



WHY SOME OF THE MOST EXCITING HUMAN RIGHTS ADVANCES
FOR WOMEN ARE COMING...


OUT OF AFRICA

BY DAVID MCKAY WILSON

NANCY CANTALUPO (F'95, L'03), ASSISTANT DEAN FOR CLINICAL PROGRAMS, was the first person at Georgetown Law to hear the news. "At long last our efforts have been rewarded," said the e-mail message Cantalupo received from her former associates in the African nation of Ghana last February. "The bill is now the Domestic Violence Act."

Cantalupo, once a Georgetown Law student working on Ghana's domestic violence issues, quickly forwarded the news to Professor Susan Deller Ross, the founder and director of the Law Center's International Women's Human Rights Clinic. "Yay," Cantalupo wrote Ross, "or, as all of the Ghana folks are saying, 'Ayeeko!'"

Ross was excited, too, because she and her students had been working for years to win more rights for women in Ghana and elsewhere in Africa. The jubilation over the Domestic Violence Act had barely subsided when Ross heard more good news: Last April, Uganda's Constitutional Court overturned key provisions of the criminal adultery law, which had allowed prosecutions of married women but not married men for having affairs with unmarried partners, and also ended parts of the Succession Act, which had given greater shares of inheritance to men than women when a spouse died. It was a double victory for African women – and for Georgetown Law.



“This has been a breakthrough year for the International Women’s Human Rights Clinic,” Ross says. “There’s no other law clinic in the nation doing what we’re doing.”

The Law Center’s involvement in Africa has grown significantly over the past nine years, with the establishment of the IWHRC in 1998. Students spend a semester as part of a team on an international women’s human rights project with a nongovernmental organization partner in Ghana, Nigeria, Tanzania, Uganda or other African country. The students work closely with local lawyers to develop policy, strategy and court papers or proposed legislation and human rights reports on such topics as domestic violence, marital rape or guardianship laws that subject wives to the authority of their husbands.

Students in the clinic have helped draw up litigation for test cases that are argued by Georgetown’s legal partners in Africa on such issues as a criminal sentence to death by stoning for having a baby out of wedlock, unequal divorce rights, polygamous marriage, female genital mutilation and the recently won cases on criminal adultery laws and inheritance rights. (See the Fall ‘06 issue of *Georgetown Law* magazine for work conducted on polygamy in Swaziland.) In many cases the clinic and its partners are putting “teeth” into new constitutions and international human rights conventions recently signed into law. Students in the spring clinic travel to Africa to conduct fact-finding missions there.

“We work with our partners on topics they want to change, either through litigation to invalidate a law or through legislation to reform what’s wrong,” says Ross. “Our students learn that they really can make a difference.”

THE LAW A DIFFERENCE

Georgetown Law is also making a difference for African women through the Leadership and Advocacy for Women in Africa fellowship, a 14-month program at the Law Center in which female African fellows earn an LL.M. degree, serve in a summer internship and develop a host of strategies to combat inequitable practices

back home through education, international pressure and legal reform.

Forty-nine women lawyers from nine African nations have come to the Law Center through the LAW A program since it started in 1993. These fellows usually return to their home countries, where they provide valuable leads and contacts — and a network of support that stretches from D.C. to Tanzania and beyond. LAW A has been housed in the Law Center since its inception but was only recently fully absorbed by it. This fall the LAW A program is expanding from two to six African lawyers — three from Kenya and one each from Cameroon, Malawi and Nigeria. It’s the first time lawyers from these countries have participated in the program, which sponsored Namibian Linda Dumba and South African Amelia Vukeya last year. (See pages 50 and 51 for their stories.)

“Georgetown’s amazing dedication to advancing women’s human rights in Africa has tremendously enhanced the lives of women, as well as their families and communities, across the continent,” says LAW A’s director, Julia Ernst. “As increasing numbers continue to return home as alumnae of Georgetown’s LAW A program, the influence of the Law Center will expand exponentially.”

Take Esther Kisaakye (LL.M.’94), for example, a former LAW A fellow now a member of Law and Advocacy for Women in Uganda, LAW-U, an association of Ugandan lawyers established by LAW A alumnae. In 2001, Kisaakye worked with another Ugandan lawyer, Irene Mulyagonja, on cases involving a woman whose abusive and adulterous husband had obtained a criminal conviction of adultery against her on trumped-up charges and then sought a divorce based on that conviction. Since his actions were not criminal, and she could not obtain a divorce against him for his adultery, she was the victim of discrimination in both criminal and divorce laws. In essence, a wife had no right to her husband’s fidelity, but a husband’s right to his wife’s fidelity was criminally enforceable and guaranteed him a divorce as well.

IN UGANDA: FILING SUITS AND DRAFTING LEGISLATION

In August 2001, Ross contacted Kisaakye to see if she had any issues that could become the focus of that semester’s IWHRC. Kisaakye mentioned the divorce and criminal adultery cases. That fall, Ross’s students, along with Mulyagonja and Kisaakye (by now a visiting scholar at the clinic), looked at how the two statutes stood up both to the Ugandan

Constitution and to the international human rights treaties and protocols that Uganda had ratified. They prepared a lawsuit that produced a 2004 Constitutional Court victory giving wives the same right to divorce that husbands already had, leaving the criminal adultery law for another day and another challenge. It was the first Constitutional Court decision on equality rights for women in Uganda.

What the student interviewers provide local attorneys, Kisaakye wrote in an article for a special 2006 issue of the *Georgetown Journal of Gender and the Law*, are resources and time. Women's rights activists in Uganda and elsewhere often find themselves on the front lines, she wrote, "either representing a widow and her infant children who have been evicted ... at the hands of her in-laws or securing custody and maintenance for a mother whose breast-feeding infant has been grabbed and taken away by her father without her consent, following a marital disagreement." The interviews conducted by clinic students help put a "face to the victims of discrimination" by ensuring that we "hear it from the horses' mouths," Kisaakye wrote.

In the case of the criminal adultery law in Uganda, the IWHRC students worked on a new challenge in the 2004 fall semester, following the March 2004 victory in the divorce lawsuit. Once again, they found that the 1995 Constitution and Uganda's international human rights obligations upheld equality between the sexes, which conflicted with the disparate treatment of men and women under the criminal adultery statute. They drafted litigation detailing how the law discriminated against women, which LAW-U attorneys then filed in that country's Constitutional Court.

The group also filed a lawsuit challenging the Ugandan inheritance laws, which gave preference to male heirs when courts settled cases in which a will had not been filed. "If there's no will, inheritance law in Uganda is systematically discriminatory towards women," Ross says. "The surviving husband is assumed to own everything; the widow gets little or nothing. It's a tremendous human rights violation." The fall 2004 lawsuit followed the human rights investigation of discriminatory inheritance law conducted the previous spring.

Ginger Faulk (L'04), a student in Ross's class who went on that fact-finding mission to Uganda in March 2004, discovered this first hand. "We met several women who were the first wives of their deceased husbands and they and their children had been left destitute at the death of

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From D.C. to AFRICA



Linda Dumba, above left, and Amelia Vukeya, above right, at graduation. Vukeya and Dumba pose with members of Georgetown Law's Just Praise Gospel Choir and in front of the Capitol.

South African attorney Amelia Vukeya (LL.M.'07) came of age in the 1990s, during her nation's wrenching emergence from decades of rule under rigid apartheid laws. Vukeya, 26, returned home this fall with a renewed commitment to work on social justice issues after spending a year at Georgetown Law as a fellow in the Leadership and Advocacy for Women in Africa program.

"I'm going back to contribute to our democracy," says Vukeya, a legal researcher at the AIDS Law Project in Johannesburg. "I realize that in post-apartheid South Africa, young South Africans have to step up and bridge the gap between generations."

Her work with the AIDS Law Project has personal meaning as well. Vukeya is among the 5.5 million South Africans who are HIV-positive, including 13 percent of the nation's women and 10 percent of its men.

Vukeya came to Georgetown after clerking for a year at the Constitutional Court of South Africa and then working for two years in private practice. Upon her arrival at Georgetown in 2006, Vukeya says she thought of herself as a general human-rights lawyer but hadn't planned on working on the HIV/AIDS issue. It had been her personal concern but not the focus of her professional life.

But in the fall of 2006, she took a class on the legal issues involved in the HIV/AIDS pandemic in Africa, taught by Visiting Professor Noah Novogrodsky in collaboration with Stephen Lewis, the former UN special envoy on HIV/AIDS in Africa. After her graduation in May, Vukeya worked over the summer on the AIDS Coordinating Committee at the American Bar Association.

"That class made me think that I could help people with HIV," says Vukeya. "It helped me understand that it was OK for me to share. I'm living it. The class helped me make a personal and professional breakthrough, and I'm making new breakthroughs every day."

The Law Center's course and its seminar on international women's human rights law also brought Vukeya a better understanding of the damage done to women and children by polygamous marriages. While the South African Constitution is viewed as one of the continent's most progressive on gender equality, it permits men to have multiple wives under the Customary Marriages Act of 1998. One study found that 13 percent of South African women between ages 20 and 49 were married to men with more than one wife.

Such arrangements hurt both women and children who have to compete for resources from the family head and it can also exacerbate the spread of HIV/AIDS because the law sanctions multiple female partners for men.

At Georgetown Law, Vukeya took courses in intellectual property and antitrust issues, which she says helped her better understand the pharmaceutical industry, which controls the drugs that keep people like her alive.

"At the AIDS Law Project, I'm going to be looking at the companies that are dominating the market," she says. "We're also going to make sure that the government is doing all it can to be sure people get the medications they need." Vukeya will continue to work with the LAWA clinic on the polygamy issue.

When she was 16, Linda Dumba (LL.M.'07) came face-to-face with injustice in the African nation of Namibia. Her father had taken out life insurance on Dumba's chronically ill sister, but when the girl died, the company refused to pay the death benefit, citing a clause in the policy's contract. Her father, a uranium miner, lacked the money to hire an attorney, so the Dumba family had no way to bring a challenge.

That incident convinced Dumba to become a public interest lawyer and help defend those who cannot defend themselves. Now she uses her legal skills to fight for the rights of women in a country which, despite a constitution that grants equal rights to both sexes, has customary marriage laws that do just the opposite. Dumba knows widows who have lost everything after their deceased husbands' families grabbed the property and evicted them from the family home after the burial. "Women in Namibia are getting chased off their land," Dumba says. "It's just not right. Men and women are equal under our constitution, so we need to be able to make this law apply to everyone."

Dumba did more than get angry about the dual legal system in her country; she became a LAWA fellow, earned an LL.M. from Georgetown Law and returned home to Namibia this fall charged to improve the lot of women in her country. She too has decided to continue working with the LAWA clinic.

their husbands," Faulk says. "One woman said her husband's family took everything, even the bed sheets."


Tatjana Eres (G'04, L'04) is another student who went on IWHRC's 2004 fact-finding mission. The next fall, the new class of clinic students worked with Ugandan attorneys and Ross to help draft the pleadings that would eventually overturn the succession law. Eres, by then a clinic intern who had returned to Kampala, Uganda, a few months later to work with LAW-U, also helped on the case. She says she was inspired by the dedication, intelligence and creativity of the Ugandan attorneys, who devoted hours to the clinic despite demanding careers in government service and private practice.

After years of hard work, including a year of weekly meetings between lawyers from LAW-U and other nongovernmental organizations to perfect their pleadings, the Ugandan Constitutional Court struck down both the criminal adultery and inheritance laws last April. Ugandan lawmakers are now working on a new inheritance statute that will meet the constitutional test. Once again, they'll have help from Georgetown Law, whose proposed legislation is included in a human rights report published in the special 2006 issue of the *Georgetown Journal of Gender and the Law*. "That proposed bill could be the starting point for Ugandan lawmakers as they discuss what must be done," Ross says.

IN GHANA: CREATING NEW GUIDELINES FOR MEDIATION

In 1999, IWHRC students, in collaboration with LAWA-Ghana attorneys Fitnat Adjetey (LL.M.'94) and Sheila Minkah-Premo (LL.M.'95), developed a domestic violence law for Ghana that codified spousal attacks as crimes. The law, which had the support of a coalition of nongovernmental organizations, made its way to the Ghanaian Parliament.

But once there, it languished. Winning support for a law that criminalizes domestic violence in Ghana was not easy in a nation where one in three women suffer physical violence at the hands of their past or current partner, three in 10 women



admit to having been forced to have sex by their partner, and almost as many have experienced psychological abuse and destruction of property, according to a recent study. Cultural beliefs make it more difficult for women to bring their attackers to justice because there's a tendency to treat violence at home as a private issue, resolved outside the criminal justice system.

By 2003, when there'd still been no action on the bill, IWHRC students joined Georgetown alumnae from LAWA-Ghana on a fact-finding mission to interview police officers, medical professionals, prosecutors and religious and community leaders. "By the time we got there, the domestic violence bill that was still awaiting passage by Parliament had been proposed enough times that advocates were getting frustrated, so they decided to organize themselves into a coalition to seek passage of the bill," Cantalupo says. "Our fact-finding mission was to give the coalition a lobbying tool for pushing passage of the bill."

It took several more years, but all the hard work eventually paid off — and the Domestic Violence Act became law. But that's only part of the story. Before they went to Ghana, the students, under the supervision of their clinic professor, Johanna Bond (LL.M.'01), had spent months researching and analyzing Ghana's laws, domestic violence legislation throughout the world and international legal requirements related to domestic violence, Cantalupo says. They had also met and consulted repeatedly with their LAWA partner via teleconference.

Despite these efforts, 24 hours after arriving in Ghana the domestic violence team discovered that it had been missing a critical piece of the puzzle. "We found that even when women wanted to bring charges, the police, courts and other government officials were either allowing third parties to withdraw the case from the police or courts or proactively mediating the cases themselves so that cases were outside the criminal process," Cantalupo says. "There was an overall sense that domestic violence wasn't a crime. It was just a dispute between spouses."

Moreover, responses to domestic violence, both in and out of the legal system, reflected the pervasiveness of mediation in the country's culture. Ghanaians saw mediation as a positive cultural practice for handling all disputes. As a result, the students had hard decisions to make about how to cover the mediation of domestic violence cases in their report. The discoveries made during their time on the ground in Ghana taught the students vital lessons about international legal work and the challenges of working across geographical, cultural and other differences. "Without the trip to Ghana," Cantalupo says, "I'm not sure we would have gotten this crucial education."

The students produced a report proposing mediation screening rules to prevent the use of mediation as a ruse to deny women protection. They also wrote new police regulations that Ghanaian police and other officials can use. Both are cited in the special 2006 issue of the *Georgetown Journal of Gender and the Law*.

COURTING CHANGE THROUGHOUT THE CONTINENT

Law students also learn about issues in Africa through initiatives offered by Georgetown Law's Human Rights Institute as well as such courses as the HIV/AIDS in Africa practicum, in which students worked on research questions posed by UN Special Envoy on HIV/AIDS Stephen Lewis, who came to Georgetown Law to review their findings.

On May 16, the promise and challenge of promoting human rights in Africa came under discussion at the Law Center's Hotung faculty dining room as four judges from the fledgling African Court on Human and Peoples' Rights spoke about the world's youngest regional tribunal. Established in 2004, and still in its formative stages, the court has jurisdiction to hear cases involving the interpretation and application of any relevant human rights instrument that an African nation has ratified.

It's a more far-reaching mandate than regional human rights courts in the Americas or Europe, which only hear cases that involve alleged violations of those courts' governing conventions and protocols. However, speakers at the morning event, attended by about 60 students, scholars and legal professionals, discussed how the new court's reach was limited by the reluctance of almost all African nations to allow individuals or nongovernmental organizations to bring cases before it.

So far, only the African nation of Burkina Faso has given such permission, which means cases seeking rulings on alleged human rights abuses could only go to the African Commission on Human Rights without further recourse to the Court.

“We hope that activists and NGOs lobby their nations to join in,” said Modibo Tounty Guindo of Mali, the court’s vice president. “Mali has begun the process, and it is our greatest challenge.” If more nations accept the court’s jurisdiction, it seems clear that African public interest lawyers could bring cases before it.

The appearance of the African judges underlines the Law Center’s international focus and its role in creating change in Africa. LAWA alumnae have also created formal networks in Tanzania, Ghana and Uganda as well as informal networks within countries and across borders. In Tanzania, the Women’s Legal Aid Center, whose members include Monica Magoke-Mhoja (LL.M.’97), Jane Magigita (LL.M.’01) and Scholastica Jullu Henry (LL.M.’01), in 2005 filed a test case challenging discriminatory customary inheritance laws. The case, which was dismissed by a lower court, is now on appeal at the nation’s highest court.

LAWA’s Ernst calls it a “ripple effect. ... Once these women return home, they are building networks to spread the concept of women’s human rights,” she says.

And the ripples flow in many directions. They ripple out from the women of Africa to their children, families and communities. They ripple out to the students, who are left with a powerful sense of purpose and accomplishment.

“I had no idea the case would win,” Eres says of her work in Uganda. “I thought women might come away from our interviews thinking that someone was considering their plight, or they would come away knowing a little bit more about their rights. But to think that there would actually be Constitutional Court rulings — I don’t think that occurred to anyone.”

Finally, the changes ripple out to the world at large. Greater rights for women produce more stable societies and more productive communities. “For thousands of years, women have been either nonexistent, considered minors, or fully subordinated under the law,” Cantalupo says. “The global women’s movement has done amazing things in such a short period of time.”

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