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# **Chances, Risks and Perspectives of Gender-related NGO Activities within the Transformation Process of the South African Society. A Case Study on the Empowerment of Women Working on Wine Farms in the Western Cape Province**

Veronika Wittmann

## *Introduction*

The current post-Apartheid society is confronted with a number of conflict constellations, which are directly linked to the country's past. They are moreover relicts of the institutionalized various forms of racism and sexism, which have been established during the Apartheid era. The Apartheid system created various forms of racism and sexism at a constitutional level, which did not just disappear from one day to the other when the country became a democratic nation. A society that can be described as one where you had institutionalised inequalities that formed and structured the society, and that was missing a democratic political system for a long period of time does not change overnight. The same pattern also relates to the people, their thinking and their attitudes towards each other.

How far the “rainbow nation” has come up to now on its way becoming a gender-aware and gender-sensitive country, can be analyzed by looking at women’s organisations within the NGO<sup>1</sup> sector, by presenting their main activities, their infrastructure, their membership, the type of donor-funding they receive, the personal work experience of the activists as well as the overall political framework the organisations are facing.<sup>2</sup>

The radical change of the political scenery in South Africa within the last decade – from the Apartheid state to the democratic “rainbow nation”<sup>3</sup> – brought a lot of new perspectives for the NGO sector as part of the so-called civil society of the country. After 1994 a lot of NGO members and former anti-Apartheid activists did join the first democratically elected government under the leadership of the ANC<sup>4</sup>,

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1 Non-governmental organisation.

2 This article is mainly based on information that I got from three oral interviews, which were undertaken during my field studies in the Western Cape Province: WOMEN ON FARMS PROJECT, Rita Edwards, Director, Herte Street 37, Stellenbosch, 22. 09. 1999; CENTRE FOR RURAL LEGAL STUDIES; Karin Kleinbooi, Gender Researcher at Policy Research and Advocacy Unit, Helderbergstreet 9, Stellenbosch, 5. 10. 1999; ANNE JACOBS, Female Farm Worker at the “Nelson’s Creek Farm”, Paarl, 5. 10. 1999. The interviews, reflect in many ways the advancements and the hindrances, the positive and negative changes, that women’s organisations as part of the so-called civil society are experiencing within the complex and difficult transformation process that the South African society is undergoing. According to the methodology to conduct the interviews, see ATTESLANDER PETER: “Methoden der empirischen Sozialforschung”; Walter de Gruyter Verlag, Berlin/New York 1995, S.159ff.

3 See e.g. BAICULESCU MICHAEL/BECKER JOACHIM (Hrsg.): “Kap der kleinen Hoffnung. Das südliche Afrika nach der Apartheid”; Promedia Verlag, Wien 1993. BRANDT HANS/GRILL BARTHOLOMÄUS: “Der letzte Treck. Südafrikas Weg in die Demokratie”; Verlag J.H.W. Dietz Nachfolger, Bonn 1994. COMMISSION ON GENDER EQUALITY/PARLIAMENTARY WOMEN’S GROUP/GENDER EQUITY UNIT/GENDER ADVOCACY PROGRAMME/SCHOOL OF PUBLIC AND DEVELOPMENT MANAGEMENT/WOMEN’S NET: “Redefining Politics. South African Women and Democracy”, published by the Commission on Gender Equality, Johannesburg o.J. DAVENPORT T.R.H.: “The Transfer of Power in South Africa”; David Philip Publishers, Cape Town 1998. KAISER ANDREA/MÜLLER THOMAS O.H.: “Das neue Südafrika. Politische Porträts”; Verlag J.H.W. Dietz Nachfolger, Bonn 1992. SCHUMACHER ULRIKE (Hrsg.): “Das neue Südafrika. Das Ende einer Illusion?”; Kieler Schriften zur politischen Wissenschaft, Band 9, Peter Lang – Europäischer Verlag der Wissenschaften, Frankfurt am Main 1997. STECHER MANUELA: “Südafrika. Vom institutionalisierten Rassismus zur Demokratie. Der lange Weg in die Freiheit”; Diplomarbeit, Linz 1995. TUROK BEN: “Beyond the Miracle. Development and Economy in South Africa: A Reader”; Fair Share, Cape Town 1999.

4 African National Congress.

and therefore NGOs were not only facing a totally new political surrounding, but they were themselves confronted with a new membership, who had to define new goals in their working fields and in their way of challenging governmental policies.

One can even argue that within the first few years of the ANC government quite a number of NGO activists were reluctant to be too hard on government, because they felt the need to support it and to give the new politicians a chance. The majority of NGOs had problems in facing the challenges of the recent present, because the political scenery has changed within the last ten years. NGOs had problems of re-orientation, like on one hand confronting the government and on the other hand wanting to support the government, because it was for the first time a democratically elected one. The forthcoming democratisation process of the South African society changed this role, NGOs have once again recognised the importance to maintain independence from governmental policies.

*There is still a lot of hesitancy, I am not saying that we must be unpatriotic, I am not saying that, but at the same time I think and this is just common, that unless we have a strong and radical voice on the ground, government is going to just follow the dictates of the IMF and the World Bank as it is doing now. It is imposing SAPs on us and it thinks it is wonderful and we are not fighting back against that. And this is because of this tension you know, if you are not a loyal party member or a loyal political person then you get a lot of flak. (...). There is a great weakness in this country at the moment in that, there is a political vacuum. Civil society is very weak. If you look at, a few years ago at the height of the anti-Apartheid movement, there were lots of big fight mobilization, and now it is almost as if that fight was for nothing. We have only, like many of the women will say to me: "I cannot eat the vote. I have got the vote, but what does it mean? I cannot eat it, there is no work".<sup>5</sup>*

NGO activists have begun to tap into new mechanisms to keep the ANC government on its toes, to ensure that the economically weak majority of the South African population – which still happens to be so-called black women and men – gets access to all different kinds of economic, social, cultural and political resources.

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<sup>5</sup> SOUTH AFRICAN NGO COALITION; Mercia Andrews, President of SANGOCO, Durban Road 36, Mowbray, Cape Town, Wednesday, 15. 09. 1999.

NGOs, who do work with women as target groups<sup>6</sup> or who consider themselves as being aware of existing gender-inequalities and who describe themselves as being gender-sensitive ones, have played a prominent role in the process of questioning and challenging the current ANC governmental policies.

### *1 Theoretical Framework*

A country like South Africa, can still be described as a microcosm of existing power relations worldwide<sup>7</sup>, because it does have the co-existence of so-called First and Third World together within one nation. Analysing women's movements in the Western Cape Province can also help to realise the differences between women's movements in both worlds, where I – being a development sociologist – mainly focused on the so-called Third World in the Western Cape Province, specifically on the socio-economic conditions of women living in the different townships around Cape Town and on the wine farms in the Boland.<sup>8</sup>

The gender and development approach, which is an approach about development that focuses not on women per se but on gender relations, served as an overall theoretical framework. It views women as active agents and not passive recipients of development. The gender and development approach does not assume that women have perfect knowledge or understanding of their social situation. Women may be aware of their subordinate position but this does not necessarily mean that they also understand the structural causes of this discrimination and subordination.

*“Integral to the gender and development approach is the questioning of who (between women, men and different social groups) has access to what resources (both tangible and intangible) including power and privilege. This questioning is necessary in view of development being defined as a process which involves their social economic, political and cultural com-*

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<sup>6</sup> There are quite a number of them working in South Africa, see SOUTHERN AFRICAN DEVELOPMENT DIRECTORY (ed.): “Prodder. Programme for Development Research”, published by the South African NGO Coalition, Johannesburg 1999.

<sup>7</sup> E.g. the North-South conflict.

<sup>8</sup> The wine region is in Afrikaans called the “Boland”. There are three big wine regions in the Western Cape Province: Vredendal, Winelands and Robertson.

*plexities of a society in order to raise the quality of life of the members of that society.*"<sup>9</sup>

Central to the gender and development approach is the question of empowerment of women.<sup>10</sup> The focus is on the empowerment of women given the history of discrimination against women in various spheres of life. At the same time it recognises the inequalities that exist within the sexes and between communities.

*"Empowerment is about people taking control over their own lives; gaining the ability to do things, to set their own agendas, to change events in a way previously lacking. It also involves the radical alteration of the processes and structures which reproduce women's subordinate position as a gender. It includes women taking action to call the State to be accountable for the perpetuation of discriminatory practices and in particular the elimination of violence in their lives."*<sup>11</sup>

In my point of view people, who have to live in Third World socio-economic conditions, are also being violated every single day of their lives.

Although the South African transformation process so far has led to a lot of positive steps to gain gender equality, especially with regard to the change of the legislative as well as political power relations. On the other hand the economical power relations have not yet begun to shift, so there is still the co-existence of the First and Third World within the country. Nevertheless my main intention is to highlight gender empowerment activities in the so-called Third World of South Africa to present them as being part and parcel of the whole democratisation process that the South African society is undergoing.

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<sup>9</sup> Nomcebo Manzini: "Gender, Power and Development: Transforming lives"; keynote presentation held at the "Getnet Trainers Conference" organised by the GENDER EDUCATION AND TRAINING NETWORK, Franschoek, 13. - 15. 10. 1999, p. 3. Nomcebo Manzini, originally from Swaziland, is employed by the United Nations Population Fund Country Support Team for Southern Africa based in Harare.

<sup>10</sup> See ANDORFER VERONIKA: "Von der Integration zum Empowerment. Zur Frauenförderung in der Entwicklungspolitik"; Verlag für Interkulturelle Kommunikation, Frankfurt/M. 1995. NEUHOLD BRITA: "Women on their way to empowerment. Challenges for Austrian Development Cooperation. Basic Issues and Project Examples"; published by the Vienna Institute for Development and Cooperation, Wien 1994.

<sup>11</sup> A.a.O. p. 4.

## 2 *Changes within the agricultural sector of the Western Cape Province*

Looking at the agricultural sector in the Western Cape Province<sup>12</sup>, there has been only a slight change with regard to the working conditions of female farm workers on the big, commercial farms in the wine-region, although a lot of legislative acts protecting farm workers have been passed since 1994. Before that time there was no specific legislation protecting farmworkers and a lot of legal acts have been passed since then to protect farm worker's rights. Like in 1990/91 farm workers were excluded from the "Basic Conditions of Employment Act", the "Unemployment Insurance Act" as well as from the "Labour Relations Act", whereas in 1995 farm workers were included in these three acts.<sup>13</sup>

Generally speaking, if one takes a broad look at the working conditions of people in the agricultural sector in the Western Cape Province at the moment, there has been a slight positive change, but it is not as good as many NGO activists would have hoped for. Although there has been a total change with regard to the legal situation, the real working conditions for female farmworkers did not change that much.

*"Women are very unprotected, even though there is all this new legislation and the new legislation, the labour legislation, in some respects some farmers tried to implement it, but in relation to the men, you know, they are still discriminating quite heavily against the women. And of course there*

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<sup>12</sup> Compared to the other South African provinces the agricultural sector in the Western Cape Province does not have many subsistence farmers, but has more people working on big, commercial farms in the deciduous fruit and wine industry. There is quite a lot of literature being published on subsistence farming in the Southern African region, see e.g. BUNDESMINISTERIUM FÜR UNTERRICHT, KUNST UND SPORT (Hrsg.): "Landwirtinnen in der 'Dritten Welt'"; Vervielfältiger BMUKS, Wien 1991. CARR MARILYN: "Women and Food Security. The Experience of the SADCC Countries"; Intermediate Technology Publications, London 1991. DEBORAH FAHY BRYCESON: "Women Wielding the Hoe. Lessons from Rural Africa for Feminist Theory and Development Practice"; Berg Publishers, Oxford/Washington D.C. 1995. MOMSEN JANET H./KINNAIRD VIVIAN: "different places, different voices. gender and development in Africa, Asia and Latin America"; Routledge Publishers, London 1993. MONSON JAMIE/KALB MARION: "Women as food producers in developing countries"; Regents of the University of California, Los Angeles 1985. NATIONAL LAND COMMITTEE (ed.): "Voices from the Field. Development Work with Rural Women"; A National Land Committee Publication, Braamfontein 1998.

<sup>13</sup> See CENTRE FOR RURAL LEGAL STUDIES: "1991-1995. Five years in development"; Paarl Printing, Stellenbosch 1996, p. 5.

*are farmers, that are not implementing it at all, whether with men or the women.*"<sup>14</sup>

There are still a lot of gaps with the enforcement of the new legislation and one problem with the different governmental departments – like the “Department for Land Affairs” or the “Department of Labour” – is, that they do not have enough capacity to enforce the new legislation. At the moment there have been a couple of partnerships by NGOs with different governmental departments, but a lot of NGO activists are stating that it is still not good enough in terms of the enforcement and the implementation of legislation. A couple of NGOs are being involved in the monitoring of implementation, but in terms of the speed that is taking place, it is still not satisfying, so there are still huge gaps according to that.

### *2.1 The new legislation – impacts of the “The Basic Conditions of Employment Act” and the “Employment Equity Act”*

The new laws like e.g. “The Basic Conditions of Employment Act”<sup>15</sup> take women’s vulnerable position compared to men into account, at least at a theoretical level women are mentioned in that law as a vulnerable group, but the act covers women as it does cover a male worker, which implicates that there is no distinction between, who is going to benefit more.

The “Basic Conditions of Employment Act” is setting minimum standards in the work place, like e.g. maximum hours of work, overtime work, night work, meal breaks, daily rest period, annual, maternity and sick leave, prohibited employment (children and forced labour)<sup>16</sup>, but it is not really eradicating discrimination against women. At this point the “Employment Equity Act”<sup>17</sup> comes in, who identifies three areas of discrimination: gender, race and disability. This act forces the employers to comply with legislation in such a way, that they have to eliminate sexist discrimination in their employment practices.

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<sup>14</sup> WOMEN ON FARMS FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

<sup>15</sup> REPUBLIC OF SOUTH AFRICA/REPUBLIEK VAN SUID-AFRIKA: “The Basic Conditions of Employment Act”, 1997.

<sup>16</sup> See CENTRE FOR RURAL LEGAL STUDIES: A briefing paper on The Basic Conditions of Employment Act 75 of 1997, report by Taylor Nicky, Stellenbosch 1998, p. 2ff..

<sup>17</sup> REPUBLIC OF SOUTH AFRICA/REPUBLIEK VAN SUID-AFRIKA: “The Employment Equity Act”, 1998.

*“The Employment Equity Act encourages employers to deviate from the principle of equal treatment for all in order to promote opportunities for and to advance particular categories of employees who have been disadvantaged because of discriminatory practices. (...) The main objectives of the act are to eliminate unfair discrimination at the workplace; and to provide for the implementation of affirmative action measures designed to address the disadvantages in employment faced by particular categories of employees in order to ensure their equitable representation at all job levels in designated workplaces.”<sup>18</sup>*

In the South African context one can argue that the governmental sector has been trying more than the private sector to become gender-aware, because of the transformation process that the government is faced with, whereas private companies are not as much confronted with the transformation process as the government is. The private sector is still in a state of confusion, but with the new “Employment Equity Act” employers are forced to create new employment strategies, because they have to integrate groups now, that were previously excluded in their companies, e.g. black people, women and people with disabilities.

An underlying problem with “The Basic Conditions of Employment Act”, who does not distinguish between male and female workers, is that there is a male dominated culture existing on most of the wine farms that derives from the whole paradigm of paternalism, and that as such is discriminating against women. The majority of female farm workers are not permanent workers, and therefore they do not get benefits like unemployment insurance or housing as part of their employment agreement. In most cases women do not even have a written or verbal working contract with their employers, because the employment comes through their male partners or fathers or husbands.

*“Farmers refer to the seasonal nature of the women’s work when explaining why they do not have written agreements or have benefits, suggesting that the farmers themselves are unaware of the contents of the new legislation. (...) Many farmers state that women have independent contracts however acknowledge that in practice they employ couples and they would*

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<sup>18</sup> CENTRE FOR RURAL LEGAL STUDIES: “A briefing paper on the Employment Equity Act no 55 of 1998 and its implications for agriculture”; report by Taylor Nicky, Stellenbosch 1999, p. 1.

*be reluctant to allow a woman to stay on the farm after her husband is deceased or has left the farm.*"<sup>19</sup>

Although "The Basic Conditions of Employment Act" provides protection to farm workers, it still does not eliminate sexist discrimination against women at all. That is the reason why one can argue that the "Employment Equity Act" can be seen as a more powerful tool, because employers would not be allowed to discriminate against women in employment practices any longer, just because they are female.

Another arising issue is, if the "Employment Equity Act" does have an impact on the employment practices at all, how many female farm workers e.g. know that there is something like the "Employment Equity Act" to protect their rights as workers.<sup>20</sup> One of the existing problems is, that most women do not know about the different legislation that is actually protecting them, which means that it is difficult for them to see that somebody enforces the legislation. Even if farm workers pick up through their work or through the employment agreement that one of their rights are violated, the majority of them would not be able to stand up for it, because they do not really know that it is their right to do so.

The majority of female farm workers does not know, that they have the right to employment and that they have got a right to housing. In most cases it is quite difficult for female farm workers to stand up and tell the farm management: "Listen, this is my right and I am not having the benefit of that right at the moment".<sup>21</sup> There still needs to be a lot of training and information around the different rights of farm workers, because a lot of women just do not know it yet. And it is not just women, even with regard to employers and farm management, there is a huge gap in terms of what they know about "The Basic Conditions of Employment Act", the "Employment Equity Act" and also in terms of the "Extension of Tenure Security Act"<sup>22</sup>. The last act applies to all persons who have permission to live on land which is not zoned as township land.

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<sup>19</sup> CENTRE FOR RURAL LEGAL STUDIES: "1998. Annual report"; published by the Centre for Rural Legal Studies, Stellenbosch o.J., p. 10f..

<sup>20</sup> Certain sections of the "Employment Equity Act" have been passed in the South African parliament on "Women's Day"- "Women's Day" on the 9<sup>th</sup> of August is a national holiday in South Africa – so the parliament still needs to pass other sections of the act.

<sup>21</sup> ANNE JACOBS, Female Farm Worker at the "Nelson's Creek Farm", Paarl, 5. 10. 1999.

<sup>22</sup> REPUBLIC OF SOUTH AFRICA/REPUBLIEK VAN SUID-AFRIKA: "The Extension of Tenure Security Act No 62, 1997.

*“The 3 main aims of the Act are to regulate the relationship between land owner and occupier, to regulate how and when evictions can take place, and to make provision for farm worker households to obtain a subsidy for the acquisition of their own land or housing. (...) The Act will no doubt reduce the number of evictions of farm workers in the future, provided farm workers have access to information about their rights, and appropriate assistance with the enforcement of their rights.”<sup>23</sup>*

One problem with the new acts is, that there is a widespread fear among employers and farm management, that the acts are not to their benefit. Whereas the acts are protecting them also, and farmers do not know that they would actually be protecting themselves, if they would comply with the legislation.<sup>24</sup> Although one can say that there is a lack of information on both sides, the farmers are moreover still always on the winning side, because the employee does not know how to use the act to its own advantage.

## *2.2 Providing information to farm workers about their new rights*

South Africa is a country in which – within a short period of time – a lot of new laws were being implemented, but there is hardly any awareness campaigns run by the political parties on that changing of the legislation. The “Department of Labour” e.g. is not running workshops with farmers and farm workers, but it is mostly NGOs and CBOs<sup>25</sup> that are doing these workshops on behalf of them.

In terms of the “Extension of Tenure Security Act” the “Department of Land Affairs” has been running training courses and workshops to inform people about the new act. The “Centre for Rural Legal Studies”<sup>26</sup> in Stellenbosch<sup>27</sup> e.g. held about twenty workshops for the “Department of Land Affairs”. The training was contracted to the “Centre for Rural Legal Studies” by the “Department of Labour”, it did the training for farm workers, because they identified the need for them, to

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<sup>23</sup> CENTRE FOR RURAL LEGAL STUDIES: “A briefing Paper on The Extension of Security of Tenure Act 62 of 1997”; report by Taylor Nicky, Stellenbosch 1998, p. 2f.

<sup>24</sup> Like it is also possible now for farmers to do take their employees to court.

<sup>25</sup> Community Based Organisations.

<sup>26</sup> Name of a NGO that is mainly focussing on legal and social rights of farm workers in the wine region in the Western Cape Province by giving legal advice to them and running workshops for them etc...

<sup>27</sup> Name of the biggest town in the wine region of the Western Cape Province.

know more about the legislation.<sup>28</sup> In terms of “The Basic Conditions of Employment Act” there are NGOs, who are providing training around that different legislation, but a number of NGO activists say, that it is still not sufficient enough.

*“Communities often experience problems gaining access to information about land development opportunities and processes. Women in particular, due to their socially defined gender roles, are often unaware of the opportunities that exist for them. Information that should empower them to make informed choices, is not communicated to them, because they are not viewed as consumers of such information.”<sup>29</sup>*

At the moment there still needs to be a lot of training to be done for farm workers, like e.g. there has been no training on the “Employment Equity Act” for them, whereas the “Centre for Rural Legal Studies” in Stellenbosch e.g. has been involved in running workshops for farmworker management on the “Employment Equity Act”.<sup>30</sup> On the other hand it is important to inform the workers also about the act, because they need to know, when is it sexual harassment, they need to know, when there is direct or indirect discrimination happening against them, to be able to act upon that.

If farmworkers themselves are not sufficiently informed about their new rights, one has to look if the farmers themselves are better informed than the people who are working for them. There are some cases where the employers are better informed than the workers, but there is a problem occurring with regard to that, because it is actually the employers duty to inform the workers and that is not happening most of the time. There is also a fear for certain types of the legislation that farmers express. Most of them know at least something about the new acts, but they do not know everything about the acts, and that prevents them from communicating the information to their workers. Farmers think it is a threat to their work, if workers know about their rights, because they would then be able to tell them what

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<sup>28</sup> See Interview with CENTRE FOR RURAL LEGAL STUDIES; Karin Kleinbooi, Gender Researcher at Policy Research and Advocacy Unit, Helderbergstreet 9, Stellenbosch, Tuesday, 5. 10. 1999.

<sup>29</sup> GOVENDER-VAN WYK SHARMLA quoted in AGENDA - Empowering women for gender equity: “Land and Housing: Women Speak Out.”; Agenda No. 42, published by an editorial collective, Durban 1999, p. 66.

<sup>30</sup> See Interview with CENTRE FOR RURAL LEGAL STUDIES; Karin Kleinbooi, Gender Researcher at Policy Research and Advocacy Unit, Helderbergstreet 9, Stellenbosch, Tuesday, 5. 10. 1999.

is wrong and what is right, which is actually a fatal attitude, because the acts are there to protect them also.

The “Employment Equity Act” has not yet had a strong impact on the employment practices. Nevertheless a lot of NGO activists feel positive that the “Employment Equity Act” is actually going to change the differentiation between men and women with regard to their socio-economic conditions on farms, and also between so-called coloured and so-called black workers on farms. They believe that it is going to eradicate discrimination in terms of race and in terms of gender. NGO activists argue that is the one act, that would really be able to improve women’s position in the work place, because employers will have to employ more women in management positions. Farmers will not be able to discriminate against women in terms of the fact “because they are women, I cannot pay them equally, because the male is the breadwinner”<sup>31</sup>, farmers will not be able to do that any longer. It is important to know, that the act will actually really eliminate sexist discrimination in the work force, because it puts women in the same equal position as men. Speaking in terms of equity it is women workers and so-called black workers that will benefit from that act.

### *2.2.1 Female empowerment via the radio*

Farm workers usually get to know about their rights through the media, because some of them do have access to the radio and some of them do have access to a television set, so they do watch the news or read the newspaper.<sup>32</sup> In my opinion especially the radio can be seen as a very good medium to provide information to farm workers about their rights.<sup>33</sup> The “Department of Labour” and the “Department of Land Affairs” should use that medium much more to inform people about the new legislation.

Although a lot of female farm workers do lack electricity, they can listen to the radio to get to know about their rights, because on most farms – without generalizing at all – at least one person would have access to a radio, and people tend to get

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<sup>31</sup> ANNE JACOBS, Female Farm Worker at the “Nelson’s Creek Farm”, Paarl, 5. 10. 1999.

<sup>32</sup> There is one magazine concerning farm worker’s issues being published in the Boland by the SENTRUM VIR LANDELIKE REGSTUDIËS: “Katriena. ‘n fotoverhaal van moed en saamstaan vir regte op die plaas”; Uitgegee deur die Sentrum vir Landelike Regstudies, Stellenbosch o.J..

<sup>33</sup> See GENDER ADVOCACY PROGRAMME: “A Walk Beyond the Talk”; report of a workshop on “Gender and Sustainability in Community Radio” held by the Gender Advocacy Programme on 9. June 1999, Cape Town o.J..

the word around. It is not like farm workers do not know anything about “The Basic Conditions of Employment Act” or anything about the “Employment Equity Act”, somehow they would have heard about it, the problem is just that they would not have the details around what it actually constitutes. In my opinion the “Department of Land Affairs” should actually go out to the wine farms and train people, because this is the only way, that they can become aware, and farm workers would be able to start asking questions around problems, that they are experiencing on wine farms. Farm workers are not able to do that with the newspaper and they are not able to ask questions to a T.V. set, so it would be important that the “Department of Land Affairs” actually goes out and explains the new legislation to people, which is not really happening at the current moment. There are still too many farm workers, that need to be informed about the new legislation, that is actually protecting them.

### 3 *The sexual division of labour on wine farms*

One aspect of the ongoing process of re-producing genderstereotypes in the rural sector is, that there is a clear sexual division of labour on most of the wine farms in the Boland.<sup>34</sup> On almost all wine farms within the region there are certain types of work, that are regarded as women’s work, and that is the type of work that sort of needed nimble fingers, soft labour, which never included hard, physical labour. On the other hand there is also the type of work that is regarded as men’s work. In some of the cases it seemed difficult to understand that distinction, because there was an overlap with some of the tasks. Some of the task was only done by women and some of it was only done by men.<sup>35</sup>

*“Yes, there is a division of labour, like the women, they do no let women drive tractors or some of those things. So there is some division of labour. Women mainly do the harvesting, fruit picking. Now the season, that*

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<sup>34</sup> During my research work in the Western Cape Province I did not come across one wine farm, where there was not a sexual division of labour.

<sup>35</sup> Like on some of the farms e.g. women would be ploughing, whereas on other farms, the farmer would actually portray to me that: “It is not possible for women to do that kind of work, because it is too hard for them to do”, which was not a clear argument to me, because “why is it that on some of the farms women would be able to do that kind of task and on the others not?”.

*starts in October, is the grape season and the picking season, they do a lot of picking and stuff like that.*"<sup>36</sup>

If one considers the job descriptions of women it discriminates against women in terms of the remuneration package. The type of work that they are doing would be clear when one looks at the different remuneration packages and at the wage differentiation between men and women. Some of the work that women do, is seen as soft skilled work that is paid less, because many of the farmers do not see that work being of equal worth to work that men do, and therefore it does not constitute equal pay.<sup>37</sup>

Talking about the sexual division of labour on wine farms, one has to ask, if there is a difference in the quality of work that men do and that women do – as stated in the paragraph above – and what is the reason for that. It was clear that employers value the type of work that women do very high. It seems like the production circle would not be complete without women in the circle, but because their work is not hard, physical type of labour, the farmers still do not value it as high as they do value men's work.

Overall on most of the farms, the type of work that farm workers are doing relates to the category of worker they are; and women are, because of their category of employment as not permanent workers, the ones who are paid less.

*"Women, who work on farms are in a very vulnerable position, because they are employed as extensions of the men. The men are employed, the companions, the partners, the husbands, these are the people who are employed and then they are just additional labour, either on a permanent basis or seasonal labour."*<sup>38</sup>

Most women are seen as seasonal or casual workers, and even if they do the same type of work that men do, they are still not in the same wage scale as men would be, because men's employment agreement would include certain kinds of benefits. Men are also in most of the cases seen as the "breadwinners of the family", and

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<sup>36</sup> WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

<sup>37</sup> In terms of the job description and the job grading it is not always clear why there is the sexual division of labour, because on some of the farms there was no sexual division in terms of some of the tasks, on some of the farms there were, so it was very difficult for me to understand that distinction.

<sup>38</sup> WOMEN ON FARMS FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

simply because of that, men would be able to get a higher wage than women would.<sup>39</sup>

*“Even where both partners work full-time, employers regard the male partner as the head of the household and breadwinner. A rigid sexual division of labour exists in most farm workers households.”<sup>40</sup>*

If women do exactly the same type of work on farms as men do, they are still not getting equal wages for it. On some of the farms women workers do not get the same salary as men, whereas on some of the farms it was possible for women, if they do the same type of work that men do, they would get the same wage. One question arising from that is why farmers pay women less, if they do the same work as men, because it is not clear why farmers pay them less, if they actually do the same type of work. Farmers usually give answers like “It is because women work less hours”, whereas in my opinion it is just because farmers value women’s work less than they do value the work of a male worker.

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<sup>39</sup> Linked to that perception of female farm workers as “second-class workers” is also the high rate of physical and psychological violence against them. There has been a new act being passed by the South African government concerning domestic violence, see REPUBLIC OF SOUTH AFRICA/REPUBLIEK VAN SUID-AFRIKA: “Domestic Violence Act 1998”; No. 19537, Government Gazette, Staatskoerant, 2. December 1998. On commercial wine farms one comes across sexual harassment and across domestic violence and the way the police handle those cases is quite often just horrible. In most cases it can just be described as being very degrading for women. See BERTELS MONIKA: “Gewalt an Frauen – Soziale Arbeit mit Betroffenen in Südafrika”; Diplomarbeit, Fachhochschule Münster, Münster 1997. BATTERED WOMEN’S WORKING GROUP: “Wathint’ Abafazi. Stories of four women who were beaten by their husbands”; Rustica Press Ltd, Cape Town 1992. Another problem arising on wine farms is the abuse of alcohol. “In the past farmers used to give people a lot of drinks, alcohol. There is an organisation here, they call themselves “Dop Stop”, now this used to be the dop, a mug and it is called the “dop-system” and it had to do with (...). Some farmers used to dop in the mornings especially in winter, when the workers arrive, when it is so cold and the farmers have to work and the land is damp etc. then they get their dop, which would be a big mug full of wine. And then they do their work and then at lunchtime they get another mug and at night they may get a bottle of wine to take home. So of course, there was a big problem with alcoholism on the farms, the winelands is also linked to the alcohol abuse.” WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

<sup>40</sup> CENTRE FOR RURAL LEGAL STUDIES: “Promoting equitable and sustainable development for women farmworkers in the Western Cape”; report on a research project undertaken by Sunde Jackie and Kleinbooi Karin, published by the Centre for Rural Legal Studies, Stellenbosch 1999, p. 66.

### *3.1 The differences between men and women in their category of employment*

The majority of the employers continue to perceive women as seasonal or casual workers, irrespective of the fact that a large number of them work throughout the year on the wine farms. In my opinion there is great confusion around the different categories and the status of women's employment on wine farms. Within the "The Basic Conditions of Employment Act" there is no definition for what constitutes a seasonal worker, what constitutes a permanent worker and what constitutes a casual worker, whereas the previous act actually stipulated who is a casual worker etc..<sup>41</sup>

*"There are a number of important differences between the old and the new Basic Conditions of Employment Acts. The new act (...) provides for favourable working conditions for employees in general, and it allows more flexibility around working hours in particular. One of the most important differences between the new and the old Acts relates to their respective means of enforcement. The old Act has failed dismally from an enforcement perspective, owing to the heavy onus placed on the state of proving non compliance with the law. (...) The other important difference between the old and the new Act is the fact that it will be possible to set minimum wages and other minimum standards for farm workers in the future."*<sup>42</sup>

The current "Basic Conditions of Employment Act" is supposed to protect all workers, irrespective if they are permanent, seasonal or casual workers, but there is a lot of confusion about the new law, not just on the farmers side, but also on the workers side.

*"Many women workers work throughout the year but perceive themselves to be only seasonal or casual workers as they are regarded as such by their employers."*<sup>43</sup>

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<sup>41</sup> See CENTRE FOR RURAL LEGAL STUDIES: "Promoting equitable and sustainable development for women farmworkers in the Western Cape"; report on a research project undertaken by Sunde Jackie and Kleinbooi Karin, published by the Centre for Rural Legal Studies, Stellenbosch 1999, p. 10.

<sup>42</sup> CENTRE FOR RURAL LEGAL STUDIES: "A briefing paper on The Basic Conditions of Employment Act 75 of 1997"; report by Taylor Nicky, Stellenbosch 1998, p. 5f..

<sup>43</sup> CENTRE FOR RURAL LEGAL STUDIES: "Promoting equitable and sustainable development for women farmworkers in the Western Cape"; report on a research project undertaken by Sunde Jackie and Kleinbooi Karin, published by the Centre for Rural Legal Studies, Stellenbosch 1999, p. 10.

Some of the workers believe, if they stay on that farm permanently, even though they only work for certain sections of the year, that they are permanent workers, because they stay on the farm permanently. One gets situations, where the worker is actually working right throughout the year<sup>44</sup>, and if one looks at the legal definition, that person would be a permanent worker and he or she would be entitled to certain benefits, but the farmer only sees the person, who is working every day of the week<sup>45</sup> and who is also staying on the farm, as a permanent worker. If one thinks about the composition of the labour force, it would then only be the male workers and not the women workers.

*“We came across farms where the work force, in terms of the category of workers, there was a balance, because you get 50% permanent men and 50% permanent women. But in most of the cases that we came across, women did not have the benefit of permanent employment. Because it was never clear, what is a permanent worker and what is a seasonal worker, what is a casual worker.”<sup>46</sup>*

The current policy framework is not designed to abolish seasonal work on wine farms, so it will not totally abolish the different categories of workers. What is probably going to happen in the future is that the farmer actually would be responsible to train and to promote people, which in the long run will eliminate casual and seasonal labour on wine farms. The farmers will not be able to employ only women as seasonal or casual workers, but they would also have to employ men as casual and as seasonal labour. In the long run the act would see to that problem. At the moment it does not actually stipulate, that one needs to get rid of seasonal employment and that farmers should employ people as permanent workers only.

Looking at labour in agriculture, it is of a very seasonal nature, because there are the different production circles. The employer will never be in the position to employ a hundred people as permanent workers, who would work on the wine farm all year round. It would not be possible for him, but at least those people, who he employs, would have certain benefits, because of that employment. When people are trained about skill development and if there are promotion opportunities for people working on farms, one would not get the majority of the labour force just being

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<sup>44</sup> One gets cases where farm workers are not working for five days of the week, but they do it e.g. for four days of the week.

<sup>45</sup> Like e.g. five days of the week.

<sup>46</sup> CENTRE FOR RURAL LEGAL STUDIES; Karin Kleinbooi, Gender Researcher at Policy Research and Advocacy Unit, Helderbergstreet 9, Stellenbosch, Tuesday, 5. 10. 1999.

seasonal or casual workers. Farmers would have to promote people, they would have to train that people for better working positions. That can be interpreted as the whole drive force behind the “Employment Equity Act”, people’s employment conditions will improve, so in the long run, it is actually going to be a better position of seasonal as well as casual workers on wine farms.

Considering the consequences for female farm workers, if they are mainly regarded as seasonal or casual workers, one needs to discuss about what type of rights they do have then, like “The Basic Condition of Employment Act” applies to all categories of workers on wine farms. This is the one act that applies to every single type of worker, whether they are seasonal or permanent, and even if they are casual workers on the farm, it applies to all of them. The previous “Basic Conditions Act”, before the amendments were made, did not apply to seasonal or casual labours, e.g. having the right to have sick leave and annual leave. Whereas the new act does, because there is no distinction within the act between seasonal, casual and permanent workers, moreover all categories of workers are actually protected by this act. There is some provision for seasonal and for permanent worker’s status, but that is the only distinction between the different type of labour in the act.

The problem in fact is, that there is no distinction between casual, seasonal workers within the act, and a lot of farmers simply do not understand that. So even though farm workers are protected by “The Basic Conditions of Employment Act”, there is in many cases no compliance, when it comes to seasonal workers and casual labours. A lot of farm workers do not know that they are entitled to have one day off for every seven days or that they are entitled to one day sick leave for every twentyfour days of work. The fact that they do not know about their rights is the problem that sort of underlines everything. If one looks at acts concerning the labour conditions and also “The Extension of Tenure Security Act”, there is all this nice legislation on paper, but the enforcement is lacking and that is actually, where the problem lies.

### *3.2 Social rights of female farm workers*

If one is talking about social rights of female farm workers, one has to raise the question, if the majority of them do get sick and maternity leave, work pensions etc. The majority of women still do not get paid maternity leave and they do not get provident fund and pension, because they are still seen as being the dependants of the male workers, so they are not entitled to a provident or pension fund. In

terms of the maternity leave, because most of the women work as casual labour on the farm, they do not have the benefit of the “Unemployment Insurance Fund”.

*“The majority of women do not contribute to the Unemployment Insurance Fund (UIF), nor are they aware that, as seasonal workers, they are entitled to do so. Only a very small minority has access to a pension or provident fund, in contrast to male employees.”<sup>47</sup>*

Most female farm workers are not contributing to the “Unemployment Insurance Fund”, which makes their social situation very difficult. This is also one of the issues, that NGO activists have raised to the “Department of Labour”. If women go on maternity leave, the “Unemployment Insurance Fund” is actually the only means of income they have, because they are not working for that four months, which means that there is no other income apart from the “Unemployment Insurance Fund”. And there are so many female farm workers, who still do not even know, that they are entitled to get money from the “Unemployment Insurance Fund”, when they go on maternity leave. The same applies to the provident fund, because women are not seen as workers in their own right – somehow it always comes back to the same thing – they do not get a provident fund, because they are just considered to be dependants of the male workers.<sup>48</sup>

*“It was found that, many of the women did not have contracts, employment contracts, so they were not paid for sick leave or annual leave or maternity leave, they did not get any of those benefits. And they also got low wages in relation to the men, not that the men’s wages was good, but in relation to the men. And that whenever there was no work, they do not get paid and all those kind of things.”<sup>49</sup>*

Another question arising with regard to social security of female farm workers is how many of the women do have “Unemployment Insurance Fund” cards at all. The strange thing with the so-called “blue card” is that, it is actually the employers

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<sup>47</sup> CENTRE FOR RURAL LEGAL STUDIES: “1998. Annual report”; published by the Centre for Rural Legal Studies, Stellenbosch o.J., p.11f.

<sup>48</sup> That in itself is a big problem, because there are a lot of situations on farms where a couple is not married, and when the men leaves the farm, if he decides “I am going to leave my family, I will go and find employment elsewhere and I will stay somewhere else”, it is very hard for the woman to get access to those benefits. Even if he dies, it is difficult for a female farm worker to get access to those benefits, because in many cases, the majority of them are not even included as one of the dependants of the male partner.

<sup>49</sup> WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

responsibility to apply for the card from the “Department of Labour” and that means that some of the finances would have to come from the employer. Unemployment Insurance Fund is 2% of the total income or the total wage – 1% usually comes from the worker and 1% comes from the employer – which means that actually they would have to give extra money. And that is the point where the whole problem with wage comes in as well, because workers get the lowest wages on farms, and farmers are not prepared to pay more for the work that has to be done on the farm. The majority of the farmers do not apply for the “blue card” for their workers and that constitutes the problem. By the time the women go on maternity leave, there is no “blue card” and they cannot access unemployment without having a “blue card”, they have to have their “blue card”, before they have the benefit of unemployment. It is somehow grotesque, that on one hand a woman is entitled to get it, but on the other hand she totally depends on the farmer to get it.

The other problem has got to do with access to get the “blue card” and that is where the “Department of Labour” should be more accessible, so that more women would be able to apply for the “blue card” by themselves. At the moment the majority of female farm workers do not have the means to do that. It is difficult for women to come all the way from the wine farms in the Boland region to Cape Town to apply for a “blue card”. It would mean that they have to take a day off, and if they take a day off from work, they do not get paid, like that is the norm on most of the farms: “No work, no pay”. Farm workers do not want to do that, because the work is their only means of income and if one considers the average wage of people on farms<sup>50</sup> and one thinks about theories of sustainable development and considers the type of income farm workers get on wine farms, it can simply be described as being ridiculous.

#### 4 *Hindrances to the empowerment of women working on wine farms*

A major hindrance to the empowerment of women farm workers is definitely the lack of transport. The average distance to town on many of the farms in the wine region is fifteen, twenty kilometers. A female farm worker has to walk to town, if

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<sup>50</sup> The average wage a week for women on farms is 121 Rand – and if one looks at the size of the household – which is about five people and more – and there are women, that would be the only employee in that household, so that amount of money would be the only income in that household, one just thinks “How on earth can one person take care of a family of five with 121 Rand per week?”.

she has a problem and she wants somebody to look at that or if she needs to get to the doctor or if she knows, that the farmer is just violating some of her rights and she needs to go to a legal advice office. In that respect one can argue that transport is one of the obstacles that prevents female farm workers from development and empowerment.

*“People on farms are also sometimes very isolated. They are isolated, because the only time they come to town, I mean it is difficult to get to town, because of transport problems and things like that, so the farmer (...). I have been here on a Saturday and I have seen what happens. The farmer will send a driver with one of his trucks and load the people on the trucks, really load them on trucks and these are the same trucks, that they use to transport the animals or the grapes and things like that. And the people would sit on it and then they come and do the shopping.”<sup>51</sup>*

A number of wine farms in the Boland region do have so-called “farm shops” on the farms itself, because of the farm distance from town it is quite hard for workers, when they need anything in terms of food etc., to go to town to buy things there. Therefore the farmer and his wife usually run a little farmshop and the workers can buy things like meat, fish, bread directly from that shop. In my opinion this creates a big problem, because workers would buy things on credit from the shop and by the end of the week the farmer would make the deductions from their wage.<sup>52</sup>

At the moment there is no regulation in terms of the farmshops, because workers on wine farms do not really have any other choice, because the farmer is not transporting them to town every single day. The only time farm workers do get to town is over weekends, especially if the farm is quite distant from town, which is understandable. If the people stop working at six or five in the afternoon, it is really hard for them to go to town before the shops close, but one can argue that it is just not right to give somebody no wage by the end of the week, or by the end of the month, if that was part of the working agreement.

Another hindrance to female farm worker’s empowerment is the lack of access to other resources, like having no access to get credits from banks. The majority of

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<sup>51</sup> WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

<sup>52</sup> I have spoken to female farm workers, who told me that there were weeks, where they did not have any income at all, because they are always in debt to the farmer. If one imagines being without any wage for a couple of weeks and one has just worked so hard, and then by the end of the week, there is no income at all, it is a crucial situation.

banks would neither give a female farm worker a loan nor would give her access to some credit, because they do not have housing to put up as a collateral, they do not have cars etc., so it is very difficult for them to get credits. If there is a problem on the farm, and a female farm workers needs to go somewhere in town to get some help from a CBO, an advice office or a NGO there are many things that she needs to take into account. Farm workers need to take into account, that if they are not at work this day, they are not going to get paid. If they are not going to get paid for that day's work, they are only going to get paid 70 or 80 Rand by the end of the week. Some of the money would be deducted for the stuff, that they have taken credit from the farmshop, and finally there might be no money left at all.

Another obstacle to the empowerment of female farm workers is their lack of housing, which can be seen as a means of controlling their agricultural labour.

*“Housing is a huge problem. People still live in shelters and you begin to realize what a big problem it is and how you begin to take for granted having a fairly descent kind of shelter, whereas for some women it has been a life-long struggle. We have got members, that have had a life-long struggle to have a house of their own, so it is a big problem. The government does give housing subsidies. So what has happened is, in the old days, because of Apartheid and the conception here in the Western Cape, the preference was to use coloured labour. So there was very strict control of people coming from the rural areas. The “Pass Laws” were overseen strictly. I used to go sometimes to go and sit in the courts, worse experiences, I remember of how they send the people back, how they send the people back, because they were controlling it very much. So they never really built houses for African people.”<sup>53</sup>*

Another problem is, that female farm workers are so bound to the key role of being the ones who have to take care of the children and the household. Even the fact that women do knock off earlier than men, is because the farmer sees them as being the “caretakers of the households”, they need to clean the house, they need to make the food etc. for the husbands before they come back. There is a double-burden, which makes it very hard for women just to stand up for their rights.

*“The whole of society does not value women farm worker’s contribution to the economy as a whole. They themselves, they have no sense of their own*

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<sup>53</sup> WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

*value yet. They and their labour contribution have been devalued over such a long period of time, that we have quite a lot to do to keep now emphasising, you know, what role they have played and how they have contributed to this economy and stuff like that.*"<sup>54</sup>

Even if female farm workers want to leave a farm, there are a lot of things that they have to take into account. If a male worker has got a problem on a farm, it is much easier for him to just walk away, to resign his work on the spot and walk away, but it is very hard for a woman, because she is supposed to be the one who "takes care of family responsibilities".

#### *4.1 Female farm workers lack of access to the legal system*

According to the legal system many attorneys do not want to take female farm workers as clients, because they can make much more money with clients like farm owners. The legal history for farm workers is, that they do not have the money to pay for any legal proceedings. Nowadays there are a number of organisations, who do provide legal advice and legal support to farm workers, but it is often not accessible for them, because it is sort of centred in urban areas, like in Stellenbosch or in Cape Town, and the centres there are not really accessible for farm workers.<sup>55</sup>

*"(...) in many respects the legal and human rights problems experienced by rural people are similar to those in urban areas. The major differences are that there is less access to the legal system in rural areas and the lack of legal protection for those who live and work on the farms."*<sup>56</sup>

There have not been a lot of test cases yet as well, so people are still involved in test cases, where the outcome would lead to a positive precedent in terms of other cases for farm worker issues. A lot of lawyers are afraid to take up cases like that, just because there is a lot of money involved.<sup>57</sup> If a farm worker loses the case, he or

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<sup>54</sup> WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

<sup>55</sup> If a female farm worker is staying in e.g. Vredendal – Name of a place, 450 km apart from Stellenbosch – and she has got a problem, because one of her rights has been violated, it is difficult for her to come all the way to Stellenbosch or Cape Town to see a lawyer.

<sup>56</sup> Founding Document of the Centre for Rural Legal Studies zitiert nach CENTRE FOR RURAL LEGAL STUDIES: "1991-1995. Five years in development"; Paarl Printing, Stellenbosch 1996, p. 4.

<sup>57</sup> If one is taking up a case to the labour court in the Western Cape Province, one is talking about at least 6.000 Rand that people have to spend.

she has to pay the legal stuff of the other people. That is one reason why a lot of farm workers are very scared to take up court cases, simply because they know, that there is a lot of money involved. It is different from somebody who takes the employer to court, because he or she knows that his or her right has been violated, and who can be sure by the end of the day to walk off with a great sum of money. If a farm worker does that, and he or she takes the employer to court, it is usually not the case.

The worst thing to happen is, that that person would be re-employed on the same wine farm; and then the whole issue of victimisation comes up.

*“The farmers themselves are very patriarchal and they are racists, because they come from that old Afrikaaner tradition and they are paternalistic at the same time, because they believe that these people are their dominions. So those are the relations that shape, those are the power relationships that shape the relations between workers and the farmers.”<sup>58</sup>*

If a farm worker is re-employed on the farm – more or less they do not have a choice in terms of that – he or she would have to work with the same employer like before. The majority of them actually have to work with the same employer, which means that they have to work with the same people, who were violating their rights before. In that respect farm workers become victims of circumstances, because there is this whole vicious circle that at the end of the day farm workers are going to be the ones, who are going to break the agreement. The working sphere can get so bad that they cannot stand it anymore and they just want to go.<sup>59</sup> In general female farm workers fear victimisation by the farmers, if they raise issues of bad working conditions.

*“We have had cases, where they have been victimised, even assaulted. One case we referred to the “Women’s Legal Centre”, where a woman was assaulted by the farmer. Farmers are really abusive, sometimes in language*

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<sup>58</sup> WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

<sup>59</sup> In terms of that it would be of great use if the “Department of Labour” would put down big fines, so that farmers can actually feel “I will not do this again, I will not treat my worker like this again, because I do not think I want to pay another 60.000 Rand”, with respect to that the current justice system is failing to suit farm worker’s cases.

*also to the women. Farmers speak in a very abusive way. Victimisation is a big thing.*<sup>60</sup>

In most cases the ideal is probably to get that person re-insettled in the working place and that person should not be violated again, but in reality it is not going to happen. It is quite difficult for farm workers, if they are in that position to go back to the same employer, and having to work with the same person, that actually has put them in that bad position in the first place.

The attorneys get more money from the employers than from farm workers, so one can state that there is an unwillingness on their side to take female workers as clients. Most lawyers tend to take on cases, where they know that they are going to get paid for doing the work they do. If they are taking a farm worker's case the lawyers are informed from the beginning on that they will not get too much payment out of that.

*“Legal representation for farm workers is very limited. Farm workers rely on the Legal Aid Board to fund their cases. However, very few attorneys are prepared to work for Legal Aid Board fees. Moreover rural attorneys rely on the farmers as their main source of income and are reluctant to act on behalf of farm workers.”*<sup>61</sup>

If lawyers feel it is their social responsibility to present farm workers, then it is happening, but if one looks at it in monetary terms, it is quite hard to get lawyers to do so. The access to justice is also very bad, if it is available at all. It is not that farm workers are always able to access it, because legal centres are too far, they do not have transport and even if they do, there is a lack of emotional support. If one imagines being a farm worker who takes up some legal action against his employer, one can imagine that it must be really hard for them. There are organisations, which would be able to present the workers in court, but after all they still would not be able to provide that sort of emotional support to workers to take them through the whole, difficult process, where they would be able to walk out on the other side, thinking that “even if it did not work in my favour, I am still glad I took my employer to court, because at least now people know what is going on on farms”<sup>62</sup>. People do not have that mind-set and in most cases they are very afraid.<sup>63</sup>

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<sup>60</sup> WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

<sup>61</sup> CENTRE FOR RURAL LEGAL STUDIES: “1998. Annual report”; published by the Centre for Rural Legal Studies, Stellenbosch o.J., p. 18f..

<sup>62</sup> ANNE JACOBS, Female Farm Worker at the “Nelson's Creek Farm”, Paarl, 5. 10. 1999.

The “Centre for Rural Legal Studies” in Stellenbosch does have staff members, who are assisting female farm workers, if they want to go to court.

*“The service is aimed at giving strategic legal advice to trained paralegals, farmers, farmworkers, trade unions and other organisations on agricultural labour law. It also provides extensive litigation support to advice offices taking cases to the Agricultural Labour Court.”<sup>64</sup>*

NGO activists from the “Centre for Rural Legal Studies” are not in a position to actually represent a worker in court, but they can give legal support, legal aid and they can refer them to people, who would be able to present them in court.<sup>65</sup> Even if one looks at some of the cases where farm workers were involved that came in front of the court, it was not always – as clear as it should have been – in the farm workers interest.

The “Centre for Rural Legal Studies” as such does not have a unit or a department that gives emotional support to people, but they try to work closely with women’s organisations, that would be able to provide that kind of emotional support to farm workers.<sup>66</sup> Simply because the legislation is so new, it is difficult for lawyers as well, and one of the recommendations that NGO activists articulate is, that those people also need to be better informed about what the act actually constitutes.

NGO activists try their best to educate the magistrate courts around the “Extension of Tenure Security Act” and around “The Basic Conditions of Employment

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<sup>63</sup> The moment, when the farmer starts victimizing them and he says to them: “I am going to take you to court, if you do not do this”, and even though the farmer is not supposed to victimize the worker, but just the word “court” or “police” would put farm workers off in such a way, that they would not proceed with any legal acts against the farmer.

<sup>64</sup> CENTRE FOR RURAL LEGAL STUDIES: “1991-1995. Five years in development”; Paarl Printing, Stellenbosch 1996, p. 11.

<sup>65</sup> See Interview with CENTRE FOR RURAL LEGAL STUDIES; Karin Kleinbooi, Gender Researcher at Policy Research and Advocacy Unit, Helderbergstreet 9, Stellenbosch, Tuesday, 5. 10. 1999.

<sup>66</sup> There was a female farm worker’s case, that became popular in the Western Cape Province as the “Hilda Philander case”, where she was employed on a wine farm and when her father was evicted from the farm, she was asked to go as well. That was a pure violation of her “Extension of Tenure Security” right. The “Centre for Rural Legal Studies” gave legal support and assistance, and members referred the case to a law firm in Stellenbosch called “Chennells and Albertyn”. The “Hilda Philander case” was not a usual “day to day” case, but it was a much more difficult and complex one, and the result of the case finally set a positive precedent for other female farm workers.

Act”, whereas it would actually be the “Department of Labour” and the “Department of Land Affairs” responsibility to train people around that.

#### *4.2 The legacy of Apartheid: The continuity of various forms of racism and sexism*

Considering the various forms of racism that still exist in South Africa, one should discuss, if there is a clear distinction between Afrikaans and Xhosa speaking workers, between so-called coloured and so-called black workers in terms of their working and living conditions on wine farms. The question is, if the so-called cultural and racial differences between workers are significant, and if so, if there is a tension between the workers because of that.<sup>67</sup>

If one looks at the composition of the population in the Western Cape generally, there are more so-called coloured, Afrikaans speaking people in the Western Cape than Xhosa speaking so-called black people. That fact is also portrayed in the composition of the labour force on wine farms, because on all the farms, one always get more so-called coloured, Afrikaans speaking workers than so-called black, Xhosa speaking workers.

*“Here in the Western Cape, as you know, this whole thing about the coloured labour preference area and what has happened on the farms, the farmers initially employed mainly coloured labour and they settled this people in homes and stuff like that. Then, if they needed additional labour during season time, they would then pick up people in the townships and in the informal settlements and that would be mainly African labour. That is still continuing today. The labour force is also split still along racial lines. Probably more so than in other industries, where there has been a lot more rapid kind of integration.”<sup>68</sup>*

It seems very strange that, if one mentions discrimination along racial lines, it does not only come just from the so-called white farmer, but it also comes from the workers themselves. It is very difficult for so-called black workers to be employed on a commercial farm, because most of them, even if they do get employment, are just resigning and are trying to find employment somewhere else, with regard to that it is difficult for so-called black workers to be seen as part of the work force.

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<sup>67</sup> I have mainly spoken to Afrikaans speaking, so-called coloured women workers, and I only came across very few so-called black workers on wine farms. And if there were so-called black workers on a farm, they were actually Afrikaans speaking so-called black workers.

<sup>68</sup> WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

*“I have interviewed workers, that voiced their concerns about black workers working on the farm, they do not want to work with black workers. And if they do, they do prefer them staying in seperate housing, so it comes from the workers side also. There is really always this kind of tension, especially between the women. I have seen on many of the farms, the farmer would seperate the black workers from the coloured workers. So the black workers would work somewhere else and the coloured workers would work somewhere else. It is actually because the workers prefer that. They were very vocal about that, they mentioned to me, that they would not want to work with a black person.”<sup>69</sup>*

A wine farm in the Western Cape province can be interpreted as a hierarchically structured system where so-called black women are positioned at the lowest level. When one looks at the stages of so-called black women on a wine farm, most of them would be the casual labourers on the farm. On some of the farms there are so-called coloured women, who are in a permanent position, on many farms there is at least one woman, who is in a permanent position. If one is looking at race classification, it is really strange, that during my research work on wine farms, I never came across one so-called black supervisor, I never came across one so-called black manager. I only met one so-called coloured female manager, but it was really clear that in most of the cases, especially where people came from the former Transkei<sup>70</sup>, just for a certain time of the year, they have got seperate housing, they do not stay together with other coloured people, even if there are so-called coloured people coming in for the season, they would have seperate housing, they would be seperate even during meal time.<sup>71</sup>

That behaviour towards one another can be seen as a relict of South Africa’s history, ever since if one goes back to slavery, the workers, who were employed on farms in the Western Cape were actually so-called coloured people, there were no

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<sup>69</sup> CENTRE FOR RURAL LEGAL STUDIES; Karin Kleinbooi, Gender Researcher at the Policy Research and Advocacy Unit, Helderbergstreet 9, Stellenbosch, Tuesday, 5. 10. 1999.

<sup>70</sup> The former homeland Transkei – which has been declared to be an independent state by the Apartheid government, but that was internationally e.g. by the United Nations never recognized to be one – is now part of the Eastern Cape Province.

<sup>71</sup> People articulated that quite openly to me, that they are still apart from each other. The farm workers would not mix, they would sit apart from each other, if they do have to work together they do talk, but most of the so-called coloured workers on the farms prefer not to work with so-called black workers.

so-called black people being employed, so for them it is like so-called black people are entering their “territory”.

*“If they have lived on a farm for a long time, then they have always had the white farmer as the boss and so there is something like a power triangle there, and then the so-called coloured workers, they have got used to their kind of preferential treatment in relation to African workers. So they have internalised that whole thing about “not that we are one, but that we are above the African worker”. That is one thing, that I have been talking to our stuff about, breaking down some of that.”<sup>72</sup>*

The existing attitude of people, which I mentioned in the paragraph above, can be seen as a main hindrance to abolish the term race. The new South Africa is presenting itself as a rainbow nation where “people should not talk about ‘white, coloured or black people’ anymore, but about ‘previously disadvantaged people’ etc.”, but as long as one talks about people in terms of “white, black and coloured”, one is theoretically continuously producing racism. On the big, commercial farms in the wine region that Apartheid distinction is still to be seen, one still gets the so-called white people working in the management of the farm, and the so-called coloured and the so-called black people as workers. If one looks at it like that, the management is usually so-called white men, so-called coloured workers would be in between the low levels of employment, e.g. supervising, or they would have some kind of job description, that would distinguish them from other workers and other workers would most probably be so-called black workers, which means the black workers would then be the general workers on the farm.

## 5 *Perspectives for gender empowerment activities*

The ideal form of a non-racist and a non-sexist society would be achieved by the time when people do not have to talk about being “black, white etc.” and “male and female people”, but when a society is structured in such a way that there is no form of racist and sexist discrimination at all. One might argue that that can be seen as the ideal, a kind of utopia, but in my opinion the South African government is trying their best to change people’s mind-set through legislation, though it

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<sup>72</sup> WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

is not enough, but at least it can be seen as the famous “drop in the ocean”, which might be the first step to reach that difficult goal.

In South Africa people have all these nice terms like “rainbow nation”, democracy etc., there is a progressive constitution, and the majority of the people do know a little bit about that, at least they have somehow heard about these things, but the main problem is that there was no training of how to deal with e.g. democracy. That is definitely one of the gaps, that one can identify with the new South African government, that there was really no training around how do people deal with democracy.

*“I need to tell you this, it has not got anything with the type of work that I am doing, but for me it is really hard not to distinguish between black and white. It is possible for me in my work and in the type of things, that I am doing. I am trying not to do that, because this is actually the only way, how you can address some of the issues, if you distinguish on certain issues, like this is how it is with black people, this is how it is with white people. In my personal life it is really hard. I was just sitting on my balcony the other day and there was this guy, who is staying opposite me, he referred to “Hottentots” and “Kaffirs”, which is the derogative term for blacks and coloured. And I got so furious, I wanted to scream: “You Boer”. It is really hard. Even though we have got this very wonderful constitution and all this transformation is taking place at the moment, there are still gaps. To tell the truth I do not know, who is actually addressing those gaps, I do not know.”<sup>73</sup>*

The majority of the people do not know enough about the new legal situation, that is why there are still so many farmworkers, who allow farmers not to comply with legislation. Farm workers are not well informed, that they have got a right, even though they are so-called coloured or even though they are so-called black workers etc. that they may stand up for their rights. One of the huge problems nowadays is that people do not really know how to deal with democracy. In my opinion it would be on the part of the government to train and teach people about that, it would be their responsibility to do so.

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<sup>73</sup> CENTRE FOR RURAL LEGAL STUDIES; Karin Kleinbooi, Gender Researcher at Policy Research and Advocacy Unit, Helderbergstreet 9, Stellenbosch, Tuesday, 5. 10. 1999.

The whole notion of “African Renaissance”<sup>74</sup> is for many South Africans, especially for those who still belong to the economically weak class, not more than just a word, it is nothing but a phrase. It is the same with the term democracy, it is just a word for the majority of people. The word looks very nice on the paper, but as long as people do not understand what it means, it is of little use. If one looks e.g. at the political situation in the Western Cape Province at the moment, it is hard for a lot of NGO activists to understand, why quite a number people are still voting for the “New National Party”<sup>75</sup>, especially if one looks at what is happening in other South African provinces, where one can actually see the changes that are taking place there.

The strange thing is that one does not understand how governmental institutions can impose so many new rights and new legislation on people and the majority of them just do not know how to handle the legislation, how to work with it and how to use it. Giving that information to the people is one of the biggest challenges that NGO activists are currently facing in their working context.

The everyday life of women on wine farms can be interpreted as a microcosm of different women’s oppression in general, and of dominance among women as well, taking the different status that women have on a farm into account. E.g. the chances for a female farm worker to get land redistributed are not quite high<sup>76</sup>, imagining if she would go to a court to claim land back, she does not have the means to do that, like she does not have money to pay the lawyer etc.. So there might be a nice policy framework being designed for doing so, but it does not help too much, if people at the grassroot level cannot make use of it.

*“I mean for me the one thing is the isolation, the lack of transport, the fact that people are on different farms and the farms are quite far from each other. In general, I think, if you look at the “Rural Women’s Movement” e.g. the lack of economic (...), you know, sometimes it is just about women having something to eat today. And so the struggle then becomes only sec-*

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<sup>74</sup> The current South African President Thabo Mbeki is using that term quite often in his speeches etc.. See MBEKI THABO: “Africa – The Time has Come. Selected Speeches”; Tafelberg Publishers, Cape Town 1998.

<sup>75</sup> The “New National Party” derived from the old “National Party” that came to power in 1948 and institutionalised the system of Apartheid on a constitutional level.

<sup>76</sup> See COMMISSION ON RESTITUTION OF LAND RIGHTS (ed): “Annual Report. April ’98 - March ’99”; published by The Commission on Restitution of Land Rights, Johannesburg 1999.

*ondary. (...) And this is the main thing, this thing of survival, this thing of not having jobs, this thing of not having any source of income etc., that is the biggest thing.*<sup>77</sup>

All potential outcomes of the work of NGOs, e.g. like that more female farm workers get written employment contracts etc., will be of limited use to grassroots women, unless they themselves have the self-confidence and skills to claim their rights. Female farm workers are not confident of their own potential skills to solve problems, therefore it might still be a long way to go until women are strong enough to empower themselves.

*“I think that they are becoming a little bit more confident, but it is a slow process. The fact that they have now become aware of the fact, that there is this legislation, an enabling environment and that there is an organisation like ourselves, like the “Lawyers for Human Rights” and some of these other groups, it is helping them to become a little bit more confident, but they are not yet initiating enough independent, collective action. That is not happening yet enough and e.g. the “Women’s Rights Group”, on one hand they say: This is our organisation and “Women on Farms” must just play a supportive role”, but when “Women on Farms” stopped calling them together, they stopped meeting. So that is one of the things that one struggles with.”*<sup>78</sup>

In my opinion both men and women in the outlying areas are trapped in gender-stereotyped roles and it is therefore necessary to work not only with women but also with men in order to abolish gender-inequalities.

Not all commercial wine farms still belong to so-called white, male South Africans. During my research work in the Boland I came across one farm<sup>79</sup> in Paarl<sup>80</sup>

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<sup>77</sup> WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

<sup>78</sup> WOMEN ON FARMS PROJECT, Herte Street 37, Stellenbosch, Rita Edwards, Director, Wednesday 22. 09. 1999.

<sup>79</sup> The rest of the wine farms in the Western Cape Province are still owned by white farmers, that are quite established, most of them are part of the “Stellenbosch Farmer’s Winery”, a cooperative called the “Kooperative Wynemakers Vereeniging” in Afrikaans, it is the main association of Winemakers in the Boland region.

<sup>80</sup> Name of a town in the wine region, which translated into English means “pearl”, because there are two huge rocks on a mountain by the town that “glitter like pearls” when it is raining. There has been gender research work done by a South African scientist in one of the townships near Paarl, the people called the township “Smartietown”, because the new, col-

where the farmer gave quite a bit of land to the farm workers. The farmer is an advocate by profession and he said to the workers that they can have the land, and they can farm there as long as they continue to help him to farm and not leave the wine farm. The farm workers then formed a “Worker’s Committee”, in which one third of the representatives are women. The people have now started their own thing by pulling family subsidies<sup>81</sup> together and then used this money to start farming, to buy implements, products, seeds and things like that. At the current moment they are producing one type of red wine and one type of white wine called “New Beginnings”, which can be seen as a suitable term and as a symbol for the positive change that is currently taking place in the context of the young democratic “rainbow nation”.

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ourful houses reminded the people of “smarties”. See ABRAHAMS YVETTE: “Smartietown’. Women, water and sanitation in Paarl Municipality. A gendered look at service delivery transformation in local government”; unpublished summary report prepared for the seminar “Local government, service delivery, transformation & gender” by the Gender Advocacy Programme from 29. Nov - 1. Dec. 1999, Cape Town o.J..

<sup>81</sup> It is about fifteen thousand Rand per family.

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