

INTERNATIONAL
REPORT



ON THE RIGHT PATH
Susan, 6, with her older sister, Charity, 11, walk in the garden at the WRAP shelter in Nairobi. To preserve the girls' anonymity before trial, we cannot show their faces.

these *little girls* are setting out to

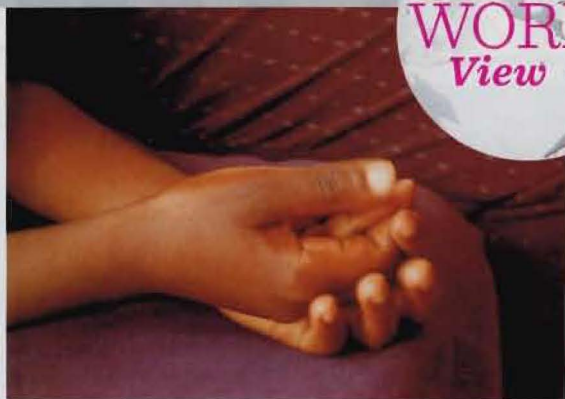
change *the* world

In a country where females are still considered property, a brave band of 160 young girls are taking class action against their government – and in the process forging a brighter future for women around the globe

text and photography by Sally Armstrong

IT'S THE SIZE OF THE CHILD THAT TAKES YOUR breath away. Emily is barely four and a half feet tall, her tiny shoulders scarcely 12 inches apart. But the 11-year-old's husky voice is charged with determination when she sits down at the shelter in Meru, Kenya, to tell her story. "My grandfather asked me to fetch the torch [flashlight]," she explains with all the wide-eyed naïveté of a child. She was happy to oblige. But it wasn't a torch he wanted. "He took me by force and warned me not to scream or he would cut me up." Along with thousands of men in Kenya and indeed throughout sub-Saharan Africa, Emily's grandfather believes that having sex with a young girl will cure HIV/AIDS. His diabolical sense of male impunity made him feel he could rape his own granddaughter. Now she could be taking him to court – the high court in Kenya. The case should come to trial this fall and is likely to be precedent setting, historic in fact. Emily >

WORLD
View



SEXUAL ASSAULT IS ON THE RISE

In Kenya, **a girl is raped every 30 minutes**; some are as young as three months old. If she doesn't die from her injuries, she may face abandonment because families don't want "defiled" (the legal term in Kenya) girls. She may also face sexually transmitted diseases including HIV/AIDS, stigma that keeps her out of school, ostracism and medical issues such as fistulas and cysts. **Twenty-five percent of girls aged 12 to 24 lose their virginity due to rape.** Although 49 percent claim they've experienced violence, only 30 percent report it, and just one-third of cases wind up in court. If you can prove a girl was younger than 11 when she was "defiled," the sentence is life in prison. But there's the rub: The laws aren't enforced, and rape is soaring.

and 159 other girls who have been raped may be the ones who alter the precarious status of women and girls, not only in Kenya but in all of Africa.

Once in a very long while, maybe once in a lifetime, you get to witness a story that shifts the way an entire country or a continent sees itself. The process of change is usually daring, certainly time-consuming, invariably costly, occasionally heartbreaking and eventually an exercise so rewarding, it is the stuff of legends.

One hundred and sixty girls between the ages of three and 17 are suing the government of Kenya for failing to protect them from being raped. The girls are being represented by African and Canadian lawyers including Fiona Sampson, Winifred Kamau, Elizabeth Archampong and Seodi White. These four women met in Toronto while studying law, and joined forces on the The Equality Effect (see below). They were inspired by Canadian women who protested so vehemently in the 1980s that the Criminal Code was amended and equality rights were added to the Canadian Charter of Rights and Freedoms. Today lawyers on both continents agree that this lawsuit in Kenya will have far-reaching effects for women and girls around the world.

"These men must learn they cannot do this to small girls," says Emily, who, like the others, balances the victim label with the new-found empowerment that has come from the decision to sue. Indeed, when the girls stand up in a Nairobi court sometime this fall, magistrates from around the world will be gobsmacked by the hot winds of change that have blown across the savannah and launched the mother of all human-rights cases.

Two of the children who could be chosen to testify are Charity, 11, and her sister, Susan, 6. Their mother is dead. Their father raped them – first Charity, then Susan, when they came home from school one day last winter. "I want my father to be jailed," Charity says clearly and unequivocally. Susan is so traumatized she can't leave Charity's side and eats, sleeps and speaks only when Charity tells her to. They have fled from their home to a shelter in Nairobi run by the Women's Rights Awareness Programme (WRAP) and set up for girls in their circumstances. Perpetual Kimanzi, their "home mother," takes care of these girls and sometimes coordinates their counselling and therapy. She keeps a close eye on Susan when the six-year-old begins to talk in a barely audible voice, using one word at a time with an agonizing >

WOMEN HELPING
WOMEN

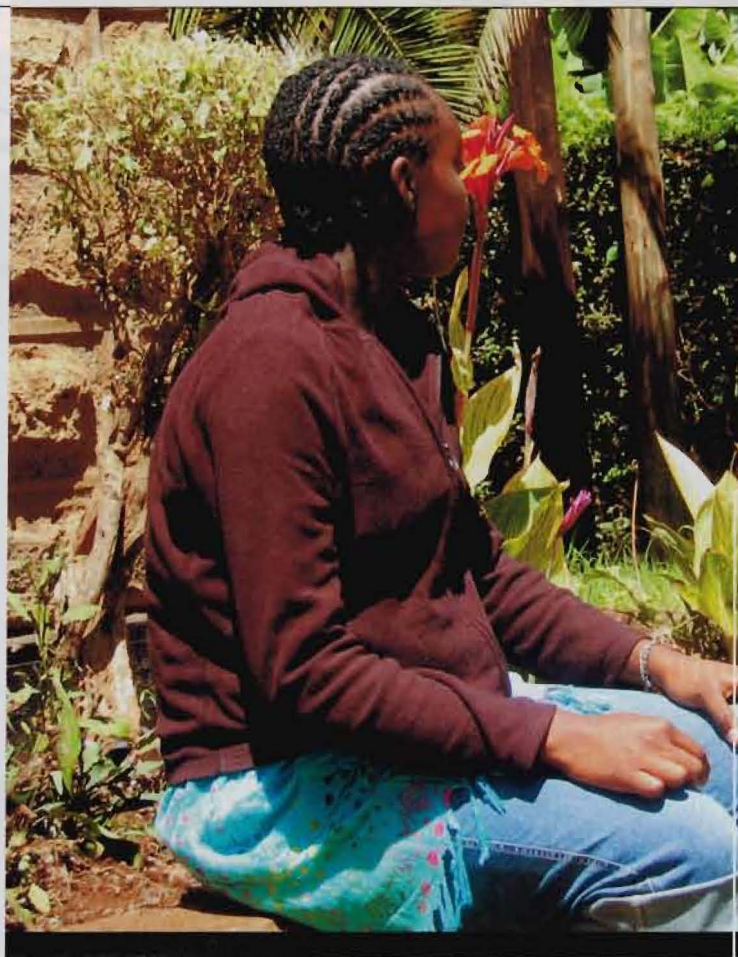
Everyday HEROES

The Canadian
Connection



REFORMING HOW AN ENTIRE CONTINENT TREATS HALF its population is the brainchild of Fiona Sampson, executive director of the Equality Effect. It came from a touch of serendipity and a lot of tenacity. Sampson was studying law in Toronto in 2002 when she met fellow students Winifred Kamau, now assistant director at the Kenya School of Law, and Elizabeth Archampong, head of the private law department at Kwame Nkrumah University in Ghana. An interest in equality rights drew them together, and a few years >

LEFT TO RIGHT Jane Serwanga, Federation of Women Lawyers; Mercy Chidi, program director of Ripples; and Fiona Sampson, executive director of the Equality Effect.



POETIC JUSTICE
Luckyline, who is 39 weeks pregnant, resting on a wall at the Meru shelter

[IN HER WORDS]

Luckyline's Poem

Here I come
Walking down through history to eternity
From paradise to the city of gods
Victorious, glorious, serious and pious
Elegant, full of grace and truth
The centrepiece and the masterpiece
of literature
Glowing, growing and flowing
Here, there and everywhere
Cheering millions every day
The book of books that I am.

— After her baby is born, Luckyline, 15, plans to defy the odds by returning to school and becoming a poet.

pause between each utterance: "My... father... put... his... penis... between... my... legs... and... he... hurt... me."

It's about a four-hour drive from Nairobi to Meru, where the Ripples International Brenda Boone Hope shelter, known locally as Tumaini (the Swahili word for "hope"), is located. The road goes through storybook Africa: the red soil, the dry scent of the savannah, the dark umbrella-like acacia trees, bleating goats and signs declaring "Jesus Saves." Mango trees and roadsides drenched in pink, orange and red bougainvillea smack up against fluorescent-green billboards advertising mobile-phone provider Safaricom. Closer to the equator, the heat intensifies but the traffic remains the same — heavy, fast and a collection of near misses.

The well-worn, rutted red-dirt road into the shelter is under a canopy of lush trees that offer refuge from the heat of the equatorial sun. Hedges of purple azalea and yellow hibiscus camouflage the fence that keeps intruders away from this bucolic place that houses the girls who are poised to cut off the head of the snake that is sexual assault.

It's been six days since Emily was raped; she still complains of stomach pain. She can't sleep. She says in her native Swahili, "It hurts to go to the bathroom." Doreen, 14, is >

WOMEN HELPING WOMEN *cont'd*


later, when Seodi White, a lawyer from Malawi, was a visiting scholar at the Women's Human Rights Institute at the University of Toronto, they became a foursome. But it was Sampson's sense of urgency that made the concept take flight. "I'm the last thalidomide child to be born in Canada," she says, referring to the morning-sickness drug whose side effects affected her hands and arms in utero. "There was a culture of impunity in drug testing at that time, so I'm consumed with injustice in the face of impunity." When these women wondered if the model that reformed the sexual-assault laws in Canada—rewriting the law, educating the judiciary and raising public awareness—could work in

Africa, Sampson started thinking about a project that would tackle the entrenched violence against women there and the lack of consequences for men. Eight years later, they gathered in Nairobi with a team from Canada and Africa for the launch of Three to Be Free, a program that takes on three countries, Kenya, Malawi and Ghana, and uses three strategies—litigation, policy reform and legal education—over three years to improve the status of women. The first case began when Mercy Chidi, program director of the Ripples International shelter in Meru, Kenya, met with Sampson in Toronto last fall to tackle the root of the problem: the impunity of men and the failure of the justice system to convict them.

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MAKING STRIDES
Emily, Doreen and Luckyline
at the shelter in Meru with
staff member Esther
Muburi, who is carrying
Doreen's baby.

IN KENYA YOU CAN PAY TO HAVE YOUR POLICE FILE DISAPPEAR. OR YOU CAN BRIBE A POLICE OFFICER AND NO CHARGES WILL BE LAID. IF THE CASE IS TAKEN SERIOUSLY, STATEMENTS ARE WRITTEN, THE CHILD IS SENT TO A DOCTOR AND THE FILE WITH THE DOCTOR'S REPORT IS RETURNED TO THE POLICE.

"THIS IS WHERE MONEY CHANGES HANDS," SAYS SOCIAL WORKER HEDAYA.

"IF A GIRL, OR FOR THAT MATTER A WOMAN, GOES TO THE POLICE ON HER OWN SHE IS USUALLY RIDICULED AND HARASSED. IT WAS SUGGESTED HALF A DOZEN YEARS AGO THAT THE POLICE CREATE A GENDER

DESK WHERE A FEMALE WOULD BE SAFE IN REPORTING THE CRIME, BUT INVARIABLY THE GENDER DESK

ISN'T MANNED AND IS COVERED WITH DUST."

another girl living at Tumaini in Meru; she has an eight-month-old baby as a result of being raped by her cousin. Her mother is mentally ill. Doreen doesn't know her father. When she realized she was pregnant, some family members told her to have an abortion. Her uncle beat her and threw her out of the house. She was considering suicide when she heard about Ripples and came to the Tumaini centre.

THE PERPETRATORS OF THESE RAPES AREN'T strangers to their victims. More than 90 percent of the girls know their assailant. They are fathers, grandfathers, uncles, teachers, even priests — the very people who are supposed to keep vulnerable children safe. And raping little girls as a way of cleansing themselves of HIV/AIDS isn't always the only reason they act. "Men think having sex with a little girl is a sign of being wealthy and stylish," says Hedaya Atupelye, a social worker with WRAP. "Some of these men are educated beyond the graduate level, but they want to be the first to break the flower so they seek out young girls."

It's a double whammy. The families often blame the girls: They must have been asking for it. If it's the breadwinner who's guilty, the family will go without food while he's in jail, so even a child's mother may choose silence. "It's our African culture," says Perpetual. "No one wants to associate with one who's been raped or who's lived in a shelter. We need to stand up and say the shame isn't ours, it's yours."

"ONE OF THE CHALLENGES IS THAT OUR CULTURE doesn't allow us to speak out about sexual things," says Mercy Chidi, program director of Tumaini. "My only advice

from my mother when I got my period was, 'Don't play with boys; you'll get pregnant.' My own uncle tried to rape me and to this day I have not told my mother. We have to break this silence." When the girls arrive at the shelter, Mercy says, they are severely traumatized and don't want to talk to anyone. They are withdrawn, some are frightened, others aggressive. They tend to pick on each other. And as much as they come around and begin to heal, Mercy says if you've been raped, you never overcome the trauma completely. "It's like tearing a paper into many pieces. No matter how carefully you try to put the pieces together again, the paper will never be the same. That's what sexual assault does." One little girl at the shelter begins to cry every night when it starts to get dark and the curtains are drawn. "It's the hour when her father used to rape her," says Mercy.

The program at Tumaini takes all of the horrific aftermath of rape into account: Girls stay for six weeks; they receive post-exposure prophylaxis for HIV, an emergency contraceptive to prevent pregnancy, and medical care and counselling for the duration. If it isn't safe for them to return home, Ripples finds them a sponsor and then enrolls them in a boarding school, or they stay at the shelter. Those who go home come back once a month for six months and then every three months for ongoing counselling and support. Presently there are 11 girls in residence.

One of them, a 15-year-old called Luckyline, was raped by a neighbour. She's 39 weeks pregnant. When she talks about what happened to her she doesn't sound like >

“One of the challenges is that our culture doesn’t allow us to speak out about sexual things. My only advice from my mother was, **‘Don’t play with boys; you’ll get pregnant.’** My own uncle tried to rape me and to this day I have not told my mother.

WE HAVE TO BREAK THIS SILENCE.”

a victim. She sounds like a girl who wants to get even, to effect change. “This happened to me on May 18, 2009. I will make sure this never happens to my sister,” she says. When asked what she will do after the baby is born, she says she wants to return to school because she plans to become a poet. Then, with little prompting, she reads one of her poems.

“Here I come / Walking down through history to eternity / From paradise to the city of goods / Victorious, glorious, serious and pious / Elegant, full of grace and truth / The centrepiece and the masterpiece of literature / Glowing, growing and flowing / Here, there and everywhere / Cheering millions every day / The book of books that I am.”

This from a 15-year-old girl who is disadvantaged in every imaginable way, and yet she’s preparing in case she is called to the high court in Kenya to excoriate the government for failing to protect her. This is how change really happens. But it takes commitment and colossal personal strength for a girl like Luckyline to tackle the status quo and claim a better future for herself.

Unfortunately, getting the girls to talk about the crime is only the beginning of the challenge to see justice served in Kenya. Nano, whose real name cannot be used because she’s a magistrate in the children’s court, says, “The difficulty is the girls don’t come to the court with the information I need to convict. They block it out or don’t turn up. There are all kinds of judicial tools I can use: CEDAW [the Convention on the Elimination of All Forms of Discrimination against Women], the Convention on the Rights of the Child, even the new Sexual Offences Act legislation in Kenya. The investigating officer needs to tell the court what has been found; the charge sheets have to be drafted correctly; and beforehand, the child needs to be able to stand up in the police station, point her finger at the man who defiled her and say, ‘He is the one who did this to me.’ The children have to be prepared for this. Without it, I cannot convict.”

Another hindrance, she admits, is the police’s lack of knowledge of the law. Not all, but most need training and sensitization on how to handle sexual-assault cases. And it’s hard to get evidence from children; they need psychologists

and counsellors to talk to them, and the court simply doesn’t have those resources. Even some magistrates lack training and knowledge of the Sexual Offences Act.

WHILE DIESEL-BELCHING BUSES AND TRAFFIC chaos outside the Sarova Pan Afric Hotel in Nairobi create a cacophony in the streets below, the African and Canadian lawyers who are preparing the suit of the 160 girls are camped in an upstairs meeting room, creating a strategy for the case. They debate the wording, parsing every sentence, nitpicking the legal clauses, testing the jurisprudence. They know it will take a passel of lawyers, doctors and academics, experts in human-rights law and international law. They also need to protect the girls and make sure they aren’t re-victimized by the process. Five days after their meeting starts, they decide that a constitutional challenge is the way to go and then set their sights on a court date they hope will be six months away.

They are all in this fight together, determined to bust the taboo around speaking out about sexual assault. It’s women lawyers and children from two sides of the world on a joint quest for justice. It’s the accounts of kids who were told they had no rights. It’s the push-back reaction every woman and girl on the planet has been waiting for. “This case is the beginning; it’ll be a long journey. But now it has begun,” says Mercy. The legal experts claim they are going to win. And that the victory will be a success for every female in Africa, maybe even the world. ♣



the equality effect

If you want to help get this case to court, email Fiona Sampson at fsampson@theequalityeffect.org. For more information on how African women’s and girls’ lives can be dramatically altered by changing the law to make them people rather than property, go to theequalityeffect.org.

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