# A fresh look at



# Gender in Swaziland

"You cannot assume that people are with you, when you are not with them."

*Elizabeth Lwanga, Former Resident Representative, UNDP Swaziland*





"This was a vigorous, unrelenting, passionate exercise that paved the way for change, touched our hearts and souls."

*Phesheya Dlamini, Attorney General of Swaziland*

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## Acronyms

| | |
|---|---|
| AG | Attorney General |
| ACHPR | African Charter for Human and People's Rights |
| APFA | African Platform for Action |
| AIDS | Acquired Immune Deficiency Syndrome |
| AU | African Union |
| BPFA | Beijing Platform for Action |
| CANGO | Co-coordinating Assembly of NGOs |
| CCF | Country Co-operation Framework |
| CDC | Constitutional Drafting Committee |
| CEDAW | Convention on the Elimination of All Forms of Discrimination Against Women. |
| CRC | Convention on the Rights of the Child |
| ESRA | Economic and Social Reform Agenda |
| FLAS | Family life Association of Swaziland |
| FODSWA | Federation of People with Disabilities in Swaziland |
| GD | Gender Declaration |
| GFP | Gender Focal Point |
| GP | Gender Policy |
| GoS | Government of Swaziland |
| HIV | Human Immuno-deficiency Virus |
| IEC | Information Education and Communication |
| MoHA | Ministry of Home Affairs |
| NDS | National Development Strategy |
| NGO | Non-governmental Organisation |
| SADC | Southern African Development Community |
| SEGA | Social, Economic and Gender Analysis |
| SNC –SC | Swaziland National Council – Standing Committee |
| UNCT | United Nations Country Team |
| UNDP | United Nations Development Programme |
| WILDAF | Women in Law and Development In Africa |
| WLSA | Women and Law in Southern Africa Research Trust |

## Acknowledgements

This booklet draws from the reports of the consultancy teams engaged in the Integrated Approach to Gender Equality Strategy and the Gender, Human Rights and Law Reform projects of the UNDP. The reports are brought to life through interviews with various participants in the initiatives listed in **Annex A.** Their insights are at the heart of this work.

The UNDP engaged Gender Links, a Southern African NGO that promotes gender equality in and through the media, to document these two initiatives. The consultants conducted the interviews with assistance from members of the Swaziland Media and Gender Watch (SMEGWA). UNDP staff responsible for the project provided invaluable support and information.

Work of this nature can only be done through partnerships. The critical contributions of the following are deeply appreciated:

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Executive Committee of Lutsango lwa ka Ngwane.
Members of the Swazi National Council Standing Committee.
Leadership of both Houses of Parliament.
Swaziland members of the Gender Committee of the SADC Parliamentary Forum.
Swaziland Institute of Management and Public Administration. (SIMPA)
The NGOs working on gender and human rights: WLSA, UMTAPO wa Bomake, SWAGAA, FLAS, Save the Children, MISA, Council and Conference of churches, FODSWA.
Government Gender Focal Points.
Legal Practitioners.
Magistrates.
Media practitioners.
The Judicial Commissioner and the National Court Presidents.
UN Agencies.
All institutions and individuals who gave their time for interviews and dialogues.



## Foreword

In March 2004, Swaziland ratified the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) without reservation. This means that all countries of the Southern African Development Community (SADC) have now ratified this global cornerstone of women's rights.

Many processes underpinned this landmark decision by the government. At least one of the contributory factors is the gender dialogues held with a spectrum of influential stakeholders across Swazi society in 2002/2003 as part of a unique partnership between the Attorney General's Office, Ministry of Home Affairs-Gender Unit and UNDP- Swaziland.

The signing of CEDAW certainly cannot be attributed only to the dialogues that engaged stakeholders and raised some heated debate. But they built bridges of understanding between groups that hitherto had not been communicating on this issue, paving the way for this crucial turning point in the quest for gender justice.

The Gender, Human Rights and Law Reform Project formed part of the UNDP's Democratic Governance and Gender Mainstreaming Programme in partnership with the AG's office because of its responsibility for the promotion and the protection of human rights. Other partners under the project were the National Emergency Response on HIV and AIDS (NERCHA) and LeaRN.

The dialogue approach came about after much soul searching over how best to go about changing gender relations to add value to Swazi society that is based on very strong traditional and cultural values, principles and practices. Much had been said in Swaziland about gender equality. Unfortunately, for the most part we were talking to ourselves and to the converted.

The complexity of Swaziland and the dominance of culture meant that we needed a multi prong approach. We had to look for various entry points: the law, gender and development, the legal status of women and, most of all, challenging the deep- seated suspicions that surrounded any talk of gender equality.

Swaziland is unique in Southern Africa for its strong sense of identity; a positive factor in a globalising world in which many find themselves without any kind of grounding or roots.

We reasoned that every culture has room for respecting women. We wanted to present those aspects of Swazi culture that provide entry points for promoting dignity. The strategy involved affirming the positive tenets of culture while challenging any oppressive tendencies.



*Pheshya Dlamini being interviewed by GL director Colleen Lowe Morna*

A number of factors provided a welcoming environment for this discussion. They included the pressure to ratify CEDAW; the draft Constitution that includes an equality clause; the government's draft gender policy; as well as the SADC Declaration on Gender and Development.

One cannot hope, in a few hours, or even in a day, to transform attitudes that have been formed over a lifetime, constantly reinforced by custom, tradition and religion. But what the dialogues succeeded in doing is taking away the bitter edge to the debate; opening the door to better understanding, as well as some immediate legislative reforms that keep wedging the door open a little wider.

This booklet records and shares this unique story of change - in- progress both as a contribution to Swaziland's history, and because of the universal relevance of the lessons learned, especially in countries grappling with similar circumstances.

We are painfully aware that what this project achieved is only a beginning. Sustaining the momentum poses huge challenges. But with the ratification of CEDAW, we are assured that there is no turning back. Swaziland, like the rest of the world, has irreversibly committed itself to a future in which women and men are free to realise their full potential. We are proud to have had some small hand in this momentous development.

*Phesheya Dlamini*
*Attorney General*
*Representative*

*Chinwe Dike*
*UNDP Resident*

# EXECUTIVE SUMMARY

# Executive summary



This booklet centres on the UNDP's support to gender-related work in Swaziland over the period 2000 to 2004. The challenges faced in Swaziland, a society in which traditional and modern systems coexist, are not unique. As such, UNDP Swaziland felt it important to document the strategies employed, especially through a unique series of gender dialogues, as a best practice for consideration by other UN colleagues and partners.

The booklet highlights two main initiatives, the Integrated Approach to Gender Equality Strategy and the Gender, Human Rights and Law Reform Project which was undertaken in collaboration with Ministry of Home Affairs-gender Unit. Emphasis is, however, placed on the Gender, Human Rights and Law Reform project as this marked a turning point for gender in Swaziland under the support of UNDP.

**Talking through change**

Dialogues on gender and human rights with groups of traditional leaders that had hitherto been left out of the gender discourse formed the most innovative step in this approach. These interactive sessions deliberately avoided a workshop style or format; structured instead as "working meetings" for debating, negotiating, and making concrete recommendations.

The dialogues involved a complex process of give and take. For example, in Swaziland the word "rights" provokes strong suspicion and resistance, among women and men. The dialogues achieved tremendous progress towards ownership of CEDAW and the SADC Declaration on Gender and Development through the alternative use of the word "opportunities".

To win over traditional structures and institutions, guiding questions included:
- What and where are entry points for addressing gender gaps and disparities?
- What opportunities are presented by the fact that the office of the Queen mother, *Indlovukazi*, symbolises that women are given status in Swaziland. How can this be used to ensure that the rights of women are protected and promoted?
- What windows of opportunities are presented by the HIV/AIDS pandemic for achieving greater understanding of gender issues?

The approach involved dispelling the notion that gender equality means a blanket throwing out of all traditional and cultural principles, practices and regulations. On the contrary, the dialogues sought to identify positive elements in the traditional system, highlighting them and expanding or adjusting them to cover women's human rights.

The creation of partnerships and working relations with traditional institutions and leadership not previously included in the gender discourses - men and women - formed another key strategy.

## Outcomes




Although it would be simplistic to view the dialogues as a panacea, there is a distinct move toward a more positive attitude towards women's human rights and gender equality in Swaziland. This is exemplified by several developments, chief among which are:

- The progressive gender provisions in the draft Constitution released for public discussion by the Constitutional Drafting Committee (CDC) in June 2003;
- The presence of women on the CDC;
- The adoption of an HIV/AIDS policy with progressive provisions for the advancement and empowerment of women;
- The number of senior traditional leaders that participated actively in the dialogues;
- The requests for capacity building and literature support on gender and human rights made by these institutions and leaders;
- The increased representation of women in the National Assembly, Senate and cabinet following the 2003 elections;
- Increased and better quality media coverage on gender issues;
- Concrete steps for the reform of the Marriage, Deeds Registry and Administration of Estates Acts as well as other legislative reform.
- The ratification of CEDAW.

## Challenges

Moving into the future, four strategic areas of focus have been identified. These are:

- Reform of critical laws;
- Adoption of a new Constitution;
- Domestication and implementation of CEDAW and the SADC Declaration on Gender and Development as well as
- Capacity building for gender responsive laws for the Attorney General's Office and other identified critical players.

**Structure**

The booklet consists of seven chapters. The introductory chapter sets out the background and context for social change. It highlights the coexistence of modern and traditional systems and the subordinate status of women in Swaziland, as well as the international, regional and national commitments to ensuring that women and men can participate equally and effectively in development.

Chapter two highlights the approaches that have been taken by the UNDP in supporting regional and international commitments, and national strategies for advancing gender equality. These began with an Integrated Approach to Gender Equality, a partnership between the Ministry of Home Affairs Gender Unit and UNDP spanning several sectors that grew into a focus on gender, human rights and the law, the project under which the gender dialogues took place in partnership with the Attorney General's Office and Ministry of Home Affairs Gender Unit. The chapter outlines the various measures taken under the Gender, Human Rights and Law Reform project, including a gender audit of all laws in Swaziland and of the Attorney General's Office, which formed the essential building blocks for the gender dialogues.

Chapter three outlines the philosophy behind the gender dialogues conducted in Swaziland by the AG's office and UNDP over the period late 2002 to early 2003, the targets identified, process and key strategies adopted.

Chapter four presents three case studies, as well as the personal reflections of the 77 year old President of Lutsango, Aylline Dlamini, as a measure of changing attitudes towards gender equality in Swaziland.

Chapter five summarises key challenges, both with regard to legislative reforms, as well as the longer term challenges of public awareness and education.

Chapter six draws together the lessons learned. Each chapter carries examples, anecdotes and reflections of those most directly involved, giving a human face to this multifaceted and dynamic account of social change.

Chapter one

# Introduction



Swaziland is one of only three surviving national kingdoms in Africa. Its small population of around one million is largely agrarian, making a living on agriculture. The majority of women are found in the rural areas, where there are high levels of poverty.

The King rules in consultation with the Cabinet, headed by a Prime Minister, and a bicameral parliament with elected representatives. The legal system consists of customary laws and systems operating side by side with common and statutory laws derived from Roman/Dutch law. The system of Government combines traditional and western concepts.

Swazi society is characterised by the co-existence of both traditional and modern modes of life. It has a strong cultural identity, which permeates all forms of social, political and economic interaction. This has a strong bearing on the gender relations.

This chapter sets out the key gender gaps in Swaziland. It also outlines important international and regional commitments that have provided an impetus for change. This is followed by a description of the various measures that have been taken at national level to advance gender equality: the essential context for this case study.

**Gender gaps**

Women in Swaziland are regarded as minors in relations to their husbands either under customary law or civil law unless otherwise stated. This limits their independent access to family and community resources such as ownership of property, credit, reproductive health services, inheritance, etc.

Statistics show that women are more vulnerable to the HIV/AIDS pandemic since they have no power on decisions that affect their lives at community and national levels. These gender inequalities are experienced throughout the lifecycle and are perpetuated by socialisation, prevailing legislative practices and some socio-cultural norms, values and practices.

Despite the high literacy and education rates among women and high enrolment rates for girls, indices on poverty show that the majority of the poor are women and female-headed household. The feminization of poverty in Swaziland manifests itself in various forms such as lack on income; exclusion from market, social and political life, unequal national and community resource allocations and rapid population growth. The majority of women are engaged in informal activities of a survivalist nature.

Due to the HIV/AIDS pandemic there is a growing number of single female-headed households (widows) and child headed households (orphans) especially in the rural areas. These people have no income to sustain their livelihoods and maintain their dependents. The majority of dependents are not economically active, consisting mainly of persons with disabilities, the youth, the ill and the elderly, which also form groups in society that are vulnerable to poverty. The issue of poverty amongst the youth is increasingly evidenced by the growing number of street children in the urban centers.

While women constitute 53 percent of the almost one million people, their representation in politics and decision- making is estimated at only two percent. This is due to socio-cultural perceptions and inhibitions that authority is the natural preserve of men; lower economic status, persistent differentiation in the field of training and occupation and the uneven distribution of roles and responsibilities between men and women.

Some women in positions of power tend to distance themselves from "women's causes" because they believe that these will be detrimental to their own progress. There is also a widespread misconception that the fight for women's rights is of concern only to educated urban women who have been exposed to foreign influences. All these limitations inhibit women's meaningful participation in development.

**International context**

Although women continue to be discriminated against in many ways in Swaziland, the status of women, their participation in, and benefit from, national development has received growing attention at the national, regional and international levels, especially in the last three decades.

The four world conferences on women held since 1975 in Mexico, 1980 in Copenhagen, 1985 in Nairobi and 1995 in Beijing have been the main rallying points for the human rights of women at global level.

The Nairobi Forward Looking Strategies for the Advancement of Women (1985) and the Beijing Platform For Action (1995) prompted Swaziland to draw up its first strategies for gender equality. Swaziland first committed to ratify CEDAW in July 1999, but it ratified the Convention in March of 2004.

**Regional context**

In September 1997, the fourteen heads of state of the Southern African

Development Community (SADC), including the King of Swaziland, unanimously adopted the SADC Declaration on Gender and Development.

This Declaration commits the SADC leaders and their respective states to: *"repealing and reforming all laws, amending constitutions and changing social practices which still subject women to discrimination, and enacting empowering, gender sensitive laws."* The Declaration also commits heads of state to ensure at least one third women in all areas of decision-making by 2005.

The powerful impact of the SADC Declaration which brings the debate on the importance of gender equality to regional and national development closer to home is yet to be felt – but it presents tremendous opportunities for really addressing gender imbalances. The fact that the Declaration bears the signature of His Majesty the King raises a new dimension to this issue for the traditional leaders who often thought that culture and gender are incompatible.

**The National Development Strategy**

The need to challenge the minority status of women has been highlighted in several national documents. Since independence in 1968 national objectives together with policies and strategies for achieving these are laid down in five-year successive plans and in three–year rolling development plans.

In 1988 the government embarked on an improved and more comprehensive planning system. This process started with the Economic Review Commission going around collecting people's views and publishing a report in 1995, leading to a National Development Strategy.

The National Vision 2022 articulated in the National Development Strategy (NDS), spells out a number of strategies aimed at eliminating the gaps and offering equal opportunities to all citizens irrespective of their sex. The NDS also emphasizes adoption of a gender- balanced approach to development in all national development plans, policies and projects.

**Gender and the NDS**

The NDS makes reference to gender and its related tasks under several topics. For example:

- **Law and Order, Defense and Security:** There is reference made to a programme to review, research and codify certain aspects of Swazi Law and Custom to ensure uniformity and consistency in its application.
- **Planning:** There is a proposal to develop mechanisms for mainstreaming gender in development planning.
- **Land Use and Tenure:** Progressive proposals include developing a land allocation policy which will ensure that both men and women have equal access and ownership opportunities especially on Swazi Nation Land.
- **Marketing**: The emphasis on promoting rural market, usually the domain of women who are also the ones hardest hit by poverty has important implications for gender equality.
- **Education and information:** Suggestions include the education and sensitization of the public to abuse of children and women as well as sexual harassment.
- **Policy and legislation:** The commitment to review inheritance rights for both traditional and civil law has implications for women in inheriting from their deceased spouses and the position of "illegitimate children" with regards to maintenance.
- **Cultural awareness and dynamism:** This section stresses both the importance of cultural identity in Swaziland and its dynamic nature.
- **Disadvantaged groups:** This section stresses importance of focusing on socialitsation to change attitudes and behaviour patters.
- **Empowerment:** This lays an important emphasis on women.
- **Participation and coordination:** The proposal to ascertain from communities themselves how local authorities can be made more accountable and responsive to local needs has important implications for gender equality.

**Economic and Social Reform Agenda**

The Economic and Social Reform Agenda (ESRA) occurred in two phases. The first phase came about against the backdrop of slow economic growth, stagnating investment, a high and rising level of unemployment, unstable labour relations, a costly and relatively inefficient public service and rapid population growth.

ESRA 1 sought to lay the foundations for recovery including institutional building blocks such as the Swaziland Investment Promotion Authority and the Anti Corruption Commission. ESRA 1 also led to necessary legislation, such as the Industrial Relations Act, being passed.

Of particular importance was the establishment of a task force to promote gender equality as part of the process, in line with the NDS and international conventions. The task force recommended the strengthening of institutional arrangements dealing with gender relations, implementing appropriate legislative reforms, ensuring a better understanding of civil and customary laws and promoting a culture of transparency in recruitment and promotion in the public and private sectors.

ESRA II specifically called for the incorporation of gender in all government activities, policies and programmes for the country to be better placed to address social and economic challenges.

Under the heading "Social Welfare", sub-heading "Gender", there is an undertaking by government to implement action programmes arising from the task force report on gender issues.

There is also mention of the achievement of gender equality through sensitization workshops for stakeholders; an undertaking to produce a national policy on gender and women's affairs by the end of 1999 and for supporting legislation to be initiated by March 2000 and to ratify CEDAW by 31 December 1999.

The ESRA 11 document targets poverty alleviation as its main area of focus. Over the years the Government of Swaziland has undertaken a number of initiatives to ensure equal participation of women and men in achieving the national objectives of economic growth, self-reliance, social justice and stability.

As part of the commitment to promoting women's participation in development through ESRA, an implementing body for the NDS, the government appointed

a nine-member Task Force in 1997 to draw up a gender policy statement.

**Gender structures**

In March 1994, the government launched the Swaziland Committee on Gender and Women's Affairs (SCOGWA) within the Ministry of Home Affairs to serve as the main co-coordinating body for the development of a gender programme through lobbying and advocacy.

The forum, which comprises key ministries, NGOs and the private sector, formulates policies and programmes to be incorporated into the national action plans.

Among its activities, SCOGWA prepared a "Gender and Women Issues Paper" and the "Swaziland Platform for Action for Equality Development and Peace." This activity was carried out in collaboration with the Gender Sector Committee (GSC) one of the eight NDS sector committees.

Lobbying and advocacy by SCOGWA, coupled with efforts by national, regional and international organizations, led to a Gender Unit (GU) being established.

Its main objective is to facilitate mainstreaming of gender concerns into all sectors of national development to ensure that men and women, boys and girls contribute fully to national development and benefit equally from national resource allocations.

In 2000, the government identified Gender Focal Points (GFP's) in all government ministries. The role of the Gender Focal Points is to facilitate integration of gender issues in Government's policies, programs and projects.

Although the GU has limited human and financial capacity, it has been able to link up with other players to bring gender issues to the agenda of government. The Unit has coordinated government participation in many gender meetings. A number of GFPs have been given gender training and they have represented the country at various fora.

**The National Gender Policy Statement**

In 1997, at the same time that the government established a Gender Unit, a Gender Task Force was established under the Prime Minister's Economic and Social Reform Agenda, charged with drafting of a gender policy statement

that would assist in the formulation of a National a Gender Policy.

The Gender Task Force coordinated the drafting of a position paper that would assist in the formulation of a National gender policy which would consolidate and coordinate the work being done in this field as well as to provide viable national machinery for advancing gender equality.

The five critical areas identified as priorities for Swaziland are:

- Minority Status of Women
- Participation in Decision Making
- Education and the Girl Child
- Employment and Women's Economic Empowerment
- Violence against Women

**Efforts by civil society**

In recent years, many civil society organisations have been formed and many have worked on gender issues in concert with the GU. There are also several women's rights organisations that are addressing specific issues and creating awareness, capacity and commitment to a gender agenda.

The advocacy role of these organisations has drawn attention to issues that previously remained unattended to. They have effectively articulated the human rights components of issues like violence against women and children, the vulnerability of women with disabilities, inhuman aspects of some mourning rites, the limited legal and economic capacity of women and the under representation of women in decision-making bodies at all levels.

Civil society organisations in the country have also drawn attention to the fact that the country has lagged behind in ratifying, implementing and reporting on a number of international and regional instruments relating to gender and human rights.

They have also pointed to the various pieces of legislation that need to be reformed, amended or repealed to promote gender equality, especially to bringing an end the minority status of women.

They have over the years organized many workshops and seminars to sensitise people on gender and to build capacity for mainstreaming gender in the various aspects of development.

## HIV/AIDS Policy

The seriousness of the HIV/AIDS pandemic in Swaziland, as in the other countries of the sub-region, presents a major threat as well as an opportunity for highlighting the gender dimensions of the pandemic.

The lowly status of women, and especially their inability, often, to negotiate safe sex, has been shown to be responsible for the high rates of infection among women.

In all the initiatives to find lasting solutions to the pandemic, legal, economic, political, cultural and social constraints in the lives of both women and men are being examined. This presents an important entry point for gender and human rights.

The fact that the pandemic has led to an unprecedented number of female and child headed households poses a further challenge and opportunity.

## The draft Constitution

The Constitutional Drafting Committee set up by the King in 2002 to produce a new constitution for the country presented a draft for discussion and validation of its findings in June 2003. The validation exercise has provided room for discussions on vexing gender issues.

However, the fact that gender and human rights issues are covered provides a tremendous opportunity. If included in the final draft and implemented, the minority status of women would finally be ended. This core document provides a solid starting point and can be improved to provide more rights and opportunities for both men and women such as those relating to citizenship.

**The 2003 elections**

The 2003 elections in Swaziland, the regional and global crusade for democracy and good governance has also provided an important window of opportunity for advancing gender equality in Swaziland. (Include as part of the opportunities in the national initiatives section)

Five women won seats and two were appointed to the assembly, bringing the number to seven. There are eleven women in the senate. This brings the total number of women in the Swaziland parliament to 18 out of 95, an increase from 8.4 percent in 1998 to 19% percent in 2003. Parliament has committed itself to a number of legislative reforms for the advancement of women during this session.

Chapter two

# UNDP approach and support



In response to the government's commitment to promoting women's effective participation in development, the UNDP's support to gender in Swaziland is spelled out under its Democratic Governance and Gender Mainstreaming Programme drawn from the United Nations Development Assistance Framework (UNDAF) and the 2nd Country Cooperation Framework (CCF) from 2001 – 2005.

The Democratic Governance and Gender Mainstreaming Programme aims to mainstream gender in all national development initiatives, strengthen capacity of the Gender Unit, as well as support law reform and the social transformation of structures that promote gender inequalities.

This chapter outlines the two main UNDP programmes to support Swaziland's efforts to advance gender equality: the Integrated Approach to Gender Equality Strategy and the Gender, Human Rights and Law Reform project. These, and especially the latter, provide the essential context for the gender dialogues.

**Integrated Approach to Gender Equality Strategy**

UNDP Swaziland supported the Ministry of Home Affairs Gender Unit to spearhead this strategy based on a number of mutually reinforcing approaches which were Participatory Communication and Development Support Communication (PRCA), Media Awareness on gender issues, Social, Economic and Gender Analysis (SEGA), Gender, Law and Development, Research into Swazi Culture and Tradition and Gender Focused Responses to HIV and AIDS that were intended to inform and contribute to the drafting of the National Gender Policy. The rationale for the a multi-dimensional approach to gender equality in Swaziland came out of the need to enhance the bridging of gender gaps that still exist in Swazi society for the benefit of accelerated responses to major development challenges that the Kingdom faces.

***Objectives***

The Integrated Approach to Gender Equality in Swaziland that ran from August 2000 to 2001, aimed to:

- Enhance awareness of the need for gender balance;
- Equip targeted sectors of Swazi society with skills to make this happen;
- Harness the support of men, women, policy makers and development agents in the promotion of gender equality;
- Strengthen partnerships among institutions in this effort; and
- Develop a new and innovative approach to the advancement of women.

***Participatory Communication and Development Support Communication***

This component aimed to explore the possibilities of using participatory communication approaches in empowering communities, identifying communities needs, opportunities, problems and solutions. It drew from a wide range of community development workers, health workers, NGOs, government extension workers. A partnership was formed with SADC-CCD based in Zimbabwe.

***Media Awareness***

The objective of this component was to create awareness on gender equality issues and to deliver training for media personnel to promote gender sensitive reporting by the media. UNDP worked with the Swaziland National Association of Journalists, which provided twelve journalists (six males and six females) with support from UNESCO to serve as media research fellows for a period of four months. Two media fellows were also to the gender unit during the policy consultative process.

***Social, Economic and Gender Analysis (SEGA)***

A new approach to gender equality, SEGA aimed to ensure a gender lens in the economic and social analysis process. The tool targeted policy makers, planners, programme designers and implementers to include gender analysis at the same time that economic and social analyses are carried out.

***Gender Focused Responses to HIV and AIDS***

In collaboration with UNIFEM and with support from the UNDP HIV and Development Programme this component specifically aimed at increasing awareness of concerns of women living with HIV and AIDS and developing capacities of women's organizations and other agencies to ensure the integration of a gender perspective in their intervention on HIV and AIDS. The component identified issues that required policy action. Trainers from Swaziland attended a Training of Trainers Workshop funded by UNIFEM on this component.

***Gender, Law and Development***

The UNDP partnered with the Ministry of Housing and Urban Development under its Urban Development Project, which aimed at promoting gender

equity in access to ownership of land. The project also aimed at developing a case study to assist in reflecting the glaring problem caused by the minority status of women and used to contribute to law reform.

***Research into Swazi Culture and Tradition***

Central to the activities of this strategy is the recognition of the uniqueness of Swazi traditional values and the challenges of identifying positive entry points which can be used for advocacy to promote gender equality.

***National Gender Policy***

The outcomes of the above five components which were mainly research oriented assisted in feeding information to be used in the formulation of the National Gender Policy. To promote further participation by stakeholders in the formulation of the National Gender Policy various consultations were held nationally with youth, people with disabilities, Gender Focal Points from both the Government and NGOs, traditional authorities, women's groups and other civil society groups, which included NGOs working on gender issues.



*Acting head of the Gender Unit, Gideon Gwebu*

These consultations centred on the twelve critical areas of concerns with the aim of creating awareness of gender issues and coming up with strategies that will help to inform the drafting of the National Gender Policy. A Gender Technical Advisory Committee was set up to assist the Gender Unit in the formulation process. UNDP further assisted in the provision of a Gender Specialist through the United Nations Volunteer (UNV) Programme to provide.

Alongside the consultations public campaign were carried out through the media both print and electronic to assist in motivating people to participate in the formulation of the Policy.

The draft gender policy is currently before Cabinet awaiting approval. It is developed along ten thematic areas: Culture, Family and Socialization, Poverty and Economic Empowerment; Health, Re-productive Rights and HIV/AIDS; Education and Training; Legal and Human Rights; Politics and Decision Making and Gender Based Violence; Information, Communication and Arts, Environment and Natural Resources, People with Disabilities.

***Achievements***

Following the initial phase, a consolidation workshop drew out outcomes, and recommended follow-up actions. Participants felt that the Integrated Approach to Gender Equality Strategy laid the foundation for the promotion of gender equality and equity and advancement of women. The following are the major achievements of the Integrated Approach to Gender Equality so far:

- A pool of 30 core trainers have been trained with skills in Participatory Communication for development; Social Economic and Gender Analysis; and strengthening of community responses to HIV/AIDS with a gender dimension. Research studies have been carried out on the needs of women infected and affected by HIV/AIDS and Trainers from Swaziland on Gender focused responses to HIV and AIDS. There is an increased awareness of the need for promoting equal participation of women and men for accelerating development.
- There is greater awareness by the media on the need to report on such issues as poverty, HIV/AIDS and gender.
- Accelerated advocacy on the use of Swazi culture as an entry point for addressing gender issues.
- A gender mainstreaming tool has been piloted at the Swaziland Institute of Management and Public Administration (SIMPA), which is a government-training center for civil servants. It is now institutionalised as part of the training courses being offered at the institute.
- Draft Gender Policy produced.

The strategy has provided fertile ground for follow-up action. A unique dimension of the strategy is that it sought to highlight all the areas in which gender inequality is perpetuated such as in the laws, media reporting, planning and programming processes, every day life and in development

challenges like the HIV and AIDS pandemic.

The strategy underscored the need to further intensify support to gender issues since this has generated a lot of commitments from government and civil society organisations. One of the entry points identified was law reform for gender equality, equity and human rights.

**Gender, Human Rights and Law Reform Project**

The Integrated Approach to Gender Equality gave rise to the Gender Human Rights and Law Reform Project in which the gender dialogues played a pivotal role.

A joint initiative of the AG's office, the UNDP and the Gender Unit of the Ministry of Home Affairs (MoHA), the Gender, Human Rights and Law Reform project was officially launched on the 29 January 2003.

The AG's office currently has the responsibility for law reform and human rights in the government of Swaziland. The minority status of women, as well as other related human rights issues, especially the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), led to the Gender, Human Rights and Law Reform project with the AG's office.

Several activities carried out under the Integrated Approach to Gender Equality Strategy converged in this project that had, as an overall objective, strengthening the capacity of the AG's Office to address gender and human rights issues in all aspects of its work.

The expected outcomes of the Gender, Human Rights and Law Reform Project are:

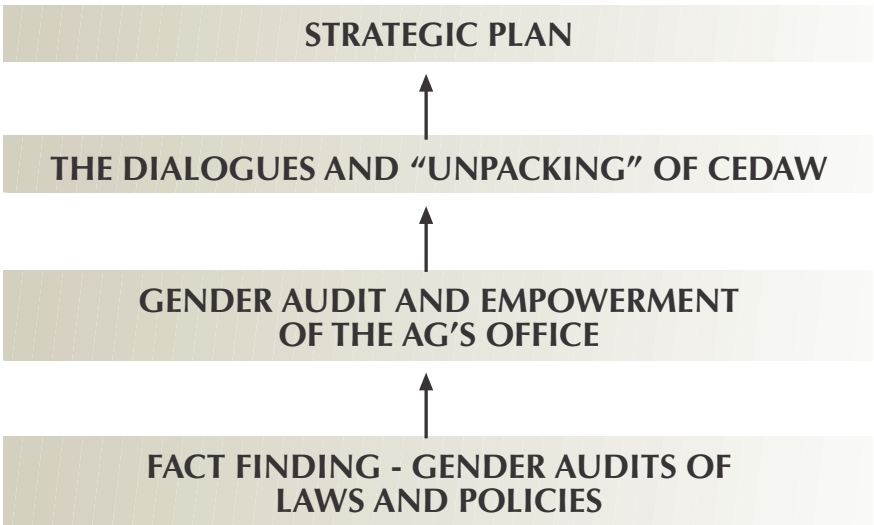
- Ongoing capacity support to the Attorney General Chambers to integrate gender and human rights issues into all aspects of their work.
- Ratification, domestication and implementation of CEDAW in Swaziland.
- Speedy and continuous reform of laws that perpetuate gender inequality.
- Identification of entry points for gender and human rights in the processes of ratification, domestication, and implementation of instruments.
- An appreciation of the need to identify positive elements in both the customary and general law and expand the opportunities they present.
- A gender equality strategy for Swaziland based on law reform and development.

***Project components***

The project consisted of a number of components. These included:

- A gender situation analysis of the Attorney General's chambers.
- Gender audits of the polices, statutes, customary laws, judicial decisions and international and regional instruments.
- Dialogues with various stakeholders to verify the results of the audits. The Dialogues were also used in identifying key players and possible entry points for gender and human rights in the processes of ratification and implementation of international and regional instruments.
- An official launch of the project by the Attorney General, the Principal Secretary for Home Affairs and the UNDP on the 29th of January 2003. By then, a number of meetings and some dialogues had already taken place. One of the objectives of the launch was to bring more stakeholders on board.
- A select group of participants spent a week unpacking CEDAW to identify the areas of variance under customary, statutory and Roman- Dutch common law that should be reformed. The workgroup also identified the need for new legislation in some cases.
- In February 2004, stakeholders adopted a strategic plan for taking forward the various recommendations made during the project, and especially as part of the dialogues.

**The Gender, Human Rights and Law Reform Project**



### *Foot soldiers*

UNDP was the key supporter and facilitator of the work, assisted by a consultancy team comprising an international consultant on gender, law, human rights and constitutional issues, **Gladys M. N. Mutukwa from Zambia** and two national consultants, **Lindiwe Khumalo-Matse** (private practitioner) and **Muzi Masuku** (Legal Adviser to the Swaziland Council of Churches). The consultancy team worked from within the Attorney General's Chambers at the Ministry of Justice and Constitutional Affairs to give them easy access to and interaction with the AG's professional staff. This helped to strengthen local capacity, create a sense of ownership and identification with the findings and recommendations.

### *Gender audits*

The Audits were carried out to avoid operating on the basis of anecdotes or a reality that might have changed over the years.

In determining the current legal framework as far as gender is concerned, the team embarked on a **comprehensive audit** of all the laws, practices, policies, regulations and practices that exist in the country that either enhance or restrict gender equality. It also did an audit of the international, regional and sub regional instruments on gender and human rights. The team sought to identify entry points for integrating gender, either through new laws or amending existing ones.

The audit highlighted the **international and regional commitments** of Swaziland outlined in Chapter one.

### *Statutory laws*

Within this context, the team went on to scan the **domestic laws of the country** to determine the degree to which they comply with the standards committed to at the international and national level. This exercise entailed the audit of the statutory laws of Swaziland and reported decisions of the Courts of the land.

The audit uncovered a number of **Acts of Parliament** that are gender insensitive. The Team measured the gender compliance of these provisions against the benchmark of CEDAW. These gave the team an indication of likely areas of law reform.

The major statutes covered included: the Marriage Act, the Wills Act, the Intestate Succession Act, the Registration of Births, Marriages and Deaths Act, the Citizenship Act and the Girls and Women protection Act.

In addition, the team perused a few **reported cases of the High Court** of Swaziland that had gender implications. These assisted the Team to assess the level of judicial awareness and dynamism on gender issues.

***Customary laws and practices***

The audit would have had limited value without consideration of **Swazi customary law and practices** to determine their gender sensitivity and dynamism.

Since customary law is neither recorded nor codified, the audit concentrated on finding out what customs and traditions are used or cited in a number of decisions. Several related to marriage, inheritance, land ownership and decision-making were examined.

The exercise identified those customary law principles and practices that have a bearing on gender and then benchmarked these against CEDAW. The main issue was that because these are not written, there is a lot of uncertainty. This works often to the disadvantage of women.

***Judicial decisions***

The audits of the judicial decisions showed that because the changes in the laws have not kept pace with the changing realities of Swazi society, judicial decisions have tended to vary according to what and how much the magistrate or judge knows about gender and human rights.

Some applied the law strictly regardless of the consequences as they felt their hands were tied even when they were aware of some of the human rights provisions. Others tried to address some of the unjust consequences of applying certain laws in their explanations.

Some magistrates reported that the reality of the situation made them make decisions that were not supported by the law. They wanted to respond to the real needs of the people in cases where the law is clearly lagging far behind reality - like in cases of child neglect that women married under customary law brought to court.

Strictly speaking they are not supposed to entertain such cases. Some of the men concerned seized on this, arguing that the women should "go home" and follow the right procedure for a family gathering to address the issue.

But some of the Magistrates, in response to the dire need of the children they saw and knowing that arranging the family gatherings would take long, made temporary orders for the maintenance of the child while the traditional system or procedure is being followed/ pursued.

This points to the importance of looking at the level of gender sensitivity and responsiveness of the judiciary, and including the judiciary among the sectors to be targeted for sensitization and capacity building.

**Major challenges identified in the gender audits**

The gender audits pointed up two key challenges:
- Customary laws and practices are not recorded and this makes it difficult to verify uniformly what the custom is.
- The record keeping of the proceedings and decisions of the courts is not up to date.

***Gender analysis of the Attorney General's Office***

As the engine of the whole process, the project identified the Attorney General's office as a key target for assessment and capacity building. As the Attorney General put it, "we are tasked with promoting human rights in Swaziland. But are we up to the task?"
"The interest shown by the AG's office was very encouraging," added UNDP Resident Representative Elizabeth Lwanga. "But it was clear that the capacity did not match the commitment."
The main objective for the gender analysis was to assess the capacity of the Office to carry forward the tasks related to:
- Ratification, domestication, and reporting on implementation of international, regional and sub-regional instruments on the human rights of women, like CEDAW, CRC, ACHPR and the SADC Declaration on Gender and Development.
- Review, reform and/or amendment of various specific laws relating to the status and rights of women e.g. Marriage Act, Lands Acquisition Act, Administration of Estates Act and the Deeds Registry Act.
- Monitoring the gender responsive application of these laws.
- Ensuring that the conflict of laws and procedures between statutory and customary laws and practice is resolved in the interests of justice and

human rights for both women and men.
- Adoption and implementation of a new Constitution with provisions on human rights, gender equality and non-discrimination.
- Ensuring that all the drafts, opinions and any other documents from the AG's office is gender responsive.

The main issues raised in the assessment were how many staff had any exposure to or training in gender; how many were familiar with the concepts of gender, gender mainstreaming and gender and law; what connection they saw between gender and their work. The team also sough to establish if the AG's office had a Gender Focal Person, what training and leeway this person had.

The team held consultations with several members of the professional staff over a two week period. Senior staff made candid recommendations on how to improve the capacity of the office to address gender and human rights issues.

Key observations included:
- The office is so understaffed that attention to building for work seen as other than core functions is not present.
- Gender has not been seen in the office as a critical issue to be taken on board in the various types of work performed by the advocates.
- Very few of them had seen or knew about the international and regional instruments like CEDAW and the SADC Declaration on Gender and development and they are not aware of the fact that they have a role in the implementation of such instruments.
- There is no training on gender or gender mainstreaming in the training of advocates.
- Most civil society organisations, which are most active and well informed and skilled on gender and human rights issues leave out the Attorney General's office from any programmes on gender and human rights. There is currently no system for the work being done by the Gender Unit, Civil Society and other stakeholders to positively participate in or contribute to the law making process.

Key recommendations and actions that followed included:
- The establishment and computerization of a law library that has up to date and adequate material on gender and human rights.
- The seconding of a Gender Adviser to the AG's office, Sizakele Mhlanga for one year.
- A capacity building programme for mainstreaming gender and human

rights in the work of the office and the ministry is needed for the staff.
- The appointment of Thabisle Dlamini as a Gender Focal Point, charged with ensuring that gender and human rights concerns are incorporated into all aspects of the AG's office's work.

**Passionate about gender**

Attorney General Phesheya Dlamini muses that being converted to gender equality is like being converted to Christianity: "When an atheist sees the light, the verses just come rolling out."

The Gender Focal Point in his office, Thabisile Langa, is a case in point. She confesses that prior to the joint programme with the UNDP, gender "was not an issue for me because I knew very little about it, except the talk about Beijing that was hugely distorted." She had no idea what CEDAW meant: "I was living in this island."

But, she adds: "I am a curious person. I am interested in things, and especially in human rights. I began to realize that there is a strong gender dimension to human rights. The (team) have managed to win me over and now I am passionate about the issues."



*Thabisile Langa*

A gap she sees in the work around gender in Swaziland is that there is insufficient attention being given to economic empowerment of women which she sees at the heart of the struggle for equality.

Langa hopes that having more women in parliament will make a difference, but adds that this "depends on how they view women's issues. All women need to be conscientised – just like I did."

Chapter three

# The gender dialoques



Much spade work had been done to identify laws and practices needing change. But there had been no meaningful inclusion of the traditional system and its leadership in gender discourse. As a result, the advocacy around gender equality led to even more polarisation.

The situation called for fresh and innovative approaches. Specifically, the team identified the need to engage key stakeholders. According to UNDP Programme Officer Sakinah Morris, the approach sought to "join the dots" of the various initiatives in the past.

This chapter outlines the philosophy behind the gender dialogues conducted in Swaziland by the AG's office and UNDP over the period late 2002 to early 2003, the targets identified, process and key strategies adopted.

**Rationale**

The dialogue approach began by recognising that Swaziland is a country in which traditional institutions, structures, principles and practices are strong. Ignoring or sidestepping these realities would, in Morris' words, be a case of "programming oneself for failure."

Lead consultant Gladys Mutukwa has a simple way of explaining the gender dialogues: "If you want to rearrange the furniture, you have to get a foot in the door. If you stick your head through the window, all you can say is: 'move the chair'. And it is up to the people inside to decide whether they will move the chair or not."

Almost everyone in Swaziland, in both rural and urban areas, knows about Beijing and women who advocate for their rights are invariably referred to as "Beijing". During one of the dialogues, a traditional authority



*Acting head of the Gender Unit, Gwebu*

said: “when I hear Beijing, I see myself carrying a baby or pushing a trolley, and a woman saying: push this and let me take the groceries.”

As a result of these negative perceptions, and despite the many promises of change of the horizon, there has been little actual movement.

Not surprisingly, many gender activists have become impatient. As Women and Law in Southern Africa Swaziland coordinator Doo Aphane put it: “Too much time is spent on consultation. The time for change has come.” She said that while she agreed with consultation, there are certain basic principles that for her are “non negotiable.”

Morris concedes that by engaging with conservative and sometimes reactionary groups, “you run the risk of some people saying that you are sleeping with the enemy. But if you understand Swazi dynamics, you know that you can run away all you want from those groups. If you don’t engage with them you will keep coming back to square one.”

AG Phesheya Dlamini adds: ”If two people are having a conversation, it is easy for the one who is doing the talking to say the other one is not listening properly. I have had to have a rethink. In the case of gender, it is the very people who have been advocating the message who have been defeating their very own objectives in the manner in which they do so. What we have to do, collectively, is look for a winning formula.”

This, he maintains, “is not Beijing, or the placards, but reaching the homesteads, the majority of our people. We must identify allies and those people we need on our side so that we can tackle the challenges, not as enemies, but a nation with a united vision.”

**“**Swaziland has a very strong traditional sector that I felt was being sidelined on the assumption that they did not understand the issues,” noted UNDP Resident Representative Elizabeth Lwanga. “My view was: if we do not dialogue with them, we will be wasting our time, because they are the sector with power. If we do not win them to our side, we may as well forget about the programme.”

Those involved, she said, “had to explain to activists that it is unrealistic to expect that people and institutions will transform overnight. But you are certainly not going to wrestle power without dialogue.”

“You are talking about relinquishing power, and that is difficult,” reflects

Morris. "You need to tread carefully, without compromising who you are. Sometimes you have to start incrementally. You take a horse to the well and if it wants to drink, it will drink. Of course, you can also strive to create a conducive environment for it to want to drink."

But, she concedes, there are risks involved: "It's like putting your clothes on the line and praying that the sun will shine, because if it keeps o raining, people are going to say: oh gosh, whose interests are the UNDP serving?"

"As the UN," says Lwanga, "we can't go to a country and say that you are not running your country correctly. We have to see what is in a country that is positive, and build on that."

"By having a critical analysis of what is good, you lessen the antagonism," adds local consultant Muzi Masuku. Other tactics used, he said, included lobbying influential members of particularly conservative groups, and having him or the Attorney Genera speak to issues, "so that it would not be seen as a woman's thing."

**Targets**

With regard to target groups says local consultant Sizakele Mhlanga, "we were guided by the principle: whoever influences policy, we must try and carry them with us." This is in line with UNDP's policy to focus upstream and build capacities.

Examples of groups chosen for the dialogues and reasons for doing so include:

- The Swaziland National Council Steering Committee (SNC-SC) was critical because of their pivotal role as advisers to the King. They have in the past been left out of these discussions because of their perceived conservatism and statements by some of them against issues on the position of women.



*Sizakele Mhlanga*

Their potentially important role in advancing the gender agenda was never adequately articulated.

- As part of the fresh approach, the team sought out the Lutsango leadership to attend the dialogues of other groups as observers and then have a dialogue and workshop with them based on their own expressed needs.
- Under the dual legal system in the country, the National court Presidents deal mainly with matters of customary law, though other matters can also be referred to them. Since the majority of people in the country use the customary and traditional system, the National courts hear more personal matter cases than the courts dealing with common and statutory law. There is a tremendous opportunity for them to contribute to advancing gender equality. However, this group had hitherto not been engaged on gender issues.
- UNDP, the AG's Office and Ministry of Home Affairs identified Media practitioners as strategic partners because of the critical role they play in information dissemination and in forming opinions. It is very important that they have the right information and they are fully aware of the gender implications of all that they report.

**Objectives**

The key objectives of the dialogues were to:

- Verify the findings from the audits;
- Engage hitherto uninvolved traditional stakeholders and decision makers in the gender discourse;
- Clarify the relevance of gender and human rights to national development;
- Demonstrate the complementarily of international and regional gender instruments with national priorities;
- Identify entry points for gender and human rights;
- Identify potential partners and their roles for the strategy for gender equality; and
- Strengthen gender networking in Swaziland.

**The process**

Dialogues were held with members of the King's Advisory Council, the executive committee of a nation-wide and grassroots based traditional women's organisation, Lutsango, as well as traditional court presidents. The dialogues with legal practitioners, legislators, media practitioners, members of civil society and Gender Focal Persons (GFP's) in government also highlighted a number of critical issues for the advancement of gender equality in Swaziland.

The dialogues with groups that not normally engaged in the gender discourses underscored the value of fresh approaches. At the end of the dialogues, these critical stakeholders and decision makers were able to appreciate the connection between gender inequality, lack of development and the devastation of pandemics like HIV/AIDS.

The team held a total of nine dialogues (two, at their request, with the National Court Presidents). These brought together 170 people, 51.7 percent of whom were men.

| DIALOGUE | DATE | WOMEN | MEN | TOTAL |
|---|---|---|---|---|
| AGs office | 21 Jan 03 | 7 | 8 | 15 |
| Gender Focal Points | 23 Jan 03 | 24 | 4 | 28 |
| Civil society | 5 Feb 04 | 17 | 3 | 20 |
| Media practitioners | 4 Feb 04 | 14 | 2 | 16 |
| Magistrates and legal practitioners | 15 Feb 04 | 7 | 5 | 12 |
| Swaziland National Council (SNC) | | 4 | 18 | 22 |
| Parliamentarians | 13 Feb 03 | 7 | 10 | 17 |
| National Court Presidents 1 | 12-13 May | 1 | 21 | 22 |
| National Court Presidents 2 | 22 May | 1 | 17 | 18 |
| Members of the Royal Family | | | | |
| **TOTAL** | | **82** | **88** | **170** |

(NB: The figures exclude consultants and UNDP staff)

The meetings started off with welcoming remarks in which both the Attorney General and the Resident Representative articulated why the dialogues with such senior people were important and why both the government and UNDP regarded gender issues as critical for the country's development.

The relevant international, regional and sub regional instruments on gender and human rights were introduced and their relevance to Swaziland was explained. This was often followed by a number of comments and/or questions that revealed the participants' concerns and lack of information on gender issues. Each dialogue ended with a concrete set of recommendations.

**A call from the heart**

The most important distinguishing feature of a dialogue, as opposed to any other form of communication, is the one-on-one engagement. The involvement of senior Swazis, especially the Attorney General, and the constant pleas he made from the heart were perhaps one of the most persuasive methods used by the team.

At several meetings, the Attorney General, who drew from his personal experiences and convictions (see box) recalled that everyone is born of a woman. That, he argued should be enough reason to want to promote and protect their rights. Yet, the number and types of cases going to his office show that this is not the reality for most women. "I coined the phrase," he noted, "that some people are democrats in public but tyrants at home."



**The fuel that keeps the fire burning**

Scratch the surface of any gender activist and you'll find a personal story behind their conviction.

That is certainly the case with Attorney General Phesheya Dlamini whose mother has been a driving force in his life. A "humble person" with little formal education, she worked hard to see him and his siblings through school, but died soon after he finished his tertiary education.

"I have been a very successful person by any reasonable standards," he reflects. "I keep wondering if my mother had been empowered how much longer she might have lived, what she might have done. But we lost her so early in life.

"I long for my mother to see the fruits of her labour. I feel that if I can make some small contribution to the advancement of women, maybe I can give a little back of what she gave me.

"Ofcourse, there are other factors that influence me. But my mother is the fuel that keeps the fire burning."

A tactic frequently used in the dialogues was to ask participants what they wanted for their daughters. "When you talk about their wives, they don't care," says Lutsango's Bella Katamzi. "But their daughters: that is a different story. They get defensive, they want the best; they begin to see the discrimination."



**Culture is dynamic**

All the dialogues underscored the fact that there are positive aspects of culture and that culture is not statistic.

Nonhlanhla Dlamini of the Swaziland Against Gender Violence Action Association (SWAGAA) points out that "traditionally, you cannot have sexual relations with someone sharing your surname, let alone your own child. We use that in campaigns against child abuse."

There is a saying in Siswati that *Indvuku ayiwakhi umuti.* This means that "you can't build your family with a stick"; in other words that it is wrong to beat your partner.

The extended family, though stretched, has been a critical factor in Swaziland's ability to deal with HIV/AIDS, Dlamini adds. "In Africa, children belong to everyone. There is no such thing as an orphan."

The Principal Secretary in the Ministry of Home Affairs made the point at one dialogue that some decades ago, King Sobhuza II had ordered Swazis to take that which is good from the traditions and culture and leave those elements that would not work for the Swazis.

**The SADC Declaration on Gender and Development**

He further drew the attention of participants to the SADC Declaration on Gender and Development which HRM the King had signed together with other SADC Heads of State and Government. The Declaration recognises that some cultural practices which perpetuate discrimination against women will need to be changed.

According to lead consultant Gladys Mutukwa, "we linked up CEDAW with the SADC Declaration, which is much closer to home. CEDAW could be disregarded as something that came from New York. The SADC Declaration is short, simple, and it bears the Kings signature.'"

In the case of the SNC, the fact that the Declaration urged countries to ratify and implement CEDAW made them realise that they needed to know about these issues so that they can effectively advise the King.

The team also linked the Declaration to the draft Constitution. Mutukwa recalls that participants responded by asking: "Do you mean that the King has already agreed to the things that are being talked about in the Constitution?"

"We said yes, that is what it means. The SADC Declaration is not imposed on Swaziland. Surely the King must know about the culture of Swaziland. That means culture is not static."

**Development arguments**

Many of the arguments centred on the benefits of gender equality for development.

According to the AG, "we used economic debates. The statistics are there. The majority of people are women, and it is not true that they shy away from certain disciplines or certain types of work. But they are barred from participating in different walks of life as a result of culture and socialization."

HIV/AIDS provided another entry point. As the AG put it, "A man and a woman might both contract the virus, yet the woman is still the caregiver. Where both parents die, it is still the oldest girl who takes charge. Empowering women means empowering the whole nation."

**Dispelling myths, using facts and figures**

Fear of the unknown, rather than ignorance, is at the heart of most resistance to gender equality according to Mutukwa. "When people are made to feel that they are ignorant, they clam up," she noted. "By engaging we said, we value what you have, you know something; you are not ignorant. We validated their knowledge, created a sense of ownership, and a conducive environment for debate."

In one instance, councilors strongly disputed a statement that because of gender imbalance with regard to land ownership, some women work in the fields but payment is made to their husbands who have not even been near the field. At break time, they called one of the institutions concerned and when this was confirmed, they were open to further discussions.

Chapter four

# Signs of change



Although one day workshops are not a long enough time to effect let alone measure behaviour change, visible shifts in thinking became apparent in the course of the dialogues. This chapter presents three case studies, as well as the personal reflections of the 77 year old President of Lutsango, Aylline Dlamini, as a measure of changing attitudes towards gender equality in Swaziland.

The key feature in each case, notes UNDP Resident Representative Elizabeth Lwanga is that "all asked for more. That signifies real interest. With ongoing support, we will see change in behaviour and action."

**Swazi National Council (SNC) – Standing Committee**

The first half a day dialogue took place at Ludzidzini palace with both the Attorney General and the UNDP Resident Representative present.

The dialogue is remembered by the facilitators as one of the most challenging. To begin with, recalls Muzi Masuku, a member of the committee "accused us of fighting with nature. He said it is God's word that a man should be the head of the family. What do you want, a man to wear skirts and a woman to wear pants?"

Several said they viewed gender as a foreign concept. One of the members wanted to know where all the conventions and treaties came from. He asked whether they came from heaven and therefore need to be followed by every human being and country.



*Muzi Masuku*

One participant asked why Swaziland should be guided by CEDAW and UN standards when Swaziland has its own Law and Custom. His position was that Swazi society already respects women as shown by the fact that

the Queen mother is so powerful. Another participant challenged the presenter to cite examples of anything in Swazi law and culture which they regarded as negative.

UNDP Resident Representative Elizabeth Lawnga conceded that often too much attention is given to ratification, without enough regard for the follow up. But she stressed that Swaziland should be uncomfortable about being the only country in the world other than Somalia (at the time) not to have ratified CEDAW.

Lead consultant Gladys Mutukwa gave the example of Swazi women not being able to access land as one instance of the way in which Swazi Law and Custom impacts negatively on women.

Another issue that came up concerned children's rights. The councilors maintained that this concept is alien to Swaziland. The Attorney General gave the example of a cow that had been given to him as a gift. He noted that even though in the eyes of his parents he was a "child" no one could tamper with his cow without his position. But he stressed that "children's rights" do not mean children being disrespectful of their parents.

At the end of the first dialogue, the members of the Council asked for another dialogue so that they could further discuss the gender and human rights issues they now considered important for them to be familiar with.

The Attorney General co-facilitated a second two day dialogue in Piggs Peak. He explained the term gender; why it is important for them to know it and apply it in their work as advisors to the King as well as in their other roles as chiefs, senators, or princes and princesses.

In this second dialogue, HIV/AIDS frequently surfaced as a topic for discussion. Councilors agreed that if women continue to be so disempowered, there will be no control to this threat.

Another turning point was when one of the members made a passionate appeal for the marriage law in the country to be reviewed. He linked this to the fact that some of them have daughters who have been sent back home to them by the husbands and they are left there or years without knowing what the status is, as there is no clear system for divorce, especially in customary marriages or where the couple has followed both traditional and statutory steps for marriage. It emerged that some women are left in limbo like that for decades.

The discussions on gender seemed to show a way of addressing such a situation. Participants even made linkages between the issues raised and the provisions of the draft Constitution for redressing the minority status of women and women's representation in decision-making bodies.

In the closing session, the members expressed a desire to have periodic capacity building so that they can understand gender and human rights concepts, the international and regional instruments and related issues so that they could advise the King in a more gender responsive manner. They also agreed that they could be effective agents for change in their roles as chiefs.

Gender Focal Point in the AG's office Thabisile Langa reflects: "our dialogue with the SNC did not start well but it ended well. People said what they felt. They left with an understanding that gender equality is not about retribution."

**National Court Presidents**

Under the dual legal system in the country, the National Court Presidents deal mainly with matters of customary law, though other matters can also be referred to them. Since the majority of people in the country use the customary and traditional system, the National courts hear more personal matter cases than the courts dealing with common and statutory law.

There is a tremendous opportunity for them to contribute to advancing gender equality. Yet the assumption seems to have been that they would be too conservative to take on such issues.

Two dialogues were held with this critical group as they wanted o understand how gender and human rights are relevant to their work; what the linkage is between the judgments they give and instruments like CEDAW and the SADC Gender declaration; if it is possible to take gender and human rights on board without abandoning everything that is considered Swazi; and how they can be well informed so that they make right decisions.

This group stressed that there is a need to clear the wrong impressions created about gender in order to have greater buy-in by many stakeholders and decision makers. The extent of confusion and misunderstanding is underscored by the example they cited of women going on air after the Beijing conference to call on other women to make wills, "to the exclusion of men."

On some points, the National Court Presidents remained firm. For example, they strongly disagreed that a child of a Swazi woman married to a foreigner could be regarded as Swazi.

Other examples reflect growing flexibility and changing approaches. Examples given included cases in which the father of a child born out of wedlock would seek to "buy" the child from the maternal family. Under Swazi law and custom such a child belongs to the maternal family, but there is a provision for the biological father to pay some money and then claim the child. A number of them believed this should be reviewed even if it is part of culture, for anyone to think he can buy a child.



*Charles Mavuso*

The National Court Presidents cited several cases and incidents in which issues of the human rights of women and children would be critical but they would not know how to address them. They indicated an immediate need to familiarize them with the human rights and gender instruments and how to apply them in their work.

According to Judicial Commissioner Charles Mavuso, "we want to go back and polish what we learned in the dialogues. The National Court President's may not have agreed on everything, but they realize that there is no turning back."

**Men as partners**

An interview with Manzini National Court President Ndumiso Dlamini offered an insight into how a traditional male Swazi authority figure is in his thinking after being exposed to the dialogues.

Dlamini began by expressing the strong view that "times are changing. You go somewhere and women are drivers. Men must change. There is no country for men only or for women only. We should move away from the idea that women should belong to the kitchen. Women need to be involved in public affairs."

While he agreed that many customary practices discriminate against women, and said he stressed that "women and men are equal", he said this only applied to the law and the public domain - not to the home.

"Even though women are equal before the law and at work, at home the man is the head," he said. "Biblically," he reasoned, bringing religion into the argument, "women and men are not equal."

Dlamini went on to put forward the case for some sharing of decision-making in the home. "Even though the man is the head, he should discuss things with his wife. He should not be dictatorial. He has a God-given position which women should respect, but that does not mean that he should not take account of their views."

"Men come in different categories," says Lutsango President Aylline Dlamini. "There are those who feel threatened. There are those who are partially convinced. There are those who are quiet because they don't want to be in opposition. Then there is a group who are outspoken to say this is not yesterday, it is today; we need to move with our counterparts."

"A lot is changing, especially the perception of roles," adds local consulant Muzi Masuku. "Only older men are loathe to "allow" women into the work place. These days the economic dynamics are that you can't sustain a family on one salary."

**Lutsango Lwa ka Ngwane**

When UNDP Resident Representative Elizabeth Lwanga reflects on all the dialogues, the engagement she feels most satisfied about is with Lutsango Lwa ka Ngwane, a traditional, nationwide grassroots-based women's organisation.

"They had tended to be marginalized by women's organizations," she says. "They were seen as part of the old traditional set up; old, out-dated and steeped in tradition."

"When we had the dialogue with Lutsango," added lead consultant Gladys Mutukwa, "every one warned us that we were going to burn our fingers, that our credibility would be at stake. Many activists said, if you hob-nob with that group, you are not serious about women's rights."

On the other hand, according to Lwanga, the team agreed that "they held the keys to the traditional sector. If they bought in, they would be a key ally."

"We were aware of the risks," Mutukwa reflected. "But we sad what is the alternative? I know as an activist that there are some categories of women whom we have said we will not go near. We have done that all these many years. The question is: what have we achieved? Maybe if we had engaged with them, we could have done more. Especially in Swaziland where tradition has such a strong hold on people, we had to ask the question: if we leave them out, what does this mean?"

"We took the view that this is not the time to debate what ought to be, but with what is a reality," added local consultant Lindiwe Khumalo-Matse. "Lutsango has a wide following, the backing of the authorities, and of many rural women. There is no way we can reach these women outside Lutsango. We also thought they would be tactfully useful when it came to engaging with groups like the SNC."

Established in 1966, Lutsango is a regiment established to complement the efforts of the men's regiments in preparing the country for independence. It was charged with the mandate of coordinating and monitoring women's programmes as well as promoting and maintaining the cultural values of the country.

According to Lutsango President Aylline Dlamini, "we saw men getting busy. We did not know what this thing was they were getting busy with, but we did not want to be left behind. We went to King Sobuza, and he liked the idea of a women's regiment. He gave us the name, which means "enclosure of the nation."

Early issues raised included unequal pay for equal work. Lutsango's sole

woman parliamentarian, Mary Mdzimiso, fought and won the battle. Lutsango has started a vocational training centre for young women, and is currently heavily engaged in a programme to provide care for HIV/AIDS orphans.

Lutsango members led the delegation to the first Women's Conference in Mexico and have participated in the subsequent conferences on women at the international, regional and sub regional levels.

In 1997, Lutsango took the initiative to have CEDAW translated into Siswati, according to Lutsango coordinator Bella Katamzi. The following year, the organization lobbied for women to run for elections. Some 500 women were nominated, but only two got elected.

But until recently, Lutsango did not fully engage in the discourse on gender and the rights of women. Partly because of misunderstanding, they were generally considered to be opposed to the idea of gender equality and rights for women. These misunderstandings led to Lutsango not supporting efforts to have CEDAW ratified and implemented in Swaziland.



*Bella Katamsi*

As part of the fresh approach, the Lutsango leadership were sought out and engaged in the whole process, partly by having them attend the dialogues for other groups as observers and then having a dialogue and workshop with them based on their own expressed needs as well as a gender needs assessment.

The dialogue took time to go into the issue of gender as a human rights issue; why the world, including the SADC region, has adopted conventions, covenants and /or declarations on the situation and status of women; what the objectives of these instruments are; how they relate to national issues

and priorities; and how they relate to the real life situation of women in the country. The team explained how CEDAW and the SADC Declaration on Gender and Development could be used as tools to be used to help solve some of the situations.

One of the major issues that emerged was a serious concern and discomfort with the use of the words "women's rights" and the message that this meant throwing out any thing to do with culture and tradition. A number of their members also expressed concern with the meaning of the word "gender" and the negative connotations attached to it in the country.

"We realised," recalls Mutukwa, "that the minute you use the word 'rights' defense mechanisms start to go up. Swaziland does not have a Bill of Rights. Anyone who talks about rights is regarded as a dissident. The moment we talked about women's rights, the doors started closing. We spent three or four days talking about this. We challenged the women by saying, 'what do you think we should do?'"

The solution found was to talk about the ***ematfuba*** or "opportunities" as opposed to ***amalungelo,*** or rights. Mutukwa reasoned that even though rights mean more than opportunities, "it was a risk worth taking. If you can find a way into the room, it is worth doing so, even if it is through the window or the back door. The women basically said if you can prove that you are not trying to destroy our Swazil culture, we will back you. The bottom line is that we wanted the women of Swaziland to benefit from the opportunities opened by these instruments."

The risk paid off: "Once we got over the discomfort with rights, many doors began to open."

The focus shifted to identifying and highlighting positive elements in the traditions and culture of the country so that they can be used to advance the position of women challenged them to identify the negative elements too.

An example is the practice that the assets of a wife in a polygamous marriage cannot be taken to another home or given to children of another wife. In fact each home is known by the name of that wife. The meeting concluded that this can be expanded and modified to acknowledge a wife's contribution and provide for women to register property in their homes in their own names.

Inevitably, the discussion moved to the ratification of CEDAW. The facilitators sensed a drawing back, but realised that much of this had to do with ignorance about the instrument. “We said, lets share what we know about CEDAW and the SADC Declaration, and see where we go,” recalled Mutukwa.

One example that had the group at full attention was that CEDAW could be used to empower a woman to have rights to property. “The women said, there is going to be a reed dance. We want to use the opportunity to go and talk about CEDAW and the SADC Declaration. Thousands of women will be there. We used to resist these documents before out of ignorance. Now we know that they are for our own good.”



The Lutsango leadership decided:

- To adopt CEDAW and the SADC Gender declaration as documents for improving the lives of women in the country, so they will popularize it to reach all women at all levels.
- To support women as candidates in the forth coming election.
- To help their members and other women effectively participate in the validation exercise for the draft constitution that was going on in the country.
- To include presentations and skits on the opportunities for advancement being presented by the draft constitution as well as the international and regional instruments on the programme for the annual traditional Women's Reed Dance that brings thousands of omen from all over the country.

Lutsango went on to campaign for women's participation in the 2003 elections, and to conduct hold six dialogues with rural women on the draft constitution in partnership with WLSA and the AG's office, also supported by UNDP.

Dlamini takes a pragmatic line: "We are not saying no to polygamy, but if a man takes more than one wife, he must be able to cater for all of them and for the children. At home, we are saying that it is okay for girls to herd cattle, and for boys to clean the house. We are not abusing them. We are teaching them."

**Change in my life time?**
**A case study of Aylline Dlamini**

Aylline Dlamini, the 77 year old President of Lutsango can justifiably claim to have seen a few changes in her lifetime.

"I grew up in a polygamous family," she recounts, "the daughter of the youngest wife. I was the apple of my father's eye. I had opportunities that my siblings did not have. I went to school and I trained as a nurse. That helped me to get exposed."



*Ayline Dlamini*

Her late husband was a well known political figure in Swaziland, serving in a number of ministerial portfolios. "I was a politician in the background," she chuckles. "I learned to understand the influence that women exert in politics behind the scenes. When a male politician says that he is going to 'sleep over a problem' it means he is taking it home for free advice."

Dlamini did not dream of going into politics herself: "We don't do that in Swaziland; mean are always in the forefront." But she helped to found Lutsango (see Chapter seven) and is now one out of three women on the SNC.

She says candidly that she is aware that the SNC "is not loved by everybody, but I'm there and I will do the best I can. I will say no when I need to; I pray to God that I will not compromise my principles."

As a woman in this influential decision-making position, Dlamini has used her space to the benefit of other women. For example, she provided a key link for the project to the SNC.

She says that for her gender equality is not about whether women can wear trousers ("I don't mind trim women wearing trousers, but why should someone as fat as me want to wear trousers?"). Her view is that gender equality is much more fundamental. It is about women and men participating equally in development.

Unlike the past, there are now women lawyers, ministers, priests and in other areas of the Swazi economy, she says. "I love this change; lets use this talent."

Antagonising men will not help, she reasons. "If we take things gradually, engage with men, we will keep bringing in the changes," she says. Dlamini gives the example of polygamy. Challenging the premise of polygamy in Swaziland would simply be a non starter, she says. On the other hand, insisting that all wives and children are equally catered for will begin to exert an economic toll. Gradually the practice will die out, as it is in other parts of the continent.

"We are not saying that things are alright," she concludes. "We just need to be patient."

Chapter five

# Future challenges



This chapter takes stock of the immediate and long term challenges in Swaziland for advancing gender equality following the various national initiatives and the two UNDP programmes. It includes constitutional and legal, as well as capacity and public education needs.

**Constitutional and legislative issues**

The adoption of the draft Constitution that contains a number of positive steps for gender equality is an eagerly awaited step. According to UNDP Resident Representative Elizabeth Lwanga, "if the Constitution were adopted, it would be a powerful tool for abolishing negative traditional practices."

A key starting point for the harmonisation of the two legal systems in Swaziland is to audit and codify Swazi Law and Custom. Such an exercise has started with support from the UNDP.

As these bigger strategic processes unfold, attention is focused on immediate legislative reforms that would have the effect of abolishing the minority status of women.

"If we remove the minority status of women, they become free to participate in mot aspects of national life," says lead consultant Gladys Mutukwa. "We can't remove all the obstacles at once. If you get one foot in, it will enable you to get another foot in or to push the door open. If you say, unless the door is wide open I am not coming in, you might never get in."

"The changes must be incremental," agrees the Attorney General. "If something is revolutionary, it has a lot of force against it. Being incremental should not leave room for complacency.

The key targets are the Marriage Act No 47 of 1964; the Deeds Registry Act and the Marriage Act that Lindiwe Khumalo-Matse says are "at the core of the gender imbalances in Swaziland.

According to the AG, "it is accepted that customary marriages are here to stay, but this office is now looking at how we can preserve what is good. For example, a customary marriage is not necessarily polygamous. It is only potentially polygamous. If we had a performer where a party who chooses to marry under Swazi Law and Custom would be entitled to specify that it should be an only marriage, we could respect culture while also protecting the rights of women."

GFP in the AGs office Thabisile Langa says that the task team established to review the Marriage Act is in the process of completing its task. It also identified one provision in the Deeds Registration Act that needs amending and will be submitted to the AG's office.

The review of the Administration of Estates Act is still pending. Registrar of the Deeds Office Jabu Dlamini points out that traditionally, the property of different wives in a polygamous marriage belongs to them. "Marital power of the husband is not clearly defined in custom. A woman could actually be better off in a customary marriage than in a civil marriage."

The AG has added Maintenance as another key concern, stating that the act "is one of the most outdated. There is no excuse for not maintaining children."

SWAGA's Nonhlanhla Dlamini says activists will soon be agitating for legislation on gender violence. Currently sexual offense legislation dates back to 1920. Most other countries in the region have adopted Sexual Offenses Acts that, for example, gives a gender neutral definition of rape and covers marital rape, especially in the era of HIV/AIDS. She believes there also need for a Domestic Violence Act. At present domestic violence is dealt with under general provisions for assault that do not take account of the multiple facets of this scourge.

**Gender and the legislature**

There are high expectations of the increased number of women in the legislature for taking the gender justice agenda forward. "We are not saying that because you are a woman you should sit there and dream," notes Lutsango Lwaka Ngwane President Aylline Dlamini. "We want women with talents who can compete with men."



According to the clerk to parliament Promise Msibi a women's caucus will be formed. The UNDP is in discussion with the Swazi parliament about a capacity building programme for legislators that will include a strong gender component.

Local consultant Lindiwe Kumalo-Matse says that the most effective way of addressing gender concerns in legislation in the future is to ensure that every

new law that comes up for consideration has a gender component.

Lutsango's Bella Katamzi, who is a Senator, says it is important to get women much more actively involved in the legislative process. "The problem in Swaziland at the moment is that no one comes to listen to debates. We have to awaken that interest."

**Strengthening the Attorney General's Office**

As the engine room of the gender and law reform programme, the Attorney Generals office gets high priority in the follow up strategies. Plans range from building the law library to strengthening the gender analysis skills of staff.

The AG notes that women constitute the majority of staff in his office, including at senior levels, with two of the three sections (drafting and law reform, litigation and operations as well as International Conventions and Related Matters) headed by women. "We have fertile soil in the officers already here," he said.

The GFP in the office, he added, "attends all forums on gender issues. Her views are taken into account in all our functions."

He noted that the focus of the office is shifting from concentrating purely on parliamentary drafting, to include law reform. "In other countries, they have modified Roman Dutch Law. Here it remains as it was. It is not just customary law that requires scrutiny. There was an attempt at creating a Law Reform Commission, but it was not successful. The new Constitution provides for this. We are trying to persuade the government to establish such a commission even as we wait for the new Constitution

**Capacity building for the National Court Presidents**

After the positive start made with the dialogues, another priority will be gender sensitivity training for the National Court Presidents, who are responsible for much of the day to day administration of justice in Swaziland.

Established during the colonial era t deal with matters of Swazi Law and Custom, the Court President system runs parallel to the Magistrates Courts. They are appointed by the King and do not admit attorneys to the court, which makes them more accessible to ordinary people. The courts can impose fines of up t E120, or prison sentences of up to one year. Despite

these limited powers, the courts are, "quick and effective" according to Judicial Commissioner Charles Mavuso.

"I know this may sound strange, but if I had a choice I would be a court president rather tan an attorney general, simply because of the delivery of justice," says the AG. "They serve our society in a very unique way."

The major problem, however, is that decisions are not recorded or referred to, and there is no standardisation in the way the courts work. This has important implications for women.

Ndumiso Dlamini, court president for Manzini, said there are many women who are "afraid to take up cases of gender violence. It is common after you open the dockets for them to withdraw." Yet the police direct many cases of gender violence to the court presidents, whose limited powers to sentence adds to the prevalent view that domestic violence is not a serious crime.

The programme to strengthen court presidents is two fold: gender awareness raising and sensitivity training, a well as documenting cases and developing more standard criteria. Says Mavuso: "everything we talk about should be in black and white." The legislative reform agenda will also include review of the sentences and fines that the court presidents are permitted to make.

**Attitudes and mindsets**

Around the mountainous kingdom with its verdant valleys and mystical peaks, the word about gender equality is spreading. The following views from a random sampling of women and men in the streets of Mbabane and Manzini, in response to the question, "what do you think about gender and law reform", speak both to changing attitudes, as well as pockets of skepticism and resistance.

## What the people say…







**Make Khumalo (Mbabane Market)**

The idea of law reform can have its side effects hence it has to be thoroughly scrutiny especially because, in some instances it can promote corruption. For instance, when a single woman is allowed to access land on her own she can be tempted to entice other women's husbands. Changes on gender equality has been there a long time ago especially in work places where some women have appointed to senior position ahead of some men..

**Sibongile Bhembe (30) Single mother of 6**

I am for the idea of gender and law reform we were to consider how many single mothers who had been jilted by their spouses. These changes will help such women to access land. The change in attitude is there though there are some few women who are still negative. These are those who have not been affected by the problems and

**Sibongile Mkhonta (42) single with one child**

I fully support the gender reforms because it emancipates women from being ostracized through culture. Women have started to talk about the issue, though some are still lagging behind men are totally opposed to it because they fear that it might stir up them off the powers in families.

**Nomcebo Maphalala (22) single (Ezulwini) NWJ Jewelery Shop Assistant**

I am for the law gender and reform. I believe this will make men realize that they should treat women as equal partners. I addition, the law reforms will help reverse the perception that women are secondary citizens. From within my area changes are there because even boys are now of the idea that beating a woman is bad thing to do

**Londiwe Anderson (21) single (Ezulwini)**

Surely I am for the idea of gender and law reform because it will put to an end the problem of domestic violence where women have suffered most. It also stands to empower women to have control over their health. Infact it will help us to have the power to demand safe sex from our partners in this times of HIV/AIDS.
There are changes. though still at its youth stage, but some men like my father have come to realize that a woman is equally important in a family.

**Makhosi Dlamini (21) Herefords (single) Soccer player**

I favour the reforms because no body knows what lies ahead. Not every woman has the chance to get married this then put their life is at stake. If the laws allow that they can access land it is fine. At school women are capable, so they need to be complimented by gender friendly laws. A woman can be a Prime Minister because women naturally are humble. There is a great change in gender and law reform. Men have started to respect women.

**Jeffrey Dlamini (39) Makholokholo (Mbabane)**

I do agree with some of the issues like in employment where other women have proven to be much more capable than men. This will help open ways for women empowerment. The problem is that at home, men should be the head and women serve the men with tea. Women have now awaken to realize the idea of fighting for their rights, but only a few men have repented hundred percent.

**Cyril Dlamini married (39) Logoba (Matsapha)**

I think I am for the idea of gender and law reform because women are human beings like men so they have to enjoy equal opportunities as men

in society e.g. I know that women in Swaziland have no right to access land on their own, so I believe they should be given land because they didn't chose to be women. Further more, I think the change should be in conformity with God's call for equality. As a Christian the bible should be a guiding post for us that way as a Christians I support the change if it promotes respect. There are not much changes because the issue has been discussed in isolation especially to the old people who have lined their entire lives in that patriarchal society.







A focus group meeting of rural women who participated in Lutsango dialogues sounded a cautious note. Kanyise Mnisi summed up the views of the eight women who shared their reflections on the dialogues when she said: "in our Swazi culture, married men do whatever they want to do."

"I think there is change, but it is mostly in the urban areas where there are no chiefs," added Cebsile Twala. "In the rural areas where there are chiefs, there is a lot to be done."

"Our husbands allow us to go to meetings like the dialoges," conceded Sithembile Nzimanze. "But when we come back empowered, they feel threatened."

"So many things have been promised before, but nothing has changed," sighed Sibongile Masuku. "For example, an unmarried woman should be able to go to the chief and ask for a house. But when she does so, it is said that she is a prostitute."

The women agreed that abuse is on the rise. But, as Masuku put it, "women keep quiet because they feel threatened with expulsion from the family, with their marriage ending."

Nomsa Kunene underscored the sense of powerlessness that many women feel. "The difficulty is that women feel compelled to make the marriage work, and they have no choices. When they speak out, they get kicked out, and they have nowhere to go; no place to belong to. It is painful, but they have to turn a blind eye."

But, when asked if they had noticed any changes in their lifetime, the focus group of rural Swazi women noted the following:

- Before, a woman could not go to take a passport for women. Now she can.
- Before, if *emalobolo* had been paid for a woman, her in-laws were the only ones with a say. Now women can talk for themselves.
- Before no widows used to go to the Master of the High Court to claim their property. Now, most women know where to go.



*Change in our lifetime? Swazi women focus group*

One of the strongest indicators of change concerns the practices around mourning. According to Busisiwe Mamba, one of the participants in the focus group, "women are not mourning for as long as they used to."

"In the past, a woman who lost her husband used not to be able to do anything for herself. Now she can," added Khanyisile Mnisi.

Practical factors are largely responsible for this change, according to Lutsango coordinator Bella Katamzi. "With the economic situation as it is, and with HIV/AIDS, no one can afford to be locked away for two years," she said. Even the government is finding it stressful to give widows one month of leave. "You can't go to parliament in a mourning dress, so the practice also has serious implications for women's political participation."

Katamzi notes that the organisation's report on CEDAW underscores "the need for change. We need to rethink some of these customs and traditions. They are outdated; some of them are not acceptable to anyone on the ground. You have to do a wider test, of what does the rest of the population feel."

"I started off skeptical," adds GFP in the AG's office Thabisile Langa. "But now I have this positive feeling that society is ready to change."

"Changing attitudes is like preaching," adds the Registrar in the Deeds Office, Juba Dlamini. "You always say, hey, the Kingdom of God is coming, but you don't stop preaching. It may seem quite slow, but when you measure over time, you see more and more converts."



*Jabu Dlamini*

Chapter six

# Lessons learned



This final chapter of the booklet summarises the lessons learned. Running through these lessons are important qualities, such as vision, passion, the willingness to confront difficult issues, strategy, tactics, personal commitment, and the ability to see beyond short term constraints. Specific lessons drawn include:

**Champions**

The project is an illustration of the importance of political champions in ensuring that gender is mainstreamed. The two main champions were the UNDP Resident Representative, Elizabeth Lwanga and the Attorney General. Each brought important qualities.

As an African woman, the UNDP Resident Representative could speak from first hand experience, while showing sensitivity to the particular context of Swaziland. "I felt very comfortable in Swaziland," she reflected from her new office as…. In New York. "I was able to find my space, to relate. I think the Swazis were also very comfortable with me."

When Lwanga left Swaziland to take up a post in the UNDP in New York, acting Resident Representative Lare Sissay took over from where she had left off. Senior UNDP staff such as the Assistant Resident Representative Thandi Gama, have played a key strategic role in shaping the two UNDP programmes on gender.

From government side, the Attorney General drew of his office and his passion to make the programme possible. "I was able to place my personal views on this matter to the highest authorities," he notes.

The fact that both regard the project as so critical to their work, their vision, and their own sense of personal achievement, is underscored by their own words when asked about the way forward:

"I hope I will meet my successor, and when I do I will implore him or her to continue with the work on gender," said the UNDP Resident Representative.

"My personal objective is that by the time I leave this office, the gender agenda must have been pushed forward," the Attorney General added.

**Avoiding dogma and assumptions**

When dealing with sensitive issues like gender and human rights, reflects the Attorney General, it is "not useful to fall back on clichés. There are no enemies or allies. The important thing is to drive the message as far as possible and create

a common purpose for all. These dialogues have taught us that even the most sworn enemies can sit down and find a solution. The South African rainbow nation came out of talks between Nelson Mandela and F.W. De Klerk. One was a jailer, the other a prisoner. But they shed those gowns and said: "lets sit down and talk. They did, and now we have a democratic South Africa."

**Consultation - with everyone**

The project demonstrated that it is possible to find an entry point for gender and human rights with any group of people, as long as all stakeholders are engaged.

In a country like Swaziland traditional institutions and their leaders are some of the most critical stakeholders and decision makers. Sidestepping or omitting to meaningfully engage traditional leaders and their institutions in issues of gender equality actually limits any progress that could be made.

Most of the usual arguments about patriarchy have been made time and again and they have not opened some of the closed doors. This has called for a fresh approach that engages the stakeholders in interrogating their own systems and structures to identify and high light the elements that are positive for gender equality.

There are still major centers of power that need to be reached and actively engaged in the gender discourse if time and resources are to be allocated to programmes for promoting gender equality.



### Dynamism

Since societies and their traditions and cultures are dynamic, approaches to addressing issues that touch upon the lives and operations of those societies also have to be dynamic. Otherwise solutions will continue to lag behind reality and create more constraints than openings or progress.

### A multi-prong approach

"I have learned," reflected UNDP Resident Representative Lwanga, "that you can't talk about human rights in a vacuum. They need to be fully integrated."

"What we have learned," added the GFP in the AG's office, Thabisile Langa, is that "women out there hardly know their rights, let alone standing up and believing in them. They think someone will come and tell them."

The next stage added Manzini National Court President Ndumiso Dlamini is for "dialogues to be taken to various stakeholders, including traditional leaders, who need to change."

"We have managed to create some awareness, but now we have to move beyond that and put in place strategies to make a real difference to people's lives," said SWAGAA's Nonhlanhla Dlamini.

### Capacity and knowledge

A number of people or institutions are resistant to the issues of gender because they have not been assisted to fully appreciate the relevance of gender issues to their work or way of life. Says the AG: "capacity is crucial, for those who advocate, and for would be beneficiaries."

### Using international and regional instruments

The lack of awareness and commitment to internationally accepted human rights standards makes the situation on women's rights more complicated. Of late, there is a tangible move towards doing this, especially within the environment of SADC and other institutions that are closer to home.
Protections and promotions of the rights of women accorded by international and regional instruments can be incorporated in domestic law. They can also be used by the judiciary in decisions as sources of law and as having persuasive authority.

## Strategic partnerships

The adoption of a new Constitution and the ratification of CEDAW are going to place extra work loads in relation to law reform and general administration of the law from a gender perspective.

The AG's office, in the absence of a Law Reform Commission, will have the duty to review all the laws and regulations to bring them in line with the provisions of the new Constitution, the Convention and the SADC Declaration. This will involve, not only reforming existing laws, but drafting new ones where none exist as well as resolving any conflicts with customary laws and procedures. The strategic partnerships established in the course of this project will be very important for this programme to succeed. This is in line with current trends to have more democratic law making processes that are inclusive and have broad-based stakeholder participation and ownership. Local consultant Lindiwe Kumalo-Matse says she would like to see greater cooperation between stakeholders, especially gender activists and Lutsango.

## Changing mindsets

When all is said and done, says the AG, "policy and legislative reform are secondary to changing attitudes, thinking and mindsets. The two are bi-products of the latter, but they are also pre-conditions for the latter. Any strategy that does not focus on changing attitudes and mindsets will not succeed."

## ANNEX: LIST OF INTERVIEWS

Aphane Doo, Women and Law in Southern Africa.
Dlamini Aylline, President, Lutsango Lwa ka Ngwane.
Dlamini Comfort, Director, Media Institute of Southern Africa.
Dlamini Jabu, Registrar of Deeds.
Dlamini Phesheya, Attorney General.
Dlamini Ndumiso National Court President.
Dlamini Nonhlanhla, Director, SWAGAA.
Gwebu Gideon, Gender Unit.
Katamzi Bella, Coordinator, Lutsango and Senator.
Khumalo-Matse, Lindiwe, LKM Attorneys, consultant.
Luangwa Elizabeth, UNDP Resident Representative
Mavuso Charles, Judicial Commissioner.
Masuku Muzi, Council of Swaziland churches and consultant.
Mhlanga Sizakele, Consultant.
Morris Sakina, UNDP Programme Officer.
Mutukwa Gladys, Consultant.
Msibi Promise, Clerk to Parliament.
Shongwe, Elizabeth, National Coordinator, LearRN Swaziland.

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