

Opinion

WLC carries the torch for women who still continue to struggle to realise substantive equality in South Africa.

By Seehaam Samaai, Director of the Women's Legal Centre (WLC)

With less than a year left until the deadline for countries to reach the Millennium Development Goals set by the United Nations, the majority of women in South Africa are not benefitting from gains made in terms of gender equality. Women of all ages in South Africa still experience inequality within and outside their homes. This is in part, caused by gender-based violence according to the Commission for Gender Equality. Moreover, they suffer from the burdens imposed by gender-based hierarchies, subordination, abuse and violence which prevent them from enjoying their human rights. The violent nature of crime affects everyone, but **no one** more than women, children, older people and people with disabilities.

August 9 is the annual commemoration of National Women's Day so the spotlight this month is on women. This year's theme is: "Working together to enhance women's opportunities to economic empowerment."

The Women's Legal Centre takes up this call on behalf of all women who are discriminated against in matters of health, fair access to resources and employment, property rights (land and housing), violence against women and the rights of sex workers.

Women's month has a special meaning for the WLC. It means quite simply that the Centre will stand up and renew its commitment to fight for the rights of women as they are set out in our Constitution.

In 2012, the Organisation for Economic Co-operation and Development (OECD) ranked South Africa 4th out of 87 countries on the Social Institutions and Gender Index. However, last year, the country dropped dramatically to 90th position out of 148 nations.

Added to this, UN research shows that approximately 67 000 sexual offences were reported between April 2012 and March 2013—a shocking number—but only 6% of these led to convictions. The Commission for Gender Equality says that South Africa cannot achieve complete gender equality because many women—particularly those in rural areas—do not have access to reproductive health services and the government is slow in dealing with gender-based violence. (Baloyi)

Domestic and gender-based violence against women is high across all racial and economic demographics in South Africa and costs the country's economy between R28.4 billion and R42.4 billion each year (KPMG).

However, in spite of these statistics South Africa is characterised by a strong legislative and policy enabling environment aligned with international conventions that seeks to protect and empower women. This is clear in the rights contained in the Constitution and other innovative pieces of legislation such as Maintenance Act, Domestic Violence and the Sexual Offences Act. Furthermore, a comprehensive set of government programmes and dynamic civil society organisations are providing essential services.

Despite these conducive factors, discriminatory practices, social norms and persistent stereotypes continue to shape inequitable access to opportunities, resources and power for women and girls. As we have seen from the figures above, Gender Based Violence (GBV) is a problem of **pandemic** proportions so gender disparities have continued to persist in South Africa.

Gender-based violence in South Africa has occupied centre stage on the public agenda. I believe that the oppression of women and the dominance of patriarchal structures, whether these are within the family or in the communities is sustained largely because of their lack of access to services and resources.

The WLC works to educate women who have experienced sexual violence. A study by The Medical Research Council (MRC) reveals that more than 40% of women interviewed had experienced at least one sexual assault. As for the men, 89 (27.6%) of men interviewed in the MRC study admitted having raped a woman while 14.3% had raped a current or ex-girlfriend or wife. Nearly half had raped more than one woman or girl.

Without doubt, the WLC has cause to celebrate a landmark ruling which provides legal clarity for a woman's right to tenure on farms as well as the Limpopo High Court ruling that women in polygamous marriages should have equal rights. The Recognition of Customary Marriages Act (RCMA) discriminates against these women—not only on the basis of sex, gender and/or marital status but also on the basis of their socio-economic position which is an analogous ground for discrimination in terms of section 90(3) of the Constitution—and so the ruling was a watershed in South Africa. A brief look at the WLC's website reveals many other cases that have been fought and won on behalf of women.

The centre believes that it is critical that leaders in South Africa serve as role model. Leaders in government especially need to make sure they set an example for the citizens of South Africa at all times. The importance of leadership cannot be overemphasised.

Notwithstanding the WLC's success in many areas, many women still continue to experience acute discrimination with regards to our legal system. This is due to a myriad reasons the main ones being that they do not have access to the legal and financial support they need to benefit fully from our democracy and the Rule of Law. It will be fitting to remind the country about women's rights issues this month and recall the struggle for the emancipation of women. Our government is clearly not doing enough to condemn discriminatory structures, to discipline its members who do not adhere to its gender policies and to condemn media that inflame an already sensitive issue.

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About the author

Seehaam Samaai holds an LLM degree in constitutional litigation. She has served on various national, provincial and community structures providing either strategic leadership, legal, programmatic or organisational support including for the National Association of Democratic Lawyers (NADEL), the South African Women Lawyers Association (SAWLA), the Association of University Legal Aid Institutions (AULAI), Lawyers for Human Rights and the Rural Legal Trust.