

INCREASED AWARENESS BY WOMEN OF THEIR RIGHTS

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by

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Introduction

In situations where there is de jure recognition of women's rights, the need may arise to increase awareness of such rights.

Where there is no such recognition, the need to raise awareness for the purpose of agitating for such rights becomes necessary.

The South African experience is one of agitating for the recognition of women's rights. Advocacy and awareness programmes occur within the current political scenario of transformation from apartheid, hopefully to democracy.

Accordingly, South Africa is in a process of transition from a culture of institutionalised racism, and structurally entrenched sexism. Rights advocacy is a necessity for the transformation of our society towards a society that upholds human rights.

This paper will therefore contextualise the current rights awareness campaigns and programmes.

The Current political Scenario.

In the past two years, South Africa has gone through a rapid process of transformation from apartheid to a period of transition which will usher in a democratic dispensation.

The process of change occurs at the Convention for a Democratic South Africa.

The first plenary of the Convention for a Democratic South Africa had its first sitting on the 13th December 1991. The importance of this meeting is that the majority of the nineteen parties and political organisations represented there, signed a Declaration of Intent¹ committing the signatories to the process of negotiations.

Following the historic CODESA 1, a management committee was established with a mandate of managing the process of negotiations. Subsequently, five working groups² were set up with terms of reference to guide deliberations in the said working groups. The working groups began deliberations on the 6th February 1992.

Agreements reached at the working groups will be tabled before CODESA 2 on the 16 - 17 May 1992 for ratification by the principals of all the participating political organisations.

1 See Addendum (A)

2 See Addendum (B)

The State of Organisations in the Women's Movement

South Africa, like most countries, has always had women's organisations working for improved conditions for women. At grassroots level, particularly in the urban areas women are organised around self help programmes such as burial societies, and financial societies known as stokvels³. Women in these formations agree to donate a fixed sum of money each month or each week, into a common kitty, which is then distributed in turns to the members of the group.

Women have used "stokvel" gatherings for meetings, to discuss practical and strategic gender concerns such as child care, job opportunities for women, demands for water in squatter areas, electrification in locations etcetera. During repressive years political issues have been discussed at this level. Women have also been organised around issues of particular concern to themselves; for example, a forum was established during the repressive years, which was called "Women Against Repression". This forum was organised to protest against state violence. "Women For Peace" is a similar organisation which still operates and its objective is to broadly advocate for peace.

There are many other special interest groups of women such as Rape Crisis and the Coordinated Action for Battered Women (CABW) which are effective in lobbying for their special interest areas.

3. The concept of Stokvels has developed over many years in South Africa. Women in particular have used this forum to support their meagre incomes. Today this concept has developed to such an extent that financial institutions are promoting Unit Trusts for stokvels.

Religious women's forums are to be found at institutions such as the South African Council of Churches (SACC), and Institute of Contextual Theology (ICT). These forums were activated during the Decade for Women and they have organised programmes for the upliftment of women following the guidelines of the strategies for the Advancement of Women adopted at the Conference marking the end of the Decade for Women (Nairobi 1985). Meetings of these forums were also used to discuss the situation of women during the repressive years. Since the beginning of political changes after February 2, 1990, these women's ministries focused on the Charter for Women's Rights, eg., the SACC organised workshops and a national conference on women's rights in the future constitution.

The trade union movement (COSATU) has a women's forum, which spearheads gender issues within the programme of the trade union movement. COSATU has promoted paid parental leave for workers. It has fostered the idea of joint parenting, and it is currently fighting for the protection of the rights of working children and women in the agricultural and domestic sectors.

There are women's forums or sectors within political organisations. Until recently most political parties had no special forums for women.

The ANC Women's League, formed in 1943, is the oldest women's movement in South Africa, which has undergone transformation with the passage of time.

It has changed from an organisation focusing on social, political and economic concerns of the disenfranchised in the 1940's, then during the period of intense struggle for the overthrow of the apartheid regime, it focused primarily on the issue of involving women in the struggle for national liberation; and now in the transitional period its programme enjoins the struggle for equality between the sexes with the struggle against apartheid. The ANC Women's League has long been the subject of study by feminist historians in South Africa⁵. The Women's Charter which the league drew up in 1954 has been used as reference to analyse the development of the women's movement as well as to determine the issues women raised at the time in comparison with the demands made by women in the present period⁶. Conceptualisation of the women's struggle is one which is inextricably linked to national liberation, brought about a qualitative change in its objectives. This approach provides the League with the capacity to address gender-specific problems, and initiate national programmes relevant to the cause of women. The League has therefore set the basis for the current developments in the women's movement.

At its first national conference after 30 years of exile, on the 25th April 1992, it set up a programme of action which addressed both the political issues and the gender concerns of South African women. One of the most important aspects of this programme is its resolve to network with all women's formations in the country, in pursuance of the emancipation of women in a post-apartheid South Africa.

5. Walker, C. (1982) 'Women and Resistance in South Africa'. Onyx Press, London. Pgs 88 - 90

6. Steytler, N (1991) 'The Freedom Charter and Beyond'. Wyvern, Cape Town. Pgs 250 - 252.

Murray, C and O'Reagan, C 'Whose Freedom? Which Charter? - Liberation for Women in South Africa'

Accordingly, it initiated and hosted initial meetings to set up a national women's coalition. It rallied women around a campaign for a charter of women's rights. Consequently women's alliances were formed at local and regional levels throughout the country.

The National Women's Coalition, which was launched on the 25th - 26th April 1992, was formed with the sole objective of promoting the Women's Charter of Rights⁷. The extensive consultations and meetings preceding the formation of the Coalition have contributed to the increased awareness by women of their rights.

The Charter Campaign unites Women in South Africa

Women from divergent political bodies rally around the Charter

The idea of a charter for women's rights was conceived at an ANC seminar in Lusaka in 1989. The seminar resolved that the charter will contain demands made by women throughout South Africa; to this end, workshops, seminars and conferences were to be organised inside South Africa to canvass women's views.

7. Report of Coalition meeting indicates that 60 women's organisations were represented.
The participants were from the Nationalist Party, SACP, Democratic Party, ANC, Inkatha and PAC

It was envisaged that the campaign will provide women with the opportunity of meeting and sharing their experiences. It was reasoned that the process will empower women who would be better able to claim their rights in a future dispensation if they can participate in the formulation of such a charter, thus diminishing the burden of rights advocacy in the future. The campaign was also seen as an educational process to the whole society.

The relevance of a women's charter has become apparent in the current political scenario.

When the idea of a charter was first introduced to the alliance, some women's groups rejected the idea. Reasons for such rejection varied; some women's groups from opposition parties thought that the ANC was using the League to influence and impose its political agenda on unsuspecting women from these political parties, whilst others were just not familiar with the concept of women's rights. With regard to the former category of women, the first step in the process of allaying these women's fears, was to run workshops at which the concept of women's rights was discussed. These workshops were meant to build trust between women from divergent political organisations, and create general awareness of women's rights. The approach used was to draw on the experiences of women in other countries as well as discuss the advances made globally on rights promotion by women.

In this regard the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was used as reference and so were country reports on the implementation of CEDAW.

To further inspire women, the message often repeated at such workshops was that South African women are faced with the challenge of actually winning substantive de jure recognition of women's rights in a future constitution.

Further, that the charter campaign also lays the basis for de facto recognition of women's rights in the future, since the public at large is made aware through the campaign.

As a further attempt to allay fears, the word "document" was used interchangeably with "charter". It is important to point out that these meetings and workshops were often attended by women who are prominent in their political organisations, the majority of whom are today participating in CODESA.

These workshops and consultations eased political tensions and enabled women to find common ground. However, what precipitated the acceptance of the concept of a charter, was the fact that women were excluded in the initial consultative processes prior to the Peace Accord and CODESA I. As a result of this exclusion, women are not involved in the Peace Committees that have been established throughout the country to monitor the violence, and also women at CODESA I were under-represented.

The exclusion of women in these processes was therefore proof that women are in danger of being marginalised in the whole process of negotiations and constitution-making.

Thanks to the initial consultations and bridge-building workshops organised around the Charter prior to CODESA I, women made a historic intervention at CODESA I which led to the adoption of the resolution that women should be part of CODESA.. Following this resolution, CODESA established a Gender Advisory Group made up of representatives from all political organisations represented at this forum. Thus after CODESA I, women in these political parties realised the importance of the alliance for the purpose of campaigning for the rights of women.

The Charter Campaign inspires Feminists and Academics

South African feminists are seized with the conceptualisation of the women's charter. Many of these women are part of the alliance where they interact with women from all walks of life. As women define their concerns in the alliance meetings, race and class factors loom large in the debates. Thus the conceptualisation of women's oppression in South Africa as one of race, class and gender is established as correct. Clearly the content of the charter will reflect strategic and practical gender concerns based on this conceptualisation.

Most feminists on legal theory correctly question the status of such a charter in a new constitutional order, and this has had the effect of actually opening the discussion on de jure protection of women's rights in a future constitution.

The pertinent questions are whether the charter should form part of the constitution or whether it should be a social contract used as a guide for enacting legislation, and formulating policies of the state. This matter is receiving urgent attention with feminist scholars, furiously working out viable options⁹.

What women are agreed on, is that the Bill of Rights in the future constitution should embody an equality clause. Feminist legal experts are mindful of the interpretive problems encountered by feminist jurists in Canada and the USA¹⁰. They therefore seek to avoid the problems experienced in these countries. They are therefore working out construction formats of the equality clause which will close the gap of misinterpretation. South African feminists are however divided on the advisability of including social and economic rights in a Bill of Rights. However, this is a common demand made by African women at the numerous workshops that are organised to define the content of a women's charter. There is also a demand from ANC women to have a comprehensive clause in the Bill of Rights which protects substantive rights of women.

9. See Addendum (C)

10. MacKinnon, C. "Equality Rights - An Overview of Equality Theories" Paper delivered at National meeting of Equality Seeking groups. (1989) Canada

This particular debate is ongoing. An important offshoot of gender workshops and Seminars at Universities is that students are being drawn into the debate for a Charter of Rights for Women. Gender studies at these Universities encourage students to research on the Women's Charter. Practical Gender Awareness programmes are also undertaken at these centres. In the past six months revealing surveys were conducted on sexual harassment at these institutions.

This has led to monitoring, as well as setting up Codes of Conducts to prevent sexual harassment.

Defining Women's Rights - Grassroots participation

The campaign for the Charter of Women's Rights is targeted specifically at the majority of the women of South Africa.

These women are to be found at grassroots level. It is important to point out that the tradition of consultation and accountability is one established over the years during the struggle for national liberation. Thus it is the people who decide on what is to be done. Academics on their own cannot decide on behalf of the people. Thus, emphasis is on interaction and collective learning.

Workshops have proved to be the most effective way of enabling women to identify their concerns.

Popular education methods are commonly used, and because the problem of illiteracy is rampant in South Africa, functional literacy is also built into workshop programmes of this nature. Such workshops are often ongoing. The popular education workshops are carefully planned to provide an atmosphere of collective learning. Facilitators are often sensitive to the composition of the workshop participants. Where there is a need of translation, in the case where women come from different tribes, a good facilitator provides translation facilities. One important aspect of the popular education method is to provide every participant with the opportunity of making an input. Initial workshops of this kind often take the approach of allowing women to first share their experiences, to discuss and analyse such experiences and then make their conclusions.

Our experience is that if the participants are involved in Community organisations such as civics, or political organisations of the Mass Democratic Movement, the issues they raise are primarily of a strategic nature, challenging power relations between men and women in the family, and in society. Reports from Workshops organised by the Women's League at local and regional levels indicate an awareness of rights amongst women participating in such workshops, irrespective of whether such reports emanate from workshops organised for rural or urban women. However, the reports reflect the experiences of these women in their settings.

Rural women often raise the following strategic gender concerns : Access to information, land education, health, clean water. We have had reports from some of these areas opposing certain aspects of customary law, such as polygamy,, "ukuthwalwa", and other similar customs, which diminish the status of women.

On the other hand, women in the urban areas raise issues such as shared parenting, concern about domestic violence against women, rape, sexual harassment, inadequate childcare facilities, non-availability of employment opportunities for women, the need for housing, inadequate pension schemes, access to credit, and the right of women to abortion, etc.¹¹

There is a vast difference between activist women and women involved in religious forums, un-organised rural women, and women in projects designed to ameliorate poverty. Often the latter group is conservative in its approach to the question of women's rights. In the urban areas the most radical level this group can get to is to concede to practical gender concerns of women. They often seek to separate what they perceive to be politics from what they see as practical problems facing women. Thus, a facilitator organising a workshop for such a group should be mindful of the special problems of these people.

11. Mabandla, B. Conference Report (December 1990) CLC, UWC. 'Women's Rights - A discussion document'

Accordingly, in planning the workshop, such a facilitator should allow the participants to raise their practical concerns. Such a workshop can also be used to bring out issues of a strategic nature eg., childcare and shared parenting. It is important for a facilitator at a workshop of this nature to allow for an input of experiences of other countries. This always has the effect of providing a learning experience to the participants. It has been shown that at follow-up workshops, these women often develop a sense of strategic gender needs.

Un-organised and conservative rural women often pay great respect to their ethnic customs. Their problem is usually ignorance about alternatives. A facilitator of a workshop should therefore avoid offending the notion of custom and practice. However, when such women are given information about the alternatives available, as for example, by inputting on experiences of other rural women in the same locality or region, as well as in other rural areas in Africa, their awareness of women's rights increases.

The secret of success in such situations is to have patience, and to organise follow-up workshops. I must however caution that in the current political climate, ethnic formations, particularly in the Bantustans, seek to assert conservative, cultural practises. Thus in some areas it is very difficult to access women, as it is practice in traditional areas to consult the chief of the area before accessing the community.

The ANC Women's League, which has encountered this problem whilst organising rural women, has decided to first orientate the chiefs who are in CONTRALESA; this is an organisation of South African Chiefs which has been working with the Mass Democratic Movement. The problem is that not all chiefs are in CONTRALESA. Where it has been difficult to access rural women, churches are used for the purpose, and survival projects are sometimes set up to provide an organisational forum for the women.

Teaching Aids for Rights Advocacy

Facilitators' manuals, theme posters and t-shirts, illustrative manuals on the plight of women - are all instruments commonly used in South Africa to promote campaigns. Women have used these facilities effectively to promote the Charter Campaign.

The media, as an instrument for advocating women's rights

Until recently the media hardly covered events organised by women. What changed the situation was that women lobbied progressive journalists, and used media conferences to raise awareness. However, the women now demand that the envisaged interim government includes women in the media commission that is to be set up. They also demand greater coverage of women's activities in the media, especially during campaigns for elections.

Participation of women in decision making

This is one of the greatest concerns of women in the current period. The ANC Women's League successfully recommended that women should be part of the regional negotiations commissions of the ANC at all levels. Women would like to be part of the envisaged interim structures, the constitution-making body, and the future government. Strategising meetings of the Women's League, for example recommend that the party list of nominees for elections, should include women in every block of fifty, as a list of four hundred nominees is envisaged for the National Assembly. The process of preparing South Africans for elections has begun, and voter education programmes designed. The Women's League has discovered that the majority of women, especially in the rural areas are disadvantaged by illiteracy. The League is working out methods of addressing this problem.

Conclusion

The major problem facing South African women is the fact that there is very little time available in which facilitators can effectively reach the millions of South African women. Thus, there will be a need in a post-apartheid South Africa, to design mechanisms of increasing rights awareness. However, this process could be less problematic if it is agreed at negotiations to recognise the Charter, and also to comprehensively protect women's rights in a future Bill of Rights. An important victory for women is the characterisation of the future state as a non-racial and non-sexist one. This is reflected in the Declaration of Intent, as well as in agreements reached in Working Group II on constitutional principles. This is partly the basis upon which the Gender Advisory Group was established. The challenge for South African women is to increase the momentum of the Charter campaign. It is my belief that if millions of South African women participate in this campaign, women will win the right of legitimising the Charter. The other important factor would be an agreement on special mechanisms for the enforcement of the Constitution. The ANC proposes that there should be an independent Constitutional Court, an ombuds, and a Human Rights Commission. If these structures are agreed to, the de jure recognition of women's rights will be assured.

For myself, I hope to learn from your experiences, which I will then share with my people on my return home.

care, education and income. Insofar as enforceability is concerned, great emphasis is placed on the duty of the state through legislation and executive action to achieve certain standards."

ALBIE SACHS (UCT, 1992) Occasional paper "Are second generation rights justiciable?" 1992

Prof Sachs has identified six ways in which courts could be given a role :

- a) Second generation rights can be used as aids to interpretation as in the Indian or Irish Constitution [Directives of state policy in the case of Namibia]. In other words, measures must be interpreted in a way which is consistent with these directives of state policy;
- b). The Principles can be used to establish negative rights, that is, to prevent persons from doing anything which undermines those rights eg., you cannot destroy housing of people without alternative accommodation. You cannot act in a way which causes unemployment without providing employment;
- c). In terms of judicial review, says Sachs, the directives of state policy could be relevant for establishing reasonableness of administrative acts and of subordinate legislation;
- d). Bodies can be established to supervise, investigate and report to parliament, regional and local authorities on progress in achieving these rights. The courts can be given powers to check whether these bodies fail to function, or function incorrectly and give appropriate directives.
- e). The legislature can be held to be in omission of its responsibilities if it fails to legislate for rights that are spelt out in the Constitution and the Court can give directives in this regard;
- f). Courts can enforce the right to information in relation to those public and private bodies which are required to give information necessary for tackling second generation rights.

* NOTE: The Constitutional Committee of the ANC is continuing its investigations into viable enforcement mechanisms.

6 Refer to document "What could a Women's Charter be and what could it be used to achieve" by UCT Caucus Group on Law and Gender; pg 4.