

# CUSTOM, LAW AND ETHNICITY: EFFECTS ON THE STATUS OF WOMEN IN BOTSWANA

*Athaliah Molokomme*

*Athaliah Molokomme, qui enseigne au département de Droit de l'Université du Botswana, présente cet article au Forum du Tiers-Monde sur la femme, le droit et le développement. Pour expliquer les effets des lois coutumières sur le statut contemporain de la femme, elle l'examine d'abord dans le contexte de ses racines dans l'histoire culturelle et politique. Après avoir élucidé le sens de l'expression "loi coutumière", elle en énumère les principales caractéristiques et démontre comment cet ensemble de lois réduit le statut de la femme aux marges. Le rôle de l'Etat (colonial et post-colonial) dans la reproduction de cette situation est examiné; en conclusion, Molokomme propose des stratégies actives pour donner aux femmes le pouvoir de convertir la loi en instrument pour le progrès au Botswana.*

The subject of customary law is particularly complex, rooted as it is in cultural and political history, and requires an examination of these roots in order to understand the effect of customary law on the contemporary status of women. The task is made even more difficult by the nature of customary law itself because it is not always uniform, often varying in different degrees from tribe to tribe in a country as ethnically diverse as Botswana. The term 'customary law' is itself slippery and is often used carelessly to refer to different things specific to different historical contexts: the construction of the sub-themes "tribal law, custom, religion, law and women's rights" may itself be insensitive to this. This paper will begin with a clarification of the term 'customary law' in general and of the specific context in which it is used in Botswana. This will lead us to a general conventional treatment of the main substantive norms of Tswana 'customary law' which marginalise women's status according to contemporary standards. The role of the colonial and post-colonial state and other institutions in reproducing this state of affairs will then be examined. Finally, some practical, action-oriented strategies will be suggested as a way of improving this situation – in other words, how the

law can be used as a tool for change and to "promote full development opportunities for women and their families." Attention will be paid to the organising principle of the forum (i.e. the Third World Forum on Women, Law and Development): empowering women to make the law relevant and real in their lives.

## 'Customary law' in context

The term 'customary law' must be used with caution – which many writers, lawyers, sociologists and politicians have not always done. The ordinary way in which the term has been used and understood has tended to result in oversimplification or worse, total misunderstanding. This approach was first used by some anthropologists who, in studying African societies, sought to find Western European equivalents of law in these societies. Finding no such equivalents, some concluded that these societies had no law, but rather operated in accordance with customs, habits and usages which were generally accepted by members of their communities. These oral/traditional modes of behaviour, norms and customs – which seemed not to distinguish between social and legal forms – were then grouped together and labelled 'customary law' or, as the British colonialists would have it, 'native law and custom.' Customary law therefore simply referred to apparent legal forms which existed before colonial intervention and as later modified by colonial rulers. This approach, which has various weaknesses, was based on little understanding of the cultures of these societies and ignores the changing historical contexts within which various events were taking place, some of which were subtle and often overt manipulations of the colonial state and local elites. Adherents to this approach saw customary law simply as indigenous African Law handed down from generation to generation.

More recent studies of African law have been more sensitive to its complexity and have tried to place it in historical perspective, although they have gone about doing so differently.<sup>1</sup> There is little doubt,

however, that none but a historical analysis can do justice to an understanding of 'customary law,' its origins and relationships with the social, political and economic forces of the day. W. M. Reisman's suggestion that customary law has had three shifting meanings referring to three different phenomena is particularly useful.<sup>2</sup> The first is the reference to norms, patterns of behaviour, expectations and other processes that obtained in pre-colonial Africa. According to Reisman, this "normative system" was based on its own features: a traditional technology of production and distribution, a certain population level, fixed patterns of consumption and demand, and a variety of other contextual features that have long since passed. A second reference was to the legal forms which the colonial governments permitted to continue, which were diluted versions of pre-colonial ones: "this transformed customary law can be viewed as much of a Colonial European artifact as an authentic African customary law."

The third sense in which the term could be used refers to the "ongoing generation of norms about appropriate behaviour." Reisman explains that these norms are derived more from social interaction than from formal legislative action and that often people acting on it are quite unaware but deeply conscious of it. He concludes by warning that we *must* distinguish these three meanings to ensure that the references we intend are in fact the references that are communicated to our audiences.

This warning is particularly relevant when we look at the particular case of Botswana 'customary law.' The area today known as Botswana is the result of the grouping together of different tribes or chiefdoms which existed prior to the colonial period. Although these tribes differed in insignificant details, they were generally composed of people of the same stock and had a broadly similar social structure and normative system. What little is known about the organisation of these pre-colonial chiefdoms is to be found in recorded oral histories and anthropological writings, which were



Botswana woman preparing the field

Credit: Zimbabwe Women's Bureau

written during the colonial period after some change had already taken place. As with most pre-colonial African societies, there was no clear distinction between social and legal norms and the normative system was very closely related to the culture. The legal position of women was therefore dependent upon and synonymous with the role and status accorded to them in the society.

When the territory was made a Protectorate known as Bechuanaland in 1885, prior contact with Europeans had already affected some aspects of Tswana life, but the basic traditional pattern of social organisation seemed to have been intact. The society was organised into hierarchical units and groups ranging from the family and household at the bottom to the family group, the kingroup, the ward and the section, all these making up the village. At the apex of each unit was a male head who was responsible for all its

members and also responsible to the 'head' of the next unit in the hierarchy and finally to the Chief, also a male. Based as it was on kinship units, emphasis was on the group rather than the individual; consequently, the normative system was directed at the group. The position of women as part of the group was clearly defined.

The colonial period brought with it different patterns of life and values, while previously, Christianity had introduced its own. Although some people were converted to Christianity, others receiving the education brought by British rule – the majority of people in the Protectorate – continued to live in the old way according to their traditional norms and values. The British colonial administration did not interfere in the normative system except to take away from the jurisdiction of traditional authorities matters they considered too serious (such as serious crimes

and political offences). But the colonial administration did introduce a new system of law, the Roman-Dutch law through its Governor in the Cape colony. Although originally intended to apply to Europeans only, this new legal regime was eventually made available to Africans, although the majority continued to be subject to their traditional norms. Thus the colonial period did not introduce substantive changes in the indigenous normative system: this did not mean that the latter remained static and unresponsive to the social, economic and political changes that were taking place in the Protectorate. The changes that took place during the colonial period did not, however, significantly alter the traditional structures which obtained in the territory, particularly the gender relations which prevailed within the society at large. The dual legal system produced by the introduction of a new legal regime simply provided options for Africans in their personal law, but most remained within the domain of their own system, at the time labelled 'native law and custom.'

At independence in 1966, this traditional normative system was retained under the label 'customary law' and continued to co-exist with the received Roman-Dutch law, now called the 'common law' which includes Acts of the Botswana Parliament and other law that is not customary law. As was the case during the colonial period, the customary law remains unrecorded and must be ascertained in the courts of general jurisdiction while it is presumably known in the customary courts. The 'modern' courts utilise the writings of anthropologists who recorded the customary law during the colonial period, mainly *A Handbook of Tswana Law and Custom* compiled by Prof. Isaac Schapera.<sup>3</sup> This handbook, written in 1937 at the request of the British colonial administration, is based on research done from 1929 and is regarded as the most authoritative statement on Tswana customary law. It is supplemented by later writings on the subject and the oral statements of experts on the customary law as it has changed in the course of time. Therefore, when one speaks of 'customary law' in Botswana today, it is understood in all three of Prof. Reisman's senses – in other words, as those traditional norms which continued to be permitted and practiced during the colonial period as well as the changes that took

place until the present. The difficulty is that these changes often take place at varying paces among the different tribes and districts. This makes it risky to claim a uniform system of customary law and requires caution in making claims about the substance of that law.

## THE POSITION OF WOMEN UNDER TSWANA CUSTOMARY LAW

### The public status of women

Traditionally, women apparently played no role at the public level of politics and government in the sense of occupying leadership positions. "Leadership is for men," the traditional saying goes, despite two instances of regency (Ngwaketse and Tswana tribes) during the colonial period. The *kgotla*, the central institution where public issues were discussed and disputes were adjudicated was not open to women unless they were witnesses or litigants in a dispute. Each of the social units already referred to was headed by a male: the husband was the head of the family and household; – the eldest male was at the head of the family or kingroup; the ward was headed by a headman and the chief was at the head of the tribe, being royal and necessarily male. Access to status was therefore based on seniority of age and gender, and strict rules existed to ensure the perpetuation of this situation.

During the colonial period the role of women in the public arena remained unchanged. When the new legal regime was first introduced, it was to apply to Europeans only: thus the legal system was organised along racial lines. Overt and often covert racial discrimination against Africans was practised in other sectors, such as education, employment, and the provision of social services. Migrant labour also played a part in confining women to the rural sphere. For African women, it was a situation of double jeopardy because the colonial state brought with it its own home-grown, sex-based discrimination which was normally more hidden than open. The first educational and employment opportunities were given to men and, even where women were employed in the same jobs as men, they got less pay, and no pay at all when on maternity leave. During preparations for Independence, there were no women in the legislative or executive council, although technically



*Botswana woman with sewing award*

*Credit: Zimbabwe Women's Bureau*

women could vote and stand in the pre-Independence elections in 1965.

The period after Independence saw little improvement in the public role of women as far as senior posts and leadership positions were concerned. These continue to be male-dominated to this day, although in theory either sex qualifies for appointment to these positions. A notable exception here is the chieftainship, which is still determined by tradition but, once again, the State President in theory has the right to appoint any fit and proper person to tribal positions. Tswana customs and culture have been blamed for this state of affairs and, although it may partly explain the absence of women in leadership positions, it is definitely not sufficient explanation – this trend is universal so there must be something more to it than just

"Botswana culture." In any event, as has been argued elsewhere, tradition and culture have too often been used to exclude or prevent women from doing certain things, while some aspects of our culture have been conveniently discarded "to respond to social, economic and social change."<sup>4</sup> What criteria are used to decide which aspects of culture are to be retained and which to be discarded? Both the theory and practice of the contemporary state in Botswana have displayed clear contradictions in this respect and others.

### Women's position in the private domain of the family

It is generally agreed that the way the family is structured – as well as its relations with other institutions such as the culture, the law, political system and the



**MBUYA NEHANDA** (c. 1862-1898)

A powerful woman spirit medium who was committed to upholding traditional Shona culture, Mbuya Nehanda helped to organise nationwide resistance to colonial rule during the Chimurenga of 1896-97. This inspired leader was captured and after trial was sentenced to death in Salisbury.

*Credit: Feminist International for Peace and Food*

economy – largely determine the role and status of women. A common denominator in the organisation of the family in most societies is the sexual division of labour. Traditional Tswana society allo-

cated certain tasks to men and others to women. Those tasks connected with the domestic sphere, such as rearing children, and cooking and caring for the family, were the monopoly of women, while men were to be the overall decision-makers and performed male tasks such as maintaining cattle posts, hunting, and attending public ceremonies. Although there seems to have been an overlap in the tilling of fields, this division of labour between the sexes was strictly observed: neither sex ever performed the tasks of the other. This division of labour generally persists to the present day and is also reflected in the modern sectors of education and employment. Since the status of women under traditional and contemporary customary law is often determined by their marital status, these will be discussed separately.

An unmarried woman in traditional Tswana society remained under the guardianship of her father or other male guardian irrespective of her age. It is her guardian who must bring and answer legal suits on her behalf, assist her in entering and performing legally binding transactions and together with other relatives, arrange her marriage. Should she be seduced, her guardian, not herself, has the right to proceed against her seducer; the child subsequently born to her falls under her guardian's control and care. In the olden days, both male and female children had no say in the choice of marriage partner, but this apparently changed quite early to give boys more a say in whom they wished to marry. A major spinster past marriageable age however seems to have acquired a considerable degree of independence and was given some privacy and property by her guardian even under traditional customary law. As far as rights of inheritance are concerned, daughters could not receive "male" property such as cattle, wagons, guns, etc., and did not qualify to become principal heirs unless their father had absolutely no male relative. The rationale behind this was that it was desirable to keep the wealth of the household within it and, since daughters would be married into another family (or were already married), such wealth would be scattered were they allowed to inherit the major share of the estate. This was somewhat ameliorated by the tshwaiso custom, where during his lifetime a father would earmark specific beasts for his children

(including daughters) which would vest in them at his death and did not go to the principal heir. This way, a man who was concerned about his daughters' welfare could provide for them in spite of the general norm relating to inheritance, especially those he considered past marriageable age. Among the Bangwato tribe, Chief Kgama (1875-1923) introduced a rule to the effect that daughters should be allocated cattle either during his lifetime by their father or after his death by the principal heir. The right to inherit cattle is extremely important, especially today when they have considerable economic value. Fortunately some tribal authorities are recognising this and have often ruled that male and female children should inherit cattle equally. Unfortunately however, changes are taking place unevenly and much is left to the discretion of customary court Presidents and family heads. Without any guidelines in this regard, the rights of single women in inheritance matters are at best uncertain, being dependent upon the generosity of their fathers and, failing that, of the formal courts.

Marriage, being the institution on which the family is based, is given high priority in customary law, as in other legal systems, and norms exist to ensure its perpetuation. A distinct feature of marriage law is that it entrenches and legitimises patriarchy by giving the husband all the rights of decision-making, control over the wife, children and property, and sometimes the fate of the marriage itself. At the same time, it must be remembered that in traditional society where the kingroup, as opposed to the individual, was important, the question of "rights" in relation to an individual is out of place. Thus it would be inaccurate to determine the status of women in traditional African society in terms of what "rights" they had as wives, daughters, aunts, mothers, grandmothers etc. Furthermore, this approach tends to ignore the fact that women were traditionally given a lot of respect in the private domain of the family and often indirectly exercised a considerable amount of power therein, such as in arrangements for marriage of children, distribution of grain, etc.

What is it about customary marriage that *today* can be said to adversely affect the status of women within it? First, the potentially polygamous nature of customary marriage often has adverse implica-

cations for women, their status being dependent upon the wishes of their husbands. Although it has been said that polygamy sometimes provides an economic resource for women, it is still true that only reasonably wealthy men can sufficiently provide for more than one wife and family today. Where a polygamous man has few resources, it often happens that his wives and children suffer much economic hardship. Furthermore, a wife has little say in her husband's decision to take another wife, despite the fact that it will affect her and her children in various ways.

The second relates to the institution of *bogadi* (bridewealth) and its consequences on women's status within marriage. Although the exact purpose of this custom is controversial, there is general agreement on its implications for the status of married women. The colonial and missionary view that it was wife purchase is by no means part of the controversy and is hereby dismissed. It has been said to be a token of appreciation to the girl's parents for allowing the marriage; as compensation for the loss of her services; as a way of registering family approval of the marriage and as a way of legitimating children subsequently born to the couple. But apparently the most important function and consequence of *bogadi* is to transfer the reproductive power of the woman from her family to that of her husband. This is why sometimes *bogadi* (or the woman herself) is returned when she cannot bear children. A more important consequence of *bogadi* is that it gives the husband power and control over the wife which he would otherwise not have. For example, a man who has not paid *bogadi* cannot chastise his wife when she offends him, a "privilege" given to men who have paid *bogadi*, as long as they do so reasonably. At the same time, a woman married with *bogadi* is held in much higher esteem socially than one for whom *bogadi* has not passed. The former may appeal to the husband's family and to her own for protection when the husband ill-treats her, whereas the latter has no such right.

Third, the customary law limits the rights of married women insofar as her legal standing is concerned. On marriage, the woman passes from the guardianship of her father to that of her husband. He is the final decision-maker in all aspects of family life; the wife must obey him and generally conduct herself with restraint



Illustration: Catherine O'Neill

Credit: Agenda for Women's Equality (Ottawa)

both within the family and in public. When she does wrong (in his opinion), he may chastise her but this must not be excessive or persistent. The only relief available to a wife against an unreasonably cruel and non-supporting husband is to appeal to the two family groups, failing which she may sue him for divorce which is usually not to her advantage. Any infidelity on her part is not tolerated, whereas her husband may have a concubine without social or legal sanction.

Likewise, her property rights are dependent on the cooperation and generosity of her husband, and although she may acquire property and engage in commercial traffic independently, she must receive the consent of her husband or guardian. Whatever property she brings

into the marriage or receives during its subsistence as a gift or inheritance never vests in her husband. Otherwise the husband controls the cattle, fields, huts and other family property which is not owned by the wife personally.

Fourth, the legal status of married women can be adversely affected by the law relating to divorce and its consequences. Each party to a customary marriage had the right to sue for divorce, although attempts at reconciliation at the family level were a requirement before the couple brought the matter to court. Recognised grounds for divorce included excessive cruelty, or lack of support of the family by the husband, and barrenness, sorcery, repeated adultery, and non-performance of domestic duties by the

wife. Since his infidelity is generally tolerated by the society and polygamy is a recognised institution, the husband in such a marriage is in a better position: he could either resort to a concubine or marry another wife if he got fed up with his present one. In any event, a woman has more to lose in a divorce than a man, considering the legal and social consequences of divorce.

On divorce, the wife loses all claim to her children unless her husband has not paid *bogadi*. Where *bogadi* had not passed, the wife may keep the children; some men, anticipating trouble, apparently pay *bogadi* during the marriage so as to retain the rights to their children. Today the practice varies: some customary courts decide custody of the children on the basis of who was at fault, while others divide the children between the parents, depending on their age and sex. Although property on divorce is divided according to the circumstances of the case, in the final analysis the wife ends up with less property or property with little value. She will normally retain her personal property and household utensils, while the husband keeps the compound and the cattle, except where he is at fault, in which case he may be ordered to give a few cattle over to the wife or build a new hut for her after the divorce.

The prospects of remarriage for a divorced woman are dim: she is seen as unstable by most men and not worth marrying. The stigma attached to a divorced woman is so strong that a Tswana proverb encourages men to marry widows instead. Where someone wishes to marry her, opportunity is given to her former husband to take her back if he wishes, especially where *bogadi* has not been taken back. Should he not be interested, she may marry again, but her second husband must pay *bogadi* to her parents – otherwise the children subsequently born between them will be regarded as still belonging to the former husband. In view of all these consequences, it is apparently quite common for women to stick to a bad marriage rather than risk the insecure status of a divorcee.

The husband's death does not terminate a woman's relationship with her in-laws: she ideally must remain at his family's home under the guardianship of his heir. In the olden days she was apparently not free to remarry unless she

returned to her home and her people returned *bogadi*. The custom of *go tsena mothung* (or entering the hut) was practised in the past, whereby a close male relative could "take over" the widow and her family on her husband's death. Apparently the widow was entitled to refuse – especially where she had a son old enough to look after her and the estate. Today this custom is not widely practiced and most young widows return to their own people; however, they must leave both the children and the family property behind. In Tswana customary law, then, a widow can only benefit from her late husband's estate if she remains with his people.

### THE ROLE OF THE STATE

While on the general public level the customary law is subordinated to the common law, on the private level it is left intact and unquestioned. This contradiction has had an adverse effect on the status of women and other groups which are under-privileged and discriminated against by the customary law. The lack of political will to interfere generally with the customary law, and specifically with the discriminatory manner in which it treats women, has been officially justified in various ways. It is said that the rural population is generally content to live under the customary law regime; more specifically, that rural women are "happy" with their subordinate status, the only women insisting on equal rights being the elite in the towns. It is further argued that, even those who are not happy with the application of the customary law regime, theoretically have the choice to opt out of it and have the common law apply to them instead.

Once these claims are looked at closely, it becomes abundantly clear that they hardly offer sufficient justification for the "laissez-faire" approach the state had adopted. That people treasure their culture and wish to preserve it is natural and understandable – indeed a near universal. However, it is also important to probe further into what it is that people wish to preserve. When people say "we must preserve our culture, traditions and customs," they often romantically refer to the "good old days" when society was more coherent, kinship bonds much stronger, and family members more supportive. The truth is that today the

social relations have been grossly undermined by modernization and other changes. The customary law must respond to these changes: today it must change its focus from the group to the individual, since the group simply no longer exists in its original, coherent form. Customary law is not responding fast enough in relation to social change. It is the task of those charged with its administration and decision-making in general to interfere in the interests of justice for all. The excuse that options are available to those who do not wish customary law to apply to them is equally weak. The majority of people, especially rural women, are unaware of them as they are of the law in general. Furthermore, these options involve complicated legal procedures beyond the reach of the lay person, whom the law does not reach.

Although the state reserved to itself the right to legislate and make other decisions affecting the customary law in general, it has not so far seriously exercised this right to benefit women who are disadvantaged by customary law. Whatever reforms have been made have generally been cosmetic; in any event, these were all made before 1975 when the UN declared the beginning of the Decade for Women. As far as the Decade 1976-1985 is concerned, the only significant step that was taken was the setting up of the Women's Affairs Unit and the Women's Development Planning and Advisory Committee (WODPLAC) in 1981. The Women's Affairs Unit is a department of the Ministry of Home Affairs and is charged with coordinating women's activities, disseminating information and liaising with other government departments in issues relating to women. WODPLAC is a committee with representatives from various ministries and non-governmental women's organisations, whose function is to support and strengthen the Women's Affairs Unit in its work. Together these two agencies have organised seminars, talks and a national conference at which rural women represented themselves and participated in discussions on women's problems and strategies for their solution. Since these agencies are only four years old, it is too early to say whether they are succeeding in addressing issues which confront women, especially the effects of customary law on their position.

## THE ROLE OF NON-GOVERNMENTAL ORGANISATIONS

The various non-governmental women's organisations in Botswana were mostly formed after Independence and are registered under the relevant legislation. These organisations are broadly similar in their objectives and activities, being mostly engaged in useful community projects such as operating daycare centres for children, typing schools and hostels for young women and others. Most are run on a voluntary basis, which may account for some of the organisational problems they encounter, and their membership attracts mostly older women (above the age of forty). Although some of them address grassroots women's problems, others have been accused of elitism, an accusation very useful to the state and others who claim most women are happy with their lot. The absence of a younger, more professionally educated membership and funds means that these organisations are not sufficiently equipped to face and deal with specialised areas such as the law. Therefore, although some have questioned the manner in which customary law treats women, there has been no systematic, well researched and informed lobby against it.

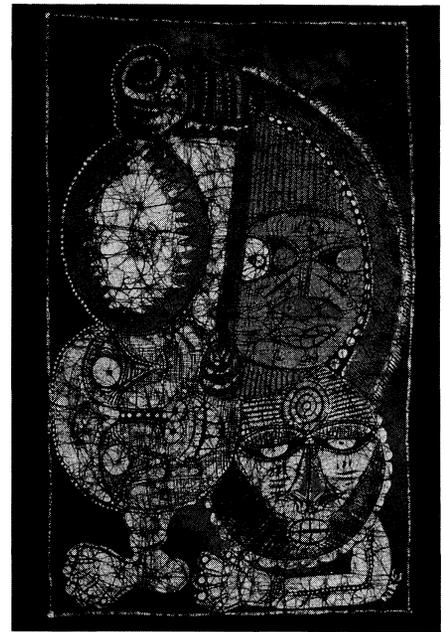
## RECOMMENDED STRATEGIES FOR EMPOWERING WOMEN

An essential strategy for success is *good organisation and participation* at all levels, especially with "grassroots" women. In order to improve the situation of the majority of women, these women must *themselves* be involved in organising, designing and running programs for themselves. Where some have special skills and knowledge, these should be imparted to other women, and that way an exchange of knowledge would ultimately equip everyone with confidence and basic ability to address various issues. Once organisation and participation have been achieved, the next strategy would be *information and education* on pressing issues. Educating women about the law should involve more than just teaching them the substantive content of the law which affects them. It should also be a process of demystification about the relationship between law and the social political and economic structures. Women

would be taught through posters, pamphlets, handbooks, radio programs and other media how the policy is formulated, turned into law and how they have the right to influence the final outcome. In Botswana the handbook entitled *The Women's Guide to the Law* compiled by the writer in English and Setswana for the Women's Affairs Unit is being used. The Unit has so far distributed it among social welfare educators, social workers, womens organisations and other relevant institutions.

A third strategy which should follow from the second must be geared to *the practical enforcement of legal remedies* that exist for women in need of relief in particular situations of need. This will require an institutional process of training personnel who will be charged with the task of assisting women in need. Presently, no system of legal aid exists except for persons charged with murder, who are financially assisted by the state in the preparation of their defence. Social welfare legislation such as the Deserted Wives and Childrens Protection Act and the Affiliation Proceedings Act exist which allow women to secure maintenance from their husbands and children's fathers through the subordinate courts without the normal court charges for service of process, etc. This could be taken a step further by providing a system of para-legal personnel, appropriately trained to handle these matters at little or no expense to aggrieved women. Women who have been raped, deserted and cruelly treated by husbands and boyfriends would also be assisted by such a system. Furthermore, magistrates must be willing to enforce judgements made in favour of women in order to make them meaningful to their beneficiaries.

Finally, a campaign must be launched to make the public in general, and men in particular, aware of the burdens carried by women – especially in the area of the family. Perhaps an appreciation of the vital role of women in society will improve the attitudes of policymakers, legislators, implementers of the law, and the public in general about how women can be empowered to perform their various tasks and improve their general position under the law. This is no doubt a difficult task to accomplish, as attitudes are the most difficult to transform, but it is obviously a necessary prerequisite for the success of



Batik by Nike Olaniyi (Nigeria)

Credit: Visual Communication Concepts, Inc. (Washington)

whatever other strategies may be adopted to improve the lot of women.

<sup>1</sup>See Snyder, "Colonialism and Legal Form: The Creation of 'Customary Law' in Senegal," in Chapter 4 of *Crime, Justice and Under-development* ed. by Colin Sumner (London: Heinemann, 1982). This chapter contains a useful summary of various schools of thought on customary law.

<sup>2</sup>"Toward A General Theory about African Law, Social Change and Development," in *The Individual Under African Law: Proceedings of the First All Africa Law Conference*, edited by P. N. Takirimbudde.

<sup>3</sup>Isaac Schapera, *A Handbook of Tswana Land and Custom* (London: Frank Cass, 1938).

<sup>4</sup>J. Kimble, and A. Molokomme, "Gender and Politics in Botswana: Some Thoughts on the 1984 Elections" (forthcoming workshop report).

*Athaliah Molokomme teaches in the Department of Law at the University of Botswana. She presented this paper at the Third World Forum on Women, Law and Development at Nairobi, and compiled a handbook in English and Setswana The Women's Guide to the Law.*