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An Experience in Public Education that is Little Known and Less Understood

“When the Gauteng Department of Education forced Rivonia Primary to take an extra child, it effectively overrode the authority of the school governing body to determine admissions policy. A school that raises private resources to enable quality education for manageable numbers of learners from diverse racial and class backgrounds, found itself being subjected to legal action and its principal under threat of dismissal over one (middle class black) child. The issues of diversity and inclusion are not at stake here – this can and should be achieved through other means; what is at stake is the erosion of the authority of a school to decide over admissions. The central authority knows best.”

These comments are an extract from Professor Jonathan Jansen’s presidential address to the South African Institute of Race Relations on 27 September 2012, entitled *Seven dangerous shifts in the public education crisis*.

One of the shifts he raised is the belief by government that central control is better than local authority in education. Jansen referred to the High Court case of Rivonia Primary School. It is important to note that the child who was refused admission was the child of influential parents who applied late to the school for admission. By going to the Gauteng Department of Education (GDE) and getting support from an official, the parents ran roughshod over the rules for admission, the requisite waiting lists, the policy of the School Governing Body (SGB), and basically unjustifiably “parachuted” the child into the school. The child had no particular legal right to be there.

Prof Jansen noted that where once the clarion call of struggle was for communities to take charge of education at the local level, there is now a creeping tendency to reinvest that authority in the centre. The centralisation of power invariably carries the potential for abuse, and this is clearly evident in recent cases.

Prof Jansen’s reference to the Rivonia case raises an example of the never-ending, “Jekyll and Hyde” struggle by the national Department of Basic Education in general, and the provincial Gauteng Department of Education (GDE) in particular, to respond to suburban government schools. There is a complex range of issues at play:

- a resentment of such schools' success and yet a heavy reliance on that success;
- a desire to bring these schools down to the lowest common denominator of the dysfunctional township schools; and
- a recognition that the best hope of success of state-provided education lies in suburban government schools.

Why do they cause such a schizoid response? One reason is that there is an historic antipathy towards what are still derisively referred to as "Former Model C" schools – "bastions" of white, public education, in "leafy" suburbs.

Another is a resentment of the fact that the law obliges public schools to be governed by a school governing body (SGB), which is comprised of representatives of parents, teachers, non-teaching staff and students. By law, though, the number of parents has to outnumber the combined number of the other three categories by one. This is in recognition of the fact that, because schools are entitled, by law, to raise income through school fees, the money of the parents and the governance of the school must be administered by parent representatives. It is the parent representatives that must be the compulsory office bearers such as Chair, Treasurer and Secretary. And this is a sober fiduciary, legal and moral duty. The magnitude of this obligation will be explored further.

SGBs must develop admission policies which, until recently, could not be interfered with by the GDE. An admissions policy cannot be contrary to the law, but it is not for the GDE to make that decision – it is a decision that lies with the courts.

As a result of this authority and obligation to govern, and the right to charge school fees, there is an inevitable tension between most successful SGBs and the GDE. SGBs must develop admission policies which, until recently, could not be interfered with by the GDE. An admissions policy cannot be contrary to the law, but it is not for the GDE to make that decision – it is a decision that lies with the courts.

At the same time, the GDE (not the individual schools) have a constitutional obligation to provide basic education to all. In Gauteng this task is becoming increasingly difficult. The influx of children from other provinces into Gauteng increases by double-digit percentages every year. Economic pressures on parents and dysfunctional schooling in other provinces provides the reasons for the influx.

As at February 2012, the GDE needed to construct 79 new schools and refurbish 12 Phase 1 schools (partially built) and 285 existing schools in Gauteng¹. According to Education MEC, Barbara Creecy, Gauteng has built more than 250 schools since 1994².

The GDE still experiences gaps in terms of insufficient infrastructure and space backlogs, especially where student enrolment exceeds design capacity. Disadvantaged schools lack established libraries, adequate sporting facilities and sufficient fencing. There is inadequate cleaning and minor maintenance around the schools and a lack of laboratories. There are uncompleted schools that were acquired from other provinces arising from the demarcation processes³.

However, there are schools with an intake of well below 40% in Soweto because they are bad schools; and parents will do anything to get their children to functional schools in the suburbs. Often this requires expensive, dangerous and tiring commuting. I once had to persuade the GDE to find a different school for an Aids orphan from Katlehong! She would have had to take 6 taxis a day, which her grandparents could

not afford, just because a department official was too lazy to refer her to the district officer who subsequently found her a school less than a kilometer away from her home, at fees of R 100 per annum!

Too few of the township schools, which are on student's doorsteps, have been revamped or properly and professionally staffed by the GDE. Little or nothing appears to happen, to the point where it appears that nothing is capable of happening to improve public schooling in townships.

One of the responses of the GDE is to try to force as many children as possible into functional suburban schools. This is where the GDE needs to confront the rights and obligations of the SGBs. Let me give you the example from my children's high school, which is indeed situated in a very leafy suburb.

The Admissions Policy gives automatic right of admission to children who traditionally came from feeder primary schools and immediate neighbouring suburbs, irrespective of their ability to pay the fees.

With the change in the education system, the once very strict entrance criterion of residential zoning has become less strict. Very many suburban parents have put their children into private schools for fear of the (often misplaced) lack of quality of government education. Parents also now have a choice of government school. This means that many children who live in a suburb don't go to the school that is within walking distance. This also means that schools, which were guaranteed

to children from the surrounding suburbs, are now competing with private and other government schools for students. Consequently, a school's reputation is hard-won but easily lost. What this does mean, however, is that the children of domestic workers who work and/or live in a suburb have easy access to very good schools. These black children have an extraordinarily good chance for a secure and successful future. There are financial consequences for these schools and the parents, which I will deal with.

By law a school cannot turn away a child merely because parents cannot afford the school fees. The only way that a school can prevent the financially unfeasible admission of children whose parents cannot pay is through the schools' Admission Policies. Our school is typical of most such schools. The Admissions Policy gives automatic right of admission to children who traditionally came from feeder primary schools and immediate neighbouring suburbs, irrespective of their ability to pay the fees.

Domestics' children automatically benefit. As do those children who attend feeder primary schools, even though they may not for any other reason have been zoned for our school. These children are placed on the "A list" – compulsory placements.

The "B list" comprises those children who have applied for admission, but who do not meet the feeder requirements. Schools are not obliged to admit these children, unless there are not enough children from feeder areas. The GDE insists that they be admitted in the order they applied. The financial issues and academic standards, which are interrelated, make this unfeasible.

In terms of the law (and our Admissions Policy), any parent who cannot afford to pay school fees may be exempted on a sliding scale. There is only one obligation: both biological parents must complete an exemption application form and supply all the supporting documentation requested to prove their inability to pay. With the government's support, no school is obliged to exempt or subsidise parents who do not prove their inability to pay.

However, one of the bitterest experiences I had in 13 years of sitting on SGBs has been to deal with parents who simply do not pay their school fees. I am not talking about those who cannot pay, and have applied for and were granted exemption. I am talking about those who either never completed an exemption application form, or never provided the full information required in terms of the application. I believe the foundation for this phenomenon – which is to be found in a variety of selfish parents – is a belief (not with any firm conviction, but rather a sense of entitlement) that a constitutional right to education could somehow justify their ethical selfishness.

Some parents do not want to provide proof of financial circumstances because they run cash businesses and do not want to declare their income, as they are not declaring their income to SARS. These parents are self-serving enough just to play the system for as long as possible, and place the value of education below that of two cars, DSTV, extraordinarily expensive cellphones and brand-name clothing.

The GDE simply does not understand the outrage of the moral equivalence afforded to parents who cannot afford to pay school fees to those who simply do not pay school fees.

Both as a governor and a parent, there is little more infuriating and unfair than to have your, not insignificant, school fees cross-subsidise the unworthy. By law, one can take all appropriate legal measures to recover the fees. However, between the sluggishness of the legal system, the inability to recover judgments through the recovery of movable property, and parents who lie about their residential addresses on application forms, legal processes are pretty toothless.

But here's the real kicker: in terms of the South African Schools Act, a school may not refuse admission or readmission to a child merely because the parent/s "cannot or have not paid school fees". The GDE simply does not understand the outrage of the moral equivalence afforded to parents who cannot afford to pay school fees to those who simply do not pay school fees.

The consequence of this is that parents can literally run up hundreds of thousands of rands of unpaid school fees. If legal measures, which can easily take over a year to complete, don't yield results, there is little else that can be done legally to force parents to pay school fees.

As a consequence, the SGBs I know, generally budget for about a 25% - 30% bad debt rate. Only about 10% - 15% of the bad debt is legitimately incurred by parents who apply for and obtain exemption. The remainder, which increase the rate to 25% - 30% is as a result of parents who simply do not pay, or refuse to pay. Seventy five percent of the parents, therefore, have to pay for 100% of the children. And a school is obligated by law to take in a sibling of a child whose parents have already failed to pay school fees.

So, in approving a budget at an annual general meeting (AGM) each year that allows parents to vote for the school fees for the following year, parents will have to consider a number of issues, such as:

- the 25% of non-payers that have to be cross-subsidised;
- a teacher: student ratio of 1:30 instead of the 1:40 that the GDE insists on although there is no provision for in law;
- maintenance of school buildings which are owned by the GDE not the school;
- salaries or additions to salaries to attract teachers that will allow the above ratio to be achieved;

- textbooks that are not provided by the GDE.

This clearly means that no school can afford to have an unbudgeted, uncertain number of children who don't pay school fees. They would cease to exist.

Our school employs as many teachers under its auspices as the GDE provides in order to attain the ratio and to provide the best possible teachers.

For the 2012 financial year, the approved budget was R18-million, which included R3,5-million for maintenance and R800 000 for electricity, rates and water. Under Kader Asmal, the exemption for schools from municipal fees was withdrawn.

These schools are nurturing the societal backbone of the country's future, and yet the GDE (and the National Department of Basic Education) undermines them in bizarre and purposeless ways.

Of the R18-million rand budget, the GDE's financial contribution to the administration of the school is less than R 200 000. As a result, the school fees for 2012 are R23 000 for the year. This is very much in-line with our competitor government schools, even lower than most and, unusually, includes the abovementioned textbooks.

Achieving the right budgetary balance is extremely difficult. Schools should have a balance of bright kids, struggling and middling kids. They all benefit in different ways from each other. And contrary to the ongoing belief, and despite seeing for themselves, many GDE officials insist in referring to us derogatorily as a "white" school. Currently there are 427 Africans (50%), 101 Coloureds (12%), 275 Indians (32%) and 48 Whites (6%) at the school.

The school is one of the top 10 feeder schools (public and private) to Wits University. But it has an even more impressive achievement: it has consistently seen proportionately more of its matriculants graduate from Wits than any other school with matriculants who enter the University.

The hard work, aggravation and dedication required of SGBs to achieve this is nothing short of phenomenal. These schools are nurturing the societal backbone of the country's future, and yet the GDE (and the National Department of Basic Education) undermines them in bizarre and purposeless ways.

The Rivonia case is going to go on appeal to the Supreme Court of Appeals in November 2012. Let's hope that the racism and blinkered nature of the High Court's judgment will be swept aside. Suburban, public education is too important to be left only in the hands of government.

Chantal Illbury and Clem Sunter make the following trenchant observation⁴:

"We have 28 000 schools in South Africa of which 5 000 are reasonable to excellent and 23 000 are dysfunctional to shocking. If the model of the 5 000 is used to raise the performance of the 23 000, that would be excellent. If the 5 000 are dumbed down, that would be the worst flag of all in terms of our long-term competitiveness."

NOTES

- 1 <http://www.engineeringnews.co.za/article/gauteng-to-build-79-new-schools-refurbish-existing-ones-2012-02-17> Henry Lazenby 17/2/2012
- 2 <http://www.thenewage.co.za/mobi/Detail.aspx?NewsID=61249&CatID=1009> Zodidi Mhlana 5/9/2012
- 3 <http://www.thenewage.co.za/mobi/Detail.aspx?NewsID=61249&CatID=1009> Zodidi Mhlana 5/9/2012
- 4 This appears on their website mindofafox.com, set out in Managing the Strategic Conversation – Scenarios, Strategy and Tactics under the section on 'The latest South African scenarios – Three Flags'.

Are women better or worse off since 1994?



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I began researching this article determined to celebrate the gains women have made since 1994. There are many, and they are not insignificant. For many years the primary struggle in South Africa was a racial struggle and liberation movements focused on this as a primary concern. Despite this, women made great change, change that is commemorated each year on the 9th of August as Women's Day.

At the same time, women's rights in South Africa are at a turning point like never before. Women make up the majority of the South African population. They are also the worst affected by poverty, gender based violence (GBV), HIV infection, and climate change. There is much to be done, and examining the gains women have made is important in entrenching a sense of efficacy and, most importantly, of hope.

It is equally important to look at where women are falling short. These failings hold women back from occupying an equal position to men socially, economically and politically. Without acknowledging these shortcomings we will be unable to act upon them. If we assume that women's rights are 'achieved', what will inevitably result is a sense of complacency and apathy.

Where we've gone right

Improving legislation

Over the past eighteen years, Parliament has passed a number of laws that have improved women's legislative access to sexual and reproductive health, land, employment, and their recourse against discrimination and violence. Particular pieces of legislation and legal precedents can be seen as examples of the improving, progressive nature of legislation. Although beyond the scope of this article, it is equally important to review the application of these pieces of legislation to ensure that they are applied in a manner that is beneficial to women's freedom.

- **The Choice on Termination of Pregnancy Act No 92 of 1996, and Amendment Act 1 of 2008.**

These Acts allow for access to safe and legal termination of pregnancy up until 12 weeks at the request of the pregnant woman, and between the 13th and 20th week if certain criteria apply. In addition, the Amendment Act provides criteria that have to be met for a facility to be able to offer termination of pregnancy.

- **Recognition of Customary Marriages Act No 120 of 1998**

The Recognition of Customary Marriage Act aimed to provide for "equal capacity and status of spouses in customary marriages", to ensure that all marriages are registered to allow for the provision of legal rights within a marriage, and to provide for the cancellation of such marriages. This is critical in ensuring

that women in customary marriages are treated as equals, rather than objects transferred from one family to another.

- **The Domestic Violence Act No 116 of 1998**
This Act provided for women to have access to protection orders to prohibit abusers from coming near them, and places a positive duty on police to assist victims of domestic violence.
- **The Promotion of Equality and Prevention of Unfair Discrimination Act No 4 of 2000, and Amendment Act 52 of 2002**
This Act prohibits unfair discrimination on the basis of gender, which is critical in fields such as employment, land and housing.
- **The Criminal Law (Sexual Offences and Related Matters) Act 32 of 2007**
This Act expanded the definition of rape and created a number of new crimes, in an attempt to cover the extent to which violence against women is meted out. The Act also ensured that rape within marriage is classified as rape, and removed the cautionary rule, where rape survivors' testimony was to be regarded with suspicion.

The advocacy of the Treatment Action Campaign has been critical in ensuring that women living with HIV are able to access services and have healthy pregnancies.

In addition, there have been a number of progressive policies developed to provide for access to anti-retrovirals for women living with HIV and to improve the Prevention of Mother-To-Child Transmission (PMTCT) of HIV. The PMTCT programme began in 2002, and has reduced the rate significantly.¹ The advocacy of the Treatment Action Campaign has been critical in ensuring that women living with HIV are

able to access services and have healthy pregnancies.

Where we're going wrong

- ***Political commitment to gender equality***

At present, 42% of Ministers in Government are women and women² make up 45% of the National Assembly.³ Yet, few of these women dispute legislation that is passed which will disempower women.

The Commission for Gender Equality is a body created by the Constitution to protect women's rights and gender equality, and to monitor South Africa's progress in achieving the United Nations Millennium Development Goals. Informed by international declarations, such as the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Beijing Platform for Action (BPA), this body is entrusted with holding Government accountable for achieving a gender-equitable South African society. However, this potential is realised far too infrequently, because of a lack of budget and political clout.

Although a new Department of Women, Children, and People with Disabilities was created in 2009, this cannot, in my view, be seen as a commitment to gender equality or the advancement of women. The Department's budgets are blown each year on women's day events with little impact on women's real lives. It is also worth noting that few civil society organisations that work with and for women were invited to the most recent sitting of the Women's Parliament.

- *The Traditional Courts Bill*

Today we stand at the edge of the abyss. Despite public outcry, the Traditional Courts Bill is being bulldozed through Parliament, while at the same time the formal spaces for engagement are being narrowed each day. One cannot help but conclude that when politicians are losing their hold on power they come after women's rights. (One only needs to watch the news to see how this is happening in the United States at the moment with sexual and reproductive health rights.) The Traditional Courts Bill will limit women's rights in the interests of a minority of traditional leaders. It is oppressive lawmaking at its best, or in this case, its worst.

- *Sexual violence*

In addition, it is oft quoted that South Africa has one of the highest rape rates in the world of a country not at war and that a girl in South Africa has more chance of being raped than of learning to read.⁴ In the most recent Crime Statistics, 64 514 sexual offences were reported⁵. It is estimated by most service providers in the field that this number represents only a fraction of the real number of offences committed.

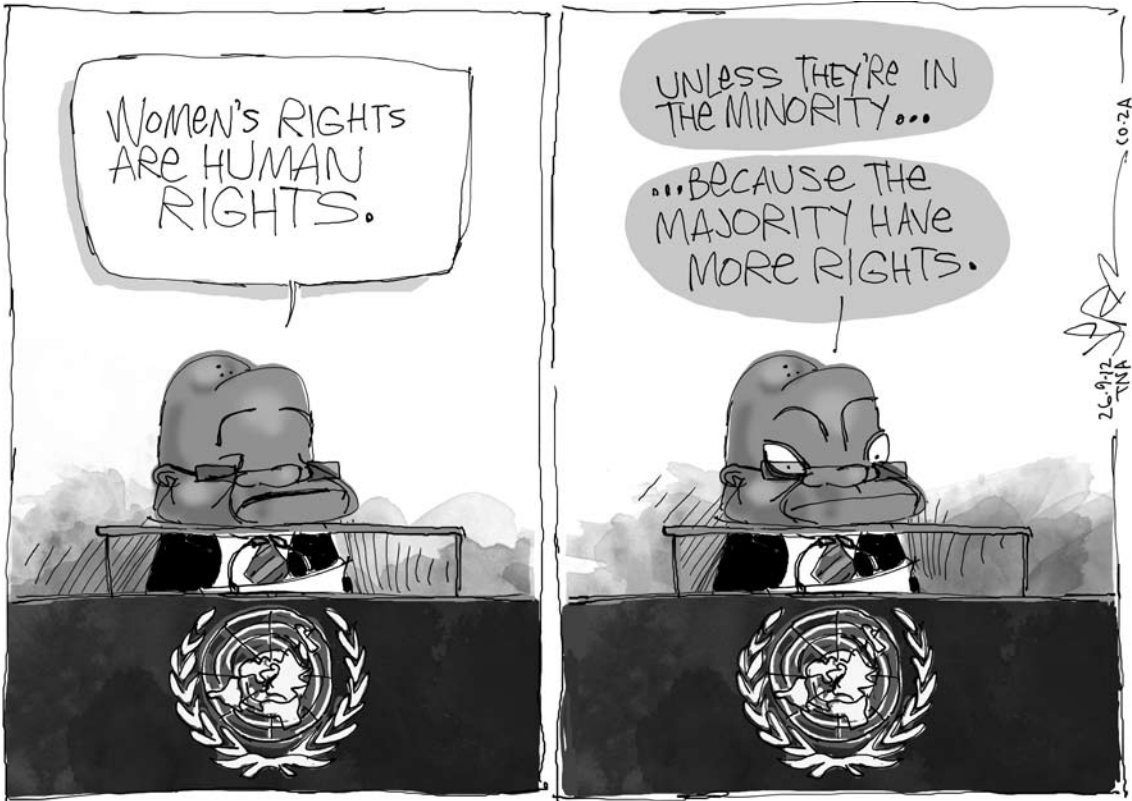
A further indication is the number of centres that assist women in reporting their rape and provide counselling to survivors to assist them to heal that are closing down because of a lack of funding.

In addition, sexual violence against marginalised groups, such as lesbian women, has also been on the rise and violence against sex workers continues⁶. Sexual offences are always incredibly traumatic for the survivor, and yet the process of cases through South Africa's criminal justice system, the low conviction rates, and the low distribution of maximum sentences, is indicative of a lack of political will to investigate and prosecute these crimes.

A further indication is the number of centres that assist women in reporting their rape and provide counselling to survivors to assist them to heal that are closing down because of a lack of funding. These centres fill the gaps in government services, and it is desperate that they are closing at a time when they are needed most. It is difficult to feel free when you are threatened with a culture of sexual violence, and this is a reality that many women face.

- *Maternal health*

Our maternal mortality rate (MMR) is also higher now than it was in 1980. In the 2008 – 2010 period, 4687 mothers lost their lives⁷, despite the fact that South Africa has the highest per capita spending on health in sub-Saharan Africa.⁸ These numbers also vary dramatically. According to the Department of Health, the 2008 MMR was 176.22 deaths per every 100 000 live births.⁹ Human Rights Watch estimated that for the same period it was around 625 per 100 000.¹⁰ The World Health Organisation put the figure as closer to 300 per 100 000.¹¹ The Commission for Gender Equality puts it at 400 per 100 000.¹² Regardless of the exact numbers, they all suggest a worrying increase, particularly because, according to a 2011 Human Rights Watch report, 92% of women attend antenatal care, and almost 87% deliver in health facilities.¹³ Our HIV infection rates do have something to do with this increase: in 2010 alone, 59.9% of maternal deaths were HIV related.¹⁴



Thanks to *My name is Jerm* for permission to publish this cartoon. <http://jerm.co.za/>

- *Representations of women in advertising*

The South African advertising industry continues to put forward narrow conceptions of women and women's appropriate gender roles. It is possible to listen to a day's worth of advertising on the radio and hear women in only a few roles (mother who loves cleaning, angry vindictive boss, or nagging girlfriend etc).

It is important that advertising, which promotes a diversity of ideas of what a woman can be, is aired and promoted.

The promotion of ideas like this makes it difficult for women to occupy alternative roles in the minds of fellow women and, in particular, of men. If young girls only hear stereotypes about women that cast their voices as 'nagging' or relegate them to the domestic sphere, this will have a profound effect on their ability

to imagine themselves in a different world.

Unequal gender relations disempower men, as well, by limiting them to roles where they are unable to be active fathers, caring brothers, or non-violent friends. It is important that advertising, which promotes a diversity of ideas of what a woman can be, is aired and promoted.

What now?

“It is a dangerous thing to assume that just because we were raised in a feminist era we are safe. We are not. They are still after us.”¹⁵ – Ellen Neuborne

The worst thing we could become in this context is complacent or complicit. The beauty of South Africa’s democracy and parliamentary system is that it was designed to be participatory. It is critical, at this time, that women participate to ensure that their lives do not get worse.

Nelson Mandela quite rightly said “freedom cannot be achieved unless the women have been emancipated from all forms of oppression.” The freedom of some should never be founded on the lack of freedom of others. Women’s lives have undoubtedly improved in many respects since the advent of democracy. But it is clear that there is a long way to go.

NOTES

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- 2 South African Government. Ministers List. <http://www.info.gov.za/leaders/ministers/index.html>
- 3 South African Parliament. Women and Parliament. <http://www.parliament.gov.za/content/Women%20and%20Parliament%20English~1.pdf>
- 4 David Smith. 2010. “We have a major problem in South Africa.” The Guardian. <http://www.guardian.co.uk/lifeandstyle/2010/nov/18/south-africa-murder-rape>
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- 8 HRW. 2011. Stop Making Excuses. Accountability for Maternal Health Care in South Africa. Page 15. Accessible via <http://www.hrw.org/reports/2011/08/08/stop-making-excuses>
- 9 The DOH. Saving mothers. Page IV.
- 10 HRW. 2011. Stop Making Excuses. Page 2.
- 11 Margaret C Hogan, Kyle J Foreman, Mohsen Naghavi, Stephanie Y Ahn, Mengru Wang, Susanna M Maleka, Alan D Lopez, Rafael Lozano, Christopher J L Murray. 2010. Maternal Mortality for 181 Countries, 1980 – 2008: a systematic analysis of progress towards the Millennium Development Goal 5. *Lancet* 2010; 375: page 1609 – 23. Page 35.
- 12 Weaknesses in South Africa’s Progress with women’s equality and the Millennium Development Goals, Agenda: Empowering Women for Gender Equity, 26: 1, 91 – 103. Page 95.
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- 15 Ellen Neuborne. “Imagine my Surprise” in Barbara, Findlen (Eds). Listen Up: Voices from the next feminist generation. Seal Press: 1995, 2001. Page 184