

Practitioner's Note

Working with the "Enemy": Collaborating in the Implementation of Women's Human Rights

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I. INTRODUCTION

As on-site foreign legal practitioners are painfully aware, women are often at the end of the line when it comes to access or allocation of resources for development. Fortunately, the re-orientation of the world's focus towards women's rights as human rights has begun to change that state of affairs. Complementing this changing focus is the use of collaborative strategies to pool scarce resources towards a common goal: the equality of women.

The use of a collaborative strategic model in a women's human rights project is often poorly understood and applied. This issue is vitally important to the further advancement of women's human rights because collaborative strategic models form the structure of an increasing number of ambitious projects. Therefore, it is imperative that everyone involved has a clear idea of what a collaborative strategic model is and how to use it effectively.

The questions to be addressed in this Note are: Will careful structuring and maintenance of the project model help human rights advocates exploit it to its fullest capacity? Can a lack of attention to these details contribute to the failure of a project? What can be done to ensure that the model

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functions at full capacity? Lastly, is the collaborative model the most appropriate one for the implementation of women's human rights?

I will explore these questions in the context of the implementation of women's human rights using a particular kind of collaborative strategic project model that I affectionately call "collaborating with the enemy." My perspective is that of a foreign legal practitioner who has been invited to assist in the development and/or implementation of a project involving women's human rights.

II. EVALUATING THE VIABILITY OF A COLLABORATIVE STRATEGIC PROJECT MODEL

As a foreign legal practitioner, I have come to appreciate that good practice requires a solid knowledge of theory, and solid theories require lots of hands-on practice.¹ It is this mantra that forms the basis of this Note.

Collaboration is certainly not a new concept for non-governmental organizations with a mandate to seek advancement in women's human rights. A legal practitioner who has been parachuted into such an NGO to assist with the implementation of a project with a legal component to it, however, may take for granted the clear need for collaborative networking in project development. In fact, the NGO may not see the need for it or may not want to even consider the collaborative model.² Foreign practitioners must therefore be aware that significant collaboration with other organizations in an NGO's respective country may be a daunting prospect.

In most cases, a women's NGO is in a precarious position, balanced between competing political forces. On the one hand there is the incumbent government, in many cases a dictatorship. On the other hand is the opposition, whether formal or underground, from which NGOs will often draw support and membership. The incumbent government often considers NGOs as dangerously radical because of the support they receive from the opposition. Yet, the issues NGOs choose to champion often make them unpalatable for the opposition as well. In the end, these NGOs are often forced to view the government as the enemy. This view is reinforced by actions taken by the government to silence NGOs that speak out against violations of women's rights, to imprison their members, or to mount a campaign of slander to discredit them.

The women who work for the NGO may have worked very hard to gain a foothold in the existing political arena, which they are less than anxious to jeopardize. Therefore, they may be very guarded about expanding the constituency of stakeholders in the project for fear of betrayal by or reprisal from the government. Control over their projects

1. I credit Professor Irwin Cotler, Faculty of Law, McGill University, Montreal, Quebec, Canada with bringing home that truth for me.

2. Nonetheless, it should be acknowledged that many women's NGOs around the world, from a small local women's group in Northern Kenya to a well-established women's group from Bangkok can boast a sophisticated, practical knowledge of the values or dangers involved.

and the ability to choose who, what, where, and when to do something to further the goals of a project will be very important to them in order to preserve their precarious position.

In some cases, information may be a precious resource, and she who controls the information may hold a great deal of power. A women's NGO that has important information can gain a relatively powerful position and may be reluctant to share it with other women's NGOs in its area.

In any case, a foreign practitioner must be sensitive to the forces that determine what kind of collaborative strategic model would be appropriate and, sometimes, whether this kind of model is indeed possible as a means to further women's human rights. There are two significant reasons for this.

First, when a group of women's organizations spearheads a project, one must be aware that the mere fact of being female and focusing on women's rights as human rights has a significant effect. One must evaluate the kind of power that women already carry in the cultural context of the project. Factors such as how long women have been allowed to vote, whether there are any female high-ranking government officials, whether there are women judges or police officers, whether the government has either collaborated with women's NGOs in the past or contributed any funding to women's NGOs will be indicators of the kind of power women can and do wield. Further, the value placed on women by the culture itself will be an important consideration. Does the culture accept women decision makers? Do they respect women who have broken the "cultural mold" to become leaders?

Second, caution is particularly necessary when a project has a legal component. Attempting to influence the modification or change of the legal structure of a country where the government is interested in maintaining the status quo in order to preserve its own power is always a risky prospect. Therefore, the combination of gender and power warrants care in the choice of the vehicle to realize a project.

Confronting these issues clearly during the planning stages should bring into focus the importance of having a firm grasp on the kinds of collaborative strategic models that are possible and feasible in any given circumstance.

III. COLLABORATION MODELS

Collaborative projects are not a new concept. NGOs may already have a wealth of experience that they can use to develop potentially successful collaborations. A clear conceptual understanding of collaboration will assist in making a collaborative strategic model work to its fullest capacity. There are three basic models: the "like-minded" model; the "expanding the constituency" model; and the "collaborating with the enemy" model.

The "like-minded" model is generally structured around two or more women's NGOs with a mandate to seek recognition and access to rights that affect women. These NGOs seek to pool their respective knowledge

and resources to advocate for improvement in women's rights in general or with respect to a specific right. The important point is that, generally, very little cross education as between NGOs is necessary to ensure that everyone involved is focusing on the same issue with the same goals in mind.

This collaborative model can be based on consensus or representation. The consensus model requires a consensus among partners before steps are implemented. The representative model usually requires that the NGOs choose one organization to represent the interests of the group. The representative will have the authority to make day-to-day decisions on the direction of the project, and she will likely be required to relay major decisions to the entire group for discussion and instructions. In both cases, collaboration permits women's NGOs to present a well-developed, comprehensive position that has an increased chance of success.

The "expanding the constituency" model brings together groups with different substantive foci. As a group, they seek to attain a common goal by combining their different perspectives and resources on an issue. This kind of collaboration requires an understanding of the intersection of different disciplines whose members may have an interest in or significant influence on women's rights. If collaboration is considered creatively, projects using this type of model can include an interesting variety of individuals and organizations pooling their expertise in order to reach a common goal. For example, a project to seek legalization of abortion could include local or international NGOs, the national medical association, the national bar association, local doctors, and gynecologists.

This kind of model, however, can make it difficult to focus on the elaboration of a common goal and mission statement and to ensure that everyone understands the reasons behind the project and the implications of the projected outcomes. More concretely, communicating and scheduling meetings among the various constituents can present unique difficulties. Nonetheless, a well-orchestrated collaboration of this sort has the potential for significant success.

The "collaborating with the enemy" model is the focus of this Note. In an oppressive political environment, women's NGOs who are dedicated to a particular set of rights will be outraged at the oppression that precludes exercising these rights and will hold an often well-founded conviction that the incumbent government, as guardians of the status quo, is the enemy. The NGO becomes the revolutionary's camp and is often the target of verbal and physical attacks sponsored or tolerated by the government. Therefore, collaborating with the "enemy" is not only a generally unwelcome concept from a political or ideological perspective, but may also pose real physical danger. Even so, if orchestrated with care within the right environment, collaborating with the "enemy" can reap impressive results.

The structure of this kind of collaborative strategic project model is most often, and most successfully, organized around a group including two or more NGOs, one or more interested individuals, and a particular

Ministry or department of the incumbent government that deals with the issue at hand. The model functions much like the "expanding the constituency" model with the addition of the government, which creates a whole new dimension to the project.

I intend to focus on this third kind of collaborative strategic model using two project examples from my fieldwork. I describe the content, origin and development of each of the projects in the next section, including identification of obstacles and roadblocks that have created difficulties in the implementation of each project. Then, in the section on tips and traps, I highlight important processes and concepts that are crucial to this type of collaborative strategic model and point out how attention to this detail can avoid many difficulties in project development.

IV. EXAMPLE PROJECT 1: DOMINICAN REPUBLIC

A. Local context

1. Overview

Family violence is a serious problem in the Dominican Republic (D.R.). Between 1990 and 1994, the number of women who were victims of homicide increased by 25%.³ Other statistics show that these homicides are described as "passionate crimes" in 51% of cases where the aggressor lost control and solved the conflict by killing the victim.⁴ Another alarming statistic shows that the aggressors are rarely strangers;⁵ the most frequent aggressor is the common-law husband who is cited in over 25% of reported cases.⁶ A recent report showed that, on average, a rape is reported to the National Police every eighty minutes, or twenty cases daily.⁷ This reporter also asserts that over 600 cases of sexually-oriented violence occur each month.⁸ That amounts to over 7,200 cases per year, most of which are never reported.⁹ Available statistics are inconsistent, difficult to find, and poorly recorded with few details, so the magnitude of the problem is only

3. 1995: *La violencia continúa*, QUEHACERES, Nov. 1995, at 5.

4. *Id.* at 4.

5. *Violencia contra las mujeres en República Dominicana 1994*, QUEHACERES, Nov. 1994, at 4-5 (asserting that 80% of aggressors of violence against women in the Dominican Republic are men who are closely related to their victims).

6. 1995: *La violencia continúa*, *supra* note 4, at 5.

7. *Id.* at 4 (citing a report by Fausto Araujo in *El Nacional*).

8. *Id.*

9. BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, DEPARTMENT OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES (§ 5, subsect. "Women," para. 2) (2000), <<http://www.state.gov/g/drl/rls/hrrpt/2000/wha/index.cfm?docid=761>>. According to the State Department's report on Human Rights practices during 2000, "[f]rom January through October, the Santo Domingo district attorney's office received only 203 reports of rape in the National District." *Id.*

partially known.

The Dominican Republic is not an unusual hotbed of domestic violence compared to the rest of the world. In Canada during 1996, 21,901 cases of spousal assault were recorded in a sample of 154 police departments across the country.¹⁰ Eighty-nine percent of the victims of spousal assault were women.¹¹ In the same year, about 80% of victims of criminal harassment or stalking were women.¹² Over half of these women were harassed or stalked by ex-spouses or other intimate partners.¹³ Similar statistics are available for the United States.¹⁴ The difference is that countries such as Canada and the U.S. have legislation, a system of shelters for victims, specialized police departments, emergency room procedures, and community programs to deal with the issue. The Dominican Republic had none of these until recently.

In January 1997, the Congress of the Dominican Republic passed amendments to the Dominican Penal Code, which included substantial provisions dealing with violence against women.¹⁵ The amendments extensively overhauled the provisions on torture, assault, sexual assault, rape, and incest. The definition of rape was broadened to allow married women or common-law wives to charge their husbands or partners with the crime. The most significant reforms were those that propose penal sanctions for domestic violence and provide a preventative tool to benefit women: a protection order.

2. Educating the Judiciary, Police, Health Professionals, and Women
About Violence Against Women and the Dominican Republic's
New Amendments to the Criminal Code Concerning Violence
Against Women— *Santo Domingo, Dominican Republic*

This on-going project unites a Canadian NGO with four NGOs located in the Dominican Republic and a Ministry within the D.R. government. The project focuses on the education of Dominican judges, prosecutors, police, health personnel, and women leaders about domestic violence and women's rights. The educational content is based on amendments to the Penal Code, as discussed above.

The goals of the project are threefold: to provide training to Dominican judiciary, police, health professionals, and women leaders on violence against women and women's rights; to help initiate the implementation of procedures within the medical profession, the police, and the judiciary that

10. CANADIAN CENTRE FOR JUSTICE STATISTICS, 1998 FAMILY VIOLENCE IN CANADA: A STATISTICAL PROFILE 3 (1993).

11. *Id.* at 3.

12. *Id.* at 3.

13. *Id.* at 3.

14. See BUREAU OF JUSTICE STATISTICS, INTIMATE PARTNER VIOLENCE (2000); PATRICIA TJADEN & NANCY THOENNES, OFFICE OF JUSTICE PROGRAMS, U.S. DEP'T OF JUSTICE, PREVALENCE, INCIDENCE, AND CONSEQUENCES OF VIOLENCE AGAINST WOMEN: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY (1998).

15. Law Against Family Violence, Law 24-97 (Dom. Rep.).

ensure that survivors of violence are treated equitably, in a gender-sensitive way and within the parameters of the law; and to provide women with a better understanding of their rights under the new legislation.

The project is slated to take place over a period of two years, which will include five phases: research and statistics gathering, a study tour in Canada by representatives from the Dominican Republic, on-site development of educational materials, implementation of a series of educational workshops, and evaluation.

This project was proposed and is being coordinated by the Canadian Lawyer's Association for International Human Rights (CLAIHR), located in Ottawa, Ontario, Canada. CLAIHR is a non-profit, non-governmental organization established to promote and protect human rights internationally through the use of law and legal institutions.

The project originated out of an investigation and report that I completed while working in the D.R. under the auspices of CLAIHR. The report gave recommendations on the collaboration between and reform of the legal and health sectors in the Dominican Republic within the context of the establishment of support units for women who are survivors of violence in the municipal health clinics in the capital of Santo Domingo.

When the new amendments were passed, the opportunity was ripe for collaboration among interested organizations and/or individuals to ensure that these amendments were positively interpreted and applied. Once the educational project was conceived, it became clear that expertise was required in a number of areas. Areas of need included the kinds of medical services women currently received and the perceived deficiencies in these services; the manner in which women who sought police assistance were treated, how evidence was taken and preserved and how their case was processed; the problems associated with pursuing a legal case in the Dominican legal system against perpetrators of crimes against a woman; and the development of educational materials and workshops or seminars on the issue of violence against women.

The Dominican NGOs who have agreed to collaborate in the project include CEDAIL (Centro Dominicano de Asesoría e Investigaciones Legales); CENSEL (Centro de Servicios Legales para la Mujer); CEPLES (Centro de Protección Legal y Servicio Social del Sur, Inc.); and FISOE (Fundación para la Integración Social y Educativa). CEDAIL is dedicated to promoting the legal rights of the poor in the National District of the Dominican Republic, including women survivors of domestic violence and their Executive Director is a former judge with continued strong ties to the existing judiciary. CENSEL focuses on helping women survivors of violence. The lawyers at CENSEL provide legal and educational services to women survivors concerning their rights and remedies under the law. CEPLES runs a legal clinic in a region southwest of Santo Domingo as well as develops educational workshops for women on human rights and violence against women. FISOE works principally with popular or community organizations in areas concerning women and their families, including violence prevention. They have a weekly radio show that

addresses such issues.

The Ministry of Women for the Government of the Dominican Republic has also agreed to participate in the project. The Ministry is the main link in the government and the vehicle through which we hope to gain the cooperation of the Chief of the Police Department and the Attorney General. The Ministry will also participate in the development of educational materials and ensure the participation of the police and the judiciary in the workshops.

CLAHR undertook to provide legal research on Canadian and other foreign initiatives on gender sensitization of the judiciary, police and health care sectors, as well as to provide financial and technical assistance. Two Canadian lawyers with expertise in judicial and police training are scheduled to travel to the D.R. for a period of eight weeks to assist in the development of the educational materials. Three representatives from among the collaborating Dominican NGOs will be invited to spend two weeks in Canada visiting various legal and medical institutions as well as local NGOs that deal with the issue of domestic violence.

In order to give the project some publicity and put pressure on both the Chief of Police and the Attorney General to contract in good faith, the Canadian Ambassador to the Dominican Republic was asked to announce Canadian political support of the collaborative project at a public ceremony. The agreement was duly signed and presented publicly and all of the NGOs expressed optimism that the project would succeed. Unfortunately, the project has been held up for lack of funding, and other difficulties have since arisen, many of which can be attributed to the faulty structure of this collaborative strategic project model.

B. Problems

First, although it was agreed amongst the collaborators that CEDAIL would be the lead NGO in the Dominican Republic due to their administrative capacity, it appears that this decision was not clearly communicated. Thus, meetings among the collaborators are difficult to organize and poorly attended. Further, although careful thought was given to the choice of NGOs invited to join the project, the responsibilities of each NGO were never spelled out in a written agreement. In effect, we only reached a verbal agreement on collaboration and did not discuss the terms of reference that would have specified roles for each collaborator.

Second, because of the delay, some of the individuals who had been identified as representatives from the participating NGOs have left to seek employment elsewhere, without designating a replacement responsible for completing their part of the project.

Third, although the project was conceived following elections in the Dominican Republic in 1996, the political cycle has come full circle. With the election of a new Attorney General and Chief of Police, the agreement signed by the former Chief of Police and AG is now in jeopardy.

Fourth, due to the difficulties of long distance communication,

expression of CLAIHR's continuing interest in the project and efforts to secure funding have been sporadic and brief; the participating NGOs have new priorities, new personnel, and new pressures.

Lastly, now that some significant time has passed since the conception of the project, it has become clear that aside from the difficulties caused by a delay in funding, there was never a clear conception, nor any surrounding discussion of the kind of collaborative strategic model on which the project would be based. Further, although some of the basic structures of a collaborative project were carefully considered in order to establish a well-balanced collaborative team, many other issues of collaboration were either taken for granted or left out completely. In hindsight, care and attention to these aspects might have helped to avoid the kinds of difficulties that, in addition to lack of funding, are currently undermining the viability of the project.

V. EXAMPLE PROJECT 2: KENYA

A. Local context

1. Overview

Domestic violence has been dubbed a "national crisis" in Kenya.¹⁶ Over the last two years, the newspapers have been filled with accounts of exceptionally brutal violence against women, and little has been done to prosecute the offenders. In October 1998, a young woman died from severe burn injuries after her policeman boyfriend allegedly "doused her in paraffin and set her ablaze inside his quarters at the police station."¹⁷ One month later, another young woman became a major news story after her boyfriend, also a policeman, allegedly hit her on the head with a cooking stove.¹⁸ She was hospitalized for six months before dying of her injuries. On New Year's Eve 1998, a mother of eight was allegedly beheaded in bed by her husband while their children slept in their one-room house.¹⁹ Two weeks later, another young woman's hands were nearly severed at the wrist, and the left side of her face was badly injured by her husband. He had become enraged at her for singing in front of their landlord's son.²⁰

Generating change in these circumstances requires a focus on the root of the problem of violence against women: the inequality of women in

16. MURAGU NYABERA, INSTITUTIONAL GAINS, PRIVATE LOSSES: THE 1998 FIDA (K) ANNUAL REPORT ON THE LEGAL STATUS OF KENYAN WOMEN 4 (FEDERATION OF WOMEN LAWYERS IN KENYA ED., 1999).

17. *Id.* at 4.

18. *Id.* at 4.

19. *Id.* at 5.

20. *Id.* at 5.

Kenyan society. Women's groups in Kenya have advanced women's equality by pursuing fundamental legislative changes.

2. Towards an Equality Act and a Family Protection Act: FIDA (K)
Kenya and the Ministry of the Attorney General—*Nairobi,
Kenya*

This project involves collaboration between the Federation of Women Lawyers—Kenya (FIDA (K)), a women's rights NGO, and the Ministry of the Attorney General (AG) to draft an Equality Bill for presentation in the Kenyan Parliament.

FIDA (K) is a non-governmental organization committed to the enhancement of the legal status of Kenyan women through legal aid, monitoring women's rights, advocacy, education, and referral. It has a large membership of Kenyan women lawyers and law students; prominent among them is the Honorable Martha Karua, one of fewer than ten female members of Parliament.

FIDA (K) has developed significant expertise on the issue of domestic violence and has become a noteworthy authority in Kenya concerning the kinds of legal reform that are necessary to provide an effective means of addressing this issue. It focuses on the root of this problem: the inequality of women in Kenyan society. With the understanding that women's rights are human rights, FIDA (K) has put its weight behind the development of a general bill of that will deal with basic human rights for all Kenyans and, more specifically, a Family Protection Bill that deals directly with violent offenders in domestic contexts.

Over the last ten years, FIDA (K) has developed a fearsome reputation in Kenya for getting results. Its projects are focused, goal oriented, and well orchestrated, and the government in particular has begun to consider FIDA (K) a force to be reckoned with in the promotion of women's equality. The power that FIDA (K) has gained has given it a platform from which it can collaborate directly with the government to advance its objectives.

The push for an Equality Bill and new legislation to deal with the issue of domestic violence began to take concrete shape in the wake of a decisive move by Karua in the Kenyan Parliament. In early 1999, she tabled a successful motion in Parliament for leave to introduce a private member's bill on the issue of equality, sponsored by FIDA (K). This left the AG with the choice of negotiating with FIDA (K) to ensure that the government would get some credit for the groundbreaking legislation or suffering political embarrassment as the bill was introduced without his involvement.

In February 2000, a collaborative agreement was reached between the then Executive Director of FIDA (K) and the AG. Although this project involved collaborating with the "enemy," it departed slightly from the model discussed above in that only FIDA (K) and the Ministry of the AG were involved. This was mainly due to the kind of power that FIDA (K) holds, which gives them the ability to independently engage in

collaboration.

Ostensibly, the agreement was this: FIDA (K), with the assistance of a drafting expert from the AG, would draft a preliminary version of the Equality Bill to be refined by the office of the AG. Once the Bill was ready, FIDA (K) would allow the AG to introduce the Bill to Parliament in place of the Honorable Karua. As a show of good faith by the AG, FIDA (K) was also asked to provide comments and recommendations concerning a Family Protection Bill that had already been drafted by the AG's office.

In order to effectively funnel FIDA (K)'s resources into developing a viable draft of the Equality Bill, as well as reviewing the proffered Family Protection Bill, FIDA (K) arranged a four-day retreat for members who were interested in contributing to the project. The program for the retreat was ambitious. Within 96 hours, members were to define a list of issues; formulate a legal framework; draft appropriate language for an Equality Bill; and review, debate, and make recommendations for amendments to the draft Family Protection Bill.

As a foreign legal practitioner with expertise in international human rights, my role was to provide an introduction to human rights norms and the international instruments that embody those norms. I was further asked to provide examples of Canadian legislation dealing with similar issues and to monitor the debate on the content of the proposed Kenyan bill, offering suggestions from a Canadian perspective.

B. Problems

As of February 2001, the Bill had yet to be tabled in Parliament by the AG and was still undergoing debate in the media. The road up to this point has been fraught with significant misunderstandings, setbacks, and difficulties. The retreat, although ultimately successful, provided us with a prime example of an important project made extraordinarily difficult because of inadequate attention to the form of the collaborative relationship.

First, the drafting expert from the AG's office was ignorant of the obstacles facing Kenyan women. Much of the first evening of the retreat was spent putting him through an improvised gender sensitization program. Second, although it was understood by a majority of the members at the retreat that our goal was to produce a preliminary draft of the Equality Bill, this goal became somewhat muddled by the end of the first day due to some serious miscommunication or misunderstanding among the collaborators. Consequently, the goal for the retreat changed by the hour, and eventually we were told that all that was required was a defined list of issues to be addressed in the draft legislation. This put into question the logic behind sending a drafter from the AG's office if he was not actually going to assist with the drafting.

Third, although all of the individuals involved were FIDA (K) members, and a gender sensitization seminar was part of the program for the retreat, it became quite clear that not all of the members had a well-

developed knowledge of the concept of gender, let alone of the kinds of obstacles that Kenyan women face on a day-to-day basis. This prolonged the debate over the identification of key issues, and forced the participants to rush through subsequent steps in order to complete the ultimate goal.

Nonetheless, a list of issues along with some recommendations on language and/or comparative legislation was completed with respect to the Equality Bill, as well as a list of comments and recommendations with respect to the draft Family Protection Bill. This product was then passed on to the AG's office where the drafting department would come up with a preliminary draft of both bills.

Unfortunately, and much to the consternation of FIDA (K), the preliminary draft of the Equality Bill fell far short of expectations. It was clear that the Bill was not adequate to shoulder the responsibility of becoming a Bill of Rights for all Kenyans, let alone to specifically address the concerns of Kenyan women. It was also clear that the work of the FIDA (K) members at the retreat had been manifestly ignored or disregarded. To make matters worse, the AG claimed that FIDA (K) would have to pay for the services of the draftsman who had attended the retreat, despite initially offering his services as part of the collaborative agreement.

Hoping to salvage the objectives of the retreat, FIDA (K) held a marathon meeting to draft an appropriate Bill to resubmit to the AG, based on their report from the retreat. The Executive Director made it clear to the AG that if this draft did not provide the significant basis for the final document, FIDA (K) would simply give the Bill to Karua, who could make use of the leave granted by Parliament to introduce it as a private member's bill.

Unfortunately, this tactic has not been exploited, and the Bill has yet to be introduced in Parliament.²¹ This is due largely to the fact that, over the past nine months, there has been widespread media coverage of the proposed Equality Bill, as well as a proposed Affirmative Action Bill brought forward by another Member of Parliament. President Moi has managed to significantly confuse the general populace about the purpose of each Bill by referring to the Equality Bill as the "Gender Bill." He has even gone so far as to say to the nation at large that the only way that Kenya can prosper is for Kenyan women to stay home and be good mothers. Even if the Bill were tabled by Karua, FIDA (K) cannot be sure it would pass.

Further, many groups that were not consulted for their input into the content of the Equality Bill have now come forward to demand that their voices be heard. This action, in and of itself, reveals another difficulty with collaborative projects: i.e., are the collaborators representative of the community that will benefit from the outcome of the project? In this case, no other groups were consulted. FIDA (K) took ownership of a project that will ultimately affect every disenfranchised group in Kenya, and the

21. At a certain point in the process, it was deemed more important to focus on the Equality Bill and its implementation in order to smooth the path for the development and introduction of the Family Protection Bill at a later date.

consequences of this move are now coming to light.

VI. TIPS AND TRAPS

In this section, I hope to provide some tips on methods of administering or coordinating collaborative projects that will take advantage of the unique qualities of this kind of strategic project model and minimize the possibility of setbacks, delays, or even failure. I provide general tips and specific discussion of the kind of traps we could have avoided in the two projects explored above.

A. Make a Visual Flow Chart

A picture (a map or a flow chart) says a thousand words. Put your chosen collaborative strategic model in a flow chart, an organizational chart, or in whatever form that makes it easy to understand from a visual standpoint, and you have done the best thing you can do to start your project off on the right foot. A clear organizational chart with assigned roles and reporting lines puts an effective muzzle on the "We didn't know we were supposed to do that" or the "We never agreed to be responsible for that" excuse when a deadline is missed or some other mishap occurs. Knowing what is expected of you also means you will be more likely to fulfill your obligations.

This kind of chart should be the product of consensus in so far as possible, subject to distance and communication difficulties. Representatives from each NGO can agree that one person will draft the chart and submit it to the group for approval. A verbal consensus is open to muddled recall, and a written explanation invites individuals to ignore it. A flow chart with arrows and boxes serves as an indispensable visual tool.

I cannot stress enough the importance of graphic aids in any collaborative strategic project that involves the government. Government officials in any country are prone to expect that they will be the final decision makers; an effective flow chart will disabuse the government collaborators of this notion and any pretensions of complete control over the project. If the government will not accept that aspect of the collaboration, then it may be time to rethink the advantages of collaborating with the government on that particular project.

A flow chart has another, more probing advantage in that it will lay bare any claims to power or credit as a result of a successful project from a pretender collaborator. By this I refer to the vigilante NGO or government department that agrees to be a collaborator without any intention of actually contributing to the project, in order to receive credit for the completed project by riding on the coattails of another NGO's hard work. A visual flow chart with reporting lines makes it easy to identify those who failed to hold up their end of the bargain when something goes wrong. It is

not a matter of laying blame but of ensuring that time and effort is not wasted building a collaborative relationship with a less-than-committed partner.

The need for this kind of flow chart is manifest in the Dominican project. Given that this project is currently delayed, we have the opportunity to revisit our approach. We hope to clarify the nature of the collaboration and make it apparent to everyone what each collaborator is bringing to the project and what contribution is expected.

We could also expect that this initial clarification might have helped to avoid some of the serious difficulties encountered in the Kenyan project. In particular, the lack of a designated final decision maker or mechanism for decision making almost caused the project to fail. A clear flow chart or, in this case, a concise list of roles and responsibilities (because there were only two collaborators) would have assisted greatly. Primarily, such a list would have clarified the role of the drafting person at the retreat; we might then have made much better use of his abilities than we did. The lack of a clearly defined collaborative strategic model demoralized FIDA (K) members who had given up four days of their time to attend the retreat. Further, the current debate holding up tabling of the Bill stems from the government's belief that it had control over the project, which was originally conceived as a collaborative effort.

Therefore, spend the necessary time to put the basic structure of your collaborative project in a visual format. Making good on the theoretical aspect of your project will ensure that the practical aspect goes much more smoothly.

B. Adopt a Three-Sentence Mission Statement or Goal

An effective and well-thought out mission statement in a collaborative strategic project can serve two important purposes. First, it acts as a reference point to bring people back into focus on the original plans and goals. Second, it is an effective rallying point. It can be used for media purposes, as a slogan, and as a basis for a funding proposal. It is a concise, three-point summary of your project.

The form that I believe works most effectively in a collaborative strategic model is the following: What is the problem? What is the proposed strategy to deal with it? and, What is the expected outcome? An example for the DR project might read as follows:

Domestic violence and its detrimental effect on women are significant problems in the Dominican Republic, and Dominican professionals in the legal, medical, and security sectors do not understand their role in eliminating it.

Based on the new Penal Code Amendments, members of the NGO sector and the Dominican government will collaborate to educate Dominican professionals on how they can contribute to the elimination of domestic violence.

As a result of this educational program, it is expected that judges,

lawyers, doctors, nurses, and police officers will be able to identify, process and prosecute cases of domestic violence in a more gender-sensitive and equitable manner.

There are a number of things to consider in crafting a good mission statement. First, in defining the problem, avoid broad, sweeping sentences such as, "Domestic violence is a serious problem in country X." Focus in on the aspect of the problem that you are trying to address. In the above case, the way in which the various sectors dealt with domestic violence indicated that professionals were ignorant of the issue and its implications. Second, clearly stipulate that this is a collaborative project and state who the collaborators are. It is not necessary to identify each and every collaborator; effective sub-group categories such as the NGO sector, or gynecologists, judges or "women leaders" can be effective. Third, stay away from vague, long-term results. Stick to the outcome that you expect from your specific strategy. In this case, we want to affect how these professionals deal with domestic violence cases on a case-by-case basis. Overall, we hope that the number of cases that are identified and effectively prosecuted will rise. But that is not the specific goal of the project; rather, we hope to influence the manner in which professionals deal with their clients on the issue of domestic violence.

C. Always Evaluate the Political Angle

When you are considering collaborating with the "enemy," you must pay attention to the project's political angle. Undoubtedly, the government will. Therefore, ask yourself: What is in it for the government? Do we hold the ace that will encourage them to play the game fairly? What is the price of the project?

The price of a project has nothing to do with the budget. Rather, it has to do with the effort required compared to the expected results of your project. If the initial cost in effort is too high, the result may not be worthwhile. Even if this is not a concern in your own NGO, in a collaborative environment, each and every collaborator must feel that she is getting her money's worth, so to speak. If collaborators feel that they are expending too much time and effort in a project with few tangible results, they will inevitably become less enthusiastic about completing their assumed tasks, and, in some cases, may decide to pull their support entirely. When approaching the government, it is important to consider whether the political price for their cooperation is too high. Ask yourself whether collaboration with your NGO will cause the government to look weak or strong.

Fortuitously, in both projects, this was an aspect of the collaborative strategic model to which we paid attention. In the Kenyan project, there were significant political advantages for both parties. By collaborating with FIDA (K), the AG's office got the opportunity to make itself look progressive by introducing the Bill while simultaneously appearing cooperative and understanding by giving respect to and collaborating with

a prominent women's NGO in the community. Similarly, the fact that Karua requested and received permission from the Kenyan Parliament to introduce the Equality Bill as a private member's bill is definitely a political ace. These gains notwithstanding, the media hype and the lack of inclusion of other NGOs and individuals that represent disenfranchised groups altered the political angle. Even if Karua were to play her ace, the opportunity for enactment may already be lost—the general reign of confusion over the Bill may provoke some members of Parliament to vote against it.

On the other side of the Atlantic, although the need for an ace has yet to manifest itself, the effect of the public signing of the agreement among the Dominican collaborators has given the project a public light that we hope will encourage the government to play fair and to hold up its end of the bargain.

In short, if your price is too high, collaboration will be a difficult and unwieldy mechanism. If your price is too low, you may be setting yourself up to be taken advantage of by one of your collaborators, possibly even the government.

Test all of the political angles that surround the issue, including timing. Is it an election year? Is there a promise that the government is not living up to? Has there been a public scandal on this issue involving a prominent political individual? Any of these situations could have a significant effect on how your government collaborator views the importance and value of collaborating with you on the project.

D. Never Forget the Most Important Tenet of a Collaborative Strategic Project Model: Communication, Communication and More Communication.

Often NGOs and foreign legal practitioners can easily get caught up in the "movement" for women's rights and forget about the value of communication. This basic tenet has been brought home to me in both the projects discussed above and in countless other situations: constant communication among collaborators is a significant key to success. When you are attempting to implement a collaborative project in a country where communication is a significant obstacle, then the need for creative communication is even greater. *Communication in this sense does not refer to promotion of your project to build awareness about the issues; it means actually talking to each other.* In any project that builds momentum with public debate, as any project on women's rights tends to do, it is amazing how quickly the collaborators get out of touch with what is happening.

Therefore, it is highly useful for all involved to designate a communicator NGO. Then, establish a timetable and method of communicating updates. And, make it simple! It does not have to be a big production such as a newsletter. A simple paragraph email or sheet of paper in point form is very effective. The challenge is actually to get it to your collaborators. I have seen many well-written updates stagnate on a

desk somewhere because the technicalities of communicating with the collaborators have never been settled. This is the reason for a written agreement (see below) that includes this kind of information.

Make sure that the communication is reciprocal. Your collaborators should commit to responding promptly to requests for information or suggestions and they should give you feedback. Then, ensure that you do the same for them. A continuous dialogue is the best way to make everyone feel like they are in the loop and the simplest way to catch mistakes, omissions, and errors that could undermine the project. Communication in this way is particularly important where a project takes place over a significant amount of time, for example, two years.

So—don't forget the most important tenet of a collaborative strategic model—got it now? Communication!

E. Put it on Paper!

This is the second most important tenet. I cannot stress enough the value of a written agreement for any and all collaborative projects, especially when it involves collaboration with the government. In both cases discussed above, a written agreement would have served three equally useful and important purposes.

First, a well written agreement forces the various parties to conceptualize the exact goal of the project. In the Kenyan project, the precise goal of the project was not clearly conceptualized and/or not clearly communicated to the participants. As a result, much time was wasted trying to clarify instructions and formulate a plan of attack.

Second, a written agreement is less mutable than a verbal agreement. In the Dominican project, although a written agreement amongst the NGO collaborators was never completed, an agreement was completed between the NGO collaborators and the representatives of the intended beneficiaries of the project. Because the Chief of Police and the AG had committed to a written agreement to cooperate, it was much more difficult for either of them to back out of the agreement or to insist upon a different or lesser commitment than the agreement required of them. Signing it in a public ceremony (see discussion below) strengthened this aspect of the agreement. The ability to resile from an earlier verbal agreement with ease was made manifest in the Kenyan project.

Third is the fact that a written agreement also forces the parties to define their respective roles in a project. In the Dominican project, once the collaborators had been selected and had accepted a role in the project, communication amongst the collaborators never took place in order to define roles and make the best use of the various expertises available. Likewise, the role of the draftsperson in the Kenyan project was unclear at best and the project did not benefit as much as it could have from the expertise brought to the table by this individual.

More generally, the value of having a template collaborative agreement available to which specific details can be added with ease will make this

aspect of any collaborative strategic model less time consuming. It can also set the stage for the rest of the project.

A good template collaborative agreement should have the following sections:

- identification of the collaborating organizations or individuals, the primary contact person in the organization and his/her contact information, as well as the alternate contact person should the primary contact be unavailable for any reason;
- the responsibilities and tasks of the organization with an agreement that appropriate specific terms of reference for each task will be agreed upon and attached as a schedule to the agreement. For example categories of responsibilities can include research, administration (including accounting), budgeting, media coordination, etc.;
- the mode of communication preferred by each organization or individual and an alternate form of communication;
- the length of the expected collaboration;
- a general timetable for meetings among the collaborators, particularly if it is a consensus model; and
- a list of three designated locations for meetings from which a location can be chosen when necessary.

Such a system is extremely effective and can be implemented on short notice with predictable results, especially on those "urgent action" projects. Once it has been utilized, it is easily amenable to simple changes to make it fit a future collaborative project. And, as all foreign legal practitioners know, there is a distinct advantage to being the one to draft an agreement because you get to choose the language. This can be very important when dealing with the government.

F. Never Assume Gender Sensitivity

This is probably the worst mistake possible in the context of a project dealing with women's human rights. As a foreign practitioner, there are three equally dangerous traps you can fall into in this respect:

- assuming that the people in the NGO you are assisting have the same understanding of gender as you (as a foreigner);
- assuming other collaborators have the same understanding of gender as your NGO; and

- assuming that government officials have the same understanding of gender as your NGO, or any understanding of gender at all.

Someone who is constantly grappling with gender issues can easily get lulled into believing that everyone they work with has the same or similar understanding of the issue (i.e., they are gender-sensitive). Being alert to this is important when it involves members of a government that may have only recently been exposed to the concept of their responsibility for ensuring the implementation of women's human rights. Never assume that the representatives of the government are gender-sensitive and include gender training at a strategically important juncture in your project.

In the Kenyan project, FIDA (K) seemed to be ahead of the game by ensuring that even their own members received some gender training in the context of the retreat. However, the background of the draftsman from the AG's office was never discussed and his lack of gender sensitivity threatened to capsize the project several times.

Fortunately, this kind of issue has not yet arisen in the Dominican project. This is in part due to the fact that the NGOs working together on that project are "like-minded" organizations. However, based on my experience with the Kenyan project, a gender sensitization refresher workshop for the various collaborators may help to bring everyone to the same basic level and hopefully prevent such difficulties further down the line.

G. Never Underestimate the Value of Ceremony

No matter how superfluous it may seem, never underestimate the significance of congratulating collaborators publicly for agreeing to collaborate, especially when it involves government collaborators. In the Dominican project, the simple act of making the signing of the agreement a public ceremony lends a serious note to the collaboration that can help prevent deviation from the agreement. It has the further advantage of bringing the issue into the media and/or the political spotlight and hopefully encouraging public debate.

This kind of ceremony might have achieved much the same result in the context of the Kenyan project. A simple public ceremony to sign an agreement between FIDA (K) and the AG might have prevented the kind of misunderstandings or calculated miscommunications that took place.

H. Always Have an Alternate Plan of Implementation for Every Step of the Project

What if your star individual, the person on whom the entire project depends, suddenly becomes ill or unavailable? This kind of thing can

happen at any time. Therefore, have an alternate plan. The best example of this is the Kenyan project where FIDA (K) had two equally effective means of achieving their goal. They were willing to go the collaborative route with the AG and have him table the Bill, but in the event of any difficulties, the Honorable Karua had her ace to play by exercising her leave to present the Bill in Parliament.

Having an alternate plan of implementation does not only apply to the larger aspects of the project, but to each step that takes the project forward. For example, what if one of your collaborators who is supposed to provide the media releases suddenly has a computer meltdown? An alternate plan should include alternate team leaders, alternate locations for meetings, alternate communication means, etc. Having an alternate for each step of your project, no matter how small, is simple and necessary. It can prevent collaborators from having a heart attack when someone backs out or a building burns down.

I. Don't Count Anyone Out as a Potential Collaborator

Be inventive about expanding the constituency of stakeholders. Under the "like-minded" collaborative strategic model, identifying potential collaborators is generally easier because NGOs that work on a common issue are generally well known to each other. The trick is to think "outside the box."

The members of the available constituency who can be convinced to support a project can be as many or as few as you can conceive. Therefore, the other trick is not to limit oneself to approaching only organizations. Individuals are fair game, too. Identify people or organizations in the community who may be convinced either that they have a vested interest in helping to promote women's rights or that they have a particular expertise that they can offer to a project. When collaborating with the government, look for other collaborators that have an influence on or in the government. For example, can you convince the President of the Bar Association or a prominent doctor to collaborate with you?

As a foreign legal practitioner, there is much you can do in this respect. Your NGO may not see the connection between the issues of their organization and the issues of another. Often you can use your "foreignness" (or someone else's) to facilitate otherwise untapped liaisons. Remember also, that "foreignness" is a relative concept. A colleague of mine was working in the development field focusing on innovative farming techniques. He found, very early on, that he was much more likely to be able to introduce a new farming technique to a rural area if he brought in a farmer from a distant rural area to demonstrate the technique, even if the technique had been developed by and was being implemented by a local farmer. The key was that the local farmers were more likely to listen to an "outsider" than a local farmer, even if the "outsider" was simply from the next county! But, be aware that this type of tactic can also backfire. Thus, it is worth asking a number of local individuals about the

issue: to whom is the community more likely to listen, one of their own, another countryperson from a different region, or a complete foreigner? Never assume.

And remember, it never hurts to ask—a one-page summary or a ten-minute presentation can be a vehicle to inspired collaboration. Use your mission statement and have a template collaborative agreement on hand. Make sure you have clearly thought out what the benefit is to the individual or organization you are approaching, how they can contribute to the project and what their envisioned role might be.

J. Hindrance or Help—Managing Your “Foreignness” in Aid of the Project

Being a foreigner in another country can have both a positive and negative impact on a project, particularly when you are involved in trying to influence the evolution of contentious, difficult issues. Sometimes, simply the fact of being foreign and using the name of any international human rights organization that you may be affiliated with can give credibility to a project in the eyes of potential collaborators.

As a foreigner, you will inevitably have significant experience that is valuable and you should not be afraid to share it to help create inspired collaborative projects. However, you must be aware of the danger that accompanies this power. The ultimate goal in any project is to empower the beneficiaries (both the NGO and the beneficiaries of the project) to continue on without your continued involvement. The worst thing you can do is become indispensable to an NGO. Continued growth depends on the members of the NGO gaining new skills and being able to pass on that knowledge and skills to other members of their society. This accords with the ground up implementation of human rights.

Further, depending on what role you take in a project, your “foreignness” can be a serious hindrance to a project. You must develop a good sense of when your visible presence may aid or hinder a project. If you aren’t sure, ask; the leaders of NGO movements often have a highly developed sense of political savvy and can give you a very quick assessment about the kind of role you might envision for yourself.

My experiences as a foreigner in both projects were completely different. In the Dominican project, my “foreignness” held a distinct advantage for the project. My contact and relationship with the members of the Canadian Embassy succeeded not only in securing some funding for the project, but it also brought a measure of foreign political sanction to the project. This helped bring about a public ceremony, attended by the Canadian ambassador, and gave the Dominican Government extra incentive to collaborate fairly. However, in the Kenyan project, the nature of the issue—a ground-breaking piece of legislation that would affect all Kenyans—dictated that I keep a lower profile. I offered suggestions and assistance where possible, while Kenyans led and implemented the project.

VII. COLLABORATING WITH THE "ENEMY":
SHOULD WOMEN'S NGOs COLLABORATE WITH THE GOVERNMENT?

Since the adoption of the United Nation's Declaration on Human Rights and the development of the concept of women's rights as human rights over the past fifty years, women all over the world have come to learn that they must rely on themselves. The collaborative strategic project model is a necessary and powerful advocacy strategy to support their efforts.

Expanding that collaborative spirit to include the government is a different enterprise. There is an ever-present danger that a collaborative olive branch will not be accepted. In fact, the consequences of a disastrous collaboration may be far worse than continuing to rely on their own resources. Most women's NGOs would rather not take that chance. Thus, overcoming an aversion to collaboration is the first step in promoting collaborative projects with the "enemy."

In a collaborative project with the government, the tools of success can come in many shapes and sizes. A well thought out project, with a written agreement, a mission statement, a thorough alternative plan, a political ace, and a focus on creative collaborative relationships can certainly make success much more likely. With such tools, working with the enemy can become a viable and effective means of advancing women's human rights. And, by using a collaborative strategic model well, women's NGOs can show the government that women's organizations, and women in general, are not their enemy who must be silenced at any cost. Rather, women's NGOs will rightly be viewed as willing, knowledgeable, and politically savvy collaborators that can help build a stronger country for all concerned.