



**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 388th meeting

Held at Headquarters, New York, on Wednesday, 24 June 1998, at 3 p.m.

Chairperson: Ms. Corti

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The meeting was called to order at 3.05 p.m.

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

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

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

Article 2

2. **Ms. Ferrer** enquired whether the provisions of the Convention took precedence over national legislative texts. What measures were being taken to ensure the fulfilment of rights enshrined in the Convention? Many of the provisions of the Convention had not yet been incorporated into national law, and many national laws discriminated against women. Had the Government established a set of priorities for redressing that situation?

Article 3

3. **Ms. Bernard**, observing that the Public Protector functioned like an ombudsman, and was empowered to receive complaints against government agencies and officials, enquired whether women had in fact filed discrimination-related complaints with that office. If not, it would be useful to know whether another mechanism existed for that purpose, whether women were familiar with it, and whether there had been any moves to publicize it.

4. **Ms. Kim** commended the Government of South Africa for instituting the National Machinery for Establishing Gender Equality. Did the Government allocate sufficient resources to allow that body to function effectively? It would be helpful to know the composition of the Commission on Gender Equality and the Office on the Status of Women, whether non-governmental organizations participated in those bodies, and how they operated.

5. **Ms. Ryel** said she was favourably impressed by the creation of the Office on the Status of Women, the Commission on Gender Equality, and the Press Ombudsman. The plan to establish commissions at the local level was a good one and it would be useful to develop a network connecting the national commission

with those local commissions. Those bodies must be adequately funded, especially for information campaigns. She also wanted to know whether the newly formed Press Ombudsmen had already received complaints from women?

Article 4

6. **Ms. Ryel** said that affirmative action measures were always welcome. South Africa had successfully applied a quota system to increase the numbers of women in Government; had it considered establishing quotas for all government instances? An established goal of at least 40 per cent of each sex would considerably increase the visibility of women in South African political life.

7. **Ms. Abaka** said that mandatory quotas were crucial in countries with long histories of discrimination against particular population groups. However, if quotas were not reinforced by support mechanisms, backlashes often occurred, and progress was blocked. What measures had the Government taken to prevent such a phenomenon from occurring? The report indicated that a legislative review had been undertaken aimed at eradicating discriminatory practices. Legislative amendments were not, however, affirmative action measures; it was essential to recognize that distinction. Finally, it was important to ensure that the African National Congress again applied mandatory quotas in the upcoming 1999 elections.

Article 5

8. **Ms. Abaka** said that although the Government was making efforts to combat violence in South African society, South Africa was still one of the most violent countries in the world. What measures or programmes had been established to combat violence against women and to assist abused women? Had programmes been developed to teach law enforcement officials and medical personnel the basic principles of human rights, and in particular, the meaning of a human rights violation and the proper treatment of a victim thereof?

9. **Ms. Gonzalez** observed that the report frankly acknowledged the predominance of male chauvinism in South Africa, as well as the adverse manifestations of patriarchy. It failed, however, to indicate whether the Government had made significant efforts to alter those

cultural patterns and to achieve true equality for women. Having succeeded in eliminating the horrendous regime of apartheid, South Africa should now exert similar efforts to eradicating discrimination against women.

10. Had the Government considered the development of an action plan to combat violence against women, older women and girls? According to available sources, violence against women in South African society had reached grave proportions. It was simply not acceptable for women to be subject to violent abuse and humiliation by their husbands and companions. Recognition must be given to the real impact of violence on all aspects of social development, and action must be taken to facilitate the institution of judicial proceedings against the perpetrators of violent acts both in the home and in the community. The report indicated that although South Africa had not yet criminalized domestic violence, a bill was under consideration which would do so. Had the law on the prevention of violence enacted in 1993 been successfully implemented, and what were the results?

11. National policy aimed at combating sexual stereotypes should focus on education within the family, and in particular on the idea that both boys and girls must learn, from a young age, that both sexes had equal value. It should take into consideration non-governmental organizations, trade unions, banks, and the communications media, and should strive to inculcate in both men and women an understanding of their fundamental human rights.

12. **Ms. Corti** said that in undertaking the task of evaluating and modifying customary and indigenous laws, the Commission on Gender Equality had accepted a difficult challenge to South African society, where traditional and religious leaders wielded immense power. The report indicated that women's organizations were working to combat those anachronistic elements; it was arguable whether the new democracy would be able to withstand them. Even if legislation was amended to restrict traditional practices, it might subsequently be amended to reinstitute them. The report mentioned that hearings would be conducted on culture, tradition, and religion; she wondered what other measures had been undertaken to combat discriminatory religious and customary practices.

13. **Ms. Acar** (Rapporteur) said that the Government of South Africa had indicated its unequivocal commitment to the principles enshrined in the Convention. Fighting discriminatory traditions was an essential means of achieving de facto equality. In that connection, she enquired to what degree witch-burning, a flagrant violation of women's human rights, was practised in South Africa, and what measures the Government had taken to eradicate it.

14. **Ms. Ouedraogo** noted that the report, page 35, indicated that the director of Market Research Africa, a market research agency that had surveyed the views of urban adults with regard to women's rights, had remarked that a major problem was the tendency on the part of South African women not to assert their own rights. The report also stated that under the "volksmoeder" (mother of the nation) ideology, ideas that praised and idealized women were also used to stereotype them.

15. Information campaigns alone were not sufficient; training seminars must also be conducted to combat the patriarchal system, which upheld the traditional role of women in society. Had the Government envisaged the adoption of a new code for individuals and the family which could also serve to inspire a national debate on the preferences and rights of women?

16. **Ms. Ferrer** said it was essential to know what concrete programmes the Government had undertaken to implement the terms of article 5, subparagraph (a). The report affirmed that measures had been undertaken to train government leaders in gender issues and to insert gender themes into educational curricula. She wondered, however, whether the Government had envisaged the development of community-level programmes, for both women and men, designed to abolish patriarchal traditions.

17. **Ms. Lin Shangzen** said that in order to eliminate the exploitation of women, the aim of article 6 of the Convention, it was necessary to alter attitudes, particularly the sex stereotyping targeted by article 5. Indeed, the violence against women could be linked to those same stereotypes. She enquired therefore if the national machinery to improve the status of women included any programmes to make full use of the mass media to popularize correct attitudes towards women. It would of course be a very long-term task given the mindsets that had become ingrained over centuries, but it was necessary, above and beyond all legal and

administrative measures. It would be sad if, after their heroic struggle for freedom, South African women were to find themselves trapped in the old patterns.

18. **Ms. Guvava** enquired if the Government was aware of the problem of trafficking in women, and of women and girls being used as sex slaves and whether and when it planned to enact the explicit legislation controlling "sex tourism" and trafficking in women across borders. In general, she wanted more information on the subject included in the report.

19. **Ms. Ouedraogo** referred to the cases described in the report of parents selling the sexual services of their children. Given that poverty was the root cause of prostitution and that times were hard enough that even students were turning to prostitution, there was a need for vigilant protection of vulnerable groups and especially children, the country's future, all the more so because of the risk of spreading HIV/AIDS. She enquired what the Government's plans were for integrated socio-economic programmes targeted to the most disadvantaged groups to keep young people out of prostitution by making them and their families self-supporting. Particular attention should be paid to the young women who should be in school but were instead working as maids or domestics.

20. **The Chairperson** agreed with Ms. Guvava that the report did not deal with questions under article 6 as much as members might have wished. With reference to violence against women, she enquired whether the trend since the end of apartheid was increased or decreased violence, how much was attributable to the overall deterioration in law and order and how much to the patriarchal attitudes and general social deprivation.

21. She enquired whether, in cases of domestic abuse, the abuser was removed from the home pending the decision of the court, and whether there was special legislation against domestic violence or whether violence was dealt with under the general laws against assault.

22. She requested a statistical breakdown that would show differences between urban and rural incidence of violence against women from province to province, and any particular trouble spots. In that connection she mentioned the northern provinces as an area in which violence against women was reported to be more prevalent.

23. She also requested further details of any projects under the Prevention of Family Violence Act of 1993, and information as to what extent such projects had yielded results.

Article 7

24. **Ms. Bernard** noted that women were underrepresented in the judiciary and the magistracy, and in that connection recalled that the representative of South Africa had mentioned a forthcoming position paper on transformation of the judiciary. She enquired whether the position paper would contain any proposals to correct the disparity by appointing more women and by encouraging women lawyers to accept such appointments, even though women had only recently been able to begin climbing the judicial career ladder.

25. **Ms. Cartwright**, endorsing the previous speaker's comments, said that the community must understand the benefits of having equal numbers of women in the judiciary: it was a question of access to justice by women. If women came to courts and tribunals that were comprised of men alone, they felt that the law was not designed to serve them. The judiciary should reflect the community it was sworn to serve.

26. It was to be expected that the position paper on transformation of the judiciary would say that judges must be appointed on merit and that in time there would be enough women judges as more women were qualifying as lawyers. However, those were disingenuous and subtle arguments intended to oppose the application of article 4 of the Convention. While merit was an important criterion, women with the potential to develop, with all the right qualities but who might lack experience, were eminently appointable. It was cynical but true that the test for equality would be satisfied the day that as many mediocre women as mediocre men were appointed.

27. **Ms. Corti** congratulated the parties that had achieved a high proportion of women members in the National Assembly, particularly the African National Congress; the proportions were higher than in many Western countries. The actions those women members had taken on behalf of women were commendable. However, the awareness campaign mentioned in the report on the dangers of a decline in the representation of women in parliament in the next elections sounded a

note of alarm. In that connection it was vital to maintain the system of proportional representation. As an example of a general rule, her own country had changed from a proportional to a majority system, and women had lost out greatly in terms of parliamentary representation.

28. **Ms. Bernard** said that it was commendable that eight of the foreign missions headed by women were in the G-7 countries. However, the overall picture of women in the Foreign Service showed a higher percentage of women in the lower ranks. In that connection she asked what was being done to correct the imbalance and remove any barriers to appointing women to the higher offices.

Article 10

29. **Ms. Estrada** said that education was the key to building a genuine culture of peace based on the eradication of violence and all forms of discrimination through full respect for everyone's human rights. Consequently, women should have free access to information. Education was also the key to eradicating stereotypes and the violence they generated.

30. She enquired whether in addition to existing efforts to extend free and obligatory primary education and publicize the provisions of the Constitution, there were any training programmes for schoolteachers to give them the academic tools to change children's ways of thinking.

Article 11

31. **Ms. Aouij** said that neither the report nor the oral presentation by the representative of South Africa had indicated that South Africa had ratified International Labour Organization Convention No. 100, the Equal Remuneration Convention of 1951, which also covered equality of treatment in respect of social security matters, paid leave, retirement contributions, sick pay and old-age pension. It would be beneficial for that Convention to be ratified, in the interests of the self-employed and also for domestic employees, a very large group in South Africa.

32. In that connection, she asked what percentage of those employed were domestic employees, what legislation protected them from discrimination and harassment, what percentage of those employed in the informal sector were women; and what problems they faced. She asked also whether there was a programme

to help female heads of household to find work and child care. She enquired further whether the criteria for employing people were the same in practice for men and for women, and whether there was legislation in place to protect young girls from exploitation in work.

33. She enquired also whether the Government was endeavouring to promote professional training and set up a national training fund to allow employees, including the unskilled, to obtain on-the-job and refresher training. Lastly, she asked what the Commission on Gender Equality was doing to afford women in large numbers equal access to high-quality training, including vocational training.

34. **Ms. Corti** said that the implementation of article 11 was South Africa's weakest point in relation to the Convention, with 75 per cent of women working in the informal sector and 82 per cent of those engaged in elementary activities such as selling on the street or working as domestics. As the report said, unemployment was unacceptably high; there was no right to work, although there had been some progress towards equal rights for those fortunate enough to be working.

35. Moreover, the number of those classified as self-employed was very large, especially among women, and their earnings were very low. Also there was segregation in work, as women were active only in some low-paying sectors.

36. She enquired what, if any, insurance was available to self-employed persons and how the remuneration of professional women such as teachers and nurses compared with that of men and with wages in other sectors.

37. She noted that the trade union movement in South Africa was strong, but not only were there too few women leaders in the movement, the movement did not pay enough attention to women workers, to women worker's rights or to the issue of women's equality in the workplace.

38. Given the condition of the economy, unemployment insurance payments were obviously insufficient and she enquired how they related to the cost of basic necessities. She noted that according to the report, domestic workers were not covered by the Unemployment Insurance Act but, along with agricultural and mining workers, they were covered by the Labour Relations Act. She asked for clarification of

that apparent contradiction, and further if there had been any positive effects of the extension of the Labour Relations Act to domestic, agricultural and mining workers.

39. She commented that the programme providing employment opportunities through basic public infrastructure works was laudable; why, then, did the report state that its future was uncertain?

40. The introduction of regulated flexible time in the workplace might lead to the exploitation of women workers. The reporting State should take steps to improve the regulation of working conditions in general and especially for women in order to ensure equal pay and equal treatment in the workplace. One of the best ways to do that was to accede to the relevant ILO convention.

Article 12

41. **Ms. Abaka** requested information on measures to ensure equal access to health services and protect women's right to reproductive health, on primary health care programmes, on the availability of safe drinking water and on nutrition programmes for infants. The reporting State should also indicate whether there were programmes to make women aware of the dangers of frequent pregnancies and to combat health problems caused by vitamin deficiencies. She wanted to know how the Government approached the problem of ensuring access to legal abortions and what strategies were followed when hospital personnel refused on religious grounds to perform abortions?

42. The Committee would like to have further information on specific programmes to combat the spread of tuberculosis, steps taken to persuade traditional leaders to halt the harmful practice of female genital mutilation, and programmes to ensure early detection of breast and uterine cancer.

43. **Ms. Gonzalez** stressed the need to ensure the proper registration of births in South Africa. In view of the HIV/AIDS epidemic, it was essential to provide sex education to young people and enhance their awareness of the very serious health problems in that regard. The reporting State should furnish information on its family-planning strategies and sex-education policy. Men must be made more aware of their responsibilities in terms of family planning and the prevention of sexually transmitted diseases. In general, it would be

highly desirable to establish a gender-disaggregated information system in the field of health.

Article 13

44. **Ms. Ouedraogo** enquired whether the reporting State had any plans to set up a special bank for women to promote small and medium-sized enterprises and provide them with training in management and marketing.

Article 14

45. **Ms. Ouedraogo** requested further information on programmes to ensure assisted childbirth and train traditional birth attendants. The reporting State should also provide information on housing for the poor rural population, particularly groups affected by natural disasters, the availability of agricultural loans for women and measures to relieve women's domestic work.

46. **Ms. Guvava** enquired what the South African Government was doing to enable women, especially married women, to own and inherit land and what measures were being taken to ensure that women participated in rural development under the Land Reform Programme.

47. **Ms. Lin Shangzhen** requested further information on the activities of national women's groups aimed at enabling rural women to acquire land, making women's views known to the Department of Land Affairs so that they could be taken into account in formulating policies on land reform and rural problems, and training and educating rural women in conjunction with the Welfare Department.

48. In view of the very serious problems resulting from the apartheid system, the reporting State should indicate whether it was possible to obtain bilateral and multilateral assistance in order to alleviate poverty and set up income-generating projects.

Articles 15 and 16

49. **Ms. Gonzalez** asked how the Government planned to address the apparent conflict between civil law and customary law. The application of customary law often resulted in both married and single women being deprived of their rights under articles 15 and 16 of the Convention, and contravened the spirit of the Convention as a whole.

50. **Mr. Bernard** asked for more information about the nature and extent of legal aid and other legal services available to women.

51. **Ms. Aouij** also expressed concern about the effect on women of the application of religious and customary laws, and urged the drafting of a Family Code comprising a consistent body of civil laws that would also take cultural traditions into account.

52. **Ms. Guvava** asked what measures, if any, the Government was contemplating to deal with polygamy and lobola, and said she would like to see proposed legislation regarding women's rights of inheritance.

53. **Ms. Acar** asked whether the Government was preparing to outlaw the practice of polygamy.

54. **Ms. Cartwright** said that in view of the high rate of reported rape the Government should consider a comprehensive revision of the legal definition of rape that would recognize spousal rape and rape of prostitutes. She also called on the Government to extend the protective measures afforded child witnesses in sexual assault cases to include all victims of sexual assault regardless of age or gender, and to ensure that all law-enforcement personnel, health-care providers and other authorities dealing with victims of such assaults received proper sensitivity training. Finally, she stressed the importance of setting up procedures to monitor the effectiveness of those measures.

The meeting rose at 5.11 p.m.