

# 'God-given' oppression upheld by tradition

**Custom, religion and fundamentalism have undermined women's equality around the globe. An international conference on this subject took place in the Western Cape recently.**

DURING the past decade, several conferences have been convened to discuss the rights of South African women in a democratic constitution. At nearly every forum, women across South Africa's diverse spectrum of ethnicity, religion and culture have identified custom and religion as key contributors to women's subordination.

They have raised difficult questions as to how custom and religion should be dealt with in a constitution that guarantees human rights for women and men. The rise of a traditionalist and ethnic lobby in the current negotiations process, coupled with a growing international fundamentalist movement which has threatened women's equality everywhere from North Africa to Europe, has accentuated the need to examine these questions.

For this reason the Community Law Centre (CLC) at the University of the Western Cape sponsored an international conference, "Custom and Religion in a Non-racial, Non-sexist South Africa" in May. Women from the international networks Women Living Under Muslim Laws, Women Against Fundamentalism and Women in Law and Development in Africa, exchanged views with local women's, religious and political organisations and traditional leaders from Contralesa on issues of fundamentalism, custom and religion in modern democracies.

International guests reported on a range of countries including Algeria, Bangladesh, Israel, Nigeria and Zimbabwe. They explained that provisions for religious personal laws and African customary law in various constitutions have served to effectively undermine women's equality, particularly in the private spheres of the workplace and the home. They added that the religious and cultural movements are difficult for women to combat, since they base their legit-

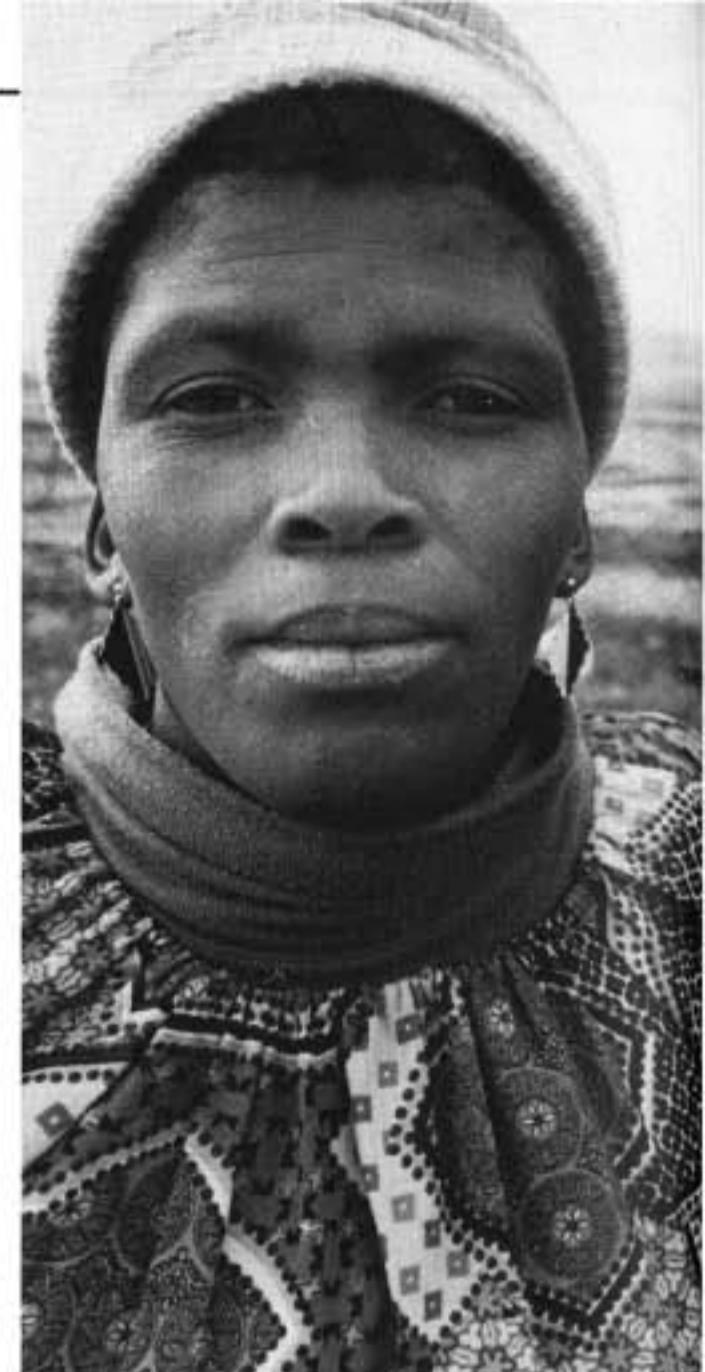
imacy on "god-given", "anti-colonial" or "anti-Western" values.

Israeli Nira Yuval-Davis defined fundamentalism as a "political movement with a religious imperative" which seeks control of modern state and media powers to promote its agenda. She explained that while fundamentalism is often associated with Islam, the first fundamentalists were Christians, and fundamentalism is maintained by Christians, Muslims and a host of other religions. Fundamentalism is often based on the maintenance of "traditional values" or used to mobilise a "return to original sources". She added that fundamentalists appeal to women as mothers and "transmitters of culture" in order to control the basic unit of the social order, the family, where their version of society can be reproduced and maintained.

by BRIGITTE MABANDLA  
& AMY BIEHL

Does fundamentalism exist in South Africa? Many women believe it does. One formal manifestation of fundamentalism in South Africa is the Concerned South Africans Group (Cosag), an alliance made up of the Afrikaner Volksunie, Conservative Party, Inkatha Freedom Party and the three homeland governments of Boputhatswana, Ciskei and KwaZulu. Despite their differences in race, class and constituency, Cosag members share a vision of a South Africa composed of autonomous "states" based on cultural, religious or ethnic identities. They also share a conservative Christian and cultural rhetoric to obscure their goals of protecting privatised apartheid and personal power in a crumbling apartheid system.

Cosag parties have successfully mobilised women by playing to the traditional ideas of "motherhood", "family values" and "protection of wives and children". For example, the white right wing has initiated self-defence



*Traditional notions of "motherhood" and "family" are those which exploit women the most.*

training to protect its women from attacks by African men. Buthelezi has mobilised thousands of women in the IFP Women's Brigade by appealing to them as "mothers of the nation" and "teachers of culture".

Such programmes pose a serious threat to women's substantive equality in a democratic South Africa. As Beauty Mkhize, chairperson of the Rural Women's Movement, explained, the same traditional notions of "motherhood" and "family" are those which exploit women the most. In her view, customary law and apartheid have combined to create a situation where women are abandoned more often than they are protected. "Because of the marital power over the woman under customary law, we have no access to the use of property, even though there is property," she said. "We are enslaved by our husbands and, at the end of the day, we are the ones who suffer."

Algerian Marieme Helie-Lucas emphasised that fundamentalism is not a religious movement. "It is an extreme right political movement," Yuval-Davis added, "(it) is a very modern movement because it is interested in control of the state and control of the modern media".

"We have to look at culture as a resource," said Yuval-Davis. "Political, financial and cultural resources are now being skilfully manipulated by fundamentalist groups."

In addition to Cosag, other parties in the multi-party negotiations have also utilised



ERIC MILLER

cultural and religious resources. Both the NP and the ANC recognise the power and influence enjoyed by traditional and religious leaders. Their respective constitutional proposals, though very different approaches, attempt to attract these leaders by proposing a strong role for cultural and religious groups and the protection of cultural and religious freedom. Due largely to the NP's desire to counter the ANC and its allies in multi-party negotiations, traditional leaders and homeland governments make up approximately half of the negotiating parties at Kempton Park.

While the homeland system has distorted and corrupted traditional society and blurred the distinction between "traditional leader" and "politician", traditional leaders argue that traditional institutions such as tribal authorities, enjoy the support of the people and deserve a prominent role in a new dispensation.

More progressive traditional leaders believe that tradition must be brought in line with the democratic principles of a bill of rights. At the CLC conference, Contralesa's David Malatsi said that 68 per cent of South Africans are illiterate. "When people are illiterate, then the closest thing to

them is their culture and tradition," he said. "Thus, we must come down to the level of the people and cross-consult. There should be equality of all people before the law."

Women have attempted to enter this dialogue. At the negotiations forum they have proposed that custom and religion in a constitution be subject to women's equality provisions. But traditional and cultural rhetoric has obscured women's voices in the important debate about the practical manifestations of custom and religion. Central to this debate are the issues of women's access to land and property; the extent of autonomy given to regions; and the debate over whether a bill of rights and constitution will apply simply to the public sphere (between the state and the individual), or whether these rights will extend to the private sphere of the workplace and the home.

For example, how will a woman's right to own land be protected in an autonomous KwaZulu which proposes to "recognise and protect the application of traditional rules" (in other words, communal land tenure which denies women access)? How will a KwaZulu woman benefit from the homeland government's constitutional proposal for "procreative freedom" (a pro-choice position) when traditional rules effectively prevent her from exercising her own choice? How will a woman married under customary law in rural Ciskei collect inheritance from a husband who re-married under civil law in Cape Town? Will a conservative Afrikaner "volkstaat" be able to opt out of national social programmes designed to

## *'Customary law and apartheid have combined to create a situation where women are abandoned more often than they are protected'*

bring health and education services to rural African communities?

Custom, religion and ethnicity must be considered in the debate over regional powers in a democratic South Africa. Custom and religion are part of the value systems of women as well as men, and strong regional powers could actually bring services closer to the majority of South African women living in rural areas. But Cosag's idea of

## *'Custom, religion and regional autonomy, as interpreted by fundamentalists, must be vigorously opposed'*

regional powers based on separate, ethnically autonomous states is remarkably similar to the fundamentalist interpretation of multi-culturalism, which ignores the gender, class and other divisions within ethnic groups, and inevitably subordinates women.

Custom, religion and regional autonomy, as interpreted by fundamentalists, must be vigorously opposed. International experience has shown that custom and religion have been used both to maintain the status quo and to mobilise against it, and that women as well as men have used fundamentalism for political gain. Yuval-Davis explained that while women have often found legitimacy in the space given to them in fundamentalist movements, the overall effect has been their subordination and oppression. Thus, there are no simple solutions.

Women can oppose fundamentalism in South Africa by calling for a constitution that protects women's rights in both the public and private spheres; by participating in the debate over regional powers so that regionalism benefits women equally; by calling on political parties to clearly state their positions on the relationship between custom and religion and women's equality; and by entering into a dialogue with progressive traditional leaders, such as Contralesa, to help "re-interpret" traditional values and discard those which oppress women. At the CLC conference, there was strong support for a re-interpretation of traditional values in a way which would "re-claim the dignity of women" in traditional systems.

Participants adopted a resolution calling for "women's rights with no exception". CLC pledged to co-ordinate a dialogue between women's organisations and Contralesa. The gender desk of the Western Cape branch of Nadel (National Association of Democratic Lawyers) has begun examining the legal implications of customary law. Women participants committed themselves to raise issues of custom and religion within their own organisations. These are steps in the right direction.

Brigitte Mabandla is a senior researcher at CLC. Amy Biehl is a Fulbright scholar at UWC.