu tradition" to attempt to solidify support among Zulu chiefs and the voters they control

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or influence, including proposed extensions of their power in traditional courts and in control over land. The Congress of Traditional Leaders of South Africa (CONTRALESA) has long been opposed to the women's rights provisions of the Constitution. The South African Constitution, in contrast to the Botswana Constitution, clearly privileges constitutional rights protections over customary law. But to the extent that it validates traditional courts as well, it has created the basis for continuing contestations, particularly over gender equality. Even if a revised traditional courts bill were to "guarantee" gender equality, the main problem would still be the question of enforcement—that is, lack of enforcement—which is already the major point of frustration of feminists with government.[25] Critics' concerns were only increased by the actions of the head of the new Ministry of Women in the Presidency, Susan Shabangu, who in November 2014 organized a public meeting at which traditional leaders argued that women should be submissive to their husbands, that feminism is un-African, and that funds should be cut for centers for abused women and their children because gender violence should be dealt with at home.[26] As one commentator asked, "On a scale of one to patriarchy, how far back is the Ministry of Women setting South Africa?" (Ngcobo 2014).

These contestations are not about "tradition" versus "modernity," or "African culture" versus "cultural imperialism." What is happening is indeed a struggle over culture, but it is over how gender culture in the new South Africa will be configured by the people who live in it, a struggle about power. It is a struggle between people who disagree both about what gender culture has been in the past and what it should be in the future. It is a struggle that reflects "friction" between the discourse of women's rights in the Constitution and the lived reality of gender violence. Engaged rights travel and culture changes, not through any "necessary" trajectory, but through the kind of contestation we can see so clearly in South Africa today.[27]

Challenging the Narrative

Some feminist activists see a particular barrier to addressing gender violence in South Africa in the way that the Truth and Reconciliation Commission (TRC) dealt with—or, to put it more directly, did not deal with—violence against women. Women's rights successfully traveled into the South African Constitution. But sexual violence against women as war crimes did not travel so well: the TRC, despite the fact that it was set up during the debates within the international "women's rights as human rights" campaign, did not classify sexual violence in itself as a political crime.[28]

The TRC was presented as a forum for public healing, an expression of *ubuntu*, our common humanity. The promise of amnesty in exchange for truth was described as a way to include everyone who chose to be included as part of the new South Africa. The TRC Committee on Amnesty heard requests from perpetrators and, in a minority of cases, granted amnesty.[29] The truth revealed by these confessions was supposed to provide closure

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and potential reconciliation for victims as part of that healing process.[30] The TRC Committee on Human Rights Violations heard testimony from victims of "gross human rights violations," and the truth revealed in these testimonies was supposed to allow victims to be recognized publicly and to receive reparations. Both these committee processes failed women.

Since rape in itself was not classified as a political crime and no amnesty was offered for it, no perpetrators confessed to rape.[31] The Committee on Amnesty thus offered rape victims no potentially reconciliatory truths about apartheid sexual violence. The Committee on Human Rights Violations made it difficult for women to report rape at all. Most women appeared only as secondary victims testifying about family members, primarily husbands and sons, and not about their own experiences. After gender activists observed this pattern and made a formal complaint to the commission, additional hearings were held for women to testify, one week each in Cape Town, Johannesburg, and Durban (Meintjies & Goldblatt 1996). But even then, reports of rape resulted in little TRC action. To claim reparations for rape as a political crime, a woman had to convince the TRC that she was "raped as a militant," which was rarely accepted.[32] When reports of "nonpolitical" rape were actually recorded, rape was coded as a serious abuse, along with assault, but not as sexual violence, rendering it invisible in TRC reports. In addition, some TRC investigators told women attempting to report rape that they could not claim rape unless it had been reported to the police. Women had not gone to the police at the time of the rapes because the police were known as perpetrators of rape and violence themselves. In response to the TRC's requirement, some women in the East Rand tried to file a rape report with local police after the fact, but "they were laughed out of the police station: 'You have had sex before the soldiers were there, and you have had sex since,'" the officers said, "'and only now you say you were raped? Go home'" (Seidman & Bonasa 2012:10).

Many observers criticized the TRC process and its emphasis on reconciliation over justice, and many have criticized the post-1998 government for its failure to carry out the recommendations of the TRC.[33] Participants themselves differ on the extent to which the amnesty provision was freely chosen or was forced on the ANC as a political compromise, accepted because of ANC concern to avert a right-wing coup.[34] But other decisions about how apartheid was to be approached were not so clearly coerced. Critics have argued that the TRC avoidance of "race" and "racism" as analytical and political categories and the focus on individual gross violations of human rights made it difficult to see apartheid in appropriately structural and systemic terms.[35] Mahmood Mamdani, for example, argues that the focus on individual human rights abuses "reduced apartheid from a relationship between the state and entire communities to one between the state and individuals" (2002:33–34). Both these critiques apply to gender as well. The TRC also avoided gender as an analytical and political category, and the classification of rape as a personal rather than political crime reduced apartheid from a relationship between the state and communities of

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black women to one between individual black women and individual male perpetrators.

The absence of a public understanding and acknowledgment of sexual violence as a systemic problem that combines racial, class, and gender oppression—an absence not created by the TRC, but reinforced by it—is what underlies the current level of gender violence in South Africa and makes challenging it so difficult. As Wendy Isaack argues,

> What seems obvious is that political compromises are hostile and antagonistic to holding human rights violators accountable. Whereas they are intended to end the political conflict, there are certain forms of violence that may be exacerbated by the nature of the deal or compromise, and in the case of South Africa, this relates to gender violence. (2008:141)[36]

Interrogating the TRC process is one path toward opening a new conversation on gender power relations and gender violence. Understanding women as political actors and political victims is a way to change the focus from individual perpetrators and individual victims to systemic forms of domination and violence, and thereby to systemic solutions. It is particularly at the intersection of gender violence and poverty that gender activism is expanding and claiming political—and narrative—space. Although there is now no single national organization representing South African women, there is a strong and growing network of organizations that deal with gender issues, and particularly with gender violence. People shift between organizations, come together on specific campaigns, take part in each other's workshops, and show up at each other's demonstrations. Older members often share a history of liberation struggle and pass on their experiences and perspectives to younger women.

Two such organizations within this growing network are the Khulumani Support Group and the One in Nine Campaign. Both of these organizations attempt to translate women's rights into meaningful tools for poor black women to gain more control over their lives. In their workshops, art-making and group discussion enable women to talk about their experiences of violence and move to analysis and political action. This process draws on the liberation movement tradition of "culture as a weapon of struggle" and on a variety of other South African projects that use art-making as part of political practice.[37] As Judy Seidman and NomaRussia Bonasa describe the roots of this approach,

> During the 1980s, activists used the creative arts . . . to enable black communities, historically so silenced, to explore and give voice to their experiences. . . . This approach . . . was articulated under the banner "Culture is a weapon of struggle." It draws upon an understanding of the role of creativity and art-making rooted in Africa's past . . . as an expression of community perceptions and needs, and as a foundation for mobilization. (2012:6)[38]

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The workshops use art-making as a way for participants to reclaim and share their experiences. Workshops often begin with body-mapping, in which participants fill in outlines of their bodies on large sheets of paper, creating images representing their histories of political and personal violence and their visions of nurturance and strength. Sharing the stories expressed in the body maps then becomes the basis for political discussion and political mobilization, including producing posters, banners, tee-shirts, and other creative work for public protests. The body maps themselves, with their striking images of violence combined with symbols of strength and solidarity, have been mounted in public displays and have been reproduced as posters and in educational materials.[39]

Workshops become sites in which women's legal rights are translated, destabilized, and reconfigured. From this process emerge strong demands for equality and justice, framed as a reclaiming of the goals of the liberation struggle—for a South Africa that belongs to all who live in it.

Khulumani: A New TRC?

The Khulumani Support Group was originally organized to assist people who suffered apartheid violence in giving evidence to the Truth and Reconciliation Commission during its 1996–98 hearings. *Khulumani*, which means "we are speaking" in Zulu, expresses the purpose of enabling those who have been silenced to speak out about their experiences. Although Khulumani is not exclusively a women's group, some 65 to 75 percent of its more than ninety thousand members are women, mostly older women. After the TRC ended its inquiries, Khulumani continued to work with those who had suffered violence, particularly the violence in the East Rand and the Vaal Triangle during the 1990s. Khulumani also works with the widows from the 2012 Marikana massacre.[40]

As part of the South African Transitional Justice Coalition, Khulumani advocates for government to fulfill the promise of the TRC and to remediate the injustice that "today, twenty years later, many victims and survivors have still not found the truth, justice and redress that our country needs."[41] The Coalition advocates for adequate investigation of violence toward men as well as women, but a high priority is placed on recognition of violence against women—including rape, beatings, shootings, and the long-term effects of physical injury and HIV infection, as well as destruction of property—and on reparations. Khulumani workshops have over time trained hundreds of women as leaders in a growing campaign, and Khulumani continues to explore new strategies to get government to act.

On September 8, 2014, a panel titled "Transitional Justice at a Crossroads: Lessons from South Africa, Comparative Perspectives and Ideas for the Future" was held at Witwatersrand University in Johannesburg, chaired by Chancellor and Deputy Chief Justice Dikgang Moseneke.[42] Khulumani members were not invited to participate, but they arranged to take two vanloads of protesters to the university, where they demanded to be included

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and carried signs stating, "20 Years and Still Waiting for Justice" and "*Asikaqedi*—Let's finish this!" As they arranged their signs outside the university venue, an official asked NomaRussia Bonasa, a Khulumani community organizer for the East Rand since the late 1990s and national organizer since 2010, whether she was the leader of the group. She answered that she was and was invited inside to meet with the panel, which then welcomed the entire group of protesters to enter the hall and participate in the discussion.[43] The panelists explicitly agreed that those excluded from the process—explicitly, women—should be involved in revisiting and finishing the process and concluded that the TRC did not provide adequate or victim-centered redress for survivors of "gross human rights violations."

The panel was not, of course, an official body of the South African government. Nevertheless, the professional status and public profile of the participants was significant in terms of its influence on both public opinion and the government, and the inclusion of Khulumani protesters in the dialogue was a potentially significant breakthrough. Khulumani's campaign for *asikaqedi* is framed in terms of entitlements—claims on government for financial compensation—an eminently concrete application of rights claims on the state. But the understanding of what is being demanded by claimants is much broader and more diffuse: justice, involving a recognition of the humanity of those who suffered apartheid violence but were not recognized by the TRC process. In this project Khulumani is on a convergent, though not coordinated, path with feminist groups. Khulumani's inclusion of a specific demand that the voices of women who suffered apartheid violence be heard can help open the way for a new, nonracialized national dialogue on gender violence.

One in Nine: Mobilizing against Gender Violence

"One in Nine"—whose name is shorthand for "One in nine women raped in South Africa reports it to the police"—is a network of organizations and individuals committed to feminist principles and working to create "a society where women are the agents of their own lives, including their sexual lives."[44] The One in Nine Campaign includes organizations focusing mainly on gender-based violence, HIV/AIDS, and LGBTI rights. It was originally formed in February 2006 to provide support for Fezeka Kuzwayo (known as "Kwezi" in the media), the young woman who brought a charge of rape against Jacob Zuma. People Opposed to Woman Abuse (POWA) was one of its founding member organizations and continues to provide support.[45]

One in Nine combines direct support to survivors of sexual violence with advocacy within the criminal justice system, pressure on government, and research and analysis. It is attempting to build a strong social movement made up of local feminist collectives across South Africa.[46] In its diverse activities, One in Nine seeks to construct an understanding of sexual and other forms of violence and of social justice that privileges the voices of survivors, the majority of whom are poor black women. Thus its "art and

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memory" workshops form the basis of its practice, as survivors of violence translate and convert women's rights discourse into demands that make sense to them. As Dipika Nath, One in Nine's research director, puts it, "We've been trying to understand how survivors define justice and they don't use the language of rights at all. . . . They talk about injury, . . . about what makes you okay, your body, yourself, your dignity (interview, Johannesburg, June 15, 2012).

One in Nine's practice illustrates perfectly the kind of "friction" described by Tsing (2005). Workshops offer safe spaces for women to share their lived experience—experience that does not neatly sort itself into either individual rights or distinct categories of oppression by gender or sexuality or race or class. In these discussions, a more relational and collective sense of self emerges, shifting the discourse from rights to more radical demands for justice and potentialities for solidarity, creating transformative spaces in which new forms of consciousness and connection can emerge.

This process can be seen in a list generated in a 2012 workshop. Given the general topic of "Human Rights—Women's Rights," the participants were asked to come up with a list of their specific concerns. In the order in which participants suggested them, the concerns were: (1) to have a job; (2) to have a house; (3) to have health; (4) to have a life; (5) to live; (6) to have respect and dignity; (7) to say no to sex; (8) to give birth (or not); (9) to preach in church; (10) to speak out; (11) to education; (12) to be equal; (13) to [have] choice about our bodies; (14) to independence and self-determination.[47] In work produced and displayed in other workshops, women also often used the word "respect," a focus captured strikingly in a cloth poster with the figure of a woman and the words, "I am human. Respect me."

These meanings begin with economic entitlements that would reduce women's dependence on male partners, entitlements that poor South Africans are demanding from the state. They then move to what could be construed as demands for personal integrity, including control over their own bodies, combined with demands for the right to speak out in the political and religious spaces dominated by men as well as to speak out of the silence about violence that prevails. The demand for respect and dignity is central, implicitly referencing both the idea of *ubuntu* and the evolving southern African concept of *hlonipha* ("respect" in isiXhosa and isiZulu), in both cases emphasizing gender relations of greater equality.[48]

The voices of survivors, then, form the basis of One in Nine's projects, actions, and publications. Women speak about the reasons for their silence, including the shame that attaches to the victim and women's concern that if the rape is made public they will be targeted for future assaults (One in Nine 2012:11; interview with Carrie Shelver and Dipika Nath, June 15, 2012). For instance, Manunu, age fifty-three, left an abusive relationship at age thirty and moved back home with her parents in a rural area close to

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King Williams Town in Eastern Cape. She tells a story that was echoed by many survivors:

> There's no hospital, the clinic is far away. People drink a lot. No one reports rape, violence. There's no police station, they only patrol at night. The police are corrupt. . . . If you don't want to [have sex with men], they will beat you like hell. You can't say "no." Men don't even deny it. . . . Police make jokes if a woman makes a complaint. (One in Nine 2012:11)

One in Nine's Rape Survivors' Guide to the Criminal Justice System in South Africa" (2012) provides a searing account of the difficulties women face even if they are able to make a complaint. It combines statistics on rape, clear accounts of the procedures involved in reporting rape, and accounts, drawn from workshop participants, of why women do not report rape and of the extreme difficulties faced by those who do choose to make formal complaints. It warns rape survivors to be prepared for the secondary victimization they are likely to face within the criminal justice system, with its long history of sexist assumptions about what constitutes "rape" and the involvement of police in sexual and other violence against women.

Thandika tells of being raped in her home by her Johannesburg senior police colleague, who came ostensibly to collect a police camera. She attempted to pursue a case against him for three years. She resigned from her job as her department was supporting her rapist, who was eventually found not guilty. Describing her ordeal in court, she says that she ended up feeling that "maybe what he did was right and I was wrong. That is how the journey of court will make you feel and it will break you into pieces. You will feel naked and raped once more" (One in Nine 2012:11). Many women also report that police documents go missing, resulting in cases being dismissed. Buyisiwe tells of being gang raped by eight young men and reporting the rape to the police, with the result that seven of them were arrested. But the case was never heard because her statement and other documents had disappeared:

> I came to realize that the police love money more than they love helping victims of rape. I felt and am convinced that the police were paid to lose my file. . . .The parents of the accused came to me with R25,000, they said I must drop the case. . . .The mothers of accused rapists pay off the victims all the time. To them the survivor is nothing. (One in Nine 2012:29)

One in Nine offers support to women who choose to report their rapes, but recognizes that most women—up to 90 percent—will choose not to do so. The organization has been doing preliminary work to develop a Justice Project that meets the needs of women who choose not to use the criminal justice system because of all the personal costs of doing so. The survivors' responses indicate the extreme frustration and anger of

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living in a system that fails women. Dipika Nath reports that she has asked women

> what would bring you closure, what would seem like justice? . . . I think 98 percent of the people have said the guy must die. And a number of those have said . . . "I must be the one to kill him or he must die in direct punishment for what he did against me." (Interview, June 15, 2012)

In this situation, what One in Nine can offer are the workshops that help women move past these feelings to potential healing through solidarity with other survivors, and the possibility of participating in satisfying collective action against gender-based violence. In moving to political action, women most clearly combine demands for bodily integrity and freedom of speech with collective political demands. An example is the large banner prepared for a 2011 march on violence against women in Alexandra Township in Johannesburg. The banner's central message was "Stop the War on Women's Bodies," while around the edges of the banner the meaning of this "war" and the necessary responses to it were specified in rainbow colors: "Stop Women Abuse"; "Stop Hate Crime"; "Stop Rape; "Speak Out"; "Right to Choice"; "We Demand Justice, Equality, Human Rights."

In its public actions, One in Nine can be seen as contesting the meaning and ownership of the heritage of the struggle against apartheid. The actions of the group, like those of the many other feminist organizations in South Africa, also can be seen as attempts to reclaim the liberatory moment that succeeded in including gender equality in the Constitution, this time transforming legal rights into lived reality. The 2012 disruption of the official National Women's Day march in Pretoria brought demands for gender justice and equality together with memories of the liberation struggle in a very direct way. The march officially celebrates the women's historic 1956 anti-pass law demonstration, which was marked by the slogan: "You have struck the women, now you have struck a rock!" The protest attempted to introduce into public discourse a connection between women's struggles against gender violence today and women's participation in the antiapartheid struggle. Protesters called on the ANC government to live up to its promises to women, using imagery from the past to emphasize failures in the present. The women who interrupted the march carried the "corpses" in a manner that recalled the iconic photos of Hector Pieterson's body being carried by another student during the Soweto protests. The "bodies" lying piled in the street vividly reflected images of apartheid massacres, an emotionally powerful link between violence against women today and apartheid oppression. In the protestors' words, "We cannot believe that this is the South Africa that women marched for in 1956" (One in Nine 2012b). If Khulumani—through its own advocacy and through the activation of connections with influential human rights leaders—can succeed in the campaign for government to revisit the TRC process and specifically target abuses of women,

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there is a greater possibility for an opening of public debate about gender violence. Within such a debate, One in Nine might more effectively demand that government address gender violence seriously by invoking the spirit of the liberation struggle—the commitment to justice and equality for all South Africans.

Toward Transformative Women's Rights

The universal principles of women's rights are clearly traveling the globe, and vital alternatives to the individualist constructions of those rights within the discourse of globalizing capitalism can be found if we look in the right places. In Botswana we can see clear benefits for many women from claiming individual citizenship rights as entitlements, but also the potential difficulties of using an individual rights strategy for dealing with gender power relations and trying to transform gender culture. In WLSA's strategic shift from educating women in the principles of individual rights to a discourse that also includes the mutual obligations of kinship and customary law, we can see the potential power of engaging with women's actual life experiences of obligation and care, as well as older modes of making claims on others in order to transform gender culture. In South Africa, we can see the evolution of complex strategies to create a new national conversation about gender violence that prominently includes the voices of survivors and attempts to draw on the spirit of the liberation struggle. In the words of Nomboniso Gasa (2011), "We look to history in an attempt to understand what its legacies are in the present. . . . A theme that runs through all the periods of women's struggle in South Africa . . . is that women exercised their own agency."[49]

It is in the actual work "on the ground" of women activists in southern Africa that we can see engaged universals traveling into new terrains and being appropriated, disrupted, and deployed in contestations over what kind of gender cultures will emerge in these societies. It is in the small, safe places that activists create for women to come together and share the wholeness of their lived experiences that these women can recreate themselves, and perhaps can then help create powerful pressures for new forms of economic and gender justice. The way forward in the social visions emerging in these spaces in southern Africa involves activating and strengthening the female networks of kin and community upon which African women depend. It involves trying to maintain the mutual obligations of African kinship and seeking ways to negotiate within unequal gender power in particular contexts and times, but with an eye to how those relations can be transformed toward greater equality in the future. It involves creating new concepts of justice and equality that privilege the voices of previously silenced women. Perhaps above all it involves women coming together in those small, safe spaces and gaining the collective voice to speak out in public places and demand that their societies change.

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Notes

1. A video of the demonstration can be viewed on YouTube. See One in Nine (2012b).
2. See Merry (2006) on translating the universals of human rights into local contexts for a useful but less critical and less provocative analysis than that provided by Tsing (2005). Englund (2011) is a very helpful source on the subject of claims and obligations between unequals. See also Hirschmann (1992) for an analysis of women's nonconsensual obligations within the Western privileging of formal rights and consent-based obligation.

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3. Colonial powers commonly appealed to univeral principles as justification for conquest, just as the United States uses appeals to "human rights" to justify military and economic interventions. Some North American feminists have used "women's rights as human rights" claims to justify "saving African women" from their own cultures. See, e.g., the critique in James and Robertson (2002).
4. For a fuller description of this political economic history, see Van Allen (2000, 2007).
5. Botswana, unlike its neighbors, has a first-past-the-post single member constituency electoral system, which has made it extremely difficult for women to get elected to Parliament. Women's representation reached a high of 18% in 1999 and has fallen since, to a low of 5% in the 2009 elections. In the 2014 elections an unprecedented number of women ran for office and women's representation increased to 8.8%, 5 out of 57 seats. Four were elected and one was appointed by President Ian Khama—Unity Dow, who had run unsuccessfully on the ruling party slate. See Van Allen (2007); Bauer (2011).
6. The law also provided for easy access to citizenship by foreign wives, but not foreign husbands, and significantly increased the residency time required to apply for citizenship. It provided that an unmarried woman could pass on her citizenship to her child, which was presented as in accord with Setswana custom, since the child of an unmarried woman would belong to the lineage of the woman's father.
7. Rights and nondiscrimination on grounds of "sex" are now guaranteed in Sections 4 and 15, but at the time of the case "sex" was not included in Section 15, which forbids discrimination on the basis of specific characteristics. In addition, clause 15(4)(c) exempts laws on "adoption, marriage, divorce, burial, devolution of property on death and other matters of personal law" from discrimination prohibitions. It generally exempts law in force at the time of the adoption of the Constitution and continuing in force, thus exempting customary law as a whole. This is why, for example, the 2007 Abolition of Marital Power Act does not apply to customary marriages. See Koboyankwe (2014).
8. Most legislation in Botswana is introduced by the ruling party, which has been the Botswana Democratic Party (BDP) since independence in 1966. The BDP leadership was not willing to introduce domestic violence legislation, but eventually allowed a private member, one of the few women in Parliament, to introduce it. The Domestic Violence Act of 2008 is a civil law, not a criminal law, providing for orders of protection but leaving gender violence to be covered by definitions of assault and homicide in general criminal legislation. Gender Links (2012) reports improvements in police collection of gender-based violence statistics. In its study, 70% of women reported experiencing gender-based violence in their lifetimes and 30% in the previous year.
9. See Emang Basadi (1999); Dikobe (2010); Mookodi (2004); Van Allen (2011); WLSA (1992b, 1997a, 2002b).
10. See Griffiths (1997) for an insightful analysis of male advantage and gender power negotiations within both customary and magistrates' courts in Kwena District, Botswana.
11. Country programs are coordinated, but different perspectives do emerge in different WLSA branches and publications, on occasion including direct criticisms of earlier WLSA contributors. My account of WLSA is based on interviews with present and former WLSA researchers, conducted in Gaborone in 2012 and 2013, and on WLSA's notably self-reflective publications. Critical studies

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on systems of both formal law and customary law include WLSA (1990, 1992a, 1992b, 1995b, 2001a, 2002a, 2002b). Self-reflective re-evaluations of the legal rights strategy can be found particularly in WLSA (1992c, 1995a, 1997b. 1999. 2001b).

12. Freire (2007 [1968]) argued that education is never neutral, and advocated a "critical pedagogy" that enables the dominated to express their own understandings of relations of domination, break the "culture of silence" controlling them, and mobilize to transform society.
13. Stewart (1996) and WLSA (1997b) describe WLSA's shift from a legal centralist approach that privileged formal law and intended to teach women how to use it to this pluralist approach.
14. In Setswana, bridewealth is *bogadi*, but WLSA uses the Zulu word *lobola*, commonly understood throughout southern Africa.
15. The situation is further complicated by the processual quality of customary marriage, so that the interpretation of whether a woman is "married" can vary according to who is making the interpretation and what the person's own interests are in whether or not the marriage exists.
16. For example, according to the provisions of the Botswana Affiliation Proceedings Act (1970), a mother needed to make claims for child support within one year of the child's birth. The Act was amended in 1999 to extend the time frame in response to criticism from WLSA. Some unmarried women in Zimbabwe have expressed fear that formal maintenance payments would be construed as the customary payment (*chiredzwa*) that transfers ownership of a child to its father's lineage (WLSA 1997b:28). Customary courts in Botswana are transforming the customary practice of payments for "seduction" that provided an unmarried mother's family with a cow for maintenance of her child into a form of cash payments, now paid directly from the father to the mother (WLSA 1992b).
17. See Ndulo (2011) for a related legal argument that judges should act to bring international standards of gender equality into customary living law.
18. Rape and domestic violence statistics are notoriously slippery, since reporting depends so much on the confidence of women in the police and the judicial system as well as the social cost of being known to have been subjected to gender violence, whether domestic violence or stranger rape. On the basis of many studies, South African and international, estimates are that one in three women in South Africa will be raped in her lifetime, and one in four beaten by her domestic partner. See Moffett (2006) for a summary of the studies.
19. Linked to this argument are the destructive effects of the HIV/AIDS epidemic on personal relations and particular concerns about the rape of children There is an extensive literature, both scholarly and popular, on each of these arguments, and they are often combined. Useful or provocative examples include: on the violent legacy of apartheid, Gasa (2011, 2012, 2013); Hassim (2009); Human Rights Watch (2011); Isaack (2006, 2008); Moffett (2006); on the failure to hold perpetrators of violence accountable, Posel (2002); Seidman and Bonasa (2010); van der Merwe (2009); on "masculinity" constructions and the alleged "crisis of masculinity," Decoteau (2013); Dworkin et al. (2013); Morrell (2001); Shefer (2014); on unfulfilled promises of liberation, Decoteau (2013); Meinjtes et al. (2002); Moffett (2006); on HIV, Dworkin et al. (2013); on lack of government commitment to gender violence services, Jewkes (2012).
20. See Britton (2005); Govender (2007); Hassim (2006); Walsh (2006).

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21. Note that this does not constitute endorsing domestic violence, but it does close off the domestic realm to public scrutiny.
22. See Moffett (2006) for an account of this incident and a strong argument for deracializing the campaign against gender violence. Her argument about the parallels between racist use of violence against "cheeky" blacks and male use of violence against "cheeky" women is provocative, although I would add that men in patriarchal societies have always used violence against "uppity" women. See, for example, Rowbotham (1973). Also see LaFraniere (2004), a journalistic account of the incident, and Posel (2005) on the "politicization of sexual violence" and the silencing effects of charges of racism.
23. Class and racial privilege shields some women from the worst manifestations of gender violence in South Africa, although it does not protect them from the violence of their own partners, as the Oscar Pistorius murder trial has made clear to many. The "corrective rapes" and torture-murders of black lesbians protested by One in Nine take place in townships, where the majority of black women live, while white lesbians can "walk hand in hand" in many neighborhoods of Cape Town. See Human Rights Watch (2011); One in Nine (2007, 2011).
24. Seidman and Bonasa report that "women in our workshops tell of a police station commander in the East Rand who has been charged with sexual harassment of a woman constable; his male colleagues have nicknamed him, with approval, 'Msholozi' (the president's family name)" (2012:22)—a striking contrast with laudatory uses of "Madiba."
25. The Traditional Courts Bill of 2008 was withdrawn after vociferous criticism. For an example of opposition, see *Mail & Guardian* (2008). For a summary of the proposed law and criticisms of it, see Rautenbach (2014). In May 2015 the Minister of Justice announced that the law will be revised and resubmitted. Traditional Courts authority could extend to as much as half of the black South African population.
26. The new ministry, created after the May 2015 elections, replaced the Ministry of Women, Children and People with Disabilities. Having a ministry focused on women was a feminist goal; putting it in the president's office was not. Feminists South Africa (2014) posted a statement signed by ten gender justice groups describing and criticizing the meeting and inviting supporters to join in organizing their own national day of action.
27. Nominoso Gasa (2013), former head of the Commission on Gender Equality and long-time proponent of gender equality, commenting on "reclaimed" traditional culture, has argued that, "culture is dynamic. . . . The problem is that it is changing for the worse." Useful discussions of "contested custom" include Karimakwenda (2014); Redding (2011); Thornberry (2013a; 2013b; 2013c, 2016); and other articles on the *Custom Contested: Views and Voices* website.
28. South Africa was one of the founding signatories of the Rome Statute that created the International Criminal Court and established "rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity" as war crimes. The TRC hearings ended just before the Rome Statute was approved in July 1998, but the TRC was created and operated during the run-up to that approval. See the *Custom Contested: Views and Voices* website.
29. A concise summary of the committees and processes of the TRC can be found at the Legal Information Institute website of Cornell University (www.law.cornell.edu).

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Only a small percentage of the families of the tens of thousands of victims of apartheid "disappearances" learned what had happened to their kin from testimony of perpetrators seeking amnesty. Of 7112 requests for amnesty, 849 (about 12%) were granted, and 5392 (about 76%) were denied (others fell into other categories). Of the 7112, a significant number are said to have been ANC and PAC cadres, not the perpetrators of apartheid violence. See Republic of South Africa DSC (1996–2001).

30. Terminology is tricky. Gender violence activists tend to refer to women who have suffered violence as "survivors." The TRC identified those who suffered apartheid-era violence as "victims," so that those seeking truth and/or compensation had to establish that they were "victims." Khulumani says it is "trying to turn victims into victors," and to have women seen as "actors." My usage tries to navigate within these contending terms.
31. The TRC had decided that rape was "too horrendous" a crime to be classified as "political" and thereby allow rapists to qualify for amnesty, even though amnesty was given to those who admitted to horrendous forms of torture and murder. Piers Pigou, a TRC investigator, characterized that TRC decision as a serious mistake (interview with Judy Seidman, Khulumani workshop, March 2007).
32. It was accepted in perhaps fourteen cases among some 22,000 complaints to the TRC (personal communication, Judy Seidman, August 25, 2014). See Gobodo-Madikizela (2005) for a partial transcript of testimony that demonstrates the difficulty of establishing rape as a political crime.
33. Archbishop Emeritus Desmond Tutu, among others, has criticized the post-1996 government for reducing the amounts recommended for payouts, dropping a recommended once-off tax on the wealthy to cover those payments, and not prosecuting those who requested but were denied amnesty. Alex Boraine, former member of the TRC, has also expressed strong criticism of government inaction on TRC recommendations. See Khulumani Support Group South Africa (2014a); IRIN News (2006). Once-off payouts of R30,000 were made to those identified as victims, as compared to the R129,000 over six years recommended by the TRC. Files of more than 300 cases were referred to the public prosecutor for further investigation and possible prosecution, but only a few were prosecuted. Since 1998 the ANC government has resisted further prosecutions (see van der Merwe 2009). See also reports of the Centre for the Study of Violence and Reconciliation (www.csvr.org.za).
34. The terms of the amnesty were negotiated under the 1993–94 Transitional Executive Council. Apartheid military forces demanded a general amnesty. The ANC counter-proposed amnesty based on truth, which was formally accepted, but many perpetrators of violence who did not seek amnesty were not prosecuted. Concern about a coup was confirmed, for example, by Dumisa Ntsebeza, TRC commissioner, who was involved in the negotiations, at the Witwatersrand University forum on Transitional Justice, September 8, 2014. Albie Sachs, an ANC participant in the negotiations, argues that the primary concern was healing and inclusion. See Sachs (1990).
35. See Posel (2002) and the extensive bibliography of critiques on the TRC Research website (http://cas1.elis.ugent.be/avrug/trc/bibtrc.htm#neg).
36. Wendy Isaack is an attorney in the Business and Human Rights Programme at the Centre for Applied Legal Studies at the University of the Witwatersrand, Johannesburg. She has worked as a human rights activist and lawyer for many

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years, including as manager of the Legal Services and Advocacy Programme at People Opposing Women Abuse (POWA).

37. These included the Long Lives project in Cape Town, for people living with HIV/AIDS; drawings by women ex-political prisoners at the old Johannesburg Fort Museum on Constitution Hill; and workshops with migrants and refugees from conflict areas in Africa, done in Johannesburg (see Seidman & Bonasa 2012). In the mid-2000s this approach was being pioneered in workshops by the Curriculum Development Project for Arts and Culture Education and Training (CDP), and, with body-mapping added, by Judy Seidman for Khulumani, One in Nine, and CDP. On the CDP process, see CDP (2011).
38. See Seidman (2007) for a history of Medu Art Ensemble in Botswana in the early 1980s and the use of poster art in the liberation struggle.
39. Body maps have been displayed in the Constitutional Court Building and in the gallery on Constitution Hill. Body maps and other art-making products, with commentary by women workshop participants and organizers, are collected in CDP (2011). In a related project, body maps done in 2013–14 in Khulumani workshops by widows of the Marikana shootings are being displayed at the Pretoria site of government hearings on Marikana. Body maps and narratives can be found in Khulumani (2013); for the cover photo of four body maps, see http://www.khulumani.net/orders/book-voices-of-widows-of-the-marikana-massacre.html.
40. The organization's extensive website (www.khulumani.net) details these and other Khulumani projects, reports, protests, and recent news.
41. See Khulumani Support Group South Africa (2014b).
42. Members included Judge Sang-Hysun Song, president of the International Criminal Court at the Hague; Delphine Serumaga, executive director of the Centre for the Study of Violence and Reconciliation and former executive director of People Opposed to Woman Abuse (POWA); Advocate Dumisa Ntsebeza, former head of investigations for the TRC; and Advocate Alan Ngari of the Institute for Security Studies.
43. Personal communication, Judy Seidman, September 8, 2014. She was present at the demonstration. Noma Russia and her family members suffered from the East Rand violence against ANC supporters. She has constructed a small community center/Khulumani headquarters adjacent to her house in Kgatlahong. One Khulumani project using the space is the GoGos ("grandmothers"), primarily survivors of the East Rand violence. They continue to seek compensation, but also engage in self-help beading projects: "We can't just sit around waiting for government," they say (GoGos meeting, Katlehong, June 8, 2013).
44. See the One in Nine website (http://oneinnine.org.za) for detailed information about its structure, membership, projects, and past activities, and a gallery of photos from its many actions. Videos of One in Nine Demonstrations may be accessed at https.//www.youtube.com/user/1in9Campaign.
45. See the POWA website (www.powa.co.za).
46. See Bennett (2008) for an early report on One in Nine. This account is based on interviews with the director and research director in 2012, visits to the workshop in 2012 and 2013, One in Nine publications, and continuing discussions with Judy Seidman, who has facilitated several of the group's workshops.
47. This list was compiled from a photograph provided by Judy Seidman (September 9, 2012).

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48. On “respect” (*hlonipha*) and female deference, see Kelly (2015); Hickel (2015). Hickel analyzes contemporary constructs of gender and generational hierarchy in rural Zulu society as produced by the racial policies and migrant labor system of twentieth-century Natal and their continuing reinforcement and contestation under the ANC government.
49. See, e.g., Gasa (2007); Walker (1991).

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