



THE WOMEN'S LEGAL CENTRE
ANNUAL REPORT 2008





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Edited by Pam Sykes | Layout by Daniele Micheleni | Printing by DS Design & Print

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WOMEN'S LEGAL CENTRE



INTRODUCTION

The Women's Legal Centre (WLC) is a non-profit, independently funded law centre. Our primary goal is to further women's equality in South Africa, with particular attention to the rights of socially and economically disadvantaged women.

The WLC has a vision of women in South Africa living free from violence in safe housing, free to own their own share of property, empowered to ensure their own reproductive and health rights and able to work in a safe and equal environment. We seek to achieve our goals through litigation, and related advocacy and training.

We work in five key strategic areas:

- **Freedom from violence:** We take up cases that improve the access of women and girl children to State protection from gender based violence—particularly rape and domestic violence—and increase protection of girl children from abuse in schools.
- **Fair access to resources in marriage and partnerships:** We take up cases to ensure that women receive a fair share of the matrimonial estate and assets of partnerships when these are dissolved, whether by death or separation. This involves ensuring that all partnerships are legally recognised, irrespective of religion and custom.
- **Access to housing and land:** We take up cases to extend tenure to women in their own right, and to prevent loss of tenure on the dissolution of marriages and partnerships.
- **Access to fair labour practices:** We take up cases that extend employment protections to vulnerable groups, develop the law on sexual harassment in relation to farm and domestic workers, and ensure equal opportunities in the workplace.
- **Access to health care:** We defend legal challenges to the right to make choices around reproductive health, and litigate to ensure that women have access to reproductive health care. We also take cases related to women's access to health care and the intersection between HIV/AIDS and our other strategic focus areas.

We also offer free legal advice to women, either assisting them ourselves or referring them to the relevant body, NGO or court. Most of the queries we receive involve the dissolution of marriages and partnerships, gender based violence and maintenance (see the Duty Queries table at the end of this report).

Our advocacy work focuses on providing support to other organisations and groups advocating for women's rights in our focus areas. We provide legal opinions, draft and make submissions to parliament, present workshops and draft legislation, regulations and policies. We also provide training to ensure the gains won in court are communicated and implemented, and to help recover our costs.

Finally, we provide information and training and do capacity building on a regional level as part of our work towards the transformation of the legal profession and broader society.



CHAIRPERSON'S LETTER

2008 was another successful year for the Women's Legal Centre, with a number of important judgments relating to women's rights in South Africa. While these judgments are cause for celebration, they also at the same time point to a cause of concern: the gradual erosion of our ability as a nation to resolve disagreement through the normal political process.

It is becoming increasingly clear that our government faces a major challenge in trying to deal with situations where the "sufficient consensus" approach to resolving conflict has broken down. This approach was an enormous breakthrough for South Africa in the 1990s, when we broke through constitutional logjams by abandoning the idea that we needed 100% consensus to achieve an agreement. Disagreements could be set aside, so long as they were small and "sufficient consensus" existed. This approach underpins our constitutional history and continues to be an objective: we seek to achieve sufficient consensus and then move on, rather than getting bogged down in the search for complete agreement.

However, that ability is eroding. There are a number of areas in which, although the constitutional position is very clear, there is no impetus to enact legislation that gives expression to that agreement. Reluctant to push past minority resistance, we appear to have become stuck.

The legalization of same-sex marriages is one case in point. The Constitutional position is clear: The state may not unfairly discriminate, directly or indirectly, against anyone on grounds that include sexual orientation. However, the legislature made no moves to legalise same-sex marriage until it was compelled to do so by a Constitutional Court ruling.

The legal recognition of customary marriages concluded before 1990 required the same kick-start from the Constitutional Court, and the recognition of marriages under Muslim personal law looks to be headed the same way.

In all of these cases the government appears to have become stuck or cowed by a small but vociferous group of opposing voices. It has been left to organisations like the Women's Legal Centre and others to take forward the sufficient consensus already embedded in the Constitution.

We are puzzled by the fact that the political process appears to have run out of steam in these cases. Having got over the mountain, why are we now getting stuck on the molehills? Why is the government looking to the courts to resolve issues which are clearly policy decisions?

This paralysis is dangerous. In failing to act to give effect to provisions of the Constitution, the government is forcing civil society organisations to turn to the courts. This puts pressure on the courts to act in a way that could undermine their role in our society – which is to interpret and enforce policy and legislation enacted by Parliament, not to create it.

If having policy set by the courts is not the best option – and we strongly believe it is not – then we have to ask why the government is not taking the initiative and promoting an equality agenda. We don't know the answer to this question, but failing to act until a court orders you to do so is no way to run a country.

So, our successes in the Constitutional Court this year comes with a dose of concern: we should not have had to take these cases so far in the first place. We have been forced into action, particularly with regards to the recognition of Muslim personal marriages, by government failure to act despite years of court decisions. The executive needs to take up its Constitutional mandate to implement equality.

Alison Tilley



DIRECTOR'S LETTER

The WLC saw a number of cases come to fruition in 2008. Most of them, because of the nature of the litigation cycle, were preceded by several years of hard work. Our clients are strong and courageous women, and it is fitting when their struggles are acknowledged by the courts in the form of a judgment, particularly a judgment that will benefit many other women in similar circumstances.

The highlights of 2008 include judgments obtained in three of the WLC's focus areas: gender based violence, labour law and access to resources arising out of relationships (marriage and inheritance). Litigation strategies included amicus interventions, representing clients and acting in the public interest.

In the area of access to resources, there were three significant judgments that the WLC was involved in. Women in polygynous Muslim marriages (Gabie Hassam) and Hindu marriages (Govender) have won the right to inherit, and women married under customary law before November 2000 are now automatically married in community of property and may own property in their marriages (Gumede).

In the area of gender-based violence, the judgement in the Phaswane case has emphasised the need to reduce the secondary trauma suffered by women and girls who report and testify in relation to sexual offences. In the labour focus area, the award from the CCMA (Radebe) will be used to improve the conditions of women working in male dominated sectors such as the police, traffic police and defence force. We want to ensure that the State provides a working environment that enables women to participate fully and to enjoy employment free from violence and discrimination.

During 2008 we also conducted a wide range of advocacy work including making submissions, at the invitation of Parliament, in relation to law reform in our focus areas. We participated in networks, provided legal opinions, wrote papers and articles for publication and enjoyed extensive media coverage in relation to women's rights. In addition the WLC conducted training to empower community members, partners in the sector, State officials and members of the judiciary and profession. This directly benefitted hundreds of women and will indirectly benefit many more.

The WLC continued to provide its free legal advice service, empowering many women to access their rights. In addition, submissions were made to the Judicial Services Commission in relation to the gender record of candidates for appointment to the Constitutional Court. This project will be continued into 2009, where the number of vacancies at that court could change the judicial landscape considerably.

The WLC hosted its first public Annual General Meeting of Trustees. The value of an AGM was evidenced by the good attendance and participation at the meeting. The response to the meeting was overwhelmingly positive, and it was welcomed as serving the principles of good governance, transparency and accountability. We were open about our finances and achievements, which added to the good reputation of the WLC and indicated our ability to build on those achievements in future.

Shaamela Cassiem took over the Chair of the Board of Trustees from Alison Tilley in October 2008 and Lebogang Molepe joined Yasmin Carrim as a Patron of the organisation. Teboho Makhalemele is a valuable addition to the Board. Currently the Managing Director of Nozala Trust, which assists women entrepreneurs in the SMME sector. Teboho obtained her LLB from Wits University and practiced as an attorney in the NGO sector after completing her articles. She is a non executive director of Safepack, Izandla Women's Initiative and the Gauteng Cricket Board.

2008 was a busy and exciting year during which the WLC achieved its objectives and plans, and we are well on track to achieving our goals for 2009. We hope our work makes a positive difference to the lives of South Africa's women, and look forward to receiving favourable judgments in the next year.



LITIGATION REVIEW

FREEDOM FROM VIOLENCE

Violence against women remains the greatest obstacle to women achieving equality in South Africa today. The WLC is seeking to set precedents that develop the positive duty of the State to prevent violence against women and to reduce the secondary trauma that women suffer when reporting violence, both in the criminal justice system and in the employment sphere.

S v PHASWANE, MOKOENA

Rules of evidence relating to survivors of sexual offences

The Transvaal Provincial Division of the High Court ruled that provisions in the Criminal Procedure Act relating to evidence given by child witnesses and child victims of sexual violence are unconstitutional.

At the invitation of the court, the WLC made submissions on behalf of People Opposing Women Abuse (POWA). Our submission considered the gendered nature of sexual violence and argued that the provisions violated the constitutional rights to freedom from violence and equality of women and girl children.

The WLC again represented POWA at a Constitutional Court confirmation hearing in November. We are awaiting the result.

I

Sexual violence in schools

In this case an eleven-year-old girl was kidnapped, indecently assaulted and sodomised by an educator on the premises of her school. The educator is employed by the school governing body rather than by the Department of Education, and therefore falls out of the Department's jurisdiction. This case brings into sharp relief the responsibilities of governing bodies to ensure a safe learning environment. It also illustrates the gap in the law which allows the employment of educators who are not accountable to any professional body.

The WLC has launched a claim against the Department of Education and the school governing body. Our objective is to develop jurisprudence on the duty of care held by the State and school governing bodies to prevent sexual abuse in schools. The State is opposing the application.

BARENDILLA

Police responsibility to act on interdicts under the Domestic Violence Act

Our client approached the police with her interdict under the Domestic Violence Act and told them that her ex-partner had threatened to kill her. The police did not act on the interdict and the ex-partner subsequently murdered her daughter.

Our research suggests that this failure of the police to act on domestic violence interdicts is common, for reasons ranging from not believing the client to misinterpreting their legal obligations. We are awaiting a final opinion from counsel on the prospects of success for a damages claim, in which we will seek to develop the law around the Domestic Violence Act to compel police officers to act on protection orders.

MARITZ

The State's duty of care to protect women from repeat offenders

This case illustrates how the justice system can fail women: our client was raped by the same man twice, on the second occasion while he was serving a suspended sentence for the first rape.

We have obtained legal opinion which recommends a damages claim against the Department of Justice for failing to take into account the prospect of the accused re-offending when seeking a suspended sentence. The objective of the action would be to extend the duty of care on the State to protect women from repeat offenders, as well as obtaining some redress for our client. We are currently preparing to launch this action.



VAN ZIJL v HOOGENHOUT

The right of child abuse survivors to claim damages in adulthood

Our client was sexually abused by her uncle for several years during her childhood, but was initially barred from instituting a civil claim against him by the terms of the Prescription Act. In 2005 the Supreme Court of Appeal held that prescription only starts to run once the survivor has full knowledge of the abuse and who was responsible for it, and that our client was thus entitled to bring a civil claim against her uncle.

The Cape High Court awarded our client damages, but Mr Hoogenhout had died in the interim and the estate is insolvent. We will not be pursuing this case further.

FAIR ACCESS TO RESOURCES IN MARRIAGE AND PARTNERSHIPS

One of our core aims is to ensure that women receive their fair share of joint assets when marriages or partnerships end, whether by death or divorce. Our cases in this area deal with the relationships and forms of marriage in our law where women do not yet enjoy full legal protection, such as religious marriages, domestic partnerships and some customary marriages.

During 2008 there were three important judgments that we believe have the potential to improve the social and economic conditions of thousands of women. Women in polygynous Muslim marriages (Gabie Hassam) and Hindu marriages (Govender) have won the right to inherit, and women married under customary law before November 2000 are now automatically married in community of property and have won the right to own property (Gumede).

GABIE HASSAM

Inheritance rights in polygynous Muslim marriages

The WLC acted as *amicus curiae* in this case, a challenge relating to the application of the Intestate Succession Act (ISA) to polygynous Muslim marriages. We argued that the provisions of the Maintenance of Surviving Spouses Act (MSSA) and the ISA violate the constitutional rights of women in such marriages.

The High Court, relying on the arguments of the WLC, ruled in favour of the applicant and struck down the relevant provisions of the MSSA and ISA. The judgment has been referred to the Constitutional Court for confirmation.

GUMEDE

Rights to property in customary marriages

In terms of Section 7 of the Recognition of Customary Marriages Act (RCMA) of 1998, all customary marriages concluded after, but not before, its promulgation are in community of property. Those married before the RCMA are still subject to customary law principles, which do not provide women with adequate relief. The WLC argued in the High Court that the distinction between women married before and after the RCMA violates the constitutional right to equality.

The High Court handed down a favourable judgment in May this year. We subsequently argued as *amicus* in the Constitutional Court in support of the judgment, citing in particular the international obligations on the State and the effect of the extension of property rights to women in polygynous marriages.

GOVENDER

The extension of spousal inheritance to women in Hindu marriages

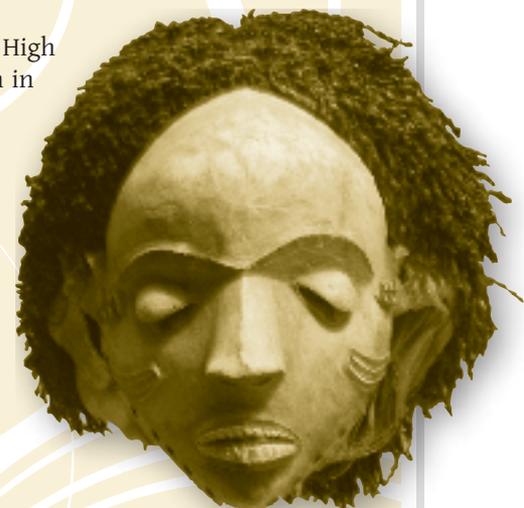
This is a new case in which we again acted as *amicus curiae* before the Durban High Court. We argued that the failure of the MSSA and the ISA to recognise women in Hindu marriages as spouses violates the equality clause of the Constitution.

The Court interpreted the provisions of the MSSA and the ISA to include women in Hindu marriages, thus extending the right to inherit to Hindu women.

NKOSI

Registration of customary marriages

This is another new case. Mrs Nkosi was married under customary law, but the marriage was not registered at the time. She sought registration after the parties had separated, but her husband disputed the existence of the marriage. The Department of Home Affairs then de-registered the marriage.



The WLC has learned during workshops in nine provinces that many women married in terms of customary law are struggling to register their marriages in terms of the Recognition of Customary Marriages Act. Often men are disinclined to register marriages and women don't have the power to compel them to do so. We believe it is important for women that the law contain provisions allowing only one party to register a marriage.

We have prepared a case that seeks a judgment limiting the powers of officials to de-register a customary marriage, or to refuse to register one.

PRAG

The duty of spousal support in Hindu religious marriages

Our client was married in terms of Hindu religious rites for 15 years, during which she kept the family home and raised the children. Thereafter her husband kicked her out of the home with only her clothes.

We have obtained an expert opinion on the duty of support and referred the matter to the Maintenance Court to claim spousal maintenance.

PUBLIC INTEREST ACTION ON MARRIAGES UNDER MUSLIM PERSONAL LAW

Recognition of religious marriages

The WLC has dealt with many cases over the past few years involving the rights of women married under Muslim personal law, including those in polygynous marriages. We seek to challenge the failure of the Minister of Justice to introduce legislation recognising marriages concluded according to Islamic rites. We are seeking an order that legislation should be enacted to deal with the consequences of such marriages, including custody, maintenance and property. The Constitution states that the Constitutional Court has jurisdiction in a matter where lawmakers have failed in their duties, and so we will apply to that court to decide the matter in 2009.

SATTAR

Religious marriages in community of property

Our client was married in terms of Muslim rites and claims that there was an express or implied agreement that the marriage was to be in community of property. Her ex-spouse disputes this.

The WLC has taken on this case to win recognition that religious marriages can be in community of property by agreement. This will develop the principles established in *Rylands v Edros*, which recognised the Muslim marriage as a valid contract. We are ready for trial in the High Court and are awaiting a court date.

SALIE

Recognition of Muslim marriages

Our client in this case was married for many years under Muslim rites, after which her husband divorced her using a *talaq* and attempted to evict her from the family home.

We sought an order that the Divorce Act is unconstitutional because it fails to provide women married in terms of Islamic rites with the same remedies that are available to other women married out of community of property. We also argued that the Muslim Judicial Council is covered by the Promotion of Administrative Justice Act, and that the *talaq* which ended the marriage was unjust administrative action. In the alternative we argued universal partnership, unjust enrichment and breach of contract. The matter is ready for trial and we are awaiting a court date.

HENDRICKS

Rights to matrimonial property in Muslim marriages

During her Muslim religious marriage our client and her husband purchased a home, which was registered in both their names. When he divorced her, he discontinued payments on the home and refused to allow her to take over the bond.

Our approach in this case is to develop the law on unjust enrichment. We hope to set a precedent for women in unrecognised relationships who purchase homes with their partners, allowing them to obtain a court order to take over the home. Alternatively they should be able to seek a judgment in money against their partner which can be used as leverage to secure the home. The action has been launched and is being opposed by Mr Hendricks.



STOKES

Right of spouses to be treated as preferential creditors on insolvency

This case concerns a woman who was awarded assets during her divorce proceedings, after which her ex-husband deliberately conducted his financial affairs recklessly and then had himself declared insolvent. The Insolvency Act does not explicitly provide for spouses to be treated as preferential creditors and our client faced losing the assets the court had awarded her.

The WLC asked for an opinion on the likelihood of success of a challenge to the provisions of the Insolvency Act as being prejudicial to spouses, and particularly women, as this group is most often economically disadvantaged at divorce. During the course of our research we found jurisprudence that would provide a remedy for the client, and referred her, with our opinion, to an attorney to pursue the case.

PAULSE

Rights to pension funds on divorce

Our client, on divorce, was awarded half of her ex-partner's pension fund. The provisions of the Divorce Act, in conjunction with the Pensions Act, prohibited women in our client's position from accessing their share of the pension interest until their ex-partners retired. In addition, the interest on the whole amount from the date of divorce to date of withdrawal accrued to the ex-partner only.

The WLC made representations to the Pensions Ombudsman on our client's behalf. In the interim the law has been amended to allow spouses to access pension interest, but the amendment does not apply retrospectively. We are now awaiting the outcome of the Ombudsman's investigation regarding the retrospective application of the Pension Law Amendment Act. If it is negative, we will litigate to extend the application of the amendment to women divorced before it was enacted.

We are also seeking to challenge the limited application of the amendment, which does not apply to State pension funds.

MKONQO

Rights of domestic partners

After our client's life partner was killed, the Road Accident Fund (RAF) rejected her claim for loss of her domestic partner and the support she received in the partnership, saying she had failed to allege a legal basis for a duty of support. She launched proceedings challenging this decision on the basis that the RAF had in the past accepted such claims.

The WLC has been admitted as *amicus curiae* and will make submissions on the adverse impact on women of the failure to recognise a duty of support in domestic partnerships. We will submit that women do not necessarily have the power to negotiate the formalisation of relationships as marriages, and that women suffer disproportionate economic harm when domestic partnerships end. The WLC will seek to develop the common law duty of support.

We are awaiting a trial date.

DANIELS

Inheritance rights in Muslim religious marriages

In this case the Constitutional Court ruled that spouses married under Muslim rites were entitled to inherit in terms of the ISA and the MSSA, and that our client was thus entitled to inherit the house she had occupied with her husband until his death in 1994. The WLC undertook to arrange the transfer of the property into our client's name, raised money to cover outstanding rates and engaged the services of a conveyancer on a pro-bono basis.

ACCESS TO HOUSING

Women's access to land and housing is often limited by the fact that they hold tenure through a male relative. This renders them vulnerable to losing their homes, and the WLC seeks to challenge policies that indirectly discriminate against women and replace them with policies giving women tenure in their own right.



GROUP ACTION ON HOUSING

Registration of housing in the name of husbands only

This case is an offshoot of our work in relation to Muslim marriages. We are specifically challenging the former policy of the Cape Town City Council to register houses in the name of the husband only when spouses married according to Islamic rites applied for housing as a couple. We are arguing that this position clearly discriminates against women on the basis of gender, religion and culture.

The WLC has taken affidavits from eight women who have agreed to be co-applicants, completed research and obtained legal opinion. The action will be launched in the Equality Court in 2009.

HARRIS

Registration of housing in the name of husbands only

As in the previous cases, our client was married under Islamic rites and shared a house with her husband that was registered by the Council in his name only. Her ex-husband is now attempting to evict her from her home as an unlawful occupier.

The WLC obtained legal opinion in this case and has decided not to take action directly against the City. We will defend the eviction on the basis that, since the contract awarding the house solely to her husband was unconstitutional, Mrs Harris is not an unlawful occupier.

ACCESS TO FAIR LABOUR PRACTICES

Many women still face a workplace culture that renders them vulnerable to harassment and unlikely to report it for fear of repercussions. The WLC seeks to develop the jurisprudence to take into account circumstances that may intimidate women and deter them from reporting sexual harassment.

In this context, the CCMA's award in the Radebe case is significant. We believe it will improve the conditions of women working for the State in male-dominated sectors such as the police and defence force.

R

The State's duty of care as an employer to prevent sexual harassment

Our client in this case was a Metro police officer who was raped by her supervisor and reported it. She then faced ongoing victimisation and harassment by her colleagues, to the point that her job became intolerable and she resigned.

Sexual harassment is particularly common in the police service, domestic work and farm work, but these environments are not conducive to reporting it. The WLC seeks to take on cases that will raise employers' awareness of their duty to actively prevent or end sexual harassment.

In this case, the CCMA found in favour of our client and ordered the State to pay her 12 months' compensation.

KYLIE / BRIGITTE'S

Employment rights of sex workers

Our client worked as a sex worker for 13 years, after which her contract was terminated. She was given a letter dismissing her and requiring her to vacate the premises (where she lived as well as worked) with immediate effect. She was not given a hearing and she disputes the reasons given by the brothel owner for her dismissal.

The WLC helped our client to bring a claim for unfair dismissal with the Commission for Conciliation Mediation and Arbitration (CCMA). Although some aspects of sex work are criminalised, our client also undertook legal work during her employment and we believe her dismissal was both substantially and procedurally unfair.

The CCMA declined to hear the case on the basis that the Labour Relations Act (LRA) does not apply to sex workers. The Labour Court, while accepting the argument that sex workers are employees in terms of the LRA, found that they do not qualify for a remedy under the LRA because of the illegality of sex work. The judgment has been taken on appeal to the Labour Appeal Court.



A victory in this case would be significant for women who are marginalised as a result of being sex workers and are thus excluded from labour and employment rights, including constitutional recognition of dignity, equality and equal protection under the law.

ACCESS TO HEALTH CARE

Much of the work done by the WLC in this area is focussed on defending the gains made around women's rights to reproductive health, which are continuously being challenged.

MARIE STOPES CLINICS/ PROVINCIAL DEPARTMENT OF HEALTH

Conflict between national and provincial regulations

In May 2007 the Western Cape Department of Health notified the Marie Stopes Clinics that it intended to require the organisation's reproductive health clinics to comply with provincial licensing regulations. In particular, the clinics were ordered to register as Private Health establishments in terms of Provincial Notice 187 and Regulation 158 of the Health Act, failing which criminal sanctions would be imposed.

The effect of this would be to make clinics already operating in Wynberg and Cape Town illegal, and new clinics planned for George and Mossel Bay would be unable to commence operations.

As the Marie Stopes clinics provide 35% of terminations nationally, the result of closing four clinics in the Western Cape would seriously undermine the constitutional right to reproductive health of a large group of women.

The WLC believes that the Department was acting *ultra vires* by imposing this regulation. The Clinics were designated under the Choice on Termination of Pregnancy Act and therefore should comply with the regulations under that Act. The Act as amended says that if a Provincial Minister wants to introduce regulations, they should do so in consultation with the Minister, which the Department failed to do.

The High Court was due to review the Department's decision in February 2008 but, at the request of the judge, the matter was settled. The Department has granted the clinics exemption from the regulations and they are still operating.

QAVANE

Waiting periods for medical aid in the case of pregnancy

Our client was accepted into a medical aid scheme, but this was made subject to a nine-month waiting period when it became known she was pregnant. We believe this policy to be unfairly discriminatory, and we are researching the impact such a case would have.

ISMAEL

Concealment of birth charges

Our client was charged with concealment of birth; this charge is often laid when the State is unable to prove a case of murder following the death of a newborn. The criminal provisions place the onus on the accused to show that the baby was not born alive, which is extremely difficult to prove. We believe that these provisions discriminate against women and are unconstitutional.

In this particular case the State has withdrawn the case against our client and we have not been able to test the law.



ADVOCACY REVIEW

SUPPORT TO PARTNER ORGANISATIONS

As part of our goal to support organisations that work towards the advancement of women's rights, we provide legal opinions to other organisations so they can carry out their mandates unhampered by lack of legal expertise. We also train the staff of other NGOs to give basic legal advice.

During 2008 we furnished opinions to:

- The **Sex Worker Education Advocacy Taskforce (SWEAT)** on two matters:
 - The rights of sex workers who lose their jobs as a result of defamation by a client;
 - The prospects of a challenge to the procedure that was followed in including a provision in the new Sexual Offences Act that criminalises the clients of sex workers.
- The **Mitchell's Plain Magistrate's Court**, on the application of the Domestic Violence Act to third parties who have a relationship with either member of a couple.
- **Western Cape Emergency Medical Services**, in a disciplinary case where a senior member is charged with sexual harassment.

We also supported the following organisations with information, lectures, articles and participation:

- People Opposing Women Abuse (POWA)
- Law Society of South Africa
- South African Women Lawyers Association
- Gender Advocacy Programme (GAP)
- UNDP Commission for the Empowerment of the Poor
- The Spanish Ambassador
- Open Society Institute
- Save the Children (Sweden)
- Portfolio Committee on Justice
- Western Cape Consortium on Violence against Women
- National Sexual Offences Working Group
- Network Against Violence Against Women
- Open Society Initiative for Southern Africa
- Labour Bulletin
- Hivos
- Judicial Services Commission
- Shukumisa

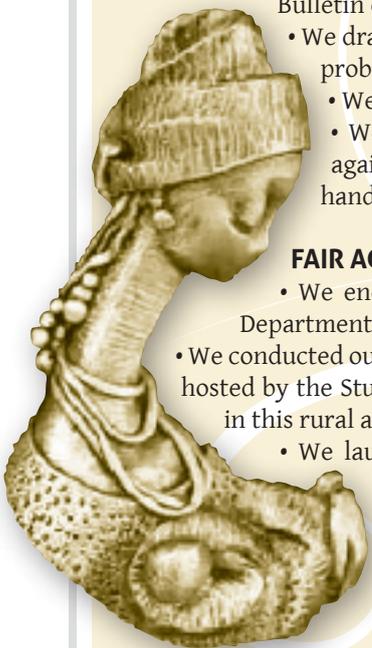
FOCUS AREAS

FREEDOM FROM VIOLENCE

- We presented a paper on women who murder their abusive partners at the UCT Symposium on Gender Based Violence.
- Together with UCT's Gender, Health and Justice Research Unit, we made written submissions regarding the regulations published in terms of Sexual Offences Bill.
- We provided research and information on the new Sexual Offences Act for the SABC programme Special Assignment.
- As part of the Consortium Against Violence Against Women, we endorsed an information leaflet called "The Bulletin on the New Sexual Offences Act".
 - We drafted and edited submission to the Justice Portfolio Committee for the 1in9 Campaign, on the problems that survivors of sexual offences encounter in the criminal justice system.
 - We provided training for Ilitha Labantu on gender and the Domestic Violence Act.
 - We assisted in organising and participated in the a 1in9 campaign march against violence against women from the AWID conference to the Premier's office, where a memorandum was handed to the Premier in relation to the failure of the justice system in relation to survivors.

FAIR ACCESS TO RESOURCES IN MARRIAGE AND PARTNERSHIPS

- We endorsed submissions by the Alliance for the Recognition of Domestic Partnerships to the Department of Home Affairs, in relation to the Domestic Partnerships Bill.
- We conducted our first "Know your rights: Relationship Rights" workshop in the Eastern Cape on 27 February, hosted by the Stutterheim Advice office. The workshop was attended by NGOs that advise and assist women in this rural area.
 - We launched our "Know your rights: Relationship Rights" manual on 30 July. The launch was attended by advocates, Department of Justice officials, our NGO partners and legal advisors.
 - We gave a presentation on marriage and relationship rights as part of a Women's Day programme hosted by the Department of Justice and Ceres municipality.



- We participated in the Campaign for Gender Equality's campaign for the recognition of Muslim marriages.
- We held our annual regional workshop on the Recognition of Customary Marriages Act in Gugulethu.
- We provided manuals and a family law advice desk for the Department of Justice Know your Rights programme on Women's Day.

ACCESS TO HOUSING

- We advised the Human Rights Program of Harvard Law School on gender issues in relation to access to land in South Africa (restitution and land reform).

ACCESS TO HEALTH CARE

- We attended a SANAC (South African National AIDS Council) Human Rights Sector meeting and presented our action plan around HIV.
- We provided training on medical abortion for the Reproductive Rights Alliance.
- We presented a legal opinion on task shifting in the medical profession to the Health Systems Trust and the Democratic Nurses Organisation of South Africa.
- Provided training on the intersection between gender based violence and HIV at the Western Cape provincial legislature

INTERNATIONAL AND REGIONAL ACTIVITIES

- We hosted a 10-day study tour by a Ghanaian delegation including their State Law Advisor, a parliamentarian, a judge and the Head of their Law Reform Commission. The purpose of the tour was to inform them about the law in South Africa, arrange for them to meet experts and visit the courts and advise them on their draft Property Rights of Spouses Bill. Many of the comments were incorporated in the final draft of the Bill and the tour was a success.
- We advised the Partnership for Justice in Lagos on strategies for lobbying and advocating domestic legislation for the implementation of CEDAW in Nigeria.
- We advised the Zimbabwean Women Lawyers Association on strategic litigation.
- We provided training on HIV and property rights for judges and magistrates in Swaziland.
- We assisted researchers contracted by the Open Society Institute to conduct a situational analysis of sex work in Botswana, Namibia and South Africa.
- We provided input to Professor Mina Kotkin of the Brooklyn Law School on South African law relating to sexual harassment in tertiary institutions.
- We advised the British NGO Waging Peace on where to seek assistance in relation to child abduction.

DUTY QUERIES

The WLC deals with many queries and requests for advice, both telephonically and from walk-in visitors. We provide information where possible, and give referrals to other organisations. In cases where the query has a relevant public interest component, the WLC will consider taking it further.

CATEGORIES	TOTAL
Child sexual abuse	8
Criminal	19
Customary law	43
Damages	28
Divorce	378
Domestic partnership	71
Domestic violence	116
Estates and wills	60
Evictions	42
Family	135
General	87
Health	1
Housing	43
HIV	6
Labour	81
Maintenance act	278
Muslim personal law	59
Rape	26
Sexual harassment	24
Unfair discrimination	9
TOTAL	1514



Judge rules in favour of Muslim second wives

Landmark decision on inheritance

The Cape High Court has ruled in favour of the second wife in a landmark decision on inheritance. The court found that the second wife is entitled to a share of the husband's estate, even though she was not named in his will.

Court asked to recognise polygamous unions

The Cape High Court has asked the Constitutional Court to recognise polygamous unions. The court argued that the current law is discriminatory and that polygamous unions should be treated as valid marriages.

Department sued over school rape

The Department of Education has been sued over a school rape case. The parents of the victim claim that the school failed to take adequate measures to protect their child.

Shocking tales of sex predators in SA classrooms

Girls' parents to sue Dugmore

Parents of girls who were sexually abused in South African classrooms are suing the Department of Education. The case is being led by a woman named Dugmore.



Plucky granny fights for inheritance rights of SA's Muslim wives

An elderly woman is fighting for the inheritance rights of her Muslim wives. She claims that the current law is unfair and that she should be able to inherit from her wives.

Black cop calls black boss racist

A black police officer has accused his black superior of racism. The officer claims that he was discriminated against because of his race.

Court to rule on Muslim polygamous marriages

The court is set to rule on the legality of Muslim polygamous marriages. The case has attracted significant media attention.

Recognise Islamic marriages, court urged

The court is urged to recognise Islamic marriages. The argument is that Islamic marriages should be treated as valid under South African law.

Zuma's wives in a very tricky spot

Comment by Jennifer Waltham. Zuma's wives are in a very tricky spot. The article discusses the legal and financial challenges they face.

Prostitute has her say

An image of a street scene with a building. The article discusses the rights and challenges of prostitutes in South Africa.

**WOMEN'S LEGAL CENTRE TRUST
(REGISTRATION NUMBER: IT 3486/98)
ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2008**

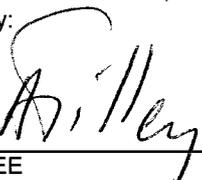
WOMEN'S LEGAL CENTRE TRUST
FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2008

TRUSTEES	L. MALEPE A. TILLEY Y.CARRIM - resigned 5 June 2008 H. MASONDO M. CAESAR S. CASSIEM S. MILLS - appointed 5 June 2008
NATURE OF TRUST	TO MANAGE AND CONTROL A WOMEN'S LEGAL CENTRE
AUDITORS	A.S. POCOCK & CO
REGISTRATION NO	IT 3486/98

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Balance Sheet	4
Income Statement	5-6
Notes to the Financial Statements	7-8
Annexure A	9-10

APPROVAL OF THE FINANCIAL STATEMENTS

The financial statements, comprising pages 2-9, were approved by the trustees and are signed on their behalf by:



 TRUSTEE



 TRUSTEE

27/5/09

 DATE

A.S. POCOCK & CO

CHARTERED ACCOUNTANTS (SA)
REGISTERED AUDITORS

REPORT OF THE INDEPENDENT AUDITORS TO THE TRUSTEES OF THE WOMENS LEGAL CENTRE TRUST

We have audited the annual financial statements of Women's Legal Centre Trust set out on pages 4 to 8 for the year ended 31 December 2008. These financial statements are the responsibility of the trust's trustees. Our responsibility is to express an opinion on these financial statements based on our audit.

Scope

We conducted our audit in accordance with statements of South African Auditing Standards. Those standards require that we plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes:

- Examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements,
- Assessing the accounting principles used and significant estimates made by management, and
- Evaluating the overall financial statement presentation

We believe that our audit provides a reasonable basis for our opinion.

Audit opinion

In our opinion, the financial statements fairly present, in all material respects, the financial position of the trust at 31 December 2008 and the results of its operations and cash flows for the year then ended in accordance with generally accepted accounting practice.

Emphasis of matter

Without qualifying our opinion above, we draw attention to the fact that the financial statements have not been drawn up in accordance with South African Statements of Generally Accepted Accounting Practice in that assets are fully depreciated in the year of acquisition.

A.S. POCOCK & CO

CHARTERED ACCOUNTANTS (SA)
REGISTERED AUDITORS

Supplementary information

The supplementary schedules do not form part of the annual financial statements and is presented as additional information. We have not audited this schedule and accordingly we do not express an opinion thereon.



A.S. Pocock
Chartered Accountants (S.A.)
Registered Auditors

Cape Town

03/08/09.

WOMEN'S LEGAL CENTRE TRUST
BALANCE SHEET AT 31 DECEMBER 2008

	NOTES	2008 R	2007 R
ASSETS			
Current assets		1 235 312	1 652 354
Deposits and prepayments		57 190	36 267
Trade and other receivables		1 716	5 500
Cash and cash equivalents	2	1 176 406	1 610 587
Total assets		1 235 312	1 652 354
 CAPITAL AND LIABILITIES			
Capital and reserves		1 145 521	1 372 652
Initial donation		100	100
Retained funding	3	1 145 421	1 372 552
Current liabilities		89 791	279 702
Trade and other payables		89 791	217 151
Bank overdraft		-	62 551
Total capital and liabilities		1 235 312	1 652 354

WOMEN'S LEGAL CENTRE TRUST

INCOME STATEMENT FOR THE YEAR ENDED 31 DECEMBER 2008

	NOTES	2008 R	2007 R
INCOME		3 184 945	4 280 733
Donations and grants	4	2 921 269	4 191 253
Cost recovery		7 063	0
Interest received		123 293	75 656
Other income		133 320	13 824
EXPENDITURE		3 412 076	3 606 201
Employment costs		1 699 931	1 800 034
Salaries & benefits		1 526 063	1 720 174
Contributions		8 925	15 233
Supervision		27 410	15 790
Consultancies		112 689	27 668
Recruitment costs		24 844	17 134
Temporary assistance		0	4 035
Litigation costs		630 182	811 207
Advocacy & training		102 123	173 958
Information costs		228 822	121 759
Newsletters		36 124	43 736
Annual report		51 487	29 885
Law books & subscriptions		27 147	26 230
Material development		50 870	0
Resource centre		10 405	2 970
Volunteer costs		704	2 256
Distribution costs		3 080	
Study tour hosting		20 358	
Website		10 478	
Internet/computer support		18 169	16 682
Trust costs		68 640	58 606
Administrative costs		435 878	405 020
Bank charges		19 493	15 965
Interest paid		893	271
Cleaning and catering			1 502
Equipment rental and maintenance		34 266	24 914
Rental of offices and parking bays		269 340	235 544
Stationery and postage		29 143	29 202
Supplies		3 649	3 666
Sundries		6 084	11 113
Telephone and fax		73 010	82 843
Audit and accounting		149 055	131 081
Audit fees		60 363	44 631
Accounting fees		88 692	86 450

WOMEN'S LEGAL CENTRE TRUST

INCOME STATEMENT FOR THE YEAR ENDED 31 DECEMBER 2008 (Continued)

	2008 R	2007 R
Professional fees	30 232	31 724
Law Society fees	4 399	3 868
Insurance	19 533	21 856
Professional indemnity	6 300	6 000
Travel costs	10 450	15 692
Organisational and staff development	29 237	44 352
Capital expenditure	27 526	12 768
Computers & office equipment	26 226	11 229
Furniture	1 300	1 539
Equipment		
NET SURPLUS OR (DEFICIT)	(227 131)	674 532
OPENING RETAINED FUNDING	1 372 552	698 020
CLOSING RETAINED FUNDING	1 145 421	1 372 552

WOMEN'S LEGAL CENTRE TRUST

**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED
31 DECEMBER 2008**

1. SUMMARY OF ACCOUNTING POLICIES

The following are the principal accounting policies of the company which are consistent in all material respects with those applied in the previous years, except as otherwise indicated.

Basis of Preparation

The financial statements have been prepared on the historical cost basis.

Revenue

Revenue comprises funding received from donations and grants. Revenue is recognised when it is received.

Financial Instruments

Financial instruments carried on the balance sheet include cash and cash equivalents, receivables and amounts payable. These instruments are generally carried at their estimated fair value.

Property, Plant and Equipment

Property, plant and equipment are written off to the income statement on acquisition date against the funding received for this purpose.

A detailed fixed register is maintained and is available for inspection.

	2008	2007
	R	R
2. CASH AND CASH EQUIVALENTS		
Current accounts	8 754	0
Trust bank account	21 993	13 683
Investment accounts	1 143 659	1 596 105
Petty cash	2 000	800
	<u>1 176 406</u>	<u>1 610 587</u>

3. RETAINED FUNDING ANALYSED BY FUNDER

Finnish Embassy	215 025	
Ford Foundation	39 183	537 443
HIVOS	14 945	47 824
Save the Children Sweden		10 500
Sigrid Rausing	128 923	
Wallace Global Fund		254 497
General Funds	747 345	522 288
	<u>1 145 421</u>	<u>1 372 552</u>

WOMEN'S LEGAL CENTRE TRUST

**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED
31 DECEMBER 2008 (Continued)**

	2008	2007
	R	R
4. GRANTS AND DONATIONS COMPRISE:		
Ford Foundation		1 372 968
Foundation for Human Rights		46 531
Finnish Embassy	432 250	
HIVOS	755 029	578 786
National Lotteries Fund		686 480
NCHR	298 630	
Open Society Foundation for South Africa	700 000	1 100 000
Save the Children Sweden		70 000
Sigrid Rausing	732 360	
Wallace Global Fund		335 924
Other donations	3 000	564
	<u>2 921 269</u>	<u>4 191 253</u>

5 TAXATION

The organisation is exempt from income tax under 10(1)(cn) as read with Section 30 of the Income Tax Act. No provision has been made for taxation in the current year.

WOMEN'S LEGAL CENTRE TRUST

**ANALYSIS OF FUNDS BY FUNDER FOR THE YEAR ENDED
31 DECEMBER 2008**

	Total	Ford Foundation	Finnish Embassy	HIVOS Foundation	NCHR	Open Society Foundation	Save the Children Sweden	Sigrid Rausing Foundation	Wallace Global Fund	General Funds
INCOME	3 184 945		437 183	755 029	308 959	700 000		732 360	0	251 414
Donations and grants	2 921 269		432 250	755 029	298 630	700 000		732 360		3 000
Interest received	123 293		4 933		10 329					108 031
Other income	140 383									140 383
EXPENDITURE	3 412 074	498 260	222 158	787 908	308 959	700 000	10 500	603 437	254 497	26 355
Employment costs	1 699 931	300 000	135 750	338 534	145 000	461 942		192 705	126 000	
Litigation costs	630 182	45 000	31 408	134 974	93 959	80 000	10 500	122 003	112 338	
Advocacy & training	102 123	57 699			25 000	5 500			13 924	
Information costs	228 822	31 596		168 906		7 962				20 358
Trust costs	68 640			62 640		6 000				
Administrative costs	435 876	52 960	45 000	44 760	35 000	95 251		162 905		
Audit and accounting	149 055	5 000	5 000	8 458	5 000	25 000		98 362	2 235	
Professional fees	30 232		5 000	399	5 000	13 900		5 933		
Travel costs	10 450	6 005				4 445				
Organisational and staff development	29 237			29 237						
Capital expenditure	27 526							21 529		5 997
NET SURPLUS OR DEFICIT	(227 129)	(498 260)	215 025	(32 879)	0	0	(10 500)	128 923	(254 497)	225 059
OPENING RETAINED FUNDING	1 372 550	537 443		47 824			10 500		254 497	522 286
CLOSING RETAINED FUNDING	1 145 421	39 183	215 025	14 945	0	0	0	128 923	0	747 345

AFTERWORD

This year we used the theme of womanhood in African art. The images depict artworks from various countries, from Ghana to Nigeria, from the Ivory Coast to Sierra Leone and so on; all of them portray the 'ideal' of a woman according to each tribe's culture and credo. Arguably some of them don't resemble beauty according to western civilization standards – nevertheless, it's the concept of beauty, prosperity and womanhood for their people.

The concept of masks has come to life because throughout the report the Women's Legal Centre tackles topics like rape, prostitution, unfair divorce, and child abuse. We feel that many women hide behind 'social masks' either because they don't know who to talk to, or because they're too afraid of the repercussions; it's then up to the WLC to reveal the beauty and strength that lies behind those 'masks'.

NOTES ON SOME IMAGES

Chidi Okoye biography

Nigerian born, Chidi A. Okoye graduated with a distinction in sculpture (Higher National Diploma) from the Institute of Management and Technology in Enugu, Nigeria, in 1988. For the next six years he taught sculpture and drawing at Federal Polytechnic Oko Anambra State Nigeria. During this period, he created an outstanding collection, not only sculpting, but painting and writing as well. In Nigeria, He had his national solo exhibition "Textures of Life" and launching of his book "Lamentation" at national museum Lagos in 1993 sponsored by Mobil Producing Nigeria. Okoye is as famous for his poetry as for his painting and sculpture.

In 1994 Okoye moved to Vancouver, Canada, where he immediately became involved in a number of projects promoting international artistic exchange and was a leading light in the local Black creative community. Okoye believes that his art offers him a chance of relating to his environment, complementing the beauty of nature with man-made forms and images, which spring from his ancestral culture. He combines the strength, uniqueness and dynamism of his heritage with a technically skilled understanding of the power of forms, feeling and materials to create works, which continue to thrill audiences.

The wide appeal of his works seems to lie in its identifiably African approach to colors and lines, but with an ability to turn his distinctive style to a wide range of subjects. Okoye's paintings and sculpture have been praised for their capacity to raise awareness of important socio-political issues without resorting to militancy.

He participated in various creative competitions, like those to design posters for the Festival Sundiata in Seattle, which he won in 1995, 1996 and Sundiata best artist of the Year 1998. He designed a poster and logo, "Spirit of the Nation", for the Canadian Heritage Art Society in Victoria BC in 1997. He designed and created an award statues for Black Historical Society in Vancouver BC in 1999, also in 1999 won first prize in the Co-op Radio Poster Competition in Vancouver BC.

In 2001 Okoye came to Atlanta where he has been actively involved in the creative art community. He won the first prize, South Fulton County Gallery Best Artist of the year 2002. He has participated in the jury art shows of National Black Art Festival Atlanta from 2002 to 2004. He recently executed Award commission for 2004 Clark Atlanta University ADVANCE Leadership Award. Chidi collaborated with Nelson Mandela in Unity Series in 2004.

Apart from being the artist of numerous sold-out limited editions Chidi's works have won the admiration of local and international collectors. Among his long list of works in private and public collection are in Delta Airline Atlanta, Water Resources, Atlanta; Resurrection Life Center Montgomery Alabama; President office, University of British Columbia, Vancouver BC; Villa Benzi, Caerano, Italy; Enugu State University Teaching Hospital, Abakaliki, Nigeria, Institute of Management and Technology, Enugu; Federal Polytechnic Oko, Nigeria; Mobil Producing Nigeria Head office Logos, Nigeria to mention a few.

Among His long list of solo and group exhibitions includes his most recent international group exhibition "The Nelson Mandela Unity Series, World Economic Forum, January 26th 2005 in Davos, Switzerland.
www.chidi.com

Akua'Ba. Akua'Ba are wooden ritual fertility dolls from Ghana and nearby areas. The best known Akua'Ba are those of the Ashanti people, whose Akua'Ba have large, disc-like heads. Other tribes in the region have their own distinctive style of Akua'Ba.

Traditionally, these dolls are carried on the back of women either hoping to conceive a child, or to ensure the attractiveness of the child being carried. When not in active use, the Akua'Ba would be ritually washed and cared for.

Today, one is more likely to see a mass-produced Akua'Ba for sale as a souvenir than an heirloom in ritual use. Traditional use does,

however, continue in some areas. The form of the Akua'Ba has also gained currency as a general symbol of good luck.

<http://en.wikipedia.org/wiki/Akuaba>

Soweï. A woman's hair is a sign of femininity. Both thickness and length are elements that are admired by the Mende. Thickness means the woman has more individual strands of hair and the length is proof of strength. It takes time, care and patience to grow a beautiful, full head of hair. Ideas about hair root women to nature, the way hair grows is compared to the way forests grow. The vegetation on earth is the "hair" on the head of Mother Nature in the same way the hair on the head of a woman is her "foliage." (Boone) A woman with long, thick hair illustrates a life force, she may be blessed with a green thumb giving her the ability to have a promising farm and many healthy children.

The neck rings at the base of the mask are an exaggeration of actual neck creases. Mende people consider a beautiful neck to be one with rings: they are a sign of beauty because they suggest wealth, high status, and are sexually attractive. The rings indicate prosperity and wholesome living, and are given by God to show his affection for a fortunate few. As well, the rings indicate a relationship with the divine: the Sowo itself is a deity from the waters, and the neck rings represent the concentric waves that are formed on still water by Sowo's head breaking through the surface. The spirit comes from the water, and what the human eye sees on the necks of women "is human in form, but divine in essence", as portrayed in the mask.

http://en.wikipedia.org/wiki/Mende_people

Lumbu/Punu. Admired for their delicate beauty, the okuyi or mukudj mask portrays Punu ideals of feminine beauty: elegant coiffure, rounded forehead, highly arched eyebrows, almond shaped eyes, narrow face, and small chin. The sculptured line between the nose and ears on this mask represents an ornamental chain of jewelry. The mask's white color signifies both beauty and spirituality, for Punu female beauty is associated with the whiteness of the spirit world. Worn by a dancer on six-foot tall stilts, the performer's graceful acrobatic feats of bending and twisting are admired by all.

http://cti.itc.virginia.edu/~bcr/African_Mask_Faces.html

Pende. The Pende carve numerous types of masks, most of which are associated with education and initiation rituals. In the north-west part of the territory wooden figures are sculpted. The ancestors (mvumbi) are placated through various rituals and offerings. The family head is responsible for taking care of the shrines and appeasing the spirits. The Pende recognize that spirits may be either good or bad, depending on the manner in which they died.

The Pende, along with their neighbors the Yaka and Suku, can trace their origins to modern day Angola, between the Atlantic Coast and the Kwanza (Cuanza) River. They were forced north to their current region during the Lunda expansion in 1620, which also resulted in numerous cultural influences. They are divided into two major groups, a western group who live just to the east of the Yaka and an eastern group who live on the western bank of the Kasai River. Although each group is culturally distinct they consider themselves as one people.

<http://www.uiowa.edu/~africart/toc/people/Pende.html>

Baule. A strong well patinated female mask from the Baule Tribe, Ivory Coast. The Baule of the Ivory Coast in Africa are known to have settled in their present location in the 18th century. They have developed an eloquent, extraordinarily refined style of wood-carving. They impart to their carvings an incomparable seductiveness of surface detail as well as a deceptive complexity of structure. Masks are abundantly produced by the Baule. The rhythmic connection of the circular arrangements of the horns with the oval of the face beneath is subtly underscored by the presence of tiny, pointed ears which lie between. The nearly closed, heavy-lidded eyes are characteristic. The Baule mask exhibits many of the characteristic features of Baule sculpture.

http://www.oneofakindantiques.com/catalog/5614_an_african_tribal_female_mask_baule_tribe_1.htm

Obo. African tribal cast brass figure of a woman. The woman is holding two disks with what look like small eggs. One disc is being held horizontally, and the other vertically. Attributed to the Obo tribe in Northern Nigeria.

http://www.oneofakindantiques.com/catalog/5738_female_african_cast_brass_figure_of_a_woman_obo_tribe_of_northern_nigeria_1.htm



WOMEN'S LEGAL CENTRE

