

WITNESS: WE HAVE MADE PROGRESS BUT SERIOUS CHALLENGES TO GENDER EQUALITY REMAIN



Progress in gender equality in the 20 years after the adoption of the Beijing Declaration and Platform for Action has been unacceptably slow, with stagnation and even regression in some contexts. Change towards gender equality has not been deep enough, nor has it been irreversible.

While discussing some of the factors that contribute to holding gender equality back, Laetitia noted attitudinal barriers; misconceptions over feminism and feminists; the tendency in many organizations structure gender for organizational inequality; the mistreatment of gender officers; and the inappropriate visualization of “gender” and “women” in development projects. In the last three columns, Laetitia examined the role of the State law and policy and postulated that while State intervention to promote gender inequality was to be lauded, its laws and policies ingrained elements of inequality and contained loopholes and contradictions that negated some of their potential impacts in practice. The question is what does this analysis reveal about the State and its link to issues of gender equality and women advancement?

The State’s record of an egalitarian society is not a straight forward one. While the State in Tanzania cannot completely escape the charge that its laws and policies embed within themselves some aspects of inequality, neither can these be dismissed as inconsequential.

If we start with the former assertion, we saw in the previous columns that even in terms of how Tanzania couched its theory of capitalism, the State failed to capture the trans-historical character of women’s subordination, oppression and exploitation, which, with the advance of the capitalist relations in Tanzania was reconstituted into another form of patriarchal relations. In addition we observed that by failing to theorise the women question as a separate issue from the question of class, the state failed to promote changes in the sexual division of labour and to recognise the importance of

women's reproductive activities to the family, community and national development. The lack of a single codified State law on matters such as inheritance, marriage, land tenure systems, the existence of customary law, Islamic and judiciary precedents that undermine the pro-equality provisions of the constitution have meant that what is provided is formal rather than substantive equality. The State, as observed by Moore, H. in his book titled, "Feminism and Anthropology" (1988), failed to politicize women's roles in a way that give them de facto rather than de jure equality with men. This situation obtains to-date.

Again, when we view the position of women workers, we observe the embeddedness of masculinity in the service regulations and administration procedures in the civil service and public sector, the largest employer of female employees at the time. The male-biased interpretation of issues such as discipline was noted. The other aspect is the institutionalization of women's subordination by refusing to treat them as individuals employees or as officers in their own right. The rights to maternity leave institutionalised women's reproductive roles but failed to recognise fathers' rights as parents. These are yet other mechanisms and employee practices by which inequality is reproduced. Thus it is reasonable to argue that women and men are not always regarded as equal in relation to the state but treated as different kinds of political subjects.

Notwithstanding the deficiencies in the in State laws and policies, what the state was able to achieve is not inconsequential. The state went a long way to lay the conditions that have the potential to gradually erode patriarchal domination. The Socialist State did at least put the principle of gender equality on the agenda and influenced state policy. They therefore generated, as argued by Maxine Molyneux in her paper titled ***Women in Socialist Countries: Problems of Theory and Practice*** (1984) some expectation which may induce pressure to see them fulfilled. The laws and policies though deficient should be seen to constitute a "transitional empowerment strategy" which may lead to ultimate transformation as suggested by Staudt, K. in her paper, "***Women, Development and the State: On the theoretical Impasse***". They therefore cannot be dismissed offhand or taken lightly.

In any event, there are some tangible and positive developments that have taken place in recent years arising from state interventions. To cite a few examples, the State has made efforts to enhance women's legal literacy entailing the use of the mass media. It has translated and disseminated the Convention on the Elimination of Discrimination against Women (CEDAW) into Kiswahili and established some aid counselling centres.

Currently a review of several pieces of discriminatory legislation is on-going and new laws to promote women's rights and advancement have been enacted.

These include the Sexual Offences Special provisions Act of 1998 which seeks to protect women from sexual harassment and abuse. The Land Act of 1999 and the Village Land Act of 1999, which repeal and replace the previous legislation on land matters thus enabling women to enjoy equal rights with men in access, ownership and control of land. The National Land Advisory Council whose role is to review and advise the Minister on the National Land Policy requires the minister to ensure a fair balance of men and women in the Council.

The Mortgage Financing Special Provisions Act of 2008 obliges the mortgagor to verify the existence of spouses for purposes of obtaining consent for mortgage loan. Section 114 of the Act imposes obligation to disclose marital status by a borrower and failure to make such a disclosure would now become an offence under the provisions of this Act. The state has established gender desks at some police stations aimed at creating a conducive environment for combating gender based crimes against women and children. Sector legislation such as the Education Act 2002 promotes equal access to and progress in the educational system.

The new Employment and Labour Relations Act of 2004 (ELRA) seeks to create better conditions of employment and an enabling environment for men and women to enjoy equal rights at work., Whereas Discrimination was not addressed in labour laws existing prior to the adoption of the ELRA, the law now requires the employer to promote equal opportunity in employment and makes it a criminal offence to discriminate against employees directly or indirectly in any employment policy and practice. The prohibition of harassment is another new development which was absent from old labour laws. Harassment of an employee is taken as a form of discrimination. The law goes further to encourage positive discrimination undoubtedly to correct historical disadvantage that women face. Further, the ELRA recognises the parental role of men and requires employers to provide a token paid paternity leave of 3 days which must be taken within the first seven days of the birth of the child once every 36 months for up to 4 children.

In conclusion, the State law and policy has at times produced conflicting results. This is because the State in the words of Yuval Davis in his book titled Women-Nation-State (1989) "is neither unitary in its practices and intentions nor in its effects". In fact, the state is not a monolithic entity but a contradictory, dis-unified set of structures, processes and discourses, the different parts of which act at cross-purposes.

Those who have been debating or questioning why some women groups have applauded the Proposed Constitution, with all its imperfections would be well advised to look at it from this perspective. These women understand, as stated by Connel, R., in his article "*The State, Gender and Sexual Politics: Theory and Appraisal*" that "the State is a process not a thing". The State should be viewed as a dynamic entity and that the realm as well as the form of the State changes historically.

This way of analysing the link between the state and gender de-confines us from theoretical constructs or from taking a uni-dimensional view of the state to exploring what actually takes place in specific contexts and at certain historical moments. It leads us to delve into the nature of the state, the values and norms that underpin the actions of its bureaucrats and the biases inherent in the bureaucratic interpretation and implementation of laws, administrative rules and procedures. These enable us to understand the distinct features that women centred policies take and why such policies may succeed or fail to significantly alter gender relations.