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**The Gender and Legal Dimensions of HIV/AIDS:
Women's Access to Justice and the Role of the Judiciary**

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I. Objectives of the Distance Learning Dialogue

The Gender and Legal Dimensions of AIDS program is a dialogue series sponsored by the Gender and Law Thematic Group to raise awareness on the connection between gender, HIV/AIDS, and law. The activity assesses the gender-responsiveness of existing legal frameworks in the HIV/AIDS setting, in such areas as customary law/practices and religious laws, land law and family law. Under the leadership of the PREM Gender and Development Anchor and the Legal Vice Presidency, the World Bank hosted a distance learning dialogue entitled, *The Gender and Legal Dimensions of HIV/AIDS: Women's Access to Justice and the Role of the Judiciary* on June 6, 2005. This learning dialogue on the role of the judiciary in this field was a collaborative initiative between the World Bank and the International Association of Women Judges (IAWJ). The objectives of the dialogue were to improve capacity to effectively respond to HIV/AIDS by:

- 1) Outlining options for training law and justice sector professionals on the legal and human rights dimensions of HIV/AIDS;
- 2) Enabling judges associations to become more fully engaged in the fight against HIV/AIDS; and
- 3) Strengthening networks among magistrates and judges, especially among women judges associations.

A. Summary of the Distance Learning Dialogue

The dialogue brought together judges and magistrates from Tanzania and Uganda, World Bank staff, and staff of the IAWJ to discuss the role of judges and magistrates in promoting women's access to justice in the HIV/AIDS context and to propose strategies for addressing the capacity needs in addressing the gender and legal dimensions of HIV/AIDS. The dialogue was moderated by Gender and Law Thematic Group co-chairs Elizabeth O. Adu, Acting General Counsel, Operations (LEGVP) and A. Waafas Ofosu-Amaah, Senior Gender Specialist for Gender (PRMGE). Joan D. Winship, Executive Director of the International Association of Women Judges, represented the Washington Office of the IAWJ. Justice Engera Kileo, of the High Court of Tanzania, served as the facilitator for Tanzania and Justice Stella Arach-Amoko, the High Court of Uganda, facilitated the discussion for Uganda. A list of participants is attached as Annex 1.

B. Questions and Topics Addressed

As part of the background documentation for this dialogue, the World Bank had commissioned a background paper, prepared by Liz Brundige of the IAWJ. The paper served as the basis of discussion and was subsequently updated to reflect the discussions and recommendations of the participants. This final report draws from the contributions of the participants on the questions addressed during the dialogue. These questions are presented in Annex 2. This report is organized around the following four main themes and topics:

1. The key legal issues involving gender, law and HIV/AIDS that have arisen in cases appearing before the participating jurists;
2. The roles played by the judiciary to date in advancing women's access to justice in the HIV/AIDS context;
3. The challenges in the context of the HIV/AIDS pandemic that judges and magistrates face in promoting women's access to justice; and

4. Suggested steps that judiciaries and women judges' associations could take to address the identified challenges, including the potential supporting role the IAWJ's *Jurisprudence of Equality* judicial training program could play in addressing those challenges.

II. Introduction

The HIV/AIDS pandemic is affecting increasing numbers of women and girls globally. In Sub-Saharan Africa, which has the world's highest national HIV infection rates,¹ women comprise nearly 60 percent of those infected with HIV.² Young women aged 15-24 are three times more vulnerable to becoming infected than young men of the same age.³ Worldwide, the proportion of women living with HIV/AIDS has risen steadily in recent years. In 1997, 41 percent of HIV-positive adults were women. Three years later, that figure had risen to 47 percent. In Sub-Saharan Africa alone, an estimated 12.2 million women carried the virus in 2001, compared to 10.1 million men.⁴ As the impact of the AIDS epidemic grows, girls tend to drop out of school to cope with the tasks of caring for siblings and ill parents, and women are often faced with the responsibility of looking after orphans whose parents have died of AIDS-related illnesses.⁵ Women are also more likely than men to lose their jobs, income, and potential for educational advancement because of illness and AIDS-related stigma and discrimination.⁶

These stark disparities are rooted in social, cultural, economic, and legal inequities that have entrenched women's subordination to and dependence on male partners. Discriminatory laws and practices with regard to land tenure, credit, inheritance, and the division of property upon divorce all contribute to women's economic disadvantage. Many women lack power to choose when and with whom to engage in sexual intercourse or to negotiate the use of condoms when they do have sex. Certain traditional practices, including polygamy, child marriage, wife inheritance, widow cleansing, dry sex, and female genital cutting facilitate the spread of the virus. Domestic abuse, rape, sexual assault, and other forms of violence increase women's vulnerability to HIV/AIDS. At the same time, HIV/AIDS may render women even more susceptible to gender-based violence and discrimination, since a woman who discloses her HIV-positive status may be subjected to blame, anger, and violence from her sexual partner.⁷

On a fundamental level, the HIV/AIDS pandemic is a crisis of gender inequality. In particular, it illustrates the failure of policy makers at different decision-making levels to eliminate widespread violence and discrimination against women and to implement commitments made by governments worldwide to promote, support, and advance women's rights. At the 49th Session of the United Nations Commission on the Status of Women in March 2005, United Nations High Commissioner for Human Rights Louise Arbour, a former justice of the Canadian Supreme Court, explained that "[t]he reality of widespread human rights violations against women shows that implementation of standards and commitments at the national level is weak. Nothing illustrates more starkly the

¹ According to UNAIDS estimates for December 2004, approximately 2.2 million adults aged 15-49 (7.7 percent of the regional population) are living with HIV/AIDS in Sub-Saharan Africa. In Tanzania, an estimated 8.8 percent of the adult population is HIV-positive, compared to 4.1 percent in Uganda. These percentages are significantly lower than those of some Southern African countries like Botswana (37.3 percent) and Swaziland (38.8 percent), but both countries remain burdened with a serious epidemic. UNAIDS, *Update: 2004 Report on the Global AIDS Epidemic* 191 (December 2004).

² UNAIDS/UNFPA/UNIFEM, *Women and HIV/AIDS: Confronting the Crisis 2* (2004).

³ *Id.*

⁴ *Gender and HIV/AIDS Fact Sheet*, United Nations Special Session on HIV/AIDS, Global Crisis, Global Action, June 25-27, 2001, at http://www.un.org/ga/aids/ungassfactsheets/html/gender_en.htm.

⁵ *Id.* at 8-9.

⁶ International Labor Organization, *Women, Girls, HIV/AIDS and the World of Work, ILOAIDS Brief* (December 2004).

⁷ World Health Organization (WHO), *World Report on Violence and Health* 89 (Geneva: World Health Organization, 2002).

continuing and disastrous effects of gender discrimination and other violations of women's human rights than the HIV/AIDS pandemic."⁸ Justice Irene C. Mambilima, Vice President of the Zambia Women Judges Association and a Justice of the Supreme Court of Zambia, has argued that public health campaigns alone are not sufficient to contain and reverse the AIDS pandemic. Rather, "until international norms against discrimination and violence against women are domesticated, [the AIDS pandemic] will continue."⁹

Courts are important institutions in the domestication of international human rights norms against gender violence and discrimination. If human rights commitments are to be implemented at a national level, judges and magistrates must play leading roles.¹⁰ Judicial officers preside over cases involving inheritance, property rights, custody, employment discrimination, sexual harassment, rape, domestic violence, and many other issues that implicate women's fundamental human rights. They are responsible for delivering equal justice to all individuals, regardless of their gender, race, or financial status. In countries where tribal or religious leaders have jurisdiction to resolve matters involving customary or religious law, such adjudicators likewise may play an important role in combating systemic violence and discrimination against women. Moreover, because gender inequality is closely linked to HIV/AIDS and its heightened impact on women, judicial officers are key players in the fight against HIV/AIDS. As Chief Justice Ernest L. Sakala of the Supreme Court of Zambia explained: "[The] time has now come when the fight to contain or control the spread of HIV/AIDS can no longer be left to medical practitioners, NGOs, or Government alone. It is time that the Honorable men and women of the Bench also joined the fight."¹¹

The World Bank commissioned this report because of the recognition that any discussion of the legal implications of gender dimensions of HIV/AIDS will not be comprehensive without involving judges and magistrates who must make the critical decisions that affect the rights of women. While judgments issued by the courts provide some evidence of a change in the perspective on gender-based discrimination, violence and women's property rights, there is need for more evidence of the impacts of judicial decisions on women's rights. How these decisions impact communities and, particularly, how they may affect the lives of women as they face the HIV/AIDS pandemic is unknown. The International Association of Women Judges (IAWJ) is a network of judges and magistrates whose networking and training activities (such as its Jurisprudence for Equality Program – JEP) have already made great strides in building the capacity of numerous judges and magistrates to protect women's equality and human rights in the context of HIV/AIDS.

⁸ Hon. Louise Arbour, United Nations High Commissioner for Human Rights, *Synergies Between National Level Implementation of the Beijing Declaration and Platform for Action and the Convention on the Elimination of All Forms of Discrimination Against Women*, Written Statement Submitted to the United Nations Commission on the Status of Women, 49th Session, New York, 28 February to 11 March 2005.

⁹ Hon. Justice Irene C. Mambilima, Supreme Court of Zambia, *Gender Dimensions of the HIV/AIDS Pandemic: A Paper Presented to the Magistrates at a Seminar on Jurisprudence of Gender Equality*, held in Ndola, Zambia, 15 December 2004.

¹⁰ The UNAIDS Global Coalition on Women and AIDS has suggested that in many instances around the world, "judges and magistrates lack the capacity and knowledge to interpret and implement national laws within the provisions of the international human rights instruments like CEDAW" while "in other instances (particularly in Sub-Saharan Africa), decisions may revert to customary law, which often rules in favor of men. Legal literacy and capacity building is therefore an imperative." Global Coalition on Women and AIDS, *Background: Securing Women's Property and Inheritance Rights*, pdf file, available at <http://womenandaids.org/resources/default.html>.

¹¹ Hon. Chief Justice Ernest Sakala, ZARAN AIDS Law Research & Advocacy Network (ZARAN), *Report on ZARAN's Judges Workshop on HIV/AIDS, Law and Human Rights*, held in Lusaka, Zambia, 21 June 2003, at 4.

III. Key Legal Issues

In the first distance learning dialogue session, the participating jurists in Uganda and Tanzania considered the key legal issues identified in the IAWJ background paper. The paper, which was circulated to the participants in advance of the distance learning dialogue, described some of the major thematic issues relating to women's rights and HIV/AIDS that were identified by judges, advocates, scholars, and others in the participating countries. The background paper's analysis drew extensively on the insights and expertise of the trainers and participants who have attended the JEP workshops and seminars over the past five years. The participants endorsed the background paper's analysis of these issues and indicated that the paper's findings reflected their own views about the explicit and implicit relationships between property and inheritance rights violations, gender violence and HIV/AIDS. The participants expanded upon the background paper and added new contributions in light of their own experiences on the bench. This section of the final report includes the text of the background paper, which has been revised based on the suggestions and insights offered by the dialogue participants.

A. Property and Inheritance Rights

In Africa and many other parts of the world, women are denied the right to own, inherit, manage, and dispose of property because of discriminatory laws and practices. In many places, women's property rights traditionally have been attained through marriage. When the marriage ended, through death or divorce, women's rights to the marital land, home, and other property would also end. In many countries, international human rights treaties, constitutional provisions, and civil and customary laws are *de jure* protections of women's rights to own, use, and inherit property. However, a lack of enforcement of those laws or other religious and customary laws or practices has resulted in continued discrimination against women in the ownership and inheritance of land and other property.

Violations of women's legal property rights lead to poverty, disease, insecurity, and homelessness. They also lead to violence against women and girls by forcing them to endure abusive relationships or engage in unsafe, transactional sex to secure money, housing, food, and education. The negative economic consequences of property rights violations are magnified for those women who are HIV-positive or whose husbands have died of AIDS. They also place HIV-negative women at greater risk of infection by reducing their ability to protect themselves from violence, unsafe sex, and HIV infection. Conversely, according to the Global Coalition on Women and AIDS, "[t]here is growing evidence to suggest that upholding female property and inheritance rights helps mitigate negative economic consequences of AIDS experienced by women and their households. Evidence also suggests that it can help prevent the spread of HIV by promoting women's economic security and empowerment, thereby reducing their vulnerability to domestic violence, unsafe sex, and other AIDS-related risk factors."¹²

Property Grabbing

Property grabbing from widows and orphans has become increasingly common in some parts of Africa in recent years. Some commentators attribute this practice in part to recent trends encouraging the payment of a high bride price upon marriage instead of the token that traditionally

¹² Global Coalition on Women and AIDS, *Background: Securing Women's Property and Inheritance Rights*, at http://www.unaids.org/html/pub/gcwa/gcwa_bg_property_en_pdf.htm.

cemented the union of two families through marriage.¹³ When the husband's family members have paid a high bride price, they may view the widowed spouse as their property rather than as an individual beneficiary entitled to own and inherit property in her own right. Relatives of the deceased engage in property grabbing when they seize the land and property of the deceased, including even basic household goods. Often, they chase away the widow and her children, leaving them landless and destitute. These relatives may rush to court to have themselves appointed as administrators of the estate to control its distribution to the exclusion of the widowed spouse. At the distance learning dialogue, one of the Ugandan participants noted that courts in his country traditionally only will give a widow a letter of administration jointly with a male relative of the deceased, and that even when courts are willing to give widows letters of administration in their own right, the widow may defer to the cultural norm. Widows who are dispossessed of their land often relocate to their maternal villages but lack access to control and ownership of property there as well.

Many widows do not have the means or knowledge to claim their property rights through the legal system. Others fear reprisals from their communities if they take legal action. Often preoccupied with the demands of caring for their children and sometimes sick themselves, widows may have difficulty even applying for a letter of administration following the death of their spouse, particularly when they must travel far distances to do so. The cost of legal representation is prohibitively high for many poor people, including most widows, and legal aid is scarce. The director of the Zimbabwe Widows and Orphans Trust (ZWOT) recently reported that a significant number of attorneys have instructed their widowed clients to sign a blank piece of paper, which the lawyers then fraudulently used to strip the widows of their property.¹⁴ Even where widows do utilize the courts, many relatives reportedly resort to dilatory tactics in the hope that that the widow will soon grow sick and die of AIDS-related illnesses. Relatives of the deceased will frequently support their claims to the property with accusations that the widow caused her husband's death by infecting him with HIV through extramarital relationships or witchcraft.¹⁵

Divorce

Women also face discrimination in the application of laws relating to divorce. Traditionally, when a couple divorces, the man will keep the home and the property. In many divorce cases, a man may argue that his wife is not entitled to any of the marital property because she does not work outside of the home. Even where laws require judicial inquiry into each spouse's contribution to the marital property in determining the proper division, courts may discount unremunerated contributions most often made by women, such as housework and child care. Moreover, according to Human Rights Watch (HRW), some judges and magistrates have reported a reluctance to exercise jurisdiction in matters involving women's property rights upon divorce, which may be seen as a private, family affair.¹⁶ As one magistrate explained to HRW, "[a] woman can't come to court if she wants her husband to leave [the marital home] rather than her We

¹³ See, e.g., Women and the Law in Southern Africa Research and Educational Trust (WLSA), *Justice for All* 20-21 (Lusaka, Zambia: WLSA, 2002).

¹⁴ Susan Zwinoira, Director of the Zimbabwe Widows and Orphans Trust (ZWOT), Presentation at NGO Parallel Event to the United Nations Commission on the Status of Women, New York, NY, Mar. 1, 2005.

¹⁵ Kaori Izumi, "Property and a Piece of Land Give Women Peace of Mind": *HIV and AIDS, Women's Property Rights and Livelihoods in Southern and East Africa* (Harare, Zimbabwe: Food and Agriculture Organization, December 16, 2004) [Draft].

¹⁶ Human Rights Watch, *Policy Paralysis: A Call for Action on HIV/AIDS-Related Human Rights Abuses Against Women and Girls in Africa* 49 (New York, Human Rights Watch, 2003).

don't interfere with the community setup.”¹⁷ Like widows stripped of their land by property-grabbing in-laws, female divorcees may be left destitute, and hence vulnerable to violence and HIV infection. In addition, where the payment of bride price was involved in a marriage, customary law usually requires that upon divorce, the wife's family return all or part of the money or cattle. The inability to repay bride price and the threat of losing all rights to their marital property may discourage women from leaving violent marriages and thereby place them at greater risk of contracting HIV.

Wife Inheritance and Widow Cleansing

Where women lack secure property and inheritance rights, they may be expected to comply with customary sexual practices in order to keep their land and other property following their husbands' deaths. In many communities, under customary law, widows are “inherited” by a relative of the deceased husband. The relative takes the widow as a wife, often as part of a polygamous family. Another customary practice is sexual “cleansing,” whereby a man of low social standing is paid to have sex with the widow in order to cleanse her of her deceased husband's evil spirits. Both practices usually involve unprotected and often forced sex with individuals who are most likely to have had multiple sexual partners. The risk of HIV infection as a consequence of these rituals is extremely high. Because of the threat of HIV/AIDS, many widows are now reluctant to be inherited or cleansed, and many men are reluctant to inherit wives from their dead relatives. Yet according to some legal advocates, the decline of these traditional practices has led to an increase in incidents of property grabbing, which likewise heightens the risks of HIV infection and exacerbates its effects by increasing women's vulnerability to HIV/AIDS.¹⁸

B. Violence Against Women

Violence against women is both a cause and a consequence of HIV/AIDS. According to the Global Coalition on Women and AIDS, gender violence “is supported by and serves to reinforce discrimination against and subordination of women.”¹⁹ Fear of violence “prevents women from accessing HIV/AIDS information, being tested, disclosing HIV status, accessing services for the prevention of HIV transmission to infants, and receiving treatment and counseling, even when they know that they have been infected.”²⁰ It denies women the ability to make decisions about their sexual and reproductive lives, to decide when and with whom to have sex, and to negotiate condom use. At the same time, a diagnosis of HIV/AIDS may lead to violence or make ongoing violence worse, and fear of violence prevents women from disclosing their status and accessing needed treatment and services.

Intimate Partner Violence

One of the most common forms of violence against women is that perpetrated by spouses or other intimate partners.²¹ It is estimated that globally, violence against women is as serious a cause of

¹⁷ *Id.*

¹⁸ See, e.g., Joyce Macmillan, *Presentation on HIV/AIDS and the Law: Challenges for Women* 4 (WLSA: Pretoria, 2002).

¹⁹ Global Coalition on Women and AIDS, *Backgrounder: Violence Against Women and AIDS*, at http://www.unaids.org/html/pub/gcwa/gcwa_bg_violence_en_pdf.htm.

²⁰ *Id.*

²¹ WHO, *World Report on Violence and Health*, at 89.

death and incapacity among women of childbearing age as cancer.²² And furthermore, violence is a more common cause of illness or injury among women than the combined female victims of traffic accidents and malaria.²³ Domestic or intimate partner violence includes physical violence such as slaps, punches, and assaults with a weapon; sexual violence such as rape, coercion, and unwanted touching; and psychological violence such as belittling the woman, preventing her from working or seeing family or friends, and withholding money or resources.²⁴

Women who are victims of domestic violence may be reluctant to report incidents of abuse or to seek redress from the courts. Reasons for that reluctance may include fear of retaliatory violence, economic dependence on the abusing partner, societal attitudes that treat intimate partner violence as a purely domestic issue, the intimidating nature of courtroom interrogations, the pain of reliving the trauma of abuse, and perceptions that courts hand out light sentences for domestic violence which are incommensurate with the offense.²⁵ According to Rhoda Kahatano, a Tanzanian parliamentarian, the fact that women do not report intimate partner violence or take their spouses to court is partly due to “fear that they will lose financial support of the spouse,” while “culture [also] plays a big role in that it provides for the woman to endure violence from the man, who is considered the head (of the family).”²⁶

In some places, marriage is a woman’s primary HIV risk factor. Young girls and women often have little power within their marriage to abstain from sexual intercourse or negotiate safe sex. Sex may be seen as a conjugal right, the denial of which constitutes a marital offense. The payment of bride price may also create an obligation on the woman to be sexually available for the man whenever he desires. In many places, the law does not specifically proscribe domestic violence or forced sex within marriage, and societal norms may also deter women from pursuing claims of marital rape. Because of their dependent position within the marriage, many women have no authority to insist that their husbands remain faithful or use condoms when engaging in sex. Wives may be accused of having extramarital affairs, subjected to physical violence, or divorced by their husbands if they raise the issue of condom use within the marriage.

Sexual Violence, Abuse, and Assault

In addition to intimate partner violence, women are subject to sexual violence inflicted by strangers and acquaintances, teachers and bosses, and family members. Studies in Southern Africa have reported that girls face sexual harassment and violence from both male students and teachers.²⁷ In several African countries, women have been stripped and sometimes raped by minibus drivers for wearing miniskirts, which purportedly violates societal norms.²⁸ Sexual abuse of young girls or children by family members is a serious problem in many societies around the world, although few cases may come to court because the victim is unwilling or unable to come

²² Caren Grown et al., *Taking Action: Achieving Gender Equality and Empowering Women* 95 (London: UN Millennium Project Task Force on Education and Gender Equality, 2005).

²³ *Id.*

²⁴ WHO, *Violence Against Women and HIV/AIDS: Critical Intersections, Intimate Partner Violence and HIV/AIDS* 1 (Geneva: World Health Organization, 2004).

²⁵ WLSA, *Justice for All*, at 11-12.

²⁶ Joyce Mulama, Rights: Violence Against Women Defies Law, Education Campaigns, *Inter Press Service (Johannesburg)*, Mar. 9, 2005.

²⁷ See, e.g., Human Rights Watch, *Policy Paralysis*, at 21; Human Rights Watch, *Sexual Violence in South African Schools* (New York: Human Rights Watch, 2001).

²⁸ See Robyn Dixon, With Women Powerless, Aids Reigns: In Swaziland, the Traditional Dominance of Men has Contributed to the World’s Highest Rate of HIV Infection, UNICEF Official says, *Los Angeles Times*, Jan. 23, 2005.

forward.²⁹ Young girls also may be abducted for the purpose of marriage and forced to engage in sexual intercourse with a man who seeks to make her his “wife.” Rising rates of rape and other forms of sexual violence may be tied to the spread of HIV/AIDS. Some men target young girls who are assumed to be HIV-negative for sex in order to avoid infection, while others who know that they are infected rape young girls or children based on the myth that having sex with a virgin will cure AIDS.

All women who are forced or coerced into having sex are at risk of contracting AIDS. Perpetrators of rape and sexual violence are more likely than other men to have had multiple sexual partners and to have been exposed to HIV/AIDS. Moreover, as noted above, some men knowingly rape young girls based on the mistaken belief that sex with a virgin will cure HIV and other STDs. This belief has had grave consequences for young girls who have been infected as a result of sexual assault. Forced sex is very rarely protected sex, and the risk of HIV transmission is increased by the trauma, vaginal lacerations, and abrasions that may occur as a result of forced sexual intercourse.³⁰ Where sexual violence is inflicted upon young women and girls, the risk of transmission is also higher because their sexual organs are immature and more likely to tear during intercourse.³¹ Sexual abuse during childhood has also been associated with subsequent low self-esteem, risk-taking behavior, and promiscuity, which increase a woman’s risk of becoming infected with HIV later in life.³²

C. Impact of Certain Traditional Practices on HIV/AIDS Risk

Some traditional cultural practices may render women vulnerable to violence and facilitate the spread of HIV/AIDS. Wife inheritance and widow cleansing have already been discussed in Part II (A). Other traditional practices such as polygamy, child marriages, dry sex, and female genital cutting also may heighten women’s risk of HIV infection. In polygamous households, if one spouse (husband or wife) is HIV-positive, the other wives will likely become infected as well. Child marriages limit a woman’s rights to give full and free consent to marry and to exercise control over her sexual and reproductive choices. Young women and girls are often married off to men who are significantly older than they are and who are more likely to have been exposed to HIV through previous sexual partners. Dry sex, whereby women and girls attempt to dry out their vaginas with herbs or other ingredients in order to enhance male pleasure, increases their risk of infection by causing tears or lacerations in the vaginal wall. Female genital cutting, involving the partial and complete cutting of female genitals, may cause injury and tearing, ulceration, and delayed healing, all of which increase the risk of HIV infection. A recent survey by the Tanzanian Media Women Association found that the sharing of knives or razor blades in conducting female circumcision also contributed to the spread of HIV.³³

²⁹ See WLSA, *Justice for All*, at 44.

³⁰ WHO, *Violence Against Women and HIV/AIDS*, at 2.

³¹ *Id.*

³² *Id.*

³³ Circumcision Fuels Spread of HIV/AIDS in Tanzania, *Xinuanet*, Feb. 1, 2005.

III. Role of the Judiciary in Advancing Women’s Access to Justice in the HIV/AIDS Context

In the second distance learning dialogue session, the participating judges and magistrates discussed ways in which they have sought to promote women’s access to justice in the HIV/AIDS context through case decisions, the resolution of procedural and substantive issues, and other judicial activities. They credited the IAWJ’s Jurisprudence of Equality Program with helping them to consider the social context underlying the legal issues before them, to recognize gender stereotypes in law and society, and to apply international human rights laws to resolve issues of gender violence and discrimination. According to Justice Engera Kileo of Tanzania: “*We see our role as demystifying, looking beyond the pleadings for information about what is involved. Maybe the issue is HIV/AIDS. JEP helped to create an atmosphere whereby we look at the circumstances – for example, an early death – and see that the disease may have been involved [in the case]. We must know where HIV/AIDS is involved and attune ourselves accordingly. At the end, we need to make sure that as many magistrates and judges as possible are sensitized and try to adapt to the situation.*”

Examples of case decisions that have addressed many of the key issues raised in Session 1 were discussed. Although most of these cases do not explicitly discuss HIV/AIDS, the disease is frequently an underlying subtext of the decision because the challenged discriminatory or violent practice or act likely increases the risk of HIV infection or exacerbates its effect for the woman involved in the case or reinforces systemic patterns of violence and inequality for multiple others. For example, judges and magistrates in Uganda and Tanzania have issued opinions on the following themes:

A. Inheritance and Property Rights Upon Death of a Spouse

- ◆ In *Ndossi v. Ndossi*, Civil Appeal No. 56 of 2001 (High Court of Tanzania at Moshi, 2002), a widow challenged the appointment of her brother-in-law as administrator of her deceased husband’s estate. Justice Eusebia Munuo, for the High Court of Tanzania, held that the widow was entitled to administer the estate on behalf of her children under the Constitution of Tanzania, which incorporates the anti-discrimination principles of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the best-interest-of-the-child principle of the Convention on the Rights of the Child (CRC). She explained that this anti-discrimination provision protects widows and children from “uncouth relatives prying and or attempting to alienate the estate of deceased fathers or mothers under the shield of custom.”
- ◆ The High Court of Uganda found in *Owagage v. Mudhma*, Civil Suit. No. 990 of 1998 (High Court of Uganda at Kampala, 2001), that when the decedent had left a valid will granting property rights to his wife, the property could not be deemed held in trust solely for the clan members. Justice S. B. Bossa explained that the argument that property was held in trust for the clan was contrary to the equality provision of the Ugandan Constitution. The court thus upheld the right of the wife to inherit property through the use of the decedent’s valid will.

B. Division of Marital Property Where the Parties are Seeking a Divorce

- ◆ In *Mohamed v. Makamo*, Civil Appeal No. 45 of 2001 (High Court of Tanzania at Dar Es Salaam, 2001), the High Court of Tanzania overturned a magistrate's decision awarding the appellant wife 5 percent and the respondent husband 95 percent of the marital property upon their divorce. Writing for the court, Justice Nathalia Kimaro found that the respondent had introduced no evidence of his own contribution to the property, and that the magistrate had relied on stereotyped gender roles and a presumption that women are inferior to men. Citing the principle of equality under the law found in the Tanzanian Constitution and international conventions, Justice Kimaro ruled that the wife should be awarded 50 percent of the total assets.
- ◆ In a subsequent case, *Yusufu v. Hamad*, Civil Appeal No. 42 of 2002 (High Court of Tanzania at Dar es Salaam, 2004), Justice Kimaro upheld the district court's equitable division of marital property between two divorcing spouses. In so holding, she rejected the husband appellant's claim that the wife was not entitled to equal marital assets because she did not contribute any income to that property. Justice Kimaro explained that Article 13(1) of the Constitution of Tanzania, which bars discrimination, dictates that courts accord full weight to housework and other non-monetary contributions when ordering the division of marital assets.

C. Laws and Customs that Sanction Violence Against Women

- ◆ In *Jonathan v. Republic*, Criminal Appeal No. 53 of 2001 (High Court of Tanzania at Moshi, 2001), Justice Eusebia Munuo rejected a convicted rapist's argument that his conduct had been permissible as a traditional marriage under customary norms. On the record before the court, appellant Jonathan, with three friends, had forcibly seized the 23-year-old complainant, taken her to his house, and forced her to have sex with him. Justice Munuo found ample testimonial and medical evidence that the sexual encounter was violent and non-consensual. She cited, *inter alia*, Tanzania's Law of Marriage Act, which provides that "[m]arriage means the voluntary union of a man and a woman," and the United Nations Declaration on the Elimination of Violence Against Women, which calls upon states to reject custom, tradition, or religion as excuses to avoid their obligation to protect and offer adequate relief to women victims of violence.
- ◆ In *Uganda v. Hamidu*, Criminal Session Case 0055 of 2002 (High Court of Uganda at Kampala, 2004), the defendant denied charges that he had hired two men to abduct a woman in his village and had subsequently raped her. He claimed that he had paid a dowry and thus married the woman and that under customary law she had implied consent to sexual intercourse and could not be raped. The woman argued that she had broken her engagement to Hamidu when she learned that his prior wife had died, possibly of AIDS, and had stipulated that they should each be tested for HIV before marrying. Judge V. F. Kibuuka convicted Hamidu of the rape charges, finding no evidence that the couple had been married or that the woman had consented to sexual intercourse. The court further held that even if the couple had been married, women were constitutionally entitled to equal rights in marriage and the right to human dignity; thus, the woman would not have been obligated to submit to sexual intercourse against her will.

D. Domestic Violence and the Burden of Proof in Rape Cases

- ◆ In *Juma v. Kifulefule*, Civil Appeal No. 247 of 2001 (High Court of Tanzania at Dar es Salaam, 2004), Justice Kimaro of the High Court of Tanzania upheld the trial court's determination that a man's physical abuse of his wife was the source of the dissolution and the proper basis for their divorce. She found that the respondent husband's characterization of the abuse as a normal marital fight had no merit as domestic violence violates women's right to equality and to life under the Tanzanian Constitution as well as the Universal Declaration of Human Rights' prescription against cruel, inhuman, and degrading treatment or punishment.
- ◆ The High Court of Uganda in *Uganda v. Matovu*, Criminal Session Case No. 146 of 2001 (High Court of Uganda at Kampala, 2002), convicted a defendant of having sexual intercourse with an under-aged girl. Judge E. S. Lugayizi rejected prior rulings that had required corroboration of a victim's testimony in proving a sex crime based on the assumption that women were prone to fabricating stories of sexual offenses. The judge explained that requiring a higher evidentiary standard for female victims of sex crimes than for male victims of ordinary assault discriminated against women in violation of the Ugandan Constitution and CEDAW.

E. Women's Access to Justice in the HIV/AIDS Context

- ◆ One dialogue participant, a registrar from Uganda, said that he has used mediation and other alternative dispute resolution techniques in divorce proceedings when the man argues that the woman has no right to the marital property because she does not work. The registrar asks the parties to describe the kinds of work that the woman does at home; he then assigns each task the monetary value it would receive if performed outside of the home. For example, if a woman cooks, she should receive the salary of a chef; if she tends the fields, she should be remunerated as a farmer. In several cases, this reasoning has persuaded the man to agree to an equitable division of property, without going to trial. Another participant noted that alternative dispute resolution procedures enable litigants to avoid a long and costly trial, thus increasing access to justice.
- ◆ Several judges and magistrates said that they could often tell from a party's physical appearance that he or she was likely suffering from AIDS. In one probate case, in Tanzania, the litigant confided to the judge that she was HIV-positive. In these cases, the jurists handled the case in an expedited fashion. In one, the litigant died two weeks after the case was resolved in his favor.
- ◆ A participant noted that in rape and defilement cases, courts are increasingly taking into account the risk of HIV/AIDS infection in passing sentence. Where there is proof that the offender had HIV/AIDS, some jurists have imposed heightened sentences.

V. Challenges and Ways Forward

In the third distance learning dialogue session, participants identified the challenges that judges and magistrates face in promoting women's access to justice in the HIV/AIDS context. They agreed that one of the biggest challenges is the reluctance of litigants to disclose their HIV status or acknowledge that the case involves an issue relating to HIV/AIDS. Participants explained that stigma, fear, and denial drives the AIDS pandemic and prevents people from disclosing their status or seeking relief from the court. Magistrates, who serve on the frontlines of addressing gender violence and discrimination in their courtrooms, report that litigants do talk about HIV/AIDS. However, because this issue is almost never a part of the pleadings or official court record, judges who sit on appellate level courts say that they do not see HIV/AIDS issues in the cases that come up on appeal. As a result, they are unable to address these issues or create precedents that would provide guidance in future cases involving gender and HIV/AIDS.

A. Key Challenges

In addition to the problem of non-disclosure, the participants identified the following challenges:

- ◆ Women are often unfamiliar with their rights under domestic or international law.
- ◆ Many women do not know how to access the courts and feel intimidated by the legal process. Litigants are often found wandering about in the corridors of the courthouse, unsure where to go to get the relief they need. Many do not understand the complex court procedures and technical language and therefore are unable to communicate their needs and obtain the relief they seek.
- ◆ Women face physical and financial obstacles to accessing the courts. For example, in probate cases, women must travel to the capital city to apply for a letter of administration. This may be prohibitively difficult for women in rural areas, particularly as they are usually responsible for caring for children, tending the crops, and tending to sick relatives. In addition, there is a common perception that justice is only for the rich, which further discourages women from seeking justice through the courts.
- ◆ Some women accept discriminatory norms that preclude women from inheriting or administering estates. Rather than going to court themselves, they send their sons, who may look out only for their own interests. In polygamous households, the son of one wife may direct the distribution of property to the exclusion of the other wives and their children.
- ◆ National laws do not always protect women's rights. For example, in Uganda, the Succession Act gives widows a right of occupancy of the matrimonial home but not the right of ownership. Marital rape and deliberate HIV infection are not defined as criminal offenses under national laws.
- ◆ Women tend to be timid witnesses and may be unwilling to talk about sensitive issues such as sexual violence in open court. Judges must probe energetically to get to the real issue.

- ◆ Some judges and magistrates continue to discriminate against women in the administration of justice.
- ◆ Non-judicial court personnel, police, probation officers, and others involved in the administration of justice are not sensitive to issues of gender and HIV/AIDS. Most have not been exposed to human rights training or gender sensitization programs.
- ◆ There is a lack of coordination among relevant stakeholders, including those involved in the administration of justice, and the health and medical sectors. Lack of adequate health facilities has caused problems for the courts. For example, if a hospital is not equipped to examine a rape victim, the court may not have sufficient evidence on which to convict.
- ◆ Judges and magistrates are often unaware of important case decisions that have been decided by courts in their in their own and other countries, which have protected women from violence and discrimination in the context of HIV/AIDS.

B. Recommendations for Addressing the Challenges

During the discussion on the actions and steps needed to address these challenges, the jurists offered the following recommendations:

- ◆ **Training of Justice Sector Personnel and the Role of the IAWJ's JEP**
 - Training programs such as the IAWJ's JEP should be continued and expanded in order to reach all judges and magistrates, particularly in the rural areas. JEP should be adapted and used to sensitize judicial officers to issues of gender, law, and HIV/AIDS. In particular, JEP should be used to help judges and magistrates address HIV/AIDS issues that are not explicit in the parties' pleadings and to find ways of encouraging parties to disclose the existence of such issues.
 - JEP should be extended to other groups, including non-judicial court personnel (judicial officers, clerks, bailiffs, gatekeepers, etc.) and others involved in the administration of justice (including police, probation officers, and social welfare personnel). All members of the justice sector should be trained to be sensitive to issues of gender and HIV/AIDS, and should work together to promote women's access to justice in the context of the pandemic.
 - As Chief Magistrate Beatrice Rodah-Mutungi of Tanzania recommended, "*JEP should continue and be supported with funding. It should be extended to other groups. We need to reach the grassroots, particularly judicial officers in the primary courts in rural areas. In this way, we will be bringing the law to the people. Other sectors also need to be trained and brought in. In addition to training, we need to disseminate cases decisions, which serve as precedents. There is a need for JEP interchange, information gathering, for sharing of perspectives from outside of Tanzania and Uganda.*"

- Likewise, Registrar Henrietta Wolayo of Uganda stressed the urgent need for *“gender sensitive training for all judicial officers and other public officers so as to equip them with knowledge and skills needed to resolve cases arising in their courts which involve discrimination and violence against women, in accordance with principles enshrined in international and regional human rights treaties.”*

◆ Dissemination of Case Decisions and Other Judicial Issues

- Steps should be taken to address the critical need for collection and dissemination of cases and procedures that have followed out of the IAWJ’s JEP, including cases decided by judicial officers in Uganda and Tanzania and those from other countries where JEP has been implemented. A recommendation was also made to publish and distribute a bound case reporter of JEP decisions.
- Judicial officers should have opportunities to share information and insights with colleagues from other JEP countries through distance learning dialogues and judicial exchange visits. Such exchanges would enable jurists to share strategies and experiences in implementing JEP and in promoting women’s access to justice in the HIV/AIDS context. Currently, this exchange would include a number of countries in Africa and Latin America.
- Ugandan Registrar David Batema stated that *“[t]here are many other countries that have had JEP training. We would like to see their decisions distributed to the lower courts in Africa, where the major litigants are in the rural areas. It is important for rural judges and litigants to see that similar issues are being decided by courts in Washington, D.C. and Lima, Peru, so that they will know that we are living at the international level and applying international human rights law as well as national domestic law. We should also have judicial exchange visits, in order to gain new understandings of the cases that come before us.”*

◆ Public Education

- Judges and magistrates should demystify the law for litigants. As highly respected members of the community, judges and magistrates have an important role to play in combating the stigma associated with HIV/AIDS through their public statements and engagement in public education programs such as such as teaching women about their rights and about how to use court procedures. For example, jurists might use drama, video, talk show programs, and books written in local languages to educate people about HIV/AIDS and the law.
- Through their roles on the bench, jurists could also teach people about international human rights law, which may provide greater protection in some instances than national laws
- In their written opinions, sentences, and other rulings from the bench, judges and magistrates should draw attention to national laws that fail to protect women from violence, discrimination, and HIV/AIDS.

◆ **Procedures and Pleadings**

- Judges and magistrates should read between the lines of pleadings and probe further to discern whether the case involves an issue of HIV/AIDS. If a judge or magistrate suspects that a party is HIV/positive, he or she should expedite the proceedings. One participant suggested that courts might institute a policy by which judicial officers encourage parties to disclose their status in return for an expedited judicial procedure.
- Courts should institute simple and transparent court procedures. For example, there is a need to translate court proceedings and documents into local languages. There is also a need to provide indigent litigants with the resources they need to access the courts.
- Judges and magistrates should use non-court proceedings such as scheduling conferences and alternative dispute resolution sessions, which are generally more private and less intimidating. They should encourage parties to disclose their HIV status or discuss HIV/AIDS issues in that context.

◆ **Cross-Sectoral Collaboration**

- Judges and magistrates should collaborate with other stakeholders. For example, the judiciary should work with the medical and health sectors on issues involving the relationship between health care and the law. Some participants recommended that women judges associations participate in legislative reform activities or network with NGOs to eliminate practices that perpetuate violence and discrimination against women.

Table 1: Summary of Identified Challenges and Recommendations

Challenges	Recommendations
<ul style="list-style-type: none"> ◆ Some judicial officers continue to discriminate against women in the administration of justice. 	<ul style="list-style-type: none"> ◆ Training programs should sensitize judges and judicial officers to gender equality issues. For example, JEP should be continued and expanded to reach all judges and magistrates, particularly primary court officials in rural areas.
<ul style="list-style-type: none"> ◆ Non-judicial court personnel and others involved in the administration of justice are not sensitive to issues of gender and HIV/AIDS. 	<ul style="list-style-type: none"> ◆ Training programs should sensitize such non-judicial personnel about the gender and legal dimensions of HIV/AIDS. For example, JEP should be expanded to all court personnel, police and probation offices, and others involved in the administration of justice. These officials should be trained in issues of gender and HIV/AIDS and work closely together to advance parties' access to the courts.
<ul style="list-style-type: none"> ◆ Judges and magistrates lack access to case decisions that have upheld women's human rights or addressed issues of gender and HIV/AIDS. They are unaware of other strategies used by colleagues in other countries to promote women's access to justice in the HIV/AIDS context. 	<ul style="list-style-type: none"> ◆ Judicial officers should have opportunities to share information and insights with colleagues from other countries through distance learning dialogues and judicial exchanges. For example, steps should be taken to address the critical need for collection and dissemination of cases and procedures that have followed out of the IAWJ's JEP.
<ul style="list-style-type: none"> ◆ Women do not know their rights under domestic or international law. They may be reluctant to speak out against discriminatory practices. 	<ul style="list-style-type: none"> ◆ Judges and magistrates should engage in public education, using plays, talk shows, radio programs, etc., to educate women about their rights, encourage use of the courts, and combat stigma associated with HIV/AIDS.
<ul style="list-style-type: none"> ◆ There is a lack of coordination among relevant stakeholders, including all those involved in the administration of justice, the health and medical sectors, etc. 	<ul style="list-style-type: none"> ◆ The judiciary should work to strengthen coordination and collaboration with other law and justice sector personnel, and other sector-relevant stakeholders in the fight against HIV/AIDS.
<ul style="list-style-type: none"> ◆ Litigants rarely disclose their HIV status or reveal that their cases involve an HIV/AIDS-related issue in their pleadings or in open court. 	<ul style="list-style-type: none"> ◆ Judges and magistrates should read between the lines of pleadings and probe further to discern whether the case involves an issue of HIV/AIDS. ◆ Judges and magistrates should encourage parties to disclose their HIV/AIDS status or discuss HIV/AIDS-related issues, particularly during less formal proceedings such as scheduling conferences and ADR proceedings. ◆ Judges and magistrates should expedite the proceedings where they suspect that HIV/AIDS may be involved. The promise of an expedited procedure might also help to encourage disclosure.
<ul style="list-style-type: none"> ◆ Women lack access to justice – for example, women do not know how to access the courts and feel intimidated by the legal process. They also face physical and financial obstacles to accessing the courts. 	<ul style="list-style-type: none"> ◆ Courts should institute simple, transparent, and litigant-friendly court procedures.

Annex 1: Participants at the Distance Learning Dialogue

Tanzania

S/N	Name	Gender	Title	Organization
1	Chinwe Joy C	F	P/Officer	ANPPCAN
2	Ibrahim Mipawa	M	D/CHAIRMAN	INDUSTRIAL CT
3	Pius Mbunda	F	A/REGISTRY OFFICER	INDUSTRIAL CT
4	Malla Mbalwa	F	CHAIRPERSON	
5	IreneMaira	F	ADVOCATE	MAIRA & CO ADVOCATES
6	Elestina Mabiki	F	AG. ADMIN. OFFICER	INDUSTRIAL CT
7	Cypriana William	F	A/CHAIRMAN	INDUSTRIAL CT
8	Issa Isihaka	M	COORDINATOR	AYDA-TZ
9	Justice Ernest L K Mwipopo	M	JUDGE	INDUSTRIAL CT
10	PeninnaTenga	F	COORDINATOR	Plan Tanzania
11	Beatrice Mujuno	F	V/CHAIRPERSON	TAX BOARD
12	Justice Nathalia Kimaro	F	JUDGE H.C	Commercial Division
13	Justice Engera Kileo	F	JUDGE H C	Land Division
14	Raymond A Baravuga	M	ADVOCATE	CHIPETA & ASS.
15	Justice MHCS Longway	F	JUDGE H C	Land Division
16	Sophia A N Wambura	F	PRINCIPAL REGISTRAR	Judiciary
17	Jemima A Masimba	F	Teacher	Kivukoni S. S.
18	Anna Felix Bwogi	F	Student	Kivukoni S. S.
19	Aisha Hashim	F	Student	Kivukoni S. S.
20	Vivian S Buhura	F	Student	Kivukoni S. S.

21	Jackson C E Moremi	M	Student	Kivukoni S. S.
22	Mary R Paul	F	Student	Kivukoni S. S.
23	Winfride M Tangatya	F	Student	Kivukoni S. S.
24	Rehema Massawe	F	CHAIRPERSON	TAWOLIHA
25	Hilda Msuha	F	Treasurer	TNWA
26	Joan Chamungu	F	Chairperson	TNWA
27	Lyidia Y Rwechungura	F	Coordinator	TNWA
28	Rita Alice Mwaipopo	F	Lecturer	University of DSM
29	Patrick E. Mkondya	M	Student	Kivukoni S. S.
30	George Joseph Bonabo	M	Student	Kivukoni S. S.
31	Chatta A. Michael	M	Coordinator	DCPC

Uganda

S/N	Name	Gender	Title	Organization
1.	Ms. Catherine Baine-Omugisha	F	Magistrate	Judiciary
2.	Ms. Henrietta Wolayo	F	Registrar	Judiciary
3.	Justice Stella Arach-Amoko	F	Judge	Judiciary
4.	Mr. David Batema	M	Chief Magistrate	Judiciary

Washington D.C.

S/N	Name	Gender	Title	Organization
1.	Elizabeth O. Adu	F	Deputy Gen. Counsel, Operations	World Bank
2.	A. Waafas Ofosu-Amaah	F	Snr. Gender Specialist, PRMGE	World Bank
3.	Arunima Dhar	F	Consultant, PRMGE/ARD	World Bank
4.	Minneh M. Kane	F	Lead Counsel, LEGJR	World Bank
5.	C. Mark Blackden	M	Lead Economist, AFTPM	World Bank
6.	Karen Alexandra Hudes	F	Senior Counsel, LEGAF	World Bank
7.	Joan D. Winship	F	Executive Director	IAWJ
8.	Anne T. Goldstein	F	Human Rights Education Director	IAWJ
9.	Liz Brundige	F	Bernstein Fellow	IAWJ
10.	Thuan Do,	F	Office Manager	IAWJ
11.	Catriona A. Lunsford	F	Intern	IAWJ
12.	Courtney Maggiulli	F	Intern	IAWJ
13.	Sarah Rice	F	Legal Intern	IAWJ

Annex 2: QUESTIONS & TOPICS TO BE ADDRESSED

The Gender and Legal Dimensions of HIV/AIDS: Women's Access to Justice and the Role of the Judiciary

**Monday, June 6, 2005, 4 p.m. to 7 p.m. (Tanzania and Uganda time)
MC-C2-115, GDLN Studio 1**

Session 1: Discussion of Key Legal Issues

Each question will be discussed in relation to the three legal topics noted below.

1. What legal issues (explicit or implicit) have come before you or your colleagues involving gender, law, and HIV/AIDS?
2. How were these issues resolved, and on what sources of law did you or your colleagues rely?

Legal Topic 1: HIV/AIDS and property and inheritance rights

Legal Topic 2: HIV/AIDS and violence against women (e.g., rape, defilement, sexual assault, intimate partner violence, forced sex, etc.)

Legal Topic 3: HIV/AIDS and traditional practices (e.g. widow inheritance, widow cleansing, FGM, child marriage, polygamy, etc.)

Session 2: Role of the Judiciary in Advancing Women's Access to Justice in the Context of HIV/AIDS

3. What impact do you see case decisions, the resolution of procedural and substantive issues, and other judicial activities having on women's access to justice in the HIV/AIDS context?
4. What impact has the IAWJ's JEP program had on your ability to protect women's access to justice in cases involving gender, law, and HIV/AIDS?

Session 3: Challenges and Ways Forward

5. What challenges do judges and magistrates face in promoting women's access to justice in the context of the HIV/AIDS pandemic (including judicial, capacity, and policy challenges)?
6. In what ways can the judiciary and women judges associations address the identified challenges? What kinds of support do judges and women judges associations need to be able to address these challenges?

7. How does the work of the justice sector intersect with that of the medical and health professions or other professional sectors vis-à-vis gender and HIV/AIDS? Is there collaboration between those professions and/or should there be in the context of HIV/AIDS?
8. What role would you like to see JEP playing in the future in helping judges and magistrates to address the challenges you have identified?
9. What other actions and next steps do you recommend to your colleagues, the World Bank, or and the IAWJ?

Annex 3: Background to the Work of the IAWJ and World Bank on HIV/AIDS

Since 2000, the International Association of Women Judges (IAWJ) and its chapters in Botswana, Kenya, South Africa, Tanzania, Uganda, Zambia, and Zimbabwe have provided training on the use of international human rights law in domestic cases involving violence and discrimination against women through its *Jurisprudence of Equality Program (JEP)*. In Tanzania and Uganda alone, more than 255 judges and magistrates have taken part in JEP trainings. The interrelationship of HIV/AIDS and the law has been an underlying issue in JEP Africa trainings since the beginning, and in recent years the issue has loomed increasingly larger in formal and informal group discussions. Judges and magistrates consistently raise HIV/AIDS-related problems that they see in their caseloads, even where HIV/AIDS is not explicitly mentioned in their published decisions. Case decisions that have followed in the aftermath of JEP trainings are having a significant and measurable impact on the rights of women. Judges and magistrates have issued numerous written judgments striking down discriminatory laws and practices related to inheritance, custody, marital property division, and sexual assault. The IAWJ is collecting these cases, summaries of which may be found on the IAWJ website at www.iawj.org. These decisions have expanded the rights of women to own, inherit, and use property, to share equally in the assets of marriage, and to prevent and seek redress for all forms of violence. Such decisions help to empower women to protect themselves from poverty, violence, and HIV/AIDS.

The World Bank, in partnership with other donors, is working to halt and roll back the spread of the global HIV/AIDS epidemic. The Bank is the largest long-term financier in prevention and mitigation of HIV/AIDS in developing countries. In September 2000, the Bank launched the Multi-Country HIV/AIDS Program (MAP) for Africa to support national HIV/AIDS programs through a multisectoral approach, emphasizing accelerated and flexible programming. The MAP is now in its second phase. Thus far, 28 African countries and three regional programs have received US\$1,088.4 million under the MAP. Additional MAP projects are being prepared in for regional programs in another ten countries. To scale up access to care and antiretroviral therapy, the Bank also has made available US\$59.8 million for a pilot project in Burkina Faso, Ghana, and Mozambique. The Treatment Acceleration Project builds on the April 2004 partnership agreement to make available to developing countries high-quality AIDS medicine at low prices, which was signed among the Bank, the Global Fund, UNICEF, and the Clinton Foundation. In addition, the Bank has been involved in advocacy and information dissemination among Bank staff, client partners, and civil society regarding the nexus between gender, HIV/AIDS, and law.

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