



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

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**Committee on the Elimination of Discrimination
against Women
Forty-eighth session**

Summary record of the 967th meeting

Held at the Palais Wilson, Geneva, on Friday, 21 January 2011, at 10 a.m.

Chairperson: Ms. Pimentel

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The meeting was called to order at 10.05 a.m.

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

Combined second to fourth periodic reports of South Africa (CEDAW/C/ZAF/2-4; CEDAW/C/ZAF/Q/4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of South Africa took places at the Committee table.*
2. **Ms. Xingwana** (South Africa), introducing the State party's combined second to fourth periodic reports, described the new Ministry for Women, Children and People with Disabilities, whose task was to promote women's empowerment, gender equality and gender mainstreaming across the Government's five key priorities: economic development, decent work and sustainable livelihoods; health; education; fighting corruption and crime; and rural development, land reform and food security. The Ministry had placed priority on the advancement and development of rural women through income-generation programmes and cooperatives and increased access to opportunities for empowerment and social benefits. The Government was committed to ensuring women's access to land.
3. Progress had been made in legislative reform to facilitate gender equality and improve representation of women in decision-making positions. Women held 44 per cent of the legislative seats, 43 per cent of Cabinet posts and 40 per cent of elected positions at the local government level. Women also accounted, on average, for 36 per cent of senior posts in the public service, 26 per cent of the judiciary in higher courts and 40 per cent of the judiciary in lower courts. Consultations on legislative amendments to the Employment Equity Act were under way with a view to improving its effectiveness.
4. In cooperation with the Girls Education Movement and Boys Education Movement, both of which focused on gender equality issues, the private sector was conducting projects that introduced girls to areas of work traditionally dominated by men. Those programmes had helped to address gender stereotypes and had resulted in more girls and young women enrolling in courses of study in the fields of commerce, science and technology.
5. The Department of Health was working with partner institutions to implement an HIV counselling and testing campaign targeting pregnant women and to expand treatment, care and support. Some 5.5 million people had received counselling as at end November 2010. Between April and September 2010, there had been a 28 per cent increase in the number of HIV-positive pregnant women receiving treatment.
6. A constitutional amendment, a bill on the Superior Courts and a bill on legal practice had all been recently promulgated in order to increase access to justice for all. Under the Jurisdiction of Regional Courts Amendment Act, which had entered into force on National Women's Day, the divorce courts had been integrated into the regional courts. Other legislation currently being processed included a Muslim marriages bill and a bill on the prevention of trafficking in persons. The South African Law Reform Commission was considering the development of specific legislation to criminalize the harmful traditional practice of *ukuthwala*, and the Government was in the process of amending the Refugee Act and Immigration Act to incorporate the rights of women.
7. Progress had been made in combating violence against women through use of the sexual offenders register and the child abuse register that had been established under the Sexual Offences and Related Matters Act. Some 175 special police units had been formed to conduct investigations into all types of sexual offences, serious cases of domestic violence, and child abuse and protection cases. In addition, the Directorate for Priority Crime Investigation had been set up to conduct special investigations into cases of

trafficking in persons, including trafficking in women and children for sexual and labour purposes. Counselling services were provided in prisons for women offenders and for offenders who had committed crimes against women and children; in addition, facilities for the children of women offenders had been improved. In 2008, the Government had pledged to address issues of internal reconciliation and national identity and had decided not to establish refugee camps but to integrate all foreign nationals with regular status and create an environment in which their rights would be respected in the community.

8. **Ms. Patten** welcomed the State party's ratification of the Optional Protocol to the Convention and asked what steps had been taken to disseminate information about it. Violence against women, particularly sexual violence, continued to be a problem in South Africa and was accompanied by a low rate of prosecution and conviction; she would therefore appreciate details on any relevant training given to the judiciary and law enforcement officers. While the State party's comprehensive statutory framework was to be commended, challenges remained concerning its implementation; in that regard she wished to know what measures were in place, or were planned, to ensure the effective protection of women. What technical support would the State party be seeking to that end?

9. With regard to article 2, subparagraph (f), of the Convention, she asked what steps the State party was taking to abolish cultural customs and practices that discriminated against women. Bearing in mind that article 2 also obliged States parties to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women, what was the current status of the effort to promulgate a family code to abolish unequal inheritance rights, land rights and polygamy?

10. **Ms. Šimonović** asked how close the gender equality bill was to being adopted; as things stood, existing legislation did not yet fully incorporate the provisions of the Convention. Did the State party intend to include a definition of discrimination in its legislation that was in line with article 1 of the Convention? She would welcome information on what provisions of the Constitution specifically provided for equality between men and women. She asked what plans the State party had to further promote the Optional Protocol and increase its visibility, bearing in mind that it could be used by the courts to interpret the law.

11. **Ms. Ameline** asked to what extent the State party's approach to the elimination of discrimination against women was based on international law, given the indication in the written replies that the courts used international law as an interpretative tool rather than as a source of binding law. She wished to know whether a systematic mechanism existed for examining the impact of legislation in combating non-discrimination. She would appreciate more information on the Equality Courts, including the State party's assessment of them and its views as to how access to justice could be improved, through such measures as, for example, the promotion of a greater familiarity with the Convention on the part of both victims and judges.

12. **Ms. Hayashi** said that she was deeply impressed by the many changes taking place in South Africa, in particular the establishment of the new Ministry for Women, Children and People with Disabilities. She would like to know whether the emphasis placed on "equity" rather than "equality" in some documents concerning the Ministry was intentional and what significance that word choice had. She would also like to hear the views of the delegation with regard to criticism from some NGOs that the structure of the new Ministry diluted the focus on disparities between men and women. It would be interesting to know how the work of civil society, in particular women's NGOs, would fit into the work of the new Ministry, since the women's movement had played a crucial role in the creation of a free South Africa. In particular, she would like to know what the time frame and strategy were for creating an institutional link with women's organizations. Apparently the budget for the Commission for Gender Equality was half that of the South African Human Rights

Commission; in that regard, she urged the new Ministry to make efforts to procure appropriate funding.

13. Lastly, she would like to know whether the Government of South Africa was considering the establishment of an independent watchdog agency for gender matters which would be free from interference from political parties.

14. **Ms. Neubauer** said that she would like additional information on South Africa's gender budgeting initiatives and, in particular, on the mainstreaming of gender equality into budgetary processes. Since the audit conducted to assess the national gender policy framework had revealed that senior management did not know how to translate gender policy into action, she would like to know if progress had been made in providing skills training on gender mainstreaming. More information would also be welcome on the gender-training manual produced by the Office on the Status of Women. She would also appreciate receiving updated information on how the State party was strengthening its management training programmes at all levels of government in terms of the implementation of its gender strategy on a daily basis.

15. **Ms. Xingwana** (South Africa) said that her Government was a new democracy in transition from a patriarchal, racist and sexist regime. Great progress had been made, but many challenges remained. The national gender machinery had traditionally been made up of the Office on the Status of Women, working along with focal points in governmental departments, and the Commission for Gender Equality. NGOs had also been closely involved. The Government had studied the progress made in the previous 15 years and, noting the lack of resources and expertise, had decided to establish the Ministry for Women, Children and People with Disabilities.

16. A debate was under way in South Africa regarding the focus of the Ministry. It was important for the Committee to know that, while the combined second to fourth periodic reports were being prepared, the Ministry was in the process of being created. Its original purpose was the empowerment of women, but other vulnerable groups had been incorporated into its mandate. There would be two branches: the Women's Empowerment and Gender Equality Branch, and a branch focusing on the rights of children and persons with disabilities. The Women's Empowerment and Gender Equality Branch would have three areas of focus: monitoring and coordinating gender activities; advocacy and mainstreaming; and institutional support and capacity-building. The South African Law Reform Commission was currently studying a gender equality bill which would then be considered by parliament.

17. **Ms. Maluleke** (South Africa) showed the members of the Committee a manual for members of the judiciary which outlined the international human rights instruments and the corresponding judicial responsibilities, but noted that the Optional Protocol to the Convention had not yet been incorporated into it. It was important to point out that judges were already invoking international instruments in the courts. A bill had also recently been passed to establish the Judicial Education Institute, which would focus solely on training members of the judiciary. Police officers were trained by the police force, while prosecutors were trained at the Justice College.

18. Legislation had been developed to expand upon constitutional rights, such as the Promotion of Equality and Prevention of Unfair Discrimination Act, the Access to Justice Act and the Promotion of Administrative Justice Act. The Commission for Gender Equality was studying all South African legislation to determine whether any laws were discriminatory on the basis of gender or any other factor, but the Government was not planning to enact a unified family code as such. Under the apartheid regime, religion, race and customary practice had been used as a basis for discrimination. During the drafting of the Constitution, numerous racial and religious groups had requested that their traditional

practices should be respected. South Africa sought to support diversity among women while ensuring equality, but harmonization based on westernization did not necessarily work in South Africa. Legislation had been passed that reflected Western principles of succession and inheritance, but the Ministry of Justice had found that it had the effect of dispossessing women from black communities because it did not reflect the reality of their circumstances. A somewhat different approach was therefore being taken. One example was the work being done to integrate the concept of gender equality into the Recognition of Customary Marriages Act. That law restricted polygamy by providing that, if a man wanted to marry an additional wife, he had to apply to the court in order to make arrangements for the division of the estate. The High Court had determined that unregulated polygamous marriages were invalid.

19. **Ms. Xingwana** (South Africa) said that the preamble of the South African Constitution emphasized that the republic would be non-racist and democratic and would promote equality irrespective of race, gender or sexual orientation. In fact, it was one of the most progressive constitutions in the world. Moreover, the Bill of Rights, which formed part of the Constitution, had an equality clause that superseded religious and cultural law.

20. **Ms. Reddy** (South Africa) said that the term “equality” was the correct phrase that the Ministry would be using. The existence of the new Ministry was a clear indication of the Government’s commitment to women’s empowerment, equality and human dignity. Equity would, of course, also be sought within that process. The definition of equality contained in the Constitution and in most domestic legislation was not precisely the same as the one set forth in the Convention. The gender equality bill had been drawn up to address that difference. The Promotion of Equality and Prevention of Unfair Discrimination Act (generally known as “the Equality Act”) reflected the definition contained in the Convention and was designed to close up other legislative gaps. It was currently in draft form and, after a series of consultations beginning with the First National Women’s Conference in April 2011, was to be reviewed by parliament in two years’ time.

21. The Office on the Status of Women had been founded in 1997. Its coordination framework had consisted of four components: parliament, Government departments, the Commission for Gender Equality and civil society, including men’s and women’s groups and other organizations. That gender machinery had worked quite well, but, the new Ministry’s coordination framework would be changed with a view to fostering closer relationships with, inter alia, civil society, research institutes, trade unions and academia.

22. **Ms. Watson** (South Africa) said that, with the support of the Canadian International Development Agency, a training manual had been drawn up by the Office on the Status of Women in conjunction with the newly renamed Public Administration Leadership and Management Institute. Over 1,200 officials had received training. The results had been assessed, and it had been decided that gender training should be provided to all Government officials.

23. **Ms. Shongwe** (South Africa) said that the gender focal points within the various governmental departments carried out capacity-building and provided training on the subjects of gender, gender-mainstreaming, gender and masculinity, and gender-responsive budgeting at the national, provincial and district levels.

24. **Ms. Reddy** (South Africa) said that the budget of the Commission for Gender Equality was indeed half the budget of the South African Human Rights Commission. She hoped that, with the creation of the new Ministry, it would be possible to lobby for more funding. At the start of the new democracy, South Africa had undertaken an extensive gender-budgeting initiative; since then, however, gender-related funding had primarily been directed towards the creation of programmes for women and children within particular departments.

25. Although it collaborated with the Ministry of Women, Children and People with Disabilities, the Commission for Gender Equality was in fact an autonomous watchdog agency that monitored gender and empowerment issues in South Africa. It had the prerogative to hold public hearings and could issue subpoenas, for instance. The establishment of another such agency was not under consideration.

26. **Ms. Maluleke** (South Africa) said that the Victims' Charter had been elaborated in conformity with the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, as well as the Constitution, and was part of the Government's victim empowerment programme, which also provided for offender-victim mediation, offender rehabilitation and court services for victims. Initiatives had been introduced for young children who were rape victims. The aim was to make the criminal justice system victim-sensitive. The Victims' Charter had changed the whole approach of the criminal justice system. It ensured that victims had the right to information, the right to be treated with dignity and to obtain assistance if needed and the right to hospital care.

27. Most of the complaints brought before the Equality Courts concerned discrimination on the basis of sexual orientation or other characteristics, as opposed to issues that were strictly gender-related. Steps were being taken to educate women about the Equality Act, which, for example, prohibited virginity testing and female genital mutilation and incorporated the definition of discrimination contained in the Convention. A campaign was under way to encourage people to turn to the Equality Courts if their rights had been violated.

28. **Ms. Xingwana** (South Africa) said that there were laws that prohibited a number of harmful cultural and religious practices. South Africa was undergoing a transition from a patriarchal to a more progressive society, and it took time to address cultural and religious issues. Parliament had passed many laws, but often women did not know about their rights; hence the awareness-raising campaigns currently being conducted. The Government was also cooperating with provincial and municipal authorities to combat practices such as witchcraft and *ukuthwala*, in which indigent parents married off their daughters to much older men when they reached 14 or 15 years of age in exchange for a dowry. That illegal practice, for example, raised complex issues. Should the entire family be put in prison? After all, that would create social problems as well.

29. **Ms. Mkhize** (South Africa) said that the Ministry for Women, Children and People with Disabilities had devised indicators to monitor implementation of legislation relating to women's empowerment and gender equality. A women's economic empowerment fund was being established which would be open to civil society organizations and NGOs working on women's issues. The Government had also developed a preferential procurement system to help promote the economic empowerment of women.

30. **Ms. Murillo de la Vega**, supported by **Ms. Šimonović**, said that the Committee would appreciate more information on the gender equality bill and asked whether it had been passed or was still being debated.

31. **The Chairperson**, speaking as a member of the Committee, wondered whether a provision could be inserted in the gender equality bill requiring the Government to create a ministry of gender equality and women's empowerment.

32. **Ms. Xingwana** (South Africa) said that the level of women's representation in South Africa was so high thanks to the efforts of President Mandela, President Mbeki and the African National Congress (ANC), which had incorporated parity representation into its party statute. The purpose of the gender equality bill was to entrench women's rights in legislation so that, regardless of which political party came to power in the future, the rights of women would be anchored in law. Prior to its passage, the equality bill would be open to

input from academic institutions, women's groups, NGOs and other representatives of civil society.

33. **Ms. Motlatla** (South Africa) said that the Equality Act had been passed in 2000. Although it contained a definition of gender equality, it did not close the gaps in all areas. The purpose of the gender equality bill was to lay down the principle of gender parity, which was lacking in existing legislation. Another aim was to enforce the principle in the private sector through provisions that went beyond those of the Employment Equity Act. The issue of accountability must also be addressed, and mechanisms such as gender units and focal points were needed in Government departments and private-sector institutions to ensure compliance with national legislation and regional and international instruments. She agreed with the Chairperson that it would be interesting to consider the establishment of a ministry of gender equality and women's empowerment.

34. **Ms. Rasekh** commended South Africa on having reached gender parity in political and public life, but asked the delegation to comment on NGO reports of backsliding. She noted that, in addition to political participation, there were many other areas where women in South Africa could benefit from temporary special measures aimed at accelerating de facto equality. It had been reported that black women who had been marginalized from economic participation, higher education and health-care services were not covered by the system of temporary measures and quotas. She enquired what steps had been taken to ensure that such women were served by temporary special measures.

35. The large number of female staff in the courts was commendable, but there was a tremendous need for more women in the judicial system to support victims of sexual violence, given the high level of such violence in South Africa. She asked whether the Government was using a quota system or temporary special measures to increase the percentage of women in that area.

36. **Ms. Awori** asked whether any recent initiatives had been introduced to combat gender-based violence and what the impact had been of measures already in place. She would also like to know whether the Sexual Offences Courts piloted in 2010 had been set up nationwide, how many such courts were in existence, what their conviction rates had been and whether there were plans to continue using those courts in the future.

37. **Ms. Gabr** stressed the need to combat the serious problem of the impunity of perpetrators of violence against women. Noting that South Africa must make greater efforts to combat negative stereotypes, especially in rural areas, she asked whether the media were involved in efforts to draw the attention of religious and village leaders to the problem of violence against women. Were campaigns conducted to improve women's image? Stereotypes underlay violence against women and must be combated right from the start. Were initiatives being carried out in schools to raise awareness of the problem and did schoolbooks specifically address the issue?

38. It would be interesting to learn whether the gender equality bill or other legislation provided protection to victims of trafficking in persons. She would also like to know whether the police received training in how to identify female victims of violence. Noting the progress made in the area of rehabilitation, she asked how the 365-Day National Plan of Action to End Gender Violence had been financed and sought more information on the Trafficking in Persons Inter-sectoral Task Team. When had the strategy for combating trafficking been launched?

39. **Ms. Arocha Domínguez** asked what the main obstacles were to changing the gender discourses of masculinity and femininity to which reference was made in paragraph 5.3 of the report and which led to discrimination and gender-based violence. While it was difficult to change attitudes, it was important to ensure that institutional obstacles were overcome. She would like to know how the Ministry for Women, Children and People with

Disabilities coordinated efforts undertaken with, for example, the Ministries of Education and Telecommunications to combat stereotypes. The initiatives and policies which ministries were to implement by 2014 did not seem to make any specific mention of stereotypes. It would be useful to learn how the question of combating stereotypes, which presumably was being given priority attention, was made part of the work of all ministries and whether trained personnel within the ministries were responsible for dealing with the problem.

40. The Committee had received reports that women, especially in rural areas, had sole responsibility for raising their children, that there was a tendency for fathers to ignore their parental responsibility and that as many as 50 per cent of fathers had no ties with their children. She asked what steps had been taken by the Ministry for Women, Children and People with Disabilities to make it clear that, pursuant to article 5, subparagraph (b), of the Convention, men and women had common responsibility for the upbringing and development of their children.

41. In view of the mandate of the Ministry and the scope of the Convention, she would like to know how the Ministry addressed cases of multiple discrimination, in which persons were victims not only because they were women, but also because they were disabled, old or infected with HIV/AIDS or on account of their sexual orientation. Was there a specific programme or mechanism to monitor implementation of legislation in that area as well?

42. **Ms. Bareiro-Bobadilla** urged the State party to make the same amount of effort to fight sexism as it had to combat racism. The Government should send a clear message to all of society that the State, the judiciary and public officials would not tolerate sexual discrimination under any circumstances. The State party had much work to do to rid society of misogynist misconceptions, such as the myth that men could cure themselves of HIV/AIDS by raping virgins, or that they could change lesbians' sexual orientation by raping them. It was imperative that measures were taken, with whatever resources were available, to stop women from being used as objects and start ensuring that they were full subjects of law.

43. **Ms. Murillo de la Vega** asked whether the Prevention and Combating Trafficking in Persons Act had come into force. It would be useful to know whether border guards and law enforcement officers carried out their duties conscientiously with regard to the prevention of trafficking in persons, particularly as the Committee had received reports of a failure to act and a tendency to turn a blind eye to human trafficking by some officers. She enquired whether the State party had sufficient resources to provide shelters for women victims of trafficking. The Committee would appreciate statistics on trafficking, especially in children, since poverty had reportedly driven some families to sell their own children to traffickers for purposes of pornography or prostitution. She would welcome additional information on the measures that the State party was taking to combat trafficking. She requested clarification on whether it was a criminal offence to engage the services of a sex worker.

44. **Ms. Ameline** underlined the importance of statistical data on trafficking in human beings, since it was fast becoming a modern form of slavery and was more lucrative than trafficking in drugs or arms in some regions of the world. It would be useful to have additional details on the punishments for trafficking laid out in the Prevention and Combating Trafficking in Persons Act. She asked whether the State party had secured sufficient international cooperation to combat cross-border crime of that type. Given the clear link between poverty and trafficking in children, she requested additional details on the State party's poverty reduction programmes.

45. **Ms. Xingwana** (South Africa) said that, unless all the political parties ensured that they had women candidates, the progress the country had made in increasing women's

representation in public life would be reversed. The gender equality bill would assist in that endeavour by consolidating the rights that had been achieved thus far.

46. A report on violence against women and girls had been submitted to parliament at the end of 2010, as indicated in section 2.6.1.2 of the written replies (CEDAW/C/ZAF/Q/4/Add.1). The report included recommendations on undertaking work with experts in several fields, including psychology, and would be incorporated into a national plan on combating such violence. The Sexual Offences Courts had been closed down, but she planned to lobby the Minister of Justice to re-establish them, as they were necessary in fighting that scourge. There had indeed been some cases of so-called “corrective rape”, several of which had culminated in murder. Those crimes had mostly been committed by young men in the townships. The Government had launched a joint campaign with the Commission for Gender Equality and the police to prevent such crimes. She emphasized the fact that the Constitution clearly prohibited discrimination on the basis of race, gender or sexual orientation.

47. **Ms. Mkhize** (South Africa) said that the 365-Day National Plan of Action to End Gender Violence detailed all the measures that each Government department would take throughout the year to raise awareness of violence against women and children. Several men’s forums were assisting in that endeavour, as well as NGOs, traditional leaders and religious leaders. In schools, there was an annual child protection week during which measures were launched and awareness campaigns conducted that focused, in particular, on orphans, vulnerable children and girls who were heads of households.

48. **Ms. Maluleke** (South Africa) said that the Prevention and Combating Trafficking in Persons Act was currently at the consultation stage, during which it would be scrutinized by NGOs and other interested parties. Once that period had ended, all the inputs would be consolidated and the Act sent back to parliament for finalization.

49. Section 11 of the Sexual Offences Act criminalized the purchase and sale of sexual services as well as the procurement of such services for financial gain. However, the South African Law Reform Commission was currently examining the possibility of regulating or decriminalizing prostitution.

50. The media were used to educate rural communities. Local radio stations broadcast educational programmes in all 11 of the country’s official languages.

51. **Ms. Mncadi** (South Africa) said that community members were encouraged to participate in campaigns to make people aware that there was no such thing as “corrective rape”. Prevention efforts focused on the fact that it was a homophobic crime which would not be tolerated and that all rapists would be convicted and punished.

52. The police were trained to identify victims of human trafficking and to then hand them over to organized-crime detectives, who handled the investigations. Law enforcement officers worked with NGOs and social services to ensure that victims were given shelter and protected from further exploitation.

53. The National Prosecuting Authority was working to encourage traditional leaders and authorities to recognize domestic violence as a crime. They were urged to alert the police when they became aware of such acts, rather than trying to resolve conflicts within their communities.

54. **Ms. Ntshangase** (South Africa) said that crimes against women and children were a major priority for the police. Some 175 specially trained police units were fully operational nationwide, having received relevant training from colleagues, the National Prosecuting Authority, Interpol and foreign law enforcement agencies. The police were aware that human trafficking was often linked to cases of child pornography and murder.

55. **Ms. Shongwe** (South Africa) said that the Government hoped that efforts to raise awareness about human trafficking would lead to more reporting of that crime. It worked with NGOs to provide all South African and foreign child victims of trafficking with a package of services that included access to education, school uniforms, food and counselling. Foreign child victims were assessed and sent back to their country of origin only if it was judged that they would be safe there. Shelters had been set up for women victims of trafficking, where they received support from social workers, including counselling and training in life skills in such areas as income generation.

56. The Government was placing particular emphasis on eradicating the stereotype of caregivers necessarily being girls and women, which was especially important in families devastated by HIV/AIDS. Efforts to ensure that responsibilities were shared had included training male social workers.

57. **Ms. Xingwana** (South Africa) added that some stereotypes persisted, especially in rural areas, where elderly black women were sometimes branded as witches. There had been cases in which such women had been attacked; some had been killed, and their houses burned down. Campaigns had therefore been conducted in conjunction with the authorities, traditional leaders and rural communities at the local level to raise awareness about the rights of women. The police had received training to help ensure that perpetrators would be convicted. Given that sexist stereotypes were also perpetuated by the media, the Government and the Public Protector had initiated a dialogue with journalists and editors with a view to changing the image of women that they portrayed.

The meeting rose at 12.45 p.m.