

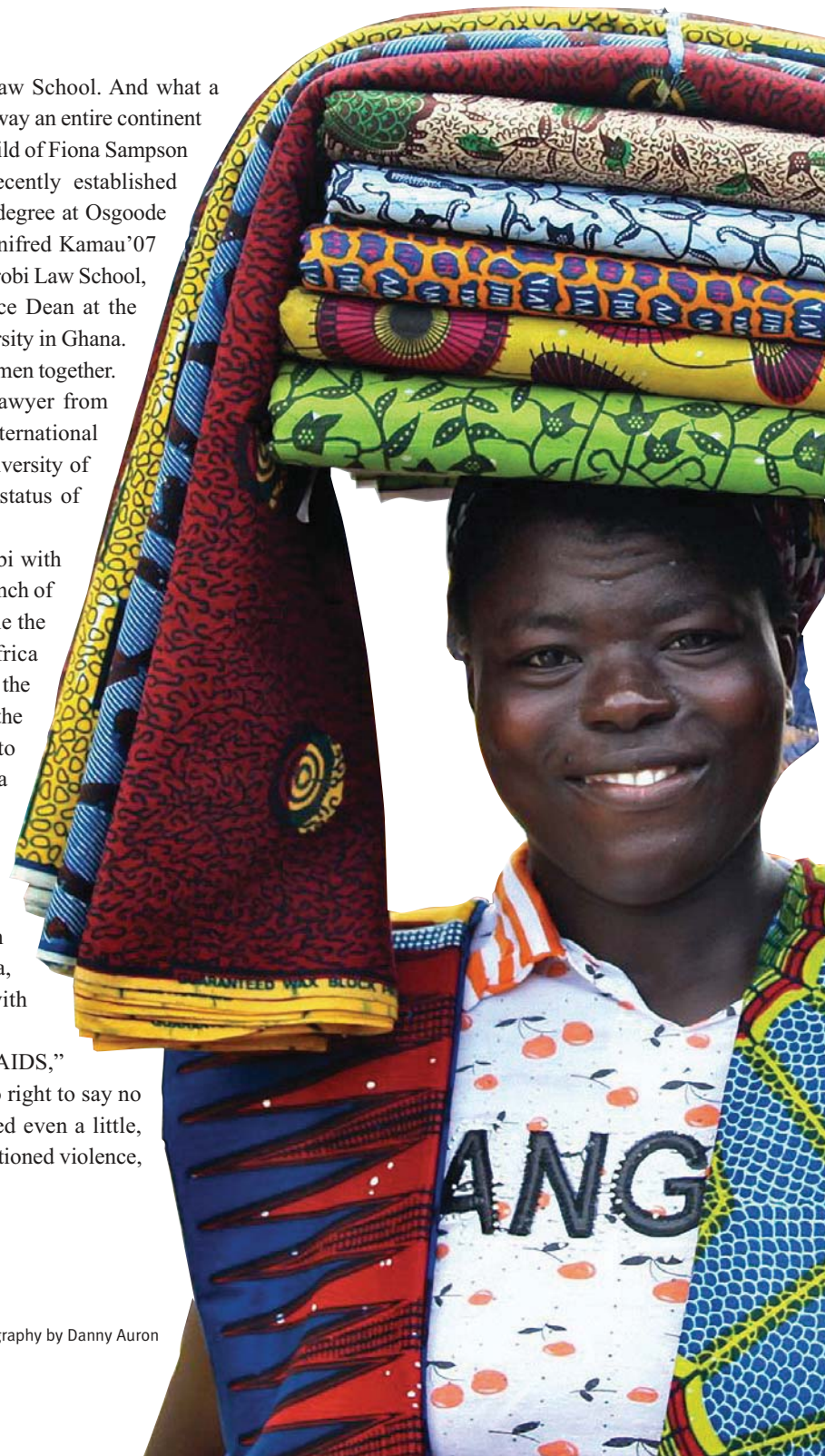
The Equality Effect

How Three Osgoode Alumni are Changing the Lives of Women in Africa by **Sally Armstrong**

The plan was hatched at Osgoode Hall Law School. And what a judicial fountainhead it was. To reform the way an entire continent treats half of its population was the brain child of Fiona Sampson '05 (DJur), executive director of the recently established Equality Effect. She was doing a masters degree at Osgoode in 2002 when she met fellow students Winifred Kamau '07 (PhD), a lecturer from the University of Nairobi Law School, and Elizabeth Archampong '06 (PhD), Vice Dean at the Faculty of Law in Kwame Nkrumah University in Ghana. Their interest in equality rights drew the women together. A few years later when Seodi White, a lawyer from Malawi, was a visiting scholar at the International Women's Human Rights Project at the University of Toronto, they joined forces. Altering the status of women in Africa became their quest.

Eight years later they gathered in Nairobi with the pick of the legal crop for the historic launch of Three to be Free, a project that would tackle the entrenched violence against women in Africa and the centuries old impunity bestowed on the men. The African women had decided that the model used in Canada in the early eighties to reform the law around sexual assault – a method that relied on rewriting the law, educating the judiciary and raising awareness with the public – could work in Africa. Their plan uses three strategies – litigation, policy reform and legal education over three years in three countries (Kenya, Malawi and Ghana) – and it started with criminalizing marital rape.

“Women have become the face of HIV/AIDS,” says Winifred Kamau, “as women have no right to say no to sex. Family violence hasn't been curbed even a little, and marital rape is legal.” This is state-sanctioned violence, adds Sampson. >>>



Photography by Danny Auron



Fiona Sampson '05



Winifred Kamau '07



Elizabeth Archampong '06

Getting rid of the dowry and therefore the ownership a man has over a woman would seem like a logical first step but the lawyers say it's easier to change jurisprudence than to tackle ancient customs. What's more, the criminalization of marital rape will have a trickle down effect, says Sampson. “Women will achieve increased equality under the law and will be recognized as persons rather than property. Furthermore, it will establish a culture of accountability for women's human rights and improve the physical safety and security of women.”

The sticking point has been customary law. As in most African countries, Kenya, Malawi and Ghana have both formal state law and customary laws which aren't codified. Chiefs are in charge of arbitration, and they, the lawyers agree, tend to collude with other men against the rights of women. In terms of marital rape, the customary law says, neither the wife nor the husband can deny sex to the other unless one is “sick, menstruating, in child birth or attending a funeral.” Because customary law regulates marriage, divorce, inheritance and property, because it's patriarchal, biased and goes against gender equality as well as non-discrimination and because it almost always trumps state law, the women pay a mighty price for having no say in the matter. Elizabeth Archampong says, “When you get married there's the presumption you will give yourself up, any time, every time and all the time for sex.” And Seodi White says violence is often a part of the bargain – a man jamming a broken piece of furniture into his wife's vagina, another applying a python to her vagina because a witch doctor told him it would spite out coins after doing so, still another cutting off her labia majora and selling it as a charm – all of it considered legal as she is his property.

Mary Eberts, an internationally known litigator who has spent most of her career representing causes that promote equality in Canadian law says, “Marital rape is one of the toughest barriers to the full equality of women, conceptually at least, since it is a remaining incident of married women's inferior, or non-existent, legal position.”

Just six months out of the starting gate of the Three to be Free program, Sampson reports a case of 160 girls between the ages of 2 and 17 suing the government of Kenya and holding it accountable for its failure to enforce existing laws that prohibit the rape of girls. It's a good start, she says.

The agenda is ambitious, so is the cost as it takes two to three years to litigate cases like this through the courts. But the plan that was launched at Osgoode has gone global and The Equality Effect seems to be there for the taking. ☺



The Equality Effect
www.theequalityeffect.com



Sally Armstrong is a journalist, human rights activist and award-winning author. She has covered stories about women and girls in zones of conflict all over the world. Her most recent book, Bitter Roots, Tender Shoots: The Uncertain Fate of Afghanistan's Women was published in 2008.