

IT'S A WOMAN'S WORLD - (Rita Keevil, Family Law)

It was Women's Day in South Africa this week. This put me in mind of the International Women's Day theme for 2017 - #BeBoldForChange.

On Women's Day, I appeared in a very busy Court room presided over by a female judge with female Court staff and a female police officer. As I looked around at my colleagues at the bar I realised that nearly everyone was a woman. How different from when I was first admitted! Then women struggled to get into the profession and had to fight to be recognised and respected on the same level as their male colleagues.

The great, and often unsung, hero Batswana women achieved is the Abolition of Marital Power Act which, just thirteen years ago, elevated married women in Botswana to a joint and equal adult level with their men.

Until then, even academic works on family law literally placed the rights and status of women in the same chapter as children and the insane.

In December 2004 women were awarded their rightful position at the side of their husbands, rather than at their feet when the common law rule in terms of which a husband had marital power over his wife's person and property was abolished. From then on, both spouses headed the household.

The Act gave women and men shared and equal rights over their property such that a man could no longer sell or encumber property without his wife's knowledge and consent. The only exception is that either spouse can dispose of or encumber property if this is done in the ordinary course of his or her business activities.

Prior to 2004 a woman could not, in law, decide for herself where she regarded as her home. She automatically took on the domicile of her husband and had no choice in the matter. That too has gone.

For mothers, the most significant improvement to their status is that the Act gave them equal standing as regards their children. Mothers and fathers have equal rights, and obligations, in relation to their children, whereas previously the father was the sole guardian by default. This means that both parents' consent is needed if a child under 18 wishes to marry, if a child is to be adopted, if the child is to be removed from Botswana by either parent or any other person, for the inclusion of the child in either parent's passport, if immovable property belonging to the child is to be sold or encumbered and finally, on the place and field of education.

There is nothing in the law that holds us back - #BeBoldForChange!