



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women
Nineteenth session**

Summary record of the 387th meeting

Held at Headquarters, New York, on Wednesday, 24 June 1998, at 10.30 a.m.

Chairperson: Ms. Khan

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The meeting was called to order at 10.50 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Initial report of South Africa (CEDAW/C/ZAF/1)

1. *At the invitation of the Chairperson, Ms. Fraser-Moleketi (South Africa) took a place at the Committee table.*

2. **Ms. Fraser-Moleketi** (South Africa) said that the legacy of underdevelopment left by the former apartheid regime in her country was reflected in the statistics given in part I of South Africa's initial report (CEDAW/C/ZAF/1), which showed that race, geographic location and gender were the main determinants of poverty. Some 61 per cent of blacks, but only 1 per cent of whites, lived in poverty in South Africa. However, despite the many challenges facing the Government, the empowerment of women remained a priority on the national agenda.

3. South Africa had signed the Convention on the Elimination of All Forms of Discrimination against Women in 1993 and had ratified it, without reservations, in 1995. In the period 1994-1997, the Government had focused on transforming, rather than merely reforming, the policies of the past in order to bring about fundamental changes in the fabric of South African society. An office on the empowerment of women had immediately been set up within the President's Office to develop a women's empowerment policy. In addition, a coordinating secretariat for activities in preparation for and in follow-up to the Fourth World Conference on Women had been established. An extensive consultation process had been undertaken with a view to mainstreaming the gender perspective in society and reviewing best practices in that area. As a result, the Government had adopted an action programme in the form of national machinery consisting of a variety of structures at all levels of society, which operated on the premise that the transformation of gender relations was an integral part of the overall social transformation and reconstruction process. Those structures were described in the report in relation to articles 2 and 3 of the Convention.

4. The two key structures in that machinery were the Office on the Status of Women (OSW), which worked at the central and decentralized levels of government to

ensure that the constitutional objective of gender equality was translated into specific programmes, and the Commission on Gender Equality (CGE), which focused on changing the attitudes of society as a whole. Since January 1997, OSW had developed a framework for the performance of its mandate, a draft national policy document, national and provincial plans of action, a comprehensive capacity strategy, a draft gender audit framework, a framework for the compilation of a biennial report on the status of women and performance indicators for its national and provincial offices; had identified priority cross-cutting programmes; and had initiated a capacity-building process for its provincial offices. Legitimate concerns had been raised concerning the capacity and resources of OSW, but it must be recalled that OSW was only part of a much larger network of structures promoting gender equality at the national and decentralized levels.

5. Her Government welcomed the international community's scrutiny of its efforts to eliminate discrimination against women, as well as the election of a South African woman to the Committee. The preparation of its initial report had been hampered by the unavailability or unreliability of data in many areas, which was another legacy of the former regime that had not yet been fully redressed. To illustrate South Africa's ideals with respect to women's advancement, the report had focused on the progress made since 1994.

6. In relation to article 1 of the Convention, the South African Constitution guaranteed gender equality and prohibited discrimination based, inter alia, on sex, pregnancy or marital status. It also provided that self-executing provisions of international agreements to which South Africa was a party should be considered as law and that, in interpreting national legislation, courts must prefer interpretations which were consistent with international law, including the Convention. In addition, anti-discriminatory legislation was being drafted, and South Africa had signed a number of other international instruments relating to gender equality. The provisions of the Constitution had already been widely publicized and a public education campaign on gender equality and the Convention would soon be launched.

7. In relation to articles 2 and 3, South Africa had begun to repeal discriminatory laws even before the 1994 elections, and had adopted laws on family violence and guardianship. However, administrative

problems continued to hinder the implementation of some legislation, such as the Maintenance Act. New legislation had been adopted and administrative reforms were being planned to redress that situation. The National Machinery for Advancing Gender Equality reviewed all existing and proposed legislation to ensure that it was gender-sensitive. OSW planned to conduct a gender audit to collect baseline data and to guide gender mainstreaming in government departments. It would also monitor progress with respect to policies, programmes, training, research and intersectoral action relating to gender. Most government departments collected data disaggregated by gender and race only in relation to internal matters. The new initiative on gender budgeting was designed to correct that shortcoming.

8. With respect to article 4, the Constitution allowed special measures to be taken to correct imbalances. Such measures were incorporated in new legislation on employment and in government policy in general. For example, the majority political party, the African National Congress (ANC), had adopted a quota system during the 1994 elections, under which at least 30 per cent of the party's elected representatives had to be women. Moreover, many government departments had set internal targets for the recruitment of women. The public service inherited from the former regime had been marked by ineffectiveness, discrimination and racial and gender divisions, and the enhancement of its efficiency and credibility was a major challenge. New targets had been set for racial and gender equity in the public service, in accordance with the new Constitution's requirement that the composition of the public service should be broadly representative of South African society. Positive changes had already taken place; for example, women were beginning to occupy more decision-making posts in formerly male-dominated areas such as the national and provincial Departments of Agriculture.

9. With respect to article 5, South Africa's profoundly patriarchal society had given rise to an abundance of stereotyped images of women. The Constitution was a central instrument for combating such stereotypes, since it gave equality precedence over culture and tradition. OSW had launched a programme through its provincial offices to sensitize political leaders and senior managers at the provincial level. CGE, for its part, evaluated and made recommendations to the Parliament on customs,

practices and laws, including indigenous laws. It had launched a public campaign on gender in the media and had successfully challenged a Muslim radio station that had refused to broadcast the voices of women. In the area of education, the National Curriculum Development Committee had launched a new curriculum in 1998 that included measures to eradicate gender stereotypes in education.

10. In the area of broadcasting, the publicly owned South African Broadcasting Corporation had adopted a policy on women which included guidelines on the need to avoid gender stereotypes and sexist language. Although most of the print media were independently owned and self-regulating, the newly established office of Press Ombudsman received complaints regarding the portrayal of women in the media. Lastly, the 1996 Film and Publications Act prohibited the showing, distribution or advertising of material which was degrading to women or children.

11. Concerning article 6, she cited the provisions of the 1957 Sexual Offences Act, noting however that there was no explicit legislation controlling sex tourism or the traffic in women across the borders of South Africa. A wide variety of views on prostitution had been aired and a Constitutional Court challenge on the provisions of the Sexual Offences Act was pending. Recent reports revealed a disturbing increase in sexual abuse of children, including rape, sodomy and incest. One of the initiatives launched to combat such exploitation was the establishment of a multidisciplinary task force, under the auspices of the Department of Welfare.

12. Women had made meaningful contributions to the political and public life of South Africa. Their participation in the Constitutional Assembly had ensured the inclusion in the Constitution of specific provisions on gender equality, affirmative action and socio-economic rights, and their lobbying efforts had directly influenced the passage of the Choice on Termination of Pregnancy Act and the Film and Publications Act. Regrettably, the pattern of high levels of participation was not repeated in the judiciary, where few women held the more senior positions.

13. With respect to articles 8 and 9, part II of the report provided a detailed account of high-level international and regional events attended by delegations comprised mainly of women, and the impact of the pass laws and influx control regulations

of the apartheid era. In addition to acceding to several international instruments on the status of refugees, South Africa had prepared legislation on immigration and refugee policy.

14. Concerning article 10, she said that the Government was striving to obliterate the legacy of the formerly racially divided education system. Some 20 per cent of African women, as compared with 14 per cent of African men, had had no formal schooling at all. Legislative measures and decisions at the policy level had been adopted to improve infrastructure, enrolment, representation of women in tertiary education and early childhood development. She highlighted the Tertiary Education Fund of South Africa (TEFSA) which had been established to manage the extension of a State-funded bursary or loan scheme.

15. With regard to article 11, the report provided baseline data on the gender dimensions of the economically active population, employment rates and forms of employment as at October 1995. Only 3 per cent of all South African women were classified as managers, senior officials, and 4 per cent as professionals, a high proportion of whom were employed by the State as teachers and nurses.

16. She drew attention to the strong trade union movement, pointing out that at its most recent meeting in 1998, the dominant trade union federation, the Congress of South African Trade Unions (COSATU), had elected its first woman president.

17. Although unemployment rates were high, within one year of its establishment, a national job creation programme had created over 288,000 person-months of temporary employment and more than 13,000 persons had been employed. The Government was fully aware that there was still a long way to go and it planned, in collaboration with the other economic actors, to convene a presidential job summit at which all components of the job market would examine their contribution to the employment effort.

18. The 1995 Labour Relations Act and the 1983 Basic Conditions of Employment Act regulated the agriculture, mining and domestic labour sectors, and conditions in the workplace, respectively. More recently, the Basic Conditions of Employment Bill of 1997 was prepared to address the special needs of pregnant, lactating and disabled women.

19. Furthermore, a successful initiative focusing on bringing women into the mainstream of the economy through the promotion of small, medium and microenterprises had been led by the Ministry of Trade and Industry.

20. Concerning access to health care, she said that there were still severe imbalances. Major health problems related to the gender-related aspects of nutrition, tuberculosis, sexually transmitted diseases, HIV/AIDS, cancer and immunization. South Africa had no intention of treating HIV/AIDS solely as a health issue given the severe impact of the disease on all sectors.

21. Referring to article 13, she said that South Africa had made major strides in transforming its social security system. The provision of assistance to the needy was a critical area of concern. Income derived from social pensions was reaching a substantial proportion of the poorest sectors of the population. Approximately 22.4 per cent of rural income was directly derived from social security transfers, compared with 12.4 per cent in urban areas. In a typical rural household, which could consist of up to seven members, the social pension of the woman running the household was often the sole source of income.

22. Intersectoral collaboration had been identified as an essential aspect in the provision of meaningful child support programmes. It was also acknowledged that it was important to link social security and broader development programmes in order to facilitate the empowerment of women with children and the poor by creating opportunities for them to realize their potential.

23. In other areas, strategies had been adopted to encourage participation of women in sporting activities at all levels; funding had been provided for art projects, and increasing emphasis was being placed on microlending and microcredit to enable women to secure credit independently of a male mediator.

24. Over half the population, primarily women and children, lived in poverty-stricken rural areas and had neither jobs nor land, a situation which had been exacerbated by influx control, pass laws, forced removals and the migratory labour system. Women's lack of access to land was a key factor in their inability to overcome poverty. The Government had initiated a land reform gender policy which included provisions for non-discrimination in communal property

ownership and use of communal land and access to direct State financial assistance. The official definition of “farmer” had been amended to include previously disadvantaged farmers, including women, and the principles of agricultural policy had been examined to ensure that they were gender-sensitive and non-discriminatory.

25. The 1998 Postal Act emphasized the importance of postal services in rural areas, and a Telecentre Pilot Project, which would establish hundreds of such centres in outlying areas and included explicit provisions for the empowerment of women, had been launched. Telecommunications also made possible improved health care in rural areas where on-site specialists were not available, and dedicated telephone lines for schools, clinics, hospitals, libraries and community centres and for use by abused women had been established. Because educational and training opportunities were few in rural areas, a Flagship Programme for Unemployed Women with Children under Five Years had been launched in each province in order to help unemployed women and their young children escape poverty and reduce their dependence on the State.

26. Although the Constitution stipulated that everyone was equal before the law and had the right to equal protection and although the legal age of majority was 18 for both sexes, women married under customary law were perpetual minors under the Black Administration Act; that provision was about to be repealed. In the past, because the State had provided legal assistance to accused persons only in criminal cases, women had not qualified for assistance in cases involving divorce, custody, maintenance or domestic violence. A special gender fund had been established to address that problem. A programme entitled “Justice Vision 2000: Five Year National Strategy for Transforming the Administration of Justice” acknowledged women’s special circumstances and vulnerability and included measures targeting their needs.

27. Marital patterns in South Africa reflected the country’s cultural diversity. Civil marriages were based on Roman Dutch common law, but customary and religious law marriages still enjoyed limited recognition. In general, women in civil marriages had more rights than those in customary or religious marriages.

28. In addition to being considered perpetual minors, women married under customary law were subject to their husbands, who had the right to conclude contracts and administer the family’s property as he wished. There were few safeguards to protect women, provisions for spousal maintenance were unclear and the gift of one or two cows or their monetary value was often considered a sufficient contribution towards lifetime maintenance of a man’s children. Women could not inherit directly from their husbands or fathers. Draft legislation was currently under consideration to redress that situation.

29. Under civil law, women and men had the same rights and responsibilities with respect to marriage and divorce. Parental rights and responsibilities in the areas of custody, visitation rights and maintenance were determined on the basis of the child’s best interests, regardless of the form of the parents’ marriage. Until recently, women had been granted custody of children born out of wedlock, although they were not necessarily ensured of maintenance. The Constitutional Court had recently mandated new legislation in that regard. The law provided for women’s reproductive rights and for procedures to enforce those rights. Under civil law, women and men had equal rights upon the death of a spouse; however, such was not the case under customary and religious law. Those inequities would be addressed.

30. The Constitution guaranteed the right to freedom from all forms of violence from either public or private sources and to bodily and psychological integrity. The prevention of violence against women was a key aspect of the draft national plan of action which was being developed in compliance with the Vienna Declaration. Domestic and sexual violence, witch hunting and sexual harassment were covered by general criminal and civil legislation, including the Family Violence Act. However, the legal system was inadequate to address the problem of violence against women; the Government had recognized such violence as the greatest impediment to women’s enjoyment of the fruits of the new democracy and had made that a key element of the National Crime Prevention Strategy. Various problems, including gaps in the legal, policy, institutional and administrative frameworks, would have to be addressed and attitudes would have to be changed. Recent or forthcoming legal reforms included the Criminal Law Amendment Act, the Criminal Procedure Amendment Act, the Criminal Amendment

Act and minimum sentence legislation. Additional legal reforms were under consideration, and policy guidelines for handling victims of sexual offences had been implemented in 1997.

31. There was a need for improved delivery of services, perhaps through cross-sectoral initiatives. A pre-trial services project included counselling for victims and an information system which would include profiles of accused persons. Other initiatives included the development of witness-friendly courts and support services for abused girls.

32. Pilot programmes on sexual offences and the courts and on the concept of a unified family court had been implemented and measures were being taken to improve cooperation and coordination between service providers, including the police, social workers and judicial officers and to combat attitudes which perpetuated violence against women. There was still a need for effective complaint mechanisms which would empower the public to enforce service standards. The National Crime Prevention Strategy provided a framework for monitoring and improved accountability of government departments, which also had internal though not always effective, monitoring mechanisms.

33. The Government was committed to bringing its legislative framework in line with the provisions of the Convention and it was focusing on the provisions of services to improve the quality of life of women throughout the country and on promotion of gender equality through implementation of the Beijing Platform for Action. Progress in that regard was reviewed annually; during the current year, preparation for the Committee's review of South Africa's initial report had taken the place of that review.

34. **The Chairperson** congratulated the representative of South Africa on a highly informative and well-structured report and noted with appreciation that the report had been sent with a covering letter from President Mandela.

35. **Ms. Abaka** said that it was a commendable fact that the Office on the Status of Women was so highly placed within the machinery of government, and that provincial OSWs were now being set up. In a decentralized system of government, it was especially important to have effective machinery at grass-roots level. She hoped that the next report would carry information from all the provincial areas. As an independent body accountable directly to Parliament,

the Commission on Gender Equality was a model of its kind. She suggested the Committee should recommend the establishment of similar bodies throughout the African region, in addition to national machinery. She asked how the Commission was funded from the national budget.

36. She welcomed the establishment of a gender unit in the national statistical service, and hoped that other departments would follow suit.

37. **Ms. Bernard** commended South Africa on the great efforts made to correct the injustices suffered over the years as a result of apartheid. As the report showed, there was much still to be done to improve the status of women. The high incidence of rape of children and young girls must be tackled; she wondered whether the underlying cause was rooted in cultural attitudes. The Government was to be commended on producing a constitution drafted in plain non-sexist language, which moreover had been translated into all 11 languages in use in South Africa, including Braille; that practice could well be emulated in other countries.

38. She welcomed the news that women accounted for approximately one quarter of those elected to the new Parliament in 1994 but noted that there were far fewer women at the local government level. It was a matter for concern that under customary law, women were still regarded as perpetual minors. The Government's efforts to do away with such laws and to alter entrenched traditional customs and attitudes were commendable.

39. **Ms. Ferrer** said it was evident from the report that the South African Government was determined to integrate gender considerations into all its official policies and programmes, through a Gender Management System operating at all levels. She asked how that system was to be monitored. She also requested more information about the powers wielded by the national machinery, and about its staffing and funding. She wondered whether the Office on the Status of Women had authority to establish similar offices at lower levels, especially in the provinces, and how it related to other parts of the national machinery.

40. **The Chairperson** observed that South Africa's Constitution was unique in specifically outlawing discrimination against women. There was a highly supportive legislative framework, relying on the National Women's Empowerment Policy. The temporary special measures, which included targets for

the employment of women in the public service, reflected the national policy for the advancement of women. Most of the enabling machinery for achieving gender equality was now in place, including a Commission on Gender Equality. However, the actual situation in the country indicated widespread discrimination, so the measures adopted were not yet fully effective. She asked what budget allocation was made to enable the national machinery to function, and what kind of person was deployed in the offices concerned. Were the staff adequately trained for their responsibilities? Some of the measures introduced, such as those to correct income distribution, could have a negative impact; poor women working mainly in the unpaid or informal sectors could not benefit from them. She noted that although the Constitution guaranteed equality for women, the appropriate legislation had not yet been drafted, and she wondered when that would be done. A crucial area of concern was the level of violence against women.

41. Noting that, in the event of a conflict between the Constitution and customary law, the Constitution took precedence, she asked whether the benefits of civil marriage were denied to those who married under customary law. In education, it appeared that traditional patriarchal attitudes continued to prevail, and she wondered why the measures outlined in the Government's White Paper were not yet fully effective.

42. Among the many positive features in the report, she singled out the efforts of non-governmental organizations to disseminate the Convention through the preparation of a manual which had been translated into local languages.

43. There seemed to be a certain lack of coordination at the national level among the mechanisms for the advancement of women. More vigorous monitoring was needed, especially at the rural level.

Article 2

44. **Ms. Cartwright** said that while South Africa had set an example to other countries in how to introduce a genuinely democratic system, the report did not fully clarify the relationship between the Constitution and legislation. If she was correct in assuming that the Bill of Rights was an integral part of the Constitution then its provisions on equality would have a significant impact on the interpretation of legislation by the courts. What seemed to be lacking in the Bill of Rights was a

definition of gender discrimination. If such a definition, based on article 1 of the Convention, were entrenched in law, women would be able to rely on it in bringing complaints about either direct or indirect discrimination in any area.

The meeting rose at 1 p.m.