

Women's Rights: A Discussion Document

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**COMMUNITY LAW CENTRE
University of the Western Cape**

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"If we are to engage our full potential in pursuit of revolutionary goals then, as revolutionaries, we should stop pretending that women in our movement have the same opportunities as men."

***Oliver Tambo -
President of the African National Congress, 1981***

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-Elinor Sisulu - Christina Murray**

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 311

LECTURE 10

THE HARMONIC OSCILLATOR

1. Introduction

2. The Simple Harmonic Oscillator

3. The Quantum Harmonic Oscillator

4. The Anharmonic Oscillator

5. The Damped Harmonic Oscillator

6. The Driven Harmonic Oscillator

7. The Coupled Harmonic Oscillator

8. The Nonlinear Oscillator

9. The Chaotic Oscillator

10. The Stochastic Oscillator

PREFACE

The Community Law centre (CLC) is re-producing this document "Women's Rights - A Discussion Document", to enable popular organisations involved in the struggle for women's rights as well as full gender sensitivity and non-discrimination to focus on the issues which were raised during the conference which took place from November 29 to December 2 1990.

The CLC of the University of the Western Cape played a major role in organising the conference. The CLC is of the view that all the issues raised at the conference are as valid now as they were at the time of the conference. This is more particularly so in view of the fact that the democratic forces in the country are on the verge of winning a democratically-elected Constituent Assembly to draw up a new constitution for the country.

It is essential that in the process of constitution-making that the issues raised at the conference are not bypassed or ignored. It is with this objective in view that the CLC publishes this document, hoping that popular participation in discussions on constitutional issues will include the issues of women's rights and gender.

Comments from readers and organisations will be welcome and should be sent to:

THE GENDER PROJECT
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ACKNOWLEDGEMENTS:

The workshop was directed by a steering committee which consisted of comrades Prof Kader Asmal, Nozipho Diseko, Brigitte Mabandla, Mavivi Manzini and Dr Manto Tshabalala.

We would like to thank the facilitators, chairpersons and rapporteurs of the workshop who executed their tasks so efficiently. The timely production of the report was made possible by a number of participants who volunteered their time. Special mention should be made of Dr Dorothy Driver and Ms Raylene Keightley, who assisted the editorial committee. We would also like to thank Randi Erentzen, the National Coordinator of the Centre for Development Studies, Rushdy Siers and

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Women in the ANC have over the past years addressed the issue of women's emancipation in SA. Ideas and recommendations made at various ANC fora were formulated at the in-house seminar on "Gender and the Constitution" held in Lusaka in 1989 and organised by the Constitutional Committee of the ANC's womens section and the South African Studies Project. The workshop on "Gender Today and Tomorrow" is a continuation of the process of consultation on gender and constitution-making.

A National Consultative workshop on gender and the constitution, entitled "Gender Today and Tomorrow - Towards a Charter of Women's Rights", was organised at the University of the Western Cape from 29 November-2 December 1990. The workshop was organised by the Constitutional Committee of the ANC, in conjunction with the Centre for Development Studies and the Community Law Centre.

This was the first organised forum at which the ANC's working document on a Bill of Rights was tabled for discussion and the first occasion at which the draft Bill of Rights was tested against the demands of the women. While the report covers the entire proceedings of the workshop, it seeks to highlight only the major issues and recommendations. The report that follows is to be circulated widely for discussion. It is expected that recommendations flowing from the discussions of the report will have a significant impact on the constitution-making process as well as on the constitution itself.

Objectives of the workshop were twofold; firstly, to begin to inform the process of formulating a Charter of Womens Rights; and secondly, to devise strategies for ensuring that the new constitution is gender sensitive, entrenches equality between men and women and also includes a programme of affirmative action.

The Deputy President of the ANC, Dr Nelson Mandela, opened the workshop which was attended by representatives of various organisations viz; COSATU, NECC, NADEL, BLA, LHR, SACP and the ANC Womens League Task Force as well as regional representatives of the ANC Womens League and academics. Experts on gender and womens rights from Canada and Zimbabwe also participated. We were saddened by the absence of ANC member Jenny Schreiner who is restricted under South Africa's security laws. Her application to attend the workshop was turned down by the court. A press statement protesting against this decision was issued by the workshop and is attached to this report.

The workshop was structured in such a way as to encourage broad participation whilst addressing a wide range of subjects, as a result a significant amount of time was allocated to discussions in commissions.

Opening address

Dr Nelson Mandela (*Deputy President ANC*)

Comrade chair, distinguished guests, delegates and friends. For me it is a privilege to be accorded this opportunity of opening the workshop on gender issues.

I am humbled and honoured by this gesture on the part of the ANC's Women's League and the Constitutional Committee. Many a time we have stated that the balance of forces have changed in favour of the progressive forces. The regime has finally realised that it can no longer continue to impose its rule on the majority of our people without their consent. This realisation has been brought about by the heroic struggle that has been waged by our people over many decades. Therefore, as we begin to devise a new constitution for our country, it is fitting and proper for us to pay tribute to all those patriots whose contribution has made this possible.

Throughout the history of our struggle, women have played a prominent role. To mention but a few: our stalwarts such as Charlotte Maxeke, Dora Tamana, Ruth First, Annie Silinga, Mary Moodley, Lilian Ngoyi, Kate Molale and Florence Mposho. Their fighting spirit lives on in the contribution of such eminent women Mrs M Zihlangu, Francis Baard, Helen Joseph, Ray Simons, Dorothy Nyembe, Gertrude Shope and many others. I salute the mothers of the cadres of Umkhonto we Sizwe, whose children have fallen in battle both inside and outside South Africa. We pay tribute to the mothers of all those who died in the course of the struggle for freedom and against the apartheid system. We commend also those white mothers who stood by their sons for refusing to be conscripted into the apartheid army. We salute the wives and mothers whose husbands and sons who, despite the solemn undertakings of the apartheid regime, are languishing in their dungeons. We salute those brave daughters of this country who are presently in prison for their commitment to a just non-racial and democratic South Africa. Special mention should be made of those on death row.

To them we vow: *we shall not rest until all political prisoners have been released.* We call upon the government to release all these people unconditionally - today and not tomorrow!

The South African society is profoundly patriarchal. While ultimate responsibility falls squarely on the shoulders of the ruling circles of this country, we men, both black and white, including many in the ANC, should accept our share of responsibility for the sexist stereotyping of women in our society and in our homes. This degradation of women is reflected in every sphere of life.

Women in South Africa constitute the majority population, yet, in general, their status is one of powerlessness. They are under-represented in all sectors of our society, except its lower reaches. This unfortunately also applies to the leadership of the ANC and all democratic organisations of this country. Can we seriously claim to be democrats when in our practices we continue to treat women as underlings? Is it not time that we began seriously to address the inequalities that exist between men and women?

I am pleased to say that, though we still need to do a great deal, the African National Congress is in the process of addressing this issue. The timing of this workshop is a conscious effort on the part of the ANC to give prominence to the Gender question. The past and present constitutions of South Africa have been based on discrimination, thereby denying the majority of our people their fundamental rights, which should be basic in modern democracies.

For decades institutionalized racism has been applied by the apartheid state to effect the most brutal forms of social engineering known to humanity. Need I remind anyone at this workshop that millions of black women remain illiterate in the age of advanced education and technology? That black women, in thousands, occupy the lowest ranks in employment? That black women are underpaid and are most brutally exploited as farm labourers and domestic workers? For generations black women have been the most oppressed group in our society.

The majority of the African people are to be found in settlements of the homeless. I have found that the majority of the households in these settlements are made up of families headed by females. As single parents, these women have the added burden of raising children in conditions of extreme deprivation and squalor. This workshop is charged with the tasks of addressing gender inequalities in the context of the actual situation of women under apartheid and developing the best possible mechanism for redressing the problems women presently experience. We must begin to discuss these issues in greater detail. I am aware that these debates commenced two years ago, after the ANC issued its constitutional guidelines. The working document on a bill of rights released for discussion recently by the ANC's Constitutional committee, should be tested against the actual demands the women of this country are making. This workshop is the first that has been organised since its publication.

The ANC, as well as other progressive organisations, should ensure that the women's movement in our country is not only strong but also united, so that it can play a central role in the affairs of the organisation and the country. From our experiences in the ANC and lessons learnt from other parts of the world, we have come to realise that it is not just the provisions contained in the constitution that bring about true equality between men and women in a society. It is rather a preparedness to struggle on the part of the women's movement and all democrats.

The constitution should guarantee equality between men and women and should seek to create conditions which entrench and establish these rights. We must explore whether the principles we wish to see enshrined in the constitution would not be enriched by a charter of women's rights, focusing on all the concrete areas where the law and public policy can play a role in affecting women's lives. We in the ANC, as democrats, should not be found wanting in promoting true equality in our lives, daily practices and in the home.

I am informed that women from the various regions are presented at this workshop. I have been advised that progressive scholars are to participate at this workshop and that representatives of the workers are also present. I am therefore convinced that the deliberations and findings of this workshop are bound to impact profoundly on the process of constitution making.

Without prejudicing the discussions that will take place in this workshop, I would like to put forward for your consideration the following proposals:

1. that a constitution for a new South Africa should unequivocally State that South Africa should not only be unitary, non-racial and democratic, but should also be a non-sexist state;
2. that all laws which place women in a disadvantageous position should be abolished and declared unconstitutional;
3. that constitutionally entrenched criteria and mechanisms be established to break through the layers of prejudice and historical inequalities experienced by women;
4. that laws and the constitution of a democratic South Africa should enable women to articulate their demands, their priorities and expectations;
5. that the constitution should ensure a strong female presence in all decision-making processes of the new South Africa;

I place these before you not to dictate your agenda, but as issues that deserve urgent attention as we make our transition to democracy. I wish you well in your deliberations. With these words I declare this workshop open. **Amandla!**

Keynote address

Gertrude Shope

Leaders, representatives of the ANC in various fields, special invitees to this historic workshop, ladies and gentlemen -

Last night, our Deputy President General, Comrade Nelson Mandela, welcomed all participants to this very important workshop convened to address issues relating to the question of gender, today and tomorrow.

Meeting as we do during the period when great changes are taking place in South Africa, we need to make use of this opportunity to introduce changes in gender relations so that we enter a new South Africa where men and women are equals in the fullest sense of the word.

Patriarchy, customs and gender

Our starting point on this issue is to ensure that women participate fully in all political processes. At committee level, shop floor level and Government level including the negotiation process. We need women's participation at the highest level of our organisation - the National Executive Committee (NEC) of the ANC.

The truth of the matter is - we are not there. Who is to blame for this glaring absence of women? Is it our men who are to blame for not pushing us or taking us along while we sit comfortably with our arms folded? Is it us women who would rather rely on men to formulate policy on our behalf even on matters that affect women directly and therefore are better articulated by women? What is the role of the society we live in on this aspect and what are some of the traditions we came from and have to contend with?

As we open up to each other as sister, comrades and colleagues on matters that affect women of our country, we will find that there are a number of reasons that have contributed to our coming together to this workshop representing a broad collective. These will be expressed in the various discussions we shall have in the coming days. These discussions however should consist not of complaints or moans nor should they reflect a competitive spirit. They should be directed at answering questions about the new structures, new institutions the types of gender relations we are striving for and above all a new constitution that ensures that fullest participation of women in a new South Africa.

The legal status of South African women

Among the issues to consider is - what kind of law and judicial system are we to have in a future South Africa? Today there exists a great deal of confusion on the status and rights of black women, especially Africans. Many laws apply differently, and are interpreted in different ways. Cultural practices differ and some are detrimental to women's health and women's dignity. In such an environment the women who have the lowest level of education, the least skills and no resources whatsoever, are the most adversely affected. Our task at this workshop is (and must be) to find a way to bring clarity to the status of women in a democratic South Africa. This will not only help to clear the position of women. On the

contrary, it will lead to a balanced society whose men and women are on the same footing and both have confidence in themselves as a people.

The dominant total male presence, and language used by the judiciary place women at a disadvantage. How do we expect to see this kind of system providing justice? The task of this workshop therefore, is to think carefully about a new judicial system - a system which speaks to the people in clear language which is easily accessible to the most disadvantaged. It will not be enough to put black faces on the bench. It is not enough to put women on the bench just for the sake of it. We have a duty to reshape the whole judiciary system.

Customs

As we are all aware, very often the subjugation of women is underpinned by cultural practice, justified on the basis of tradition. It should be noted first and foremost that culture and tradition are dynamic. They develop and change according to socio-economic conditions. In South Africa for instance, under colonial domination, many versions of a number of our cultural practices were distorted and interpreted into law and remained fossilised and are therefore totally inappropriate to conditions of today. In our present approach, we need to distinguish between cultural practices which provide social cohesion to communities and cultural practices which are detrimental to some members of that community or those outside. Here we have in mind the practice of ukuthwalwa, which is abduction of young women. Shall we have a place for such customs in a new South Africa?

At a brain storming seminar held in Lusaka in December 1989, there was great debate on the right of women to decide and have control of their bodies. Though this was related to the question of whether or when to have a child or terminate pregnancy, the question of abduction may sound different but it is similar in some aspects.

There are many such customs practiced to women of other racial groups who are part of the South African society. We are all called upon to address these practices and discuss them as a collective.

Violence and sexual harassment

As it will be noted, domestic violence is common among South African women of all races. It expresses itself in woman and child bashing. Sometimes this practice is distorted and misinterpreted as part of tradition. Unfortunately there are some women who regard bashing as a sign of love from the husband. In the ANC community that lived in Zambia, the ANC women's section put pressure on the leadership to have the bashing husbands punished and suspended from their organisational tasks for a certain period. This had an effect on the husbands as they felt isolated. Our task in the next few days is to work out how this can be made into a policy.

Violence is also manifested in various ways and at all levels of society. The ugly practice of raping school girls and young women is becoming very common in our country. We have schools where parents accompany their children to and from schools for fear of sexual harassment. The question of males using their authority to make sexual demands in exchange for employment and other needs is also causing concern.

Women and religion

Religion, as we all know, has played a very important role in South Africa. It was a valuable platform from which political concern could be expressed when political organisations were banned, but should be taken as a case of great concern that some religious practices keep women in perpetual subjugation. We shall ask our comrades with practical knowledge of this field to give us details to enrich our discussion.

The Freedom Charter protects a people's right to their culture and religion. This however should not be interpreted as sanctioning the oppression of women, who are half of the population. There is need for education to help our women from this yoke of oppression.

It is in this respect that a Charter of Women's Rights should be introduced to all our regions and taken to all women without exception so that all sexist practices imposed on South African women can be discussed and highlighted.

Gender and Economic Policy in a democratic South Africa

Frene Ginwhala

SUMMARY

In its introduction, the paper set out one of its aims:

to help women participate in the debate on future economic policy in South Africa and in the process of policy making itself.

For democracy to have any meaning, it is crucial that women be fully involved in both the formulation and the implementation of economic policy.

Women are oppressed through the social structure itself and through social institutions such as the economy. Furthermore, the introduction stressed that the issues underlying gender oppression be addressed.

The paper then set out the **three principles** of its argument:

- Given that discrimination against women is a symptom of a particular set of social relations, the structure of gender relations themselves need to be transformed, for they inhibit women's full economic participation.
- There is a need for policies that will improve the position of women as it is presently constituted and that will at the same time challenge the fact that women do certain kinds of work and men do others.
- Real democracy includes access not only to resources but also to the structures of decision-making and power which determine the availability of those resources.

Referring to women's participation in the economy, the paper noted the failure of policy-makers to take account of women's work, for they

assume, incorrectly, that the problem faced by women is economic non-integration. This paper argues that women are economically integrated: the problem faced by them is the form of this integration. Women's contribution to the economy has disappeared into three "black holes": unpaid labour, the value of women's paid labour, and the family or household.

Unpaid labour

"Domestic" labour, unpaid and performed by women, accounts for a very large proportion of the total work done in most societies, in industrialised societies more or less equal to paid work, and in less industrialised societies likely to account for a greater proportion. Not only is this type of labour time-consuming and hard work, but it is also absolutely necessary as in the case of child-care. Furthermore, the paid and unpaid aspects of the economy are inter-dependant: a change in the former has an impact on the latter, an impact borne primarily by women who perform the bulk of unpaid work.

The paper pointed out that economic policies generally fail to take account of this inter-dependence and thus ignore the effect economic changes have on women. When an economy is under stress, women are placed under stress, forced to carry out excessive domestic duties when social services are reduced, for example. This in turn has a broader social and economic impact. Bearing in mind that our economy is about to undergo major change, the paper identified **four practical steps** to deal with the issue of unpaid labour:

- 1 The contribution of unpaid labour within the economy must be calculated statistically in order to remove the male bias from economic statistics.

- 2 These statistics must be utilised in social and economic planning.
- 3 Positive policies should be adopted which are aimed at improving conditions and productivity in the unpaid economy; for example, policies aimed at improving rural water and fuel supplies would result in major savings of labour, making it possible for women to engage in other productive labour.
- 4 Deeper questions must be addressed, such as why certain work is performed without pay and why payment should not be made for it. Furthermore, the norm that it is women who are expected to perform unpaid work must be challenged.

Paid labour

Women engaged in paid labour are largely confined to certain types of work; This work attracts the lowest pay. Compared to 63.6% of men only 36.4% of women are classified as "economically active". These patterns are set by inaccurate and artificial notions of female and male characteristics. In another sense, too, men reap the benefits of paid labour: working conditions, career opportunities, promotion etc. are all based on the assumption that a woman is performing unpaid labour at home.

Given the assumption that a woman's role is essentially domestic, women in paid labour fields have limited access to training and skills, have different access to fringe benefits such as pensions, and are subjected to sexual harassment at work.

In order to improve the position of women in paid labour, new policies must be adopted:

- equal pay for equal work, coupled with laws prohibiting discrimination against women;
- equal pay for work of equal value, where work performed mostly by women cannot be measured against the same work done by men;

- equal opportunities for women including reorganisation of the work environment and working hours;
- affirmative action programmes, including training programmes;
- the improvement of working conditions, including parental leave.

The "household" and the "family"

Economic policies assume that the family is headed by a male and includes a dependent female partner, that the family unit has a common economic interest, and that its resources are used for the greatest benefit of all members. Studies show that these assumptions are not true: not all households are nuclear, many households are headed by women and the resources of the household are not shared equally between women and men, for example. These assumptions must go if women's subordination is not to be continually reinforced and reproduced through government policy. However, government policy will have to address itself to the actual position of women while at the same time helping women change that position. The paper illustrated this point in terms of social services and agriculture.

Conclusion

The paper identified four broad guidelines for future economic policy:

- 1 All economic policies should be examined for gender bias, and policies which worsen the relative position of women should be rejected.
- 2 Any economic package should include positive policies to improve the position of the poorest women.
- 3 Campaigning to change popular assumptions about gender relations is an essential part of economic policy.
- 4 Women's active organisation towards the control of economic resources is essential is gender is to be taken seriously in a democratic South Africa.

Women and Education

Phumzile Ngcuka

SUMMARY

Phumzile Ngcuka captured the attention of the audience as she ably examined the subject of women and education in South Africa. She explained that the crisis in education was a manifestation of racist policies in the country. Describing the crisis, she said that there was a high level of illiteracy particularly among adult female persons, because poverty forces many pupils to drop out of school. Some, especially in the rural areas, cannot even go to school as they have no access to schooling facilities.

She argued that contrary to the belief that education boycotts have resulted in illiteracy, the prevailing system of education forced students to campaign against the poor quality of education.

She stated that the majority of illiterate persons are women. She advocated a massive national campaign on literacy and adult education and noted that NECC has prioritised the following in its national programme of action:

- a Adult Education
- b Pre-school Education.
- c Teacher upgrading.

Addressing these issues, Phumzile explained that these programmes would benefit women particularly.

As regards adult education, and its benefit to women, she said that the majority of illiterate women are in the category of employable persons between the ages of 20 and 35 years.

With regard to pre-school education she said that the programme would not only serve to guide children in their formative years but would also relieve women from the tedious task of rearing and caring for children, thus enabling women to take up tasks outside the confines of the family.

She further said that the teacher upgrading programme would benefit women in particular as they dominate the profession whilst being under-qualified.

She advocated State intervention in the educational system of a democratic State and stressed that any such intervention should be gender sensitive. There should be affirmative action with a bias in favour of women at all levels of education.

Women should be encouraged to take up professions and acquire skills in areas traditionally reserved for men. She also said curricula should move away from gender stereotypes.

She urged the meeting to find the best possible ways of addressing the crisis and proposed that the commissions should explore the possibility of encouraging the involvement of community adult education and literacy training programmes.

She stressed that the state should assist community initiatives and warned against the possibility of such initiatives being ignored by the state as is the case with squatter schools.

She then looked at gender stereotyping in the media and urged that the issue should be addressed.

Women, Health and AIDS

Dr Manto Tshabalala

SUMMARY

The paper used HIV infection/AIDS as an example to identify the determinants of health and some of the issues around which women can mobilise in the area of health.

It was noted that, health policies are generally gender insensitive and that at best the conceptualised models that inform policy, limit women's health to reproductive health. Yet policies on women and health could not be comprehensive and integrated until they addressed the fundamental issues of democratic and progressive decision-making processes, the socioeconomic power relations and cultural and traditional practices and attitudes in society. In formulating policy, the needs of the majority and most vulnerable should not be ignored.

In South Africa women constitute more than half of the total population. In designating women as the special focus for the World AIDS DAY activities on December 1, 1990 it was noted by the World Health Organisation that "Women are the key to achieving health for all". The World Health Organisation estimates that more than 8 million people are infected with the HIV. Of these, 3 million are women. It is estimated that 500 000 people will develop AIDS in 1990-1991, and of these 200 000 will be women. HIV/AIDS affects women as much as it affects men.

The impact of the disease on women is related to the under-privileged position of women in the family, economic, social and political life. Recent statistics on women and AIDS in South Africa confirm that there are more HIV positive women than men. More blacks than whites are either HIV positive or have been diagnosed as AIDS sufferers.

Women are infected at very young ages and many are ignorant of sexually transmitted diseases and HIV infection, including prevention

of pregnancies. The spread of HIV infection is predominantly by heterosexual contact.

Natal/Kwazulu has become the epicentre of the disease. During the first half of 1990, 549 infected persons were detected and by the end of June 1990 a total of 1128 adult blacks found to be positive. There is an increase in the number of infected children. In August 1990 there were 24 paediatric AIDS cases reported, 30 in September and 73 by the end of October 1990. The highest number of cases are reported in Durban and Johannesburg. 99 AIDS cases were reported by the end of September 1990, and by the end of November these increased to 554.

The HIV/AIDS epidemic is not immediately seen as a great threat because people are either involved in the reality of war and violence or struggle for survival in issues such as employment, food, security, lack of schooling opportunities, lack of housing including the overall political and social insecurity. HIV/AIDS poses a real threat and will undermine all developmental plans and programmes.

The response of the government has been inadequate and inappropriate. The AIDS budget has been cut by one third. This is a clear indication that the State is not seriously committed to combatting the spread of AIDS/HIV which affects black women the most. Black women will thus be deprived of the recent technological advances in the fight against AIDS.

The hysterical manner in which the health profession has been responding to the epidemic recently and the sensational reporting by the media, all go to demonstrate the insufficient knowledge about the nature of the disease. Not many awareness programmes have been designed.

The paper then went on to outline the severe limitations placed on women in their combat of the HIV/AIDS epidemic and access to essential and quality health care in general. Women are excluded from decision-making processes. Because their experiences and ideas are ignored, the technological advances are not easily made available to ease their work. They have no control over their fertility, and are also denied access to information that would enable them to make informed choices on contraception.

In our society, sexual behaviour is not openly and easily discussed. The extent to which a polygamous relationship in HIV transmission is a factor is controversial and needs to be researched. To insist on the use of condoms might be misconstrued as encouragement for infidelity to husbands. The system of apartheid, its migratory labour system, and the single-sex hostels system places additional limitations on women in their fight against AIDS. These women have less access to financial resources, information, educational opportunities, health care and sexual rights. In a situation of mass illiteracy preventive and promotive health education programmes are easily undermined. Poor access to health care facilities means late diagnosis, poor treatment, and no follow-up treatment.

Malnourished women are more susceptible to infections and pregnancy complications. Once they have been diagnosed as AIDS sufferers, they seem to die faster than men. This has serious consequences in the HIV transmission in pregnancy for the family, the children and, in particular, the orphans. The old women must then bear the burden of additional home-based care and support by taking care of the sick, the orphans, the disabled - in most cases on a voluntary basis. Their contribution, and that of women in general, is undervalued. They receive very little care in return. Their meagre pensions are not enough for the family needs. HIV transmission is associated with rape, sexual abuse and harassment. Even children have been affected through sexual abuse. Violence and war both in South Africa and the neighbouring state of Mozambique has been the cause of the recently reported slave trade between the two countries in which women are the victims of sexual abuse. Natal has become the epicentre of HIV/AIDS.

The struggle by women against AIDS must therefore be organically linked to the struggle for national liberation, social emancipation and women's rights. The fight against AIDS is not a particular responsibility simply because women are the disadvantaged sector of our society. Women, however, have an important role to play in the development of a National AIDS programme is part of a National AIDS task force and also in the launch of a campaign on national HIV/AIDS awareness and prevention. The paper emphasized the fact that the campaign must be community-based. Women can accept the challenges presented by the HIV/AIDS epidemic and use the space thus created to assert themselves in society particularly with regard to sexual relationships, abortions, use of free and safe contraception and in a whole range of other issues that relate to the control their fertility.

Women's organisations and support groups are the actual stepping stones to serious attempts to combat HIV/AIDS. We should demand state intervention in the provision of health care and ensure that these demands are incorporated in the Constitution and a Bill of Rights and they are enforceable by law.

Workshop proceeding

Patriarchy and Gender Custom and Religion Legal Status

Introducing the issues

The first two days of the workshop addressed issues of concern to women in South Africa with a view to identifying women's rights.

The keynote address presented by the Deputy President of the ANC Dr Nelson Mandela identified factors which have led to women's oppression in South Africa and referred particularly to patriarchy.

This input coupled with the paper "Women in Apartheid South Africa" and presented by comrade Gertrude Shope, NEC member and head of the Women's League, laid the basis for the discussion that followed. Five Commissions were set up to deal with issues arising from the two papers.

These were:

- Patriarchy, custom and gender;
- Women and religion;
- Violence, rape and sexual harassment against women;
- The legal status of women in South Africa;
- Women in the public and civil service.

At the afternoon session three papers were presented:

"A Critical Review of Gender and the Economy in South Africa" *"Women and Education"* and *"Women and Health"*.

The following five commissions were set up to deal with matters arising from these papers:

- Women as workers
- Women and the land

- Women's health rights
- Women and the environment
- Education and training of women.

DISCUSSION OF ISSUES

The workshop began by defining the key concepts.

GENDER AND SEX

Sex was described as a biological category, whilst gender was described as an ideological construct based on the way society understands or reads biological differences between men and women; in other words social differences are created from the varying biological attributes of men and women. For instance, ours is a society which proclaims that women, because they physically bear babies, are also responsible for the rearing and caring of children.

Patriarchy was defined as an ideology of male supremacy which is the result of the social construction of gender. The patriarchy is inherent in the customs, practices and religions of South African society in general. It justifies a variety of social, economic and political distinctions between men and women: for instance, better employment opportunities for men whilst placing the burden of child care and maintenance of the household on women.

The patriarchy, custom and gender discussion centred around African customary practices. It was noted that a distinction should be drawn between customs which promote social cohesion and those which may seem to promote social cohesion, but which are in fact

oppressive to women. For example, the custom of Ukungena was identified as oppressive; while there was disagreement as to whether the practice of lobolo is harmful to women. Some speakers felt that lobolo inevitably assigned value to women only in terms of their status as possessions or objects, while others felt that lobolo gave women a material protection unavailable to them under some African law.

Consequently, it was suggested that legal provision might be made for women to take the place of whatever security lobolo may be felt to offer. The institution of chieftainship was also discussed and recognised as patriarchal. However, it was recognised that the institution of chieftainship cannot be wished away. The majority of the people, at least in the rural areas, probably respect the office. It was therefore recommended that we begin to find the best possible means of democratising the institution of chieftainship.

Women and religion

The commission on religion was made up exclusively of Christians. It therefore focused on the Christian religion although it was recognised that discussion on Islam was urgently needed as well. Christianity was identified as a patriarchal institution which has contributed to the oppression of women. Recognising that "human rights" refers to the rights of women as well as men, the church was identified as a site for human rights violations.

The following examples were given: - the refusal of the Christian church to ordain women;- discrimination against unmarried mothers in some churches;- discrimination against children born out of wedlock and the state's concept of legitimacy;- domination of the media by churchmen.

On religion, it was recommended that the ANC constitutional committee refer to the report of "Ecumenical Decade for Churches on Women" so that women, and in particular rural women, might feel that their voices were being heard, and also to provide educational guidance for women on their rights.

Legal status of women

Marriage laws were identified as the main source of legal discrimination against women.

It was noted that South Africa operates under a dual legal system, namely, the systems of civil and customary law. African women may marry by either customary law or civil law. Most rural women marry by customary law. Marriage under customary law which prohibits polygamy was noted as particularly disadvantageous, since married women are regarded as perpetual minors in the marriage who cannot contract in their own right and often cannot inherit property. Women's minority status has been aggravated by uncertainty of the law and interpretation by courts which tend to base itself on patriarchal attitudes to women and also tend to entrench patriarchal aspects of customary law.

Polygamy

There was debate as to whether polygamy should be abolished. Some participants felt that polygamy is in conflict with democratic rights. Others, feeling it to be part of many people's way of life, said that it could not simply be eliminated by law. It was agreed that there should be wide-ranging discussion and consultation with women involved in customary unions. There was discussion concerning the legal disabilities suffered by women, in particular black women, in civil law marriages, where it is difficult to acquire property in one's own right because the marital power remains in most marriages.

Finally, the commission on the legal status of women emphasised that, while there are objectionable laws which expressly discriminate against women, much of the oppression women suffer is a result of indirect - that, extra-legal discrimination, which is itself a result of prevailing cultural attitudes to women. For instance, although the legal system has set up means whereby women can enforce maintenance orders, as far as the law is concerned in practice the system is a failure in that very few women actually receive the support they are owed.

Divorce

Similarly, black women often encounter difficulties in securing the custody of their children upon divorce.

Moreover, the oppression of women was put in a wider socio-economic context: property rights mean very little for women who are part of a generally impoverished group.

RECOMMENDATIONS

These are the major ones:

- Consultative programmes should be created to discuss traditional practices such as lobolo and polygamy. Outreach programmes were recommended. The purpose of the consultations should be both to obtain a bottom-up input, so that women, and in particular rural women, might feel that their views were being heard, and also to provide educational guidance for women on their rights. Educational programmes should consequently be designed to this end.
- There should be continuation of the debate on whether a new South Africa should provide for a single system of law or continue with the dual legal system. This should be informed by comparative studies of African legal systems (many African countries inherited the dual legal system) and of the application of customary law in the homelands (currently there is not enough information on the issue for informed debate). The debate should take into account issues concerning women in customary marriages, especially their inheritance and property rights, and their perpetual minority.
- Unequal marital power should be abolished.
- The constitution should enable the enactment of legislation which establishes and protects women's rights, whether outside marriage or whether in marriage and upon its dissolution.
- The rights of women should be established and protected by law in both customary and civil marriages.
- Laws relating to wills should be changed with the specific intent of restricting the disposal of family property. It was noted that married women contribute both directly and indirectly to the acquisition of family property.
- Civil law should be reformed with the specific intent of revising the many aspects that infringe on women's rights.

Notes

1. *Ukungena* is the custom of the levirate which generally places a duty on a widow to cohabit with one of her deceased husband's relatives, usually a brother or a half-brother. The custom is related to the widow's reproductive role. An elderly woman or one who has had many children is less likely to be subjected to *ukungena*.

2. While this term was used at the conference, it should be noted that while polygamy refers to the practice of marrying more than one husband or wife, polygyny refers specifically to the practice of marrying more than one wife. What is being referred to here, then, is polygyny.

3. The marital power confers on a husband control over his wife's property and deprives his wife of the right to contract freely or to litigate without his consent and assistance. A woman married under the marital power, for instance, could not enter into an agreement to purchase a house without her husband's assistance.

Workshop proceeding

Women and Education

The following is a summary of issues and recommendations relating to formal education.

It was observed that there is a crisis of education in South Africa which has been caused primarily by the apartheid system. Apartheid has led to uneven distribution of resources. African schools under the Department of Education have far less resources compared to white schools under the same department.

There is a shortage of teachers for black students and most of the teachers available are under-qualified and are usually women. More black children are dropping out of school because of inadequate facilities, lack of qualified teachers, repression and poverty. Illiteracy is on the increase. Nine to ten thousand young persons are illiterate. Young women between the age of twenty and thirty-five form the bulk of these people.

It was said that the Department of Education refuses to recognise community initiated schools, particular in squatter areas, thus burdening poor people to provide what they themselves do not have. Concern was raised at the rate at which private schools were proliferating.

RECOMMENDATIONS:

- That the present education system should be completely overhauled;
- That the democratic government has a duty to intervene and correct imbalances created by apartheid;
- That education should be one of the priorities of the new government;
- That the state should provide free and compulsory primary school education or education up to the age of sixteen years, with a bias in favour of girls who are often late beginners at school;
- Schools must be open and accessible to all. Tertiary education must be made accessible and taxation may be used as a device to subsidise tertiary education, thereby increasing the possibility of access.

Workshop proceeding

Women's Health Rights

The point was emphasized that health is a basic human right.

The workshop also endorsed the argument that health and ill-health are, in the main, determined by power relations, socio-economic conditions, cultural and traditional practices and attitudes. It was also noted that health policies are gender-insensitive and fail to address the plight of African women in particular.

The main factors affecting women's health were identified as:

- their exclusion from decision-making processes, including the right to control their fertility;
- low levels of education;
- lack of employment opportunities enabling them to lead decent lives;
- unsafe environmental and working conditions;
- inaccessibility of facilities to ease their strenuous workload, especially in the light of the additional home-based tasks they have to perform in the home;
- poor health-care facilities, especially in the rural areas, as a result of which women do not get essential and adequate health care.

The poor nutritional status of women and children predisposes them to ill health. Malnutrition was also attributed to the fact that women have limited access to the land, to credit facilities and to the control of crops. The fact that women in particular have less access to preventive health care resulted in high infant mortality and maternal mortality rates. The high rate of illegal abortions was of great concern to the commission and this led to

extensive debates on contraceptives and abortions especially in view of the controversy surrounding these issues. On the issue of free health care, there was agreement that privatization of health care should be discouraged, and that within this context the State should identify resources and mechanisms that would ensure that no one was excluded from essential health care services on the grounds that one was not able to pay.

Within the health profession women are mainly confined to nursing which emphasises caring rather than curing duties. As a result, they do jobs of a low status, which bring them lower wages than males. Such jobs are usually stressful.

The commission also discussed the importance of community-based training within the context of primary health care. This would allow for relevance in training. HIV infection and AIDS was discussed and special emphasis placed on the fact that this is both a medical and social disease.

It was also recognised that there is an insignificant awareness on the nature of the disease, its complications and consequences. The struggle to combat HIV/AIDS created space for the struggle for women's rights. A Health Charter can go a long way in complementing the Women's Charter.

RECOMMENDATIONS

The Commission discussed health care services, AIDS and fertility and recommended that women should have the right to:

- control their own fertility;
- safe, easily available contraception based on informed choices;
- safety and support during pregnancy;
- free maternal and child health care;
- six months paid maternity and paternity leave with job security.

- sex and family life education to be part of the overall education;
- be protected against rape, sexual harassment and violence- a community based National AIDS campaign with the State funded participation of the youth, women, progressive community and health organisations, workers and the church. The State must provide the financial resources for the campaign.
- free supply of condoms with adequate information on how to use them.

On the formulation of the "Right to Health" in the Bill of Rights, the Commission noted that a comprehensive national health service did not guarantee its integratedness. If the services were not integrated this might once more disadvantage women who have to travel to different facilities for health care. They may even have to pay different rates at different institutions thus wasting time and meagre resources.

The commission recommended a comprehensive and integrated National Health Service.

"Hygiene education was limited in its approach. The commission recommended that the use of health education be part of the primary health care components, encompassed in a comprehensive and integrated essential health care that includes cure, prevention, promotion, rehabilitation and health education.

With regard to the special services to be provided for women and children as indicated in "What is a Constitution", the Commission reiterated its recommendation for such services to be free. The importance of easy availability and accessibility of pap smears was stressed as carcinoma of the cervix was reported to be very common amongst black women.

Because women who do not proceed to secondary education are likely to lapse into illiteracy and therefore do not benefit from health education programmes, the Commission recommended that compulsory and free education be gender sensitive, and specify the number of schooling years that would ensure that girls remain literate.

Workshop proceeding

Women as Workers

The definition of workers as it relates to women was broadened to include the unpaid labour of women at home, the unemployed and self-employed, domestic workers and agricultural workers.

This type of work, which is usually very stressful, is invariably undervalued and is not incorporated in the national wealth creation statistics. The interrelationship of gender, class and race was also discussed.

Concepts of equal pay for equal work and equal pay for work of equal value were examined. The discarding of the concept of equal pay for equal work gives loopholes for the exploitation of women. On its own this concept is not sufficient. It needs to be buttressed by the equal pay for work of equal value concept.

The feasibility of implementing the concept of equal pay for work of equal value was also explored. There is a danger that this could have the negative effects of underdeveloping women as they might remain entrenched in the kitchen, if they knew they would earn equal pay for work of equal value. It was agreed, however, that this concept does address the issue of devalued work. Experiences of other countries in this area could be useful.

Note was made of women who do additional work other than what is contained in the job description, and are not paid commensurate salaries. There are no safeguards to ensure that employers are under a duty to discourage this form of exploitation and oppression. Some job descriptions are not precise in content. Mechanisms to enable women to move into categories of employment previously closed to them were explored. Central to this will be the creation of employment opportunities to accommodate the fact that women start from disadvantaged positions. Conditions of work sometimes make it difficult for women to take certain types of employment.

More critical to the process of entering other job categories is the education, training and socialisation of women. The commission felt

that there should be laws that prohibit discrimination against women in terms of conditions of work and also in terms of opportunities to work.

Special note was made of women in the civil service. It is critical that women have a major voice in the civil service, as this is where most decisions are made. This however does not mean that women should not strive for representation in the highest decision making bodies.

RECOMMENDATIONS

- The value of women's labour, especially unpaid labour, should be constitutionally recognised and should be incorporated in the compilation of national wealth creation.
- Equal pay for equal work should be combined with legal provisions prohibiting discrimination against women.
- Health provision should be the responsibility of the state and employers should be legally bound to provide a safe and healthy work environment.
- Privatization of health care should be discouraged.
- Legislation should broaden the definition of what is compensatory for injuries and employers should be legally bound to pay out compensation.
- An equal opportunities council should be created to monitor training, employment and other relevant areas.
- Gender sensitive training to ensure mobility for women.
- Access to welfare benefits should be available to all irrespective of marital status and employment. Women should qualify for benefits as women and not as dependents.
- Childcare must be provided to working women.

Workshop proceeding

Violence against Women

It was pointed out that the whole system of apartheid is based on violence.

Violence permeates every aspect of one's life in South Africa. The state has legitimized violence through its apartheid laws. Covert and overt forms of violence were identified: the oppressive nature of our society, wherein one is not able to exercise one's rights, was seen as covert violence, whereas the teargassing and shootings by the police were identified as overt violence, as were hit squads.

It was also recalled that South African society has a long history of peaceful campaigns that have been met with violence; for example, peaceful demonstrations by women against the "pass" system. Of course violence reproduces itself violently too and this is why our society has become violent. Wife bashing should not be seen as part of the African tradition: this point was stressed.

The rapid increase in the rape was seen as yet another manifestation of violence in our society. Of particular concern was the humiliation and psychological trauma women experience in trying to establish their innocence in a case of rape.

Violence towards women in the workplace manifests itself in the form of sexual harassment. Women are sometimes subjected to sexual harassment in the effort to get jobs.

RECOMMENDATIONS

- The definition of rape should be broadened in order to emphasize that this is not only a sexual assault but also an act of violence.
- Laws of evidence in respect of the prosecutions of rape should be changed in marriage. Rape should be a criminal offence in marriage.
- The victim should have the right to legal representation of her choice and this representation should be paid for by the state.
- Rape culprits should undergo intensive therapy as part of rehabilitation.
- Sexual harassment must be made a criminal offence
- Women and children should be protected by the State against family violence.
- Men should have the right to a fair trial in rape cases.

Workshop proceeding

Representation of women in decision-making bodies

It was noted that in South Africa women are absent from the decision making processes of political parties and organisations, as well as from the policy-making organs of the State.

The following factors were identified as the major causes of the problem: gender stereotyping, lack of training and education of women, as well as bureaucratic approaches to decision-making. Commenting on gender stereotyping, it was said that decision-making is regarded as the preserve of men in patriarchal societies such as ours.

With regard to the training and education of women all commissions noted that, while women may be less skilled for posts in decision-making bodies, because of the lack of training, experience and confidence, gender stereotyping means that even where women exist for posts in such bodies they are never considered. It was also observed that decision-making bodies are invariably undemocratic and are unaccountable to the people. Policy decisions are taken by a few powerful men.

RECOMMENDATIONS

Both private and public institutions should set up affirmative actions programmes which should incorporate the following conditions:

- organisations should begin to identify women for vigorous training which should begin now in preparation for women's participation in the formulation of policy;
 - employers should undertake upgrading programmes for women, and tax concessions should be offered as an incentive for employers who seriously undertake these programmes;
 - women should be encouraged to venture into fields such as science, which are traditionally reserved for men.
-
- criteria for employment should not be set in such a way as to exclude women;
 - quotas for women should be reserved in all political organisations as well as in all organs of the democratic state;
 - women should make up 50% of the membership on bodies such as the Constitutional Committee of the ANC, which should thus be restructured to include women;

International Protection of Women's Rights

Prof. Kader Asmal

In the twentieth century international human rights law has established standards for the treatment of all people through numerous conventions and resolutions. A concern for the equal treatment of men and women is reflected in one of the earlier documents dealing with human rights, the United Nations Charter which refers to the equal rights of men and women.

Gradually, conventions dealing specifically with the oppression of women have been adopted and the most important of these is the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (The Convention is appended to this work). By 1990, 102 states had become parties to this Convention and were thus bound by it.

The **1979 Convention** is important for its attempt to deal with the issue of patriarchy, the domination of women by men, and the rationalization of inequality and the inferior status of women. In doing this, it moves beyond the equality principle relied on in earlier human rights conventions which readily accept the notion of women as homekeepers and the rearers of children and which insulate 'private' family relationships from the reach of the law.

Thus **Article 3** of the Convention recognises that not only must the law change but patriarchy also must be eliminated, and it requires States to take:

All appropriate measures ... to educate public opinion and to direct national aspirations towards the eradication of prejudices and the abolition of customary and all other practices, which are based on the idea of the inferiority of women.

In challenging patriarchy, the Convention does not ignore the role of the family and the relationship of women to their families. Instead it demands full recognition of women's contribution to society and a change in the roles of men and women in the family.

If South Africa were to ratify the Convention, and as a democratic state it should, a range of discriminatory practices would be prohibited and obligations would be placed on the State to address the patriarchal nature of South African society.

For instance, in **Article 2** the Convention specifies measures that a state should take to end discrimination; **Article 3** requires States to pass laws which will enhance the status of women; **Article 4** allows States to take affirmative action to remove inequality between men and women.

In this connection a South African Bill of Rights should contain a provision dealing with the right of the State to take ameliorative action to undo the legacy of discrimination and exploitation.

Article 5 of the Convention attempts to ensure that stereotyped attitudes towards women and the role of maternity are tackled by requiring States to take measures to eliminate 'practices based on the inferiority of women'. Again, a South African Constitution should reflect similar sentiments. This is important not only for its legal value but also for the educative role that a Constitution can play.

Article 6 of the Convention deals with slavery and prostitution, **Articles 7 and 8** with the political rights of women and **Article 9** with nationality.

Article 10 specifically requires that women should not be discriminated against in education. It refers also to the revision of text books and teaching methods and to education to ensure the 'health and well-being of families'. The object of **Article 11** is to remove discrimination in the labour market and to ensure that women's childbearing function is protected. The article specifically requires States to provide protection for women during pregnancy but does not recommend any other 'protective' legislation.

Health care for women is taken up in **Article 12**. It provides for non-discrimination in this area but singles out pregnancy as a ground for special treatment.

Article 13 ensures equality in the granting of financial credit; **Article 14** recognises the special disabilities rural women may face.

Articles 15 and 16 require equality before the law and in marriage and family relations.

Article 16 is particularly important in South Africa. For instance, it specifically refers to the need for freedom to enter into marriage, the right to choose a spouse and the identity of rights during marriage and at its dissolution. It recognises that parents should have identical rights to children.

The Convention does not impose immediate and direct obligations. It merely obliges states to take all appropriate measures. It does not have a strong mechanism to ensure that complaints about its violation are investigated.

Nevertheless, a free South Africa must ratify the Convention and, with other international Conventions, it should become part of the law of the land.

When there is more time available to the legislature, the standards and general principles it lays down must be supplemented by a comprehensive and major piece of national legislation, entitled the Equal Status Act, which would systematically cover the area of gender discrimination, including employment, goods, facilities, services, education, personal status and family law. In addition, the powers of enforcement must be spelt out and an Equal Status Commission, charged with supervision of the legislation and the drawing up and supervision of affirmative action programmes, must be established.

The removal of discrimination based on race and sex is part of the struggle against apartheid and is an urgent task. As the Women's League of the ANC has said: women's concerns and women's needs are the concerns of all true democrats.

The rapid development of international rules is an aspect of international solidarity with the cause of the liberation of women. It represents a recognition of the fact that this struggle is a fight for a universal human right.

Women's Rights: the Canadian Experience

Ass. Prof. Elizabeth Sheehy

Elizabeth Sheehy discussed human rights codes, the process of getting a bill of rights (which the Canadians call a Charter) and issues around using the rights enshrined in the Charter. Finally she described the recent and progressive Canadian pay equity legislation.

Human rights codes

First, the concepts and language used in a human rights code or bill of rights may create real difficulties. For instance, the concept of discrimination is problematic. In Canada one has to prove a specific basis of discrimination - that a job was not offered on account of one's race or that a place was not given on a training programme on the basis of sex and that one would have got the position if it were not for one's race or sex to challenge discrimination successfully. Courts are unable to understand that a combination of factors might operate and are unsympathetic to the inability of a black woman, for instance, to identify with precision the specific basis of the discrimination she suffers.

Then, in addition, courts require some evidence of bad intentions and the mere use of abusive language may not provide such evidence. For instance, discrimination was not proved to the satisfaction of a court in a case where, on expelling some people from a hotel, the manager shouted "Get out, you dirty Indians". Finally, the notions of discrimination and equality do not reach the causes of women's subordination. The concept of equal pay for work of equal value is similarly problematic. As long as the structures remain the same the jobs that men do are more highly valued than those that women do.

A second problem with human rights codes in Canada is that they require a complaint from an individual before wrongs are redressed. This means that an individual takes on a huge struggle and unions often fail to support women members. The process may take many years and the personal cost to the individual concerned is enormous. If the matter is settled, no publicity is given to it and no precedent set. One advantage is that women can be mobilized around court cases.

The constitutional process

Chavira Hosek has written of Canada: 'This is a story of the progressive exclusion of women from the process of constitutional change, and of the elaborate strategies required for them to break into the process. Women must be centrally involved in any future constitutional change.'

In Canada women were required to negotiate on a pre-set agenda and their demands were addressed within a framework which had already been established. The result was a Charter of Rights which inadequately addressed women's needs. Women did

not get a clear statement of how their rights ranked against others; wording in the Charter remained inconsistent, requiring judicial interpretation on virtually every issue such as abortion, male parenting rights etc; the complex issue of the combined effect of race and sex was left unaddressed (leaving the position of aboriginal women who lose citizenship of their band when they marry some one who is not a member uncertain); no guaranteed rights of representation in political bodies were granted to women; and no federal funding of services for women was guaranteed. Women would have drafted the constitution entirely differently.

Using the constitution

The major lesson to be learnt from the process is that legal rights are not enough. Political action remains the most important tool in the struggle against oppression. Judge Fudge has said: "Rights are not inherently progressive, but rather depend upon the politics informing them". And that a Charter can "come to dominate the political discourse and thus define the universe within which political struggle occurs". Using the courts is costly and it is exhausting. Because the Charter is not pro-active - it does not place a duty on the state to ensure the rights it guarantees - only the most privileged women can use it and in Canada the right to equality has been used mostly by men.

The Charter has not transformed the judiciary. It is staffed by the same people with the same ideas and women's issues are inadequately understood.

The Pay Equity Act

Recognizing the failure of human rights codes Canadian women worked for over ten years to achieve the Pay Equity Act which is the most progressive Canadian legislation. Pay differences and the inadequacies of existing legislation were documented. The legislation requires all jobs, including those in the private sector, to be evaluated, gender-neutral value schemes to be established and pay differences be made up. It is pro-active, requiring unions and employers to act. The legislation still excludes those who are most disadvantaged as it covers only businesses employing more than 10 people. This means that it does not reach the oppressive structures which result in women's employment in small concerns or singly in underpaid jobs. More importantly, it does not recognise women's unpaid labour. It also excludes domestic workers and farm labourers. Perhaps the most difficult problem is that it calls for 'gender-neutral' evaluation of jobs where we cannot think beyond gender. This is particularly so where there are no male comparisons as in the garment industry.

Conclusion

Women must be central to the process of constitution-making. We must be represented in acceptable numbers and must be capable of drafting legislation. The language and concepts used in the constitution must be carefully considered. Women must struggle for cultural change to avoid a constitution benefitting the elite alone. An ongoing political struggle is essential.