

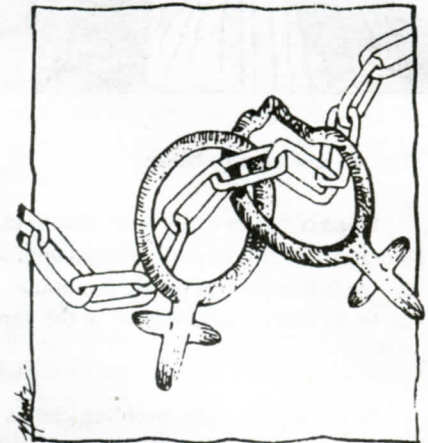
A Big Win for Unity Dow and for Women Everywhere

Last year, Unity Dow of Botswana sued her government over its discriminatory nationality policy. In June 1991, she won. The case was Botswana's first sexual discrimination case under the constitution and invoked international law as well. The law Dow challenged provided that her children could not be citizens of Botswana because their father - her husband - is not a citizen of that country. Under Botswana law since 1984, children of a Motswana woman (Motswana is the term for a Botswana citizen) married to a foreigner were deemed to have their father's citizenship only, regardless of where they were born, while children of a Motswana man married to a foreigner were considered citizens of Botswana. The policy created practical difficulties, such as requiring residency permits for the children, excluding them from education benefits, and making reentry after travel abroad difficult. But it essentially denied women equal nationality rights, as they could not confer on their families the same rights that men could.

After seven months' deliberation, the High Court declared that "the time that women were treated as chattels or were there to obey the whims and wishes of males is long past and it would be offen-

sive to modern thinking and the spirit of the Constitution to find that the Constitution was framed deliberately to permit discrimination on the ground of sex." Citing the U.N. Declaration on the Elimination of All Forms of Discrimination Against Women (Botswana has not yet ratified this Women's Convention) and the Organization of African Unity Charter of Human and People's Rights, the court also said, "it is also difficult if not impossible to accept that Botswana would deliberately discriminate against women in its Legislation and at the same time internationally support non-discrimination against females."

The case sets a legal precedent only for Botswana, but it sets an example for all countries that have any sort of language in their constitution on protection of fundamental freedoms such as liberty and protection of the laws, or that have ratified international instruments guaranteeing equality such as the Women's Convention. The government has said that it will appeal, but regardless of whether an appeal goes forward or is won or lost, the framing of the issues and the court's language are invaluable. Unity Dow's courage in taking on this issue benefits all women in Botswana and everywhere else.



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