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*** WOMEN AND THE BROADCAST MEDIA: LEGAL STRATEGIES FOR ENHANCING THE PORTRAY
OF WOMEN

by Lucy J. Weidner

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"The realities of things have been revealed in this radiant century, and that which is true must come to the surface. among these realities is the principle of the equality of man and woman -- equal rights and prerogatives in all things appertaining to humanity."

`Abdu'l-Baha

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It is generally agreed that the broadcast media, television in particular, play a prominent role in shaping our ideas about what constitutes socially acceptable behavior. Radio and television are ever present in our environment, both reflecting and shaping our collective view of reality. Given the power of television and radio to influence social values, the public has an abiding interest in how the airwaves are used. We have great reason to be concerned about the debilitating effect of the violence, aggression, materialism, illicit sexual activity, immorality, and inurement to human suffering offered by much of the broadcast media. At the same time, the potential of the broadcast media to act in a positive manner, as a normative influence, assisting social change and promoting the advancement of women has been largely untapped.

In many countries, the legislation governing television and radio recognizes the airwaves as a limited resource held as a public trust for the benefit of all. Consequently, broadcast laws often contain broad language, stating in general terms the salutary purposes for which the broadcast media have been created. Broadcasters have been granted the privilege of using the limited frequencies available on the condition that they use them for the public good through programming for education and for cultural and social advancement, and not just for commercial exploitation.

These statements of intention, however far they may be from the day-to-day reality of broadcast media offerings, nonetheless provide a legal basis for requesting and requiring that programming, advertising, and news broadcasting meet standards of public interest, promotion of culture, education and social good. These broad standards can easily be interpreted as requiring that attention be paid to the changed and changing role of women, to the contributions women have made and are making in a wide variety of areas, and to the obstacles that women face in the home, in social environments, and in the

workplace.

This paper selects useful legal devices from the broadcast laws of several countries -- from statutory, constitutional and case law -- and suggests possible interpretations. It briefly mentions additional legal strategies, and adumbrates structures for action. Finally, it suggests how more positively modelled broadcasting might be achieved.

** SOME BROADCAST LAWS OF THE LANDS

Broadcast laws useful for enhancing the portrayal of women are of two types: prohibitions which determine what may NOT be presented, and affirmative obligations of what MUST be included. Both kinds of requirements provide opportunities for creative readings of the laws, and for creative suggestions to broadcasters. Examples of possible prohibitions include broadcasts that promote violence (such as family violence), indecency or immorality. Affirmative obligations often include providing children's programming and ensuring variety in news and entertainment programming. Whether expressed in general or in specific terms, these laws contain useful statutory material on which to base suggestions to or plans for broadcasters. Several examples follow.

German law requires that programs "respect human dignity . . . and promote unity." [1] These obligations can be used to request programming that respects the dignity of women, the differences of values and perspectives between women and men, and the unity of family life, including more equitable sharing of work and decision-making responsibilities.

In Italy broadcasts are to be scrutinized according to principles of "objectivity and comprehensiveness." [2] In addition, license holders must "devote twenty percent of their total weekly broadcasting time to local news and non-commercial programmes of interest to that community." [3] The standards of both objectivity and comprehensiveness support requests for more positive portrayals of women and for inclusion of local women's activities in news broadcasts.

South Africa requires its public broadcasting station to "play a prominent role" in elimination of discrimination on the basis of race and gender. [4] It further requires an affirmative approach, insisting that services of "equal quality [be provided] to the full spectrum of its audience." [5] These explicit and far-reaching requirements provide ample grounds for requesting gender sensitivity in broadcasting, and programming that meets women's needs. In countries with a strong public broadcasting station, advocates may wish to concentrate on that station, since it may be in a position to influence other broadcasters.

In South Korea, the purpose of the Broadcast Act is to "strive for...the improvement of national culture, and... the promotion of public welfare." [6] Broadcasters are additionally responsible to "respect the dignity and value of

human beings," and to "respect the ethical and emotional sentiments of citizens." [7] A Broadcast Committee is responsible for ensuring "the proper guidance of children and youth...the purity of family life.. [and] public morality and ethics. [8] The promotion of social welfare can be shown to depend substantially on the advancement of women, and respect for the sentiments of citizens and for human rights requires the elimination of derogatory stereotypes. Guidance of children and youth and the purity of family life provide rational bases for eliminating offensive behavior from the air waves and replacing it with positive role models of fairness and the use of reason, not violence, by adults.

In Taiwan, "[e]ntertainment programs shall be aimed at promoting Chinese culture as well as ethics..." [9] No broadcasting should be "detrimental to the mental and physical health of children..." [10] And the educational and cultural programs are required to "promote social education... and develop children['s] intelligence and ability." [11] These high standards for the protection and education of children may be referenced in any request that the broadcast media offer girls and boys positive female role models.

In the Constitution of the former USSR the "means of communications... shall constitute... the wealth of the whole people." [12] The development of women's abilities, therefore, requires the broadcast media to one of the contributing resources to effect this end. Although the validity of the USSR Constitution and its applicability to former members of the Union is no longer clear, this law is included as an example of how a very general concept may still be useful in its interpretation.

The definition of "public interest" in United States law requires broadcasters to "make the fullest and most effective use" [13] of the broadcast media, and a Commission must "[s]tudy new uses...provide for experimental uses... and encourage the larger and more effective use...in the public interest." [14] The enhancement of the role of women, the creation of more positive images, the reporting of women's challenges and achievements all potentially make broadcast media more effective. Reference to experimental uses can support a collaborative study of new uses beneficial to women.

These examples are intended to indicate that in the broadcast laws of almost every country there is most likely some suitable basis on which to request programming that will encourage positive social values in boys and girls, and will improve the way women are portrayed.

Additional grounds for requesting responsible broadcasting can also be found in broadcasters' written license applications, which are usually public documents. Here the broadcaster has probably stated his purpose in filing for permission to broadcast and has committed himself to certain standards, often repeating the idealistic language of the laws themselves. Programming proposals can refer to the language of the application as the broadcaster's statement of intention -- his offer and commitment to the public.

Several forums exist in which requests for more responsible broadcasting can be

presented. One is a meeting with the broadcaster. A second is a meeting with the regulatory body. A third is a license renewal proceeding. All three provide opportunities to articulate positive standards and expectations. Broadcast regulatory administrators often welcome this input in the license renewal process because, when the license is first granted, there may be no basis on which to challenge the request. After a station has been in operation, however, listeners and viewers can register complaints based on the licensee's actual performance. [15]

** A BROADCAST MEDIA CONSULTING GROUP

Use of broadcast media to effect positive changes for women requires a consultative body to deliberate and decide on projects and strategies, and on creative interpretations of the law. Inclusion of both women and men will aid the development of a more complete perspective. Government commissions, such as those on women, children and youth, education, the elderly, social services, social or cultural development, may have materials -- statistics, studies or policy guidelines -- that support media requests. Effective appreciation and use of their materials will encourage support from these agencies, or may even lead to partnership for ongoing projects. Private groups may offer similar resources.

Having identified partners and resources, the committee needs to assess its own commitment and abilities and consider projects commensurate with its resources. Simple projects include spot announcements, requesting and arranging interviews, and providing music, drama, or story telling on appropriate themes. Radio programs are both shorter and technically simpler to prepare than television programs. As the group gains expertise, larger projects can be undertaken. Broadcasters are understandably more receptive to programming requests which are accompanied by at least partial provision of resources by the requesting Committee.

Planning will be facilitated by a clearly articulated positive statement of purpose. If the group's primary purpose is to eliminate offensive material, that material can easily be replaced by another category of offensive material, and not much will be gained. Suggestions for new kinds of programs, or for new additions to old programs, are more likely to meet with success and foster further working relationships with broadcasters. Broadcast media consultative groups should, to the extent that they are able, become positive resources for broadcasters.

Reflecting as they do, their own cultural diversity and interests, consultative groups can become rich sources of programming ideas for broadcasters in their areas. In their search for ways to enhance the portrayal of women in the media, they may wish to explore a broad range of possibilities, including but not limited to both the contributions of women and the challenges they face in the home, in the community, and in the world of work.

** A SHARED VISION

A media consulting group needs to develop a broad shared vision in order for its work to be unified, positive, effective and sustainable. Since we have no model for a civilization in which the principle of the equality of women and men has been fully implemented, the work of "visioning" requires imaginative and sustained effort. Developing together a specific picture of a society characterized by an equitable and harmonious balance between women and men will also assist the group to manifest the principle in its own functioning. Over the long term, a common vision will not only sustain the group through its own growth and learning process and its accompanying successes and failures, it will also serve as an unlimited source of media ideas.

Full participation by both women and men in all group deliberations must be assiduously cultivated. Group consultation should be characterized by respect for each member of the group and a desire to discover the truth, no matter where it comes from. The ability to put forth one's views clearly and frankly must be balanced by the ability to accept the ideas of others. Members of the group must be aware that, like other members of society, they may have unwittingly absorbed negative beliefs about women and men, or picked up habits which could have a chilling effect on consultation. Once the group develops a dynamic unity around a shared vision, however, it will be free to consider the higher capacities of human beings, and discover how those capacities can be reflected and embodied in broadcast media offerings.

The basic core of a shared vision is the fundamental belief that woman is the equal of man; that she is deserving of equal rights and opportunities for advancement; that society's progress at this time is dependent on her full participation; that any lack of achievement in women is due to lack of opportunity and education, rather than to any inherent qualities; that given equal opportunity she will prove her capacities to be equal to those of men; and that when fully empowered she will be a powerful force for peace.

The broadcast media have a responsibility to reflect not only the signs of despair but the signs of hope. By reminding broadcasters of their legal obligation to serve the public good, to educate and to advance society, citizens' groups can tap the power of the media for the advancement of women and the betterment of the human family and society as a whole.

** ENDNOTES

- Staatsvertag of 31 Aug. 1991, s. 23. Reported in Barendt, E.M. BROADCASTING LAW: A COMPARATIVE STUDY. (Oxford: Clarendon-Oxford University Press, 1993). 105. This work compares the laws of four European countries and the United States.

- [Italian law] Law of 11 Jan. 1988, s. 12(3). Reported in Barendt, 109.

- """" [all the same]

- South African Broadcast Corporation, SABC Board of Directors, "Vision." n.p.: South African Broadcast Corporation, 1995. 3.
- Reported by SABC Board of Directors, "Values." 3.
- 2 Article 1, Chapter I, of the Broadcast Act of South Korea, Law No. 3978, November 28,
- Section (1), Article 4, Chapter I of the above Act.
- Section (2), Article 5, Chapter I of the above Act.
- Article 17, Chapter III of the Broadcasting and Television Law of Taiwan, promulgated January 8, 1976, as amended June 7, 1982.
- Section 4, Article 21, Chapter III of the above law.
- Article 14 of The Enforcement Rules of the Broadcasting and Television law of Taiwan, approved December 24, 1976 by Executive Yuan letter (65) wen 10933, and on November 2, 1979, Executive Yuan letter, (68) wen 10967, and on April 18, 1983, Executive Yuan letter (72) wen 6768.
- Article 6, Chapter I, Constitution of the Union of Soviet Socialist Republics. Reported in German, Harold J. and John B. Quigley, Jr., trans. and eds. BASIC LAWS ON THE STRUCTURE OF THE SOVIET STATE. Cambridge, Mass: Harvard University Press, 1969. -4.
- Gillmor, Donald M. and Jerome A. Barron. MASS COMMUNICATION LAWS: CASES AND COMMENT. 807. St. Paul, Minn: West Publishing Co., 1969. Para (g), Section 303, Federal Communications Act of 1934, as amended, Title 47 US Code.
- Para (g), Section 303 of the above Act.
- As stated in one legal opinion: "public participation is especially important.. since the public will have been exposed... to the licensee's performance... as cannot be the case when the... initial grant [is considered and] there may be no one to bring programming deficiencies or offensive overcommercialization to the attention of the Commission in an effective manner." Office of Communication of the United Church of Christ v. FCC, 359 F. 2d 94 (1966), reported in Gillmor, 723.

Lucy Weidner received a Juris Doctor degree from Rutgers University School of Law in 1975 and practiced law in Philadelphia, Pennsylvania, for approximately nine years. She returned to Temple University graduate school, receiving a Master of Arts degree in English Literature and Writing in 1986. In 1986 she moved to Taiwan, where she has been an Associate Professor of Law and Lecturer in American Literature since 1987.

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