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CONSTITUTIONAL ASSEMBLY

**NATIONAL SECTOR PUBLIC HEARING
WOMEN**

VENUE: WORLD TRADE CENTRE

4 JUNE 1995



CONSTITUTIONAL ASSEMBLY

06 June 1995

To Theme Committee members

Re: Documentation pack of Public Hearing

The Constitutional Assembly has convened a Public Hearing on 4 June 1995 for the Womens' Sector.

This documentation pack contains discussion papers delivered and circulated as well as submissions handed in at the Public Hearing. The programme and minutes will be circulated shortly.

Thanking you.

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THE NEW CONSTITUTION

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DISCUSSION PAPERS

DISCUSSION PAPER ON AFRICAN CUSTOMARY LAW AND THE
CONSTITUTION - 1995

BY PULI MOLOTO - MOLAMU

1. INTRODUCTION

The development of African custom has received little or no attention from Black academics and professionals and was left to the previous government and the tribal Chiefs. They in turn and in collusion changed it to suit their needs, and in doing so elevated areas where custom did not threaten the previous government to law.—

What we recognise as African custom today which is patriarchal, discriminatory and oppressive is what is left over after the apartheid regime has adapted and modified it.

The fact that the African custom has survived the total distortion and relegation is both a miracle and a vote of confidence by the African community, in some of its values. The result of its erosion is that it applies mainly to private law more specifically to family relations.

2. NATURE

The central tenet of the African custom was its communality and its ability to guarantee delivery. Access

to public facilities was guaranteed to all the members of a tribe and participation in tribal ceremonies was guaranteed.

This cannot be said of African custom today. Let us not blame the African custom for something it could not possibly have anticipated. Let us put the blame where it belongs and accept that what we see is certainly complex and requires a thorough research, debating and refinement.

Let us examine the major flaws of the African customs:-

(a) Patriarchy in traditional society

Traditionally, a man is the head of the household, and in this role he controls the means of production such as land and cattle. Women have the right to use family resources. However men have an obligation coupled with the right to control the means of production which has been elevated to a traditional value i.e. that they ensure that every member of the family has sufficient resources with which to make a living. These obligations were

relatively easy to enforce in traditional, pre-colonial societies, where co-residence, socialisation and strong kinship bonds ensured that men managed resources to the benefit of all.

(b) Patriarchy in Modern South Africa

Men have through the migrant labour system and forced removals moved away from the traditional communities and in doing so broke co-residence which was one of the principles on which African traditional patriarchy was based.

The result is that the women remain in societies governed by African customs with the concomitant disabilities when the traditional protection and guarantees are no longer available.

It has been shown that socio-economic changes have led to the undermining of kinship cohesion, which means that the value of mutual support between relatives and sharing of family resources managed by men, is an exception rather than the norm. The extended family which provides support and promoted

everyone's well-being remains a relic of the past. The general breakdown of family values of respect and dignity has led to family violence, the emergence of female headed families and a high crime rate and general disregard for the law and order. This is a clear indication of a society in need of identity.

SUBMISSIONS

The solution is to reassess the positive values of the African culture which the Western culture is unable to instil.

If we accept that African custom can be beneficial then it should be developed to promote confidence in the traditional African values. What remains is that it should be implemented in a way which upholds basic human rights. There are basically three ways which this can be achieved which are set out and discussed below:

2. WHAT HAPPENS WHEN CUSTOM AND CIVIL LAW OVERLAP ?

Where there is an overlap in the areas of jurisdiction of an African custom and civil law and the custom is

prejudicial to a citizen's fundamental rights should preference be given to any of the two systems.

One would be inclined to believe that the democratic and non racist principles of Constitution requires that the culture of the majority indigeneous population should be given recognition and respect and receive priority in the new South Africa.

Due to the adulteration and modification of the past it appears only proper that African traditions and customs be given scope of growth and development. For a society whose values have been systematically undermined over the years liberation is viewed in larger part as freed from cultural domination.

It should be unacceptable that the African culture is a delinquent culture which requires to be replaced by a superior Western culture as entrenched in civil law.

SUBMISSION

The acceptable position is that criteria should be found for the identifying what can be extracted as positive

African values and they in turn, should comply with section 8 of the constitution.

3. JUDICIAL INTERPRETATION

The present Constitution was conceived as a tool to protect a citizen in his dealings with the State. Should the constitution be extended to protect citizens in their dealing with each other. For example:

1. Proprietary rights of women to inherit. Should the courts be allowed to interpret the equality clause as repealing the practise that the eldest male relative is the one to inherit and that finalises only inherited specific items.

- (2) Female children too, have no proprietary rights which means that a child cannot object to the mishandling even misappropriation of his estate. Can it be argued that the equality clause guarantees every person regardless of age, full rights to whatever property they acquire and that the family heads administration of property should be in a child's best interest.

SUBMISSION

Unless specific remedies are provided in the Constitution enabling horizontal application of fundamental rights then the courts would be acting ultra vires.

4. LEGISLATION

A Clause could be inserted in the Constitution providing that rules of African custom should comply with the minimum standard laid down in section 8 of the Constitution. Any rule of the African custom which is in conflict with the provisions shall be null and void.

CONCLUSION

By recognising customary law and at the same time prohibiting discrimination, the Constitution has brought about a head-on confrontation between two opposing rights and interests one being the right to equal treatment of an individual and a group's right to pursue the culture of its choice which should receive preference ?

SUBMISSION

The conflict is constructive and essential and should be extended rather than limited. It should be seen as healthy and be debated and analysed. It is more so as it defines the crisis that an average African has with managing his own socialization and urbanization.

The Constitution should be used to provide a frame work for promoting such debates, and the best mechanism possible seems to be the inclusion of broad principles recognising and limiting specifically the consequences flowing from the application of African custom.

WOMEN AND THE CONSTITUTION: MICHELLE O'SULLIVAN

SUBMISSION TO THE SELECT COMMITTEE AT KEMPTON PARK: 1995-06-04

Today I am here to talk about women and the constitution. What is it that women want from our constitution? How far can the constitution go in addressing women's needs? Where does the constitution fail women? If we look at the preamble of the South African Constitution and the Constitutional Principles, they stress that we need to create a new order, a constitutional democratic state with the goal of equality between men and women. How best will equality between men and women be achieved in our final constitution? In this session we are going to look at fundamental rights in the present constitution, and whether these can be improved to ensure that rights are effective in women's lives.

Before doing this we have to ask, what are rights? What can rights do for women? Well, rights are limited. They are not goals in themselves. They are tools which we can use to advance our interests. Their usefulness to women depends on a number of factors.

Firstly, they are interpreted by judges, who are often conservative.

Secondly, our interim constitution has something called a vertical operation. This means that it covers the relationship

between the state and individuals. Only state action that infringes individual's fundamental rights can be challenged. If a constitution has a horizontal application it means that it also covers any discrimination between individuals.

Does this cause particular problems for women? Many women would answer yes, as they most often experience discrimination in personal relationships, in the family and in the workplace. At the moment the constitution often provides little help to them in this area.

Thirdly, we have to look at the different way in which law works in the public and private sphere. The private sphere is traditionally the arena of intimate relationships. The public sphere is the area outside this including the economic sector, relations with the state and so on.

The state has often failed to regulate the private sphere in a way that provides women with equality. But because the state has not passed law in this area, does not mean that their failure to act is neutral. What has their failure to act meant for women? It has often meant that the state's power is delegated to men in the private sphere. The high level of violence against women is just one example of how that power has been used.

So does the constitution have a role here? Some people argue that making the constitution operate horizontally will help to make women's fundamental rights effective. Others argue that this is not practical because of the implications which it has

in other areas. This is something that we have to consider. An option is to introduce anti-discrimination legislation, to provide women and others with remedies for some forms of private discrimination.

What we have to acknowledge is that there are a whole range of mechanisms which the state has to introduce to make equality effective for women, and free them from oppression. A number of these will not be through law, but rather through state policy. This is where National Machinery for women is crucial, we need to monitor all advances towards equality.

Which rights in the interim constitution impact most dramatically on women's lives?

Firstly, a right to equality is provided in section 8. The right is broadly drafted and can be interpreted to guarantee women a right to substantive equality. This means equality accommodates difference and provides equality of outcomes as well as treatment.

There are some constituencies, particularly the socio-economic rights lobby who argue that the clause should be extended further to include equal benefit of the law, and to include the fundamental value of eliminating disadvantage. Socio-economic rights include rights such as the right to health, shelter and housing or education. There is a broad international movement particularly in developing countries to guarantee socio economic rights. Our bill of rights already includes some socio-economic

rights such as education and children's rights. If we include socio-economic rights in the constitution, the state is placed under a legal obligation to address the inequalities in our society. Women, particularly black rural women, are often the most disadvantaged group. Socio-economic rights may help to reduce the disadvantage they experience.

What else about equality concerns us?

Well, we may want to ensure that equality is the most important right and value in our constitution. We might want to say that equality is a trump card, our shining light, and all the other rights in the constitution are subject to it.

This would mean that rights such as the right to religion, belief and opinion and culture are subject to the equality clause. So religious personal laws and cultural practices which discriminate against women and infringe their right to equality would not have constitutional protection, which they can be interpreted to have at the moment.

Section 9 provides all persons with a right to life. How does this affect us as women? In the abortion context, the right to life is immediately raised in regard to the fetus. Because the fetus is not a person it is unlikely that a fetus has a right to life from conception. However, it may have other protectable interests. Our aim here should be to ensure that the final constitution does nothing to prevent women from choosing safe,

early legal abortions. We need to work out the best way of achieving this.

At the moment there are rights in the constitution which can be interpreted to guarantee a right to abortion. These include dignity, privacy, religious freedom, freedom and security of the person and equality. But we might consider including a right to reproductive health, which includes education and contraception as well as abortion, as part of socio-economic health rights.

The anc has recently proposed and rejected that the right to life clause should be amended. They suggest that it should include a proviso that the right to life does not prevent abortion legislation. This might be dangerous for women. It focusses the abortion question narrowly on the right to life. Also, it may only cover the present legislation, which criminalises abortion and forces hundreds of thousands of women to have backstreet abortions annually.

Since violence against women is so rife in our society, many women's organisations argue that our constitution should protect all citizens from abuse and violence which occurs because they are women. They suggest that this should be a separate right included in the final constitution.

Having outlined some of the areas where the constitution affects women's lives, I would now, in what's left of my time like to touch on something that is very important to me. The interim constitution was drafted by mostly men, and mostly white men in

the back rooms of this very building. It is a relief to know that women are openly and actively participating in the drafting of our final constitution. Hopefully the result will be a nation building document that reflects women's realities and aspirations.

SUBMISSIONS

SUBMISSION ON ABORTION TO THE CONSTITUTIONAL ASSEMBLY PUBLIC HEARING ON WOMEN

Agenda is a feminist project committed to empowering women and providing opportunities for individual growth and development. Through our journal, we are committed to giving women a voice and skills to articulate their needs and interests towards transforming unequal gender relations in South Africa. We believe that not giving women the right to make decisions regarding our own bodies is an infringement of our rights as full South African citizens, is in contradiction with the spirit of the Interim Constitution and the Bill of Rights and is a discriminatory gender practice. This right to control over our own bodies includes access to abortion and *Agenda* is therefore demanding that the current abortion legislation be changed to enable women to exercise this right.

The 1975 Abortion and Sterilisation Act allows legal abortions to be performed if a panel of doctors, including a psychiatrist, can medically establish that the continued pregnancy would endanger or constitute a serious threat to the physical and mental health of the woman; there is a serious risk that the child will suffer from severe mental or physical defect; the pregnancy resulted from rape or incest or unlawful sex with a mentally handicapped woman or a woman who is unable to understand the full implications of parental responsibility.

Compounding this restrictive practice is the discrimination in access to legal abortion. According to the Women's Health Policy Proposal on Abortion, only 40 percent of women who apply for legal abortions obtain them. Furthermore, the majority of approximately 1000 legal abortions granted each year, are performed on white middle-class women. It is clear that race and class determine women's ability to obtain legal and safe abortions and that the majority of women needing legal abortions are discriminated against because of their economic or social status.

It is estimated that 200 000 illegal abortions are performed on South African women every year. These are often unsafe and physically dangerous and result in disease, illness, infertility and death. Most are carried out without any pre- or post-abortion counselling, sex education or contraceptive information. As it stands, the current law is forcing women into situations where our physical and mental wellbeing is seriously jeopardised.

Abortion is an emotive issue and one which lends itself to moralising and debating on the foetus' right to life. However, this is not going to change the facts. The thundering fact is that thousands of women die each year from back street abortions. Women will seek illegal abortions in desperation or will have unwanted children which they cannot or will not provide for. Over the past two decades, 65 countries have liberalised their abortion laws, while only four have restricted them. In our new non-racist, non-sexist political dispensation, it seems ludicrous that we should head in the direction of joining the minority conservative camp by entrenching restrictive legislation.

The Reconstruction and Development Programme states:

Reproductive rights must be guaranteed and reproductive health services must promote people's right to privacy and dignity. Every woman must have the right to choose whether or not to have an early termination of pregnancy according to her own beliefs. Reproductive rights must include education, counselling and confidentiality.

We demand that this rhetoric be turned to reality and entrenched in law to secure women the right to control over our own bodies. Deliberations on changing the current legislation should centre on women's right to choose, to know what is best for our particular situation and to ensure our own physical and mental security. The Constitution has an obligation to protect the human rights of the living human being and not the potential human life. By entrenching the rights of the foetus over women, women will continue to be marginalised by law and deprived of our basic and fundamental rights. The right to abortion on demand is fundamental to women's right to equality, dignity, security, moral and physical autonomy and life.

The availability of legal and safe abortion must be part of an extensive reproductive rights health service which includes family planning and contraception, sex education and counselling programmes and services.

Agenda supports the broad principles of the movement in favour of giving women the right to decide on whether or not to have an abortion:

- abortion should be available to all women on request up to 12 weeks;
- from 14-24 weeks, abortion should be available under specified conditions that should include the health of the woman or foetus, the woman's age, contraceptive failure, economic reasons and family size;
- only one doctor should have to be consulted and any doctor should be regarded as qualified to carry out an abortion;
- abortions should be performed in private and state hospitals. If a hospital or clinic does not have the resources for abortion, the woman should be referred to a facility that does offer abortions;
- minors should be able to give their own consent and should have access to counselling;
- the state should provide or facilitate the provision of adequate information and non-mandatory, non-directive pre- and post-abortion counselling which should include appropriate sexuality and life-skills education as well as information about contraception;
- health workers who have conscientious objections to taking part in the abortion procedure should be able to refuse to participate but should refer women to those who have no such objections;
- it should be an offence for anyone to prevent or attempt to prevent access to abortion services.

We believe that the Constitution of this country cannot purport to be democratic if it does not protect the rights of women citizens and if it dictates that potential life is more important than existing life. Women cannot be empowered and have political equity unless we have the right to control over our own bodies. Entrenching unfair and discriminatory abortion legislation is a serious human rights offence and a step backwards for South Africa and South African women in particular.

The Agenda Collective

IT IS A SOURCE OF PRIDE AND OF GREAT PLEASURE TO NOTE THAT PEOPLE OF SOUTH AFRICA HAVE REACHED THE STAGE OF MATURITY TO ACKNOWLEDGE THE EQUALITY OF WOMEN WITH MEN, AT THE TIME THEY HAVE TRIUMPHANTLY PROCLAIMED THE EQUALITY OF THE RACES.

THE BAHAI'S OF SOUTH AFRICA, HAVING THE EQUALITY OF SEXES AS ONE OF THE PRINCIPLES OF THEIR FAITH, WHOLE HEARTEDLY SUPPORT THE ESTABLISHMENT OF THE COMMISSION FOR GENDER EQUALITY. THE BAHAI'S CONSIDER THE EQUALITY OF SEXES AS A MAJOR REQUIREMENT FOR ATTAINING PEACE AND JUSTICE AMONGST THE PEOPLE OF THE EARTH. ABDU'L-BAHA' THE INTERPRETER OF THE BAHAI' FAITH SAYS "HUMANITY IS LIKE A BIRD WITH TWO WINGS-THE ONE IS MALE, THE OTHER FEMALE. UNLESS BOTH WINGS ARE STRONG AND IMPELLED BY SOME COMMON FORCE, THE BIRD CANNOT FLY HEAVENWARDS."

THE EXPOSITION THAT FOLLOWS DEPICTS THE BAHAI'S POINT OF VIEW ON GENDER EQUALITY AND IT IS IN THIS LIGHT THAT THE FORMATION OF A COMMISSION FOR GENDER EQUALITY, ITS POWERS AND STRUCTURE SHOULD BE INTERPRETED.

A. THE MEANING OF EQUALITY

THE WORLD OF HUMANITY CONSISTS OF MAN AND WOMAN. THE HAPPINESS AND THE SUCCESS OF A SOCIETY DEPENDS ON THE HEALTH AND WELL BEING OF BOTH MEN AND WOMEN. THEY EQUALLY SHARE THE DESTINY OF MANKIND. EQUALITY HOWEVER, SHOULD NOT BE SEEN AS UNIFORMITY. THE AIM GENDER EQUALITY IS NOT THE CREATION OF A SOCIETY WHOSE MEMBERS ACT THE SAME AND WOMEN TRY TO BEHAVE LIKE MEN. WOMEN ARE VERY DIFFERENT FROM MEN AND IT IS THIS DIVERSITY WHICH IS OF GREAT VALUE TO MANKIND. THE FEMININE CHARACTERISTICS OF WOMEN WELL COMPLEMENT THE MASCULINE CHARACTERISTICS OF MEN.

THE VIOLENT AND MERCILESS WORLD OF TODAY DESPERATELY NEEDS THE GENTLE QUALITIES OF WOMEN. EQUAL CONTRIBUTION OF WOMEN TO SOCIETY CREATES THE BALANCE NECESSARY FOR THE EQUILIBRIUM OF THE SOCIETY.

FURTHERMORE, EQUALITY DOES NOT SIMPLY MEAN EQUAL PAY AND EQUAL BENEFITS, AS IMPORTANT AS IT MAY BE. EQUALITY MEANS GIVING WOMEN EQUAL OPPORTUNITY TO GROW, TO DEVELOP AND FULFIL ONE'S POTENTIAL. FOR GENERATIONS WOMEN HAVE BEEN DEPRIVED OF EQUAL EDUCATION AND SOCIAL AND VOCATIONAL OPPORTUNITIES. NOW IS THE TIME TO GIVE THEM THIS OPPORTUNITY AND UTILISE THE HALF OF THE POPULATION WHICH FOR LONG HAS BEEN KEPT BEHIND. THE PURPOSE OF EQUALITY IS NOT TO A FEMININE FORCE WHICH COMPETES AGAINST MEN FOR POWER, MONEY AND STATUS, BUT TO PROVIDE WOMEN THE BASIC RIGHT TO DEVELOP INTO A FULL INDIVIDUALS. GIVING WOMEN EQUALITY MAKES IT POSSIBLE FOR THEM TO CONTRIBUTE TOWARDS THEIR SOCIETY AND SHARE THE RESPONSIBILITIES OF THE NATION BUILDING WITH MEN.

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CAN IMPROVE THEMSELVES. WOMEN THEMSELVES SHOULD BELIEVE IN EQUALITY, BEFORE THEY CAN BE TREATED AS EQUALS. ON THE OTHER HAND THE PUBLIC AT LARGE NEEDS TO CHANGE ITS DISCRIMINATING ATTITUDES TOWARDS WOMEN. STEREOTYPES AND MISCONCEPTIONS ABOUT WOMEN SHOULD BE CORRECTED. MEDIA AND THE SCHOOL SYSTEM CAN PLAY A SENSITIVE ROLE. THE SCHOOL CURRICULUM CAN BE USED TO CORRECT SOME OF THE MISCONCEPTIONS AND PREPARE CHILDREN FOR LIVING IN A PREJUDICE-FREE SOCIETY. THE EDUCATION CURRICULUM SHOULD GO BEYOND TEACHING INFORMATION AND CONTENT, IT MUST ADDRESS THE PROBLEMS AND NEEDS OF PRESENT DAY SOCIETY. THE EDUCATION SYSTEM SHOULD FULFIL THE ASPIRATIONS OF THE SOCIETY WHOSE MEMBER WISH TO LIVE TOGETHER IN EQUALITY, HARMONY AND PEACE.

IN CONCLUSION WE WISH TO CONGRATULATE THE PEOPLE OF SOUTH AFRICA FOR THE ACHIEVEMENT OF EQUAL RIGHTS FOR ALL AND WISH ALL THE BEST FOR ALL WHO WILL PUT MUCH TIME AND EFFORT TO FULFIL THIS IDEAL OF ALL. "EQUALITY".



THE BLACK SASH

5 LONG STREET · MOWBRAY · 7700 · TEL. 685-3513 · 9 a.m. - 1 p.m. MONDAY - FRIDAY

RIGHT TO LIFE

In the constitution of South Africa Act No. 200 of 1993 Article 9 of Chapter 3 reads, "every person shall have the right to life". The Black Sash supports the retention of this right in the final constitution and advocates for the abolition of the death penalty. In doing so and also adopting a pro-choice position with regard to abortion, we recognise the necessity to explain what is likely to be perceived as an inconsistency. We believe that a number of individuals and groups have taken a contrary position, supporting the death penalty and also supporting a pro-life position. We believe that it would be a useful contribution to the debate for these groups to examine this apparent contradiction in their positions and place the results before the Constitutional Assembly, which we have done below.

If we first consider the question of the nature of the right to life we begin with the understanding that all rights may be limited, with the possible exception of the right not to be tortured. In our interim constitution such limitations allowed are only those which are consistent with an open, free and democratic society and provided that they do not negate the content of the right in question.

We believe that the death penalty negates the content of the right to life. Where judicial killing takes place and the judgement of the courts is found to be wrong, no amount of compensation can redress the wrong done to that individual. The rights that we are talking about inhere in the person who is faced with the death penalty.

In question of abortion the foetus lacks the status of 'legal person', which status has been defined as beginning when a child is born. In countries where abortion has been legalised the right of the woman to choose to terminate the pregnancy is generally constrained by the question of the viability of the foetus. At the point where the foetus becomes viable, that developed to the point where it would be born alive, the termination is usually not permitted. Only in very extreme circumstances, in order to save the life of the mother, will termination be legal.

We believe that in the question of abortion a number of rights must be weighed up, the one against the other. We subscribe to freedom of religion, and accord to those people who take a pro-life position, the freedom to believe that the foetus has a soul from point of conception. We would argue that this is a question of religious belief, however and not capable of being legislated by the state. We believe that the pro-choice position does not devalue life - it on the contrary it upholds the value of those lives that otherwise be would stunted or damaged by the woman carrying the foetus to term.

We believe that a number of rights protect the right of women to choose. Included among these are the rights to dignity, privacy and to equality. With regard to the right to privacy we would argue that the state is not entitled to make on behalf of women decisions involving her fertility and the use of her own body.

With regard to the right to dignity we believe that the decisions made by an individual about their own lives and their own personhood are extremely important. We believe that Ronald Dworkin stated the argument most succinctly when he said "Because we cherish dignity, we insist on

freedom, and we place the right of conscience at its centre, so that a government that denies that right is totalitarian no matter how free it leaves us in choices that matter less. Because we honour dignity we demand democracy and we define it so that a constitution that permits a majority to deny freedom of conscience is democracy's enemy, not its author." 1 Dworkin, R. *Life's Dominion* An argument about abortion and euthanasia. Page 239 Harper Collins Publishers 1993.

We would further argue that a pro-choice position flows from the right to equality. The existence of a foetus is frequently not the choice of the woman who carries it. As a result of the inadequate availability of contraception and the refusal of some men to use contraception, many pregnancies are unwanted. Even where the pregnancy is welcome, although unplanned, the cost of raising that child frequently falls entirely or disproportionately heavily on the mother. Many fathers refuse or are unable to take on the financial responsibility of raising children. They are further in many instances unwilling or unable to take a fair share of child care. We would argue that if the right to equality is to mean substantive equality for women in the constitution, this right must be understood to encompass a pro-choice position.

We would point out that none of the above arguments precludes the decision for an abortion from being a difficult and sometimes traumatic one for many women. We would argue that women have been in the vanguard of the struggle for peace in South Africa and have demonstrated again and again their commitment to the life affirming qualities of tolerance, justice and peace which have been enshrined in the interim constitution. We believe they have done so because they understand the value of life and not because they wish to wantonly destroy it.

We believe that it is neither acceptable or proper for the State to attempt to intervene in this difficult decision making process and make the decision on behalf of the woman, except in those instances where abortion will result in the birth of a viable child. We would propose that the clause in the constitution dealing with the right to life be elaborated along the lines "The right to life shall not derogate from a woman's right to have an abortion."

24 MAY 95 10:54

CALS

011 4032341 DRAFT

REPRODUCTIVE RIGHTS

Reproductive Health

Reproductive health is an important aspect of the reconstruction and development of our society within a framework of equality and social justice. It is concerned with the health of women, men and children, although it is particularly concerned with the health and well-being of women.

WHO ¹ Reproductive health refers to a condition in which the reproductive process is accomplished in a state of complete physical, mental and social well-being and is not merely the absence of disease or disorders of the reproductive process. Reproductive health, therefore, implies that people have the ability to reproduce, to regulate their fertility and to practise and enjoy sexual relationships. It further implies that reproduction is carried to a successful outcome through infant and child survival, growth and healthy development. It finally implies that women can go safely through pregnancy and childbirth, that fertility regulation can be achieved without health hazards and that people are safe in having sex.¹ Its essential elements include:

- * **Counselling** about sexuality, contraception, abortion, infertility, infection and disease;
- * **Education** on sexuality and gender;
- * **Screening and treatment** for reproductive tract infections, sexually transmitted diseases and gynaecological problems;
- * **Prevention** of infertility;
- * **Choice** of contraceptive methods, with careful attention to an individual's safety;
- * **Safe abortion**;
- * **Prenatal care**, supervised delivery and postpartum care; and
- * **Services** for children and infants.

In this sense, abortion is only one element in a range of services concerning women's

¹ MF Fathalla, Reproductive Health: a global overview *Annals of the New York Academy of Academy* 1991, 626: 1-10.

reproductive health. It should be viewed within this context.

Reproductive Rights

Reproductive rights concern those rights which allow women and men access to reproductive health and well-being. They include respect for women's bodily integrity and decision-making in an environment that is free from fear of abuse, violence and intimidation. They also require access to voluntary, quality, reproductive and sexual health information, education and services.

Reproductive rights are accordingly a **bundle of rights**, rather than a single right. They incorporate the rights to dignity, equality, privacy, freedom and security of the person and freedom of religion, belief and opinion. They also include the right to health. Collectively, these rights provide an interpretive framework that relate to a range of issues concerning reproductive health. They are increasingly recognised as fundamental to women's full and equal participation in society and are linked to the existence of other social and economic rights such as food, shelter, social security, livelihood and education. There are many examples of the indivisibility and interdependence of these rights. For example, research by the World Bank has shown that teenage pregnancies are linked to lower education levels of women, and hence less chance to develop to their full human potential.

International legal experience as well as the needs of South African women suggest that, instead of relying on the above-mentioned framework of rights alone, it is important to include a right to reproductive health and well-being in the bill of rights. (Helen/Barbara - do you want to add anything here). This right would complement the aforementioned **bundle of rights** and provide a rights framework for reproductive health. Reproductive health and well-being would fall within the category of social and economic rights and would, therefore, be subject to a range of forms of implementation, evaluation and enforcement.²

² See the submission to Theme Committee IV by CALS on social and economic right.

A suggested wording for the **Right to Reproductive choice, health and well-being** is as follows:

All persons have the right to reproductive and sexual choice, health and well-being, which shall include:

- 1 the right to make decisions concerning reproduction and sexual activity free of discrimination, coercion and violence;
- 2 the right to be informed about and have equitable access to appropriate health services and information, including safe and affordable methods of contraception and fertility regulation of their choice.

All persons have the right to reproductive and sexual choice, health and well-being:

"Reproductive and sexual" - the reference to "sexual" incorporates the rights of women and men to express their sexuality with pleasure and without fear of abuse.

"choice" - is such an important aspect of "health and well-being" that it is felt to be necessary to stress it. It is, however, implicit within the meaning of "reproductive health and well-being".

"health and well-being" - this is derived from international language which is the accepted terminology, encompassing all aspects of reproductive health.

"which shall include"

The clause is structured in such a way as to set out the initial "umbrella" right and then to provide an open ended list of some of the elements of the right. The list includes issues such as choice, informed decision-making, access, information, education and services.

the right to make decisions concerning reproduction and sexual activity free of discrimination, coercion and violence:

Women's experience of reproduction and sexual activity is often subject to range of restraints which range from cultural and social imperatives to coercion and violence.

the right to be informed about, and have equitable access to appropriate health services, including safe and affordable methods of contraception and fertility regulation of their choice;

This refers to equitable access to health services. The use of "appropriate" takes cognizance of both the resources of the countries and the needs of individuals and couples. This includes the elements of information, choice, access and affordability and access to the full range of services in respect of contraception and fertility regulation.

CONSTITUTIONAL ASSEMBLY
THEME COMMITTEE 4: FUNDAMENTAL RIGHTS



To the Chairperson and Members of Theme Committee 4

EQUALITY

The National Association of Democratic Lawyers Gender Desk, Cape Town, hereby submits for consideration various proposed amendments to sections of the interim constitution (Constitution Act, 1993), which deal with the notion of equality.

Our purpose, in proposing amendments to the interim constitution, is to ensure that the courts which deal with constitutional matters interpret the notion of equality in a substantive rather than a formal way. A substantive interpretation of the equality provision is the only way in which the position of women and other historically disadvantaged groups or persons may be ameliorated, to the extent that a Bill of Rights is ever effective in actually changing the *status quo*.

A substantive interpretation of equality contains within itself notions of anti-discrimination and affirmative action, thus strictly speaking it should not be necessary to list these individually. However, we are of the view that in order to achieve a measure of equality between people, rather than merely to ensure identical treatment (which will surely only entrench the *status quo*), it needs to be spelt out in the equality provision that those aspects are included in such a wide notion of equality.

We therefore present our proposals for the wording of Section 8 of the Constitution, followed by a short memorandum of explanatory notes:

EQUALITY

8. (1) Every person shall have the right to equality, which includes the right to equal protection and benefit of the law.
- (2) No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, colour, sexual orientation, age, social or economic status, disability, religion, conscience, belief, culture, or language.
- (3) Equality includes measures designed to achieve the adequate protection and advancement of persons or groups or categories of persons disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of all rights and freedoms.
- (4) Prima facie proof of discrimination on any of the grounds specified in subsection (2) shall be presumed to be sufficient proof of unfair discrimination as contemplated in that subsection, until the contrary is established.

LIMITATION

33. (1)....(bb) a right entrenched in section 8, 15, 16, 17, 18, 23 or 24, in so far as such right relates to free and fair political activity.

MEMORANDUM OF EXPLANATORY NOTES

Section 8(1)

We feel that a generalised "right to equality" is necessary, since equality is intended to be one of the foundational rights of our Constitution. Also, if the equality provision is going to be wide enough to permit, for example, affirmative action programmes, without being internally contradictory, there should be a "right to equality", the content of which will be determined incrementally by judicial interpretation. A "right to equality" also permits the possibility of a degree of "horizontal" applicability of that right, whereas a mere procedural right to equal protection of the law fails to do so.

The inclusion of the phrase "equal benefit of the law", as in the Canadian Charter of Rights and Freedoms, ensures a substantive reading of the notion of equality, and obviates the danger of the notion of "equality" being conflated with that of "sameness", as in early United States constitutional jurisprudence.

We cannot foresee that "equality before the law" adds anything to the notion of procedural equality which is contained in the phrase "equal protection of the law", thus there is a need for one of those phrases only. We feel that "equal protection of the law" is the phrase which most clearly describes procedural equality.

Section 8(2)

We support the inclusion of the category "social or economic status" in the list of enumerated grounds, as motivated by the Socio-economic Rights Lobby Group.

We also support the retention of the word "unfair", which qualifies "discrimination". While we recognise that this inclusion might detract from the pejorative force of the word "discrimination", we feel that it is necessary in order to distinguish not only between differentiation and discrimination but also between fair and unfair discrimination.

Section 8(3)

We prefer a positive formulation of the affirmative action provision, to the negative formulation in the interim constitution. Also, since we have included a generalised right to "equality", our 8(3) is formulated as a guide to the interpretation of that right, rather than as an exception to equality. Treating people differently to achieve equality of outcome is as much a part of equality as treating people the same.

We have excluded the present section 8(3)(b), as it does not fit coherently into the equality provision, and does not add anything substantive to the notion of equality which section 8 seeks to formulate.

Section 8(4)

We support the formulation in the interim constitution, as it stands.

Section 33(bb)

Since equality is a foundational right in the interim constitution, any limitation on it should be subject to a standard of reasonableness, justifiability and necessity, so as not to undermine its special significance in the constitution. We read the exclusion of section 8 from the present list of rights which are subject to a stricter limitation test as being based on a fear that state affirmative action programmes will be challenged by historical oppressors, as happened in the United States. We share this concern, thus we have included section 8 in the strict limitation provision only in so far as it relates to political activity.

Section 33(4)

We wholeheartedly support the retention of this subsection in the final constitution.

General Notes:

We attempted to formulate a provision which specifically acknowledged the disadvantaged position of women in society, rather than a neutral "gender, sex"-based criterion for constitutional protection. We realise that women are not the only group of persons which has been systematically discriminated against, but that is our particular interest. We found it ultimately too problematic to formulate such a provision, but it remains our concern that there is no acknowledgement in the Bill of Rights that women's position in society is such that it is they who should benefit from state measures to achieve equality.

Northern Transvaal Province, Health, Social
welfare + pensions, Lebowatjane

BILL OF RIGHTS IN RESPECT OF THE FOLLOWING:

1. Reproductive Rights:

Appropriate measures must be taken to ensure universal access to health care services in particular those related to reproductive health care which encompasses family planning and sexual health.

Population related policies and programmes must advance gender equality and equity and improve the quality of women's lives by enabling them to exercise their rights to plan and control their own fertility and to participate fully at all levels of implementation of population and human development programmes.

Teenagers should have the right to choose whether to use contraceptive methods or not.

2. Equality clause:

The gender perspective and its incorporation in planning and policy decisions is of paramount importance in engendering equality, development and peace. Government should adopt strategies for enhancement of women's status and skills, their participation and their involvement and decision making in key positions. Equal opportunities, and equal rewards.

3. Socio-economic Right:

Enforcement of the affirmative action:

The right to economic empowerment through creating equal opportunities technology, and support for establishment capacity for income generation. The women's technological, scientific knowledge and managerial skills should be improved in order to enhance their participation in Industrial production, innovation,

-2-

creativity productive design, product adaptation and production techniques.

4. Women and Family:

-Joint family administration:

Protection and support of the nuclear family - through social, economic and emotionally protection against abuse of women and children within the society.

-Government and community organizations should make efforts to ensure that single - parent families receive social support to the form of economic support for the family and child care especially single working parents.

5. Addendum:

Governments, United Nations agencies and other organizations should take positive steps to include women at all levels of population and health care systems, but above all to integrate.

6. Private Discriminatory:

Total political commitment to enforcement of non-discriminatory activities through monitoring and women also reporting discriminatory practises.

Addition.

Women with special needs:

Encouraging informal support systems

Establishment of sheltered employment and special schools.

Rights and needs of the aged to be introduced in the Bill of rights.

-3-

Others:

Women with disabilities

Aged

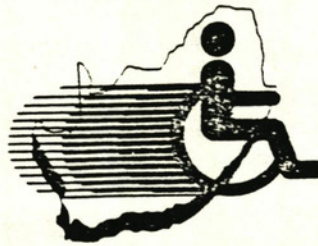
Widows

Internally displaced persons

Refugees

Female-headed households

THE NATIONAL COUNCIL FOR
THE PHYSICALLY DISABLED
IN SOUTH AFRICA



DIE NASIONALE RAAD VIR
LIGGAAMLIKE GESTREMDES
IN SUID-AFRIKA

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23/48

31 May 1995

The Executive Director
Constitutional Assembly National
Workshop and Public Hearing For Women
P O Box 13
CAPE TOWN
8000

ATTENTION: HASSEN EBRAHIM

Dear Sir/Madam

CONSTITUTIONAL ASSEMBLY NATIONAL WORKSHOP AND PUBLIC HEARING FOR
WOMEN - 2-4 JUNE 1995

The Council's representative at the abovementioned hearing will be Mrs Eva Mahlangu, a teacher at the Filadelfia Secondary School for children with disabilities, Eva has a disability herself.

We thank you for the opportunity to comment.

It is Council's opinion that many women are disabled because of neglect, abuse and violence and should be protected. Further more Women with Disabilities are one of the most marginalised groups and need to be empowered to take their rightful place in society.

According to the United Nations World Programme of Action Concerning Disable Persons: "The consequences of deficiencies and disablement are particularly serious for women. There are a great many countries where women are subjected to social, cultural and economic disadvantages which impede their access to, for example, health care, education, vocational training and employment. If, in addition, they are physically or mentally disabled their chances of overcoming their disablement are diminished, which makes it all the more difficult for them to take part in community life. In families, the responsibility for caring for a disabled parent often lies with women, which considerably limits their freedom and their possibilities of taking part in other activities".

The Nairobi Plan of Action for the 1990's also states: Disabled women all over the world are subject to dual discrimination: first, their gender assigns them second-class citizenship; then they are further devalued because of the negative and limited ways the world perceives people with disabilities.

Legislation shall guarantee the rights of disabled women to be educated and make decisions about pregnancy, motherhood, adoption, and any medical procedure which affects their ability to reproduce.

Measures should be taken to equalise the involvement of disabled girls and women in programs of literacy, education, training, employment and leadership development.

Measures should be taken to remove cultural and religious traditions that restrict or lessen access to medical, vocational, rehabilitation, employment, and other services for disabled women".

During a Human Science Research Council/National Training Board inquiry into Strategies for Training and Placement of the Disabled Person in 1986, it was found that 84.4% of women with disabilities were economically inactive in comparison to 67.8% men with disabilities as appose to 38.8% of the total population.

The lack of equal opportunities in education, rehabilitation, training, employment etc, are the cause of this disparity.

Attached please find a copy of the following:

- a) The United Nations Standard Rules on the Equalisation of Opportunities for Person with Disabilities - Annexure A.
- b) Disability Rights Charter of South Africa - see Article 12 Annexure B.
- c) The Opinion of three different women with disabilities - Annexure C,D & E.
- d) Five social workers reports from our Regional Offices. Annexure F,G,H,I & J.

Yours sincerely

H Marais

H MARAIS
ASSISTANT DIRECTOR - WELFARE

STANDARD RULES ON THE EQUALIZATION OF OPPORTUNITIES FOR PERSONS WITH DISABILITIES (SUMMARY).

A. The 4 standard rules on preconditions for equal participation

1. Awareness, Raising

States should take action to raise awareness in society about persons with disabilities, their rights, their needs, their potential, and their contribution.

2. Medical Care

States should ensure the provision of effective medical care to persons with disabilities.

3. Rehabilitation

States should ensure the provision of rehabilitation services to persons with disabilities in order for them to reach and sustain their optimum level of independence and functioning.

4. Support Services

States should ensure the development and supply of support services including assistive devices to persons with disabilities to assist them to increase their level of independence in their daily living and to exercise their rights.

B. The 9 standard rules on target areas for equal participation

5. Access to the physical environment

States should introduce programmes of action to make the physical environment accessible for persons with disabilities of any kind.

6. Access to information and communication

States should undertake measures to provide access to information and communication for people with disabilities.

7. Education

States should recognize the principle of equal primary, secondary and tertiary educational opportunities for children, youth and adults with disabilities, in integrated settings. They should ensure that the education of persons with disabilities is an integral part of the education system.

8. Employment

States should recognize the principle that persons with disabilities must be empowered to exercise their human rights particularly in the field of employment. Both in rural and urban areas they must have equal opportunities for productive and gainful employment in the labour market.

9. Income maintenance and social security

States are responsible for the provision of social security and income maintenance for persons with disabilities.

10. Family life and personal integrity

States should promote the full participation of persons with disabilities in family life. They will promote their right to personal integrity, and ensure that laws do not discriminate against persons with disabilities with respect to sexual relationships, marriage and parenthood.

11. Culture

States will ensure that persons with disabilities are integrated into and can participate on an equal basis in cultural activities.

12. Recreation and Sports

States will take measures to ensure that persons with disabilities have equal opportunities for recreation and sports.

13. Religion

States will encourage measures for equal participation by persons with disabilities in the religious life of their communities.

C. The 10 standard rules on implementation measures

14. Information and research

States assume the ultimate responsibility for the collection and dissemination of information about the living conditions of persons with disabilities and promote comprehensive research on all aspects including obstacles which effect the lives of persons with disabilities.

15. Policy-making and planning

States will ensure that disability aspects are included in all relevant policy-making and national planning.

16. Legislation

States have responsibility to create the legal bases for measures to achieve the objectives of full participation and equality for persons with disabilities.

17. Economic policies

States have the financial responsibility for national programmes and measures to create equal opportunities for persons with disabilities.

18. Coordination of work

States are responsible for the establishment and strengthening of national coordinating committees, or similar bodies, to serve as a national focal point on disability matters.

19. Organizations of persons with disabilities

States should recognize the right of the organizations of persons with disabilities to represent persons with disabilities at national, regional and local levels. States should also recognize the advisory role of organizations of persons with disabilities in decision-making on disability matters.

20. Personnel training

States are responsible for ensuring the adequate training of personnel, at all levels, involved in the planning and provision of programmes and services concerning persons with disabilities.

21. National monitoring and evaluation of disability programmes' in the implementation of the standard rules

States are responsible for the continuous monitoring and evaluation of the implementation of national programmes and services concerning the equalization of opportunities for persons with disabilities.

22. Technical and economic cooperation

States, both industrialized and developing, have responsibility to cooperate in an undertake measures for the improvement of the living conditions of persons with disabilities in developing countries.

23. International cooperation

States will participate actively in international cooperation concerning policies for the equalization of opportunities for persons with disabilities.

**Disability Rights
Charter
of
South Africa**

*Distributed by the Disability Rights Unit of Lawyers for Human Rights,
PO Box 5156, Johannesburg, 2000.*

Background to the Disability Rights Charter of South Africa

During the course of 1991, the Disability Rights Unit of Lawyers for Human Rights (LHR) together with Disabled People South Africa (DPSA) embarked upon an initiative to formulate a charter of demands of disabled people in South Africa. It was intended that a charter reflecting the rights of disabled people and their demands to achieve these rights would serve as a very important document to guide future legislation and policy on matters affecting disabled people. Furthermore, a charter would ensure that the rights of disabled people are incorporated into a future bill of rights for South Africa.

The development of a draft charter involved a lengthy process of consultation with organisations of disabled people throughout the country to collect demands. The draft charter formulated through this process was adopted in principle at the bi-ennial congress of DPSA held in September 1992, subject to it undergoing a process of refinement. It was agreed that revisions to the charter would be undertaken in order to produce a final document.

The Disability Rights Charter of South Africa is now completed and was ratified by the DPSA council in December 1992. The demands which are reflected in the charter are primarily aimed at promoting equal opportunities for all disabled people. It is a living document reflecting the experiences of many disabled people from different sectors of our society. Most importantly, it is a document which asserts the right of disabled people to live independently in a barrier free and safe environment and in a society free from all forms of discrimination, exploitation and abuse.

The Disability Rights Unit, together with DPSA, will be involved this year in popularising the charter. We hope that through this project we will be able to use the charter to raise awareness about the rights and aspirations of disabled people and challenge existing abusive practices and legislation which is discriminatory. We would also welcome any comments on the charter which can be submitted to us at the address below.

**Disability Rights Unit
Lawyers for Human Rights
P.O. Box 5156
Johannesburg
2000**

We the disabled people of South Africa

Having consulted broadly among ourselves throughout the country and having put forward demands on which this charter is based,

Realising that disabled people in South Africa are among the worst victims of the apartheid system and that they suffer further discrimination as a result of negative social attitudes and unequal treatment based on gender and class,

Reaffirming the duty of the state to protect our rights and for policy makers to ensure that opportunities equal to those of the whole population are created for all disabled people in South Africa and that they receive an equal share in the benefits of social and economic development in our country,

Recalling the fundamental principles of human rights entrenched by the United Nations in the Universal Declaration of Human Rights, Declaration on the Rights of Disabled Persons, the World Programme of Action Concerning Disabled Persons, the conventions and recommendations of the International Labour Organisation on Vocational Rehabilitation and Employment and all other documents with similar emphasis,

Therefore demand that;

Article 1. Non-discrimination

There shall be no discrimination against disabled people and they shall enjoy equal opportunities in all spheres of life and they shall be protected against exploitation and all treatment of an abusive or degrading nature.

Article 2. Self-representation

Disabled people shall be entitled to represent themselves on all matters affecting them and resources shall be made available to enable them to fulfil this role.

Article 3. Health and Rehabilitation

Health and rehabilitation services and facilities shall be effective, accessible and affordable to all disabled people in South Africa.

Article 4. Education

- a) Disabled people shall have the right to mainstream education with personal assistance where necessary, appropriate assistive technology and specialised teaching.
- b) Parents of disabled children shall have the right to participate in the planning and provision of their children's education.

Article 5. Employment

- a) All disabled people shall have the right to employment in the open labour market and appropriate measures, such as quota systems and training programmes, shall be implemented by government and employers to ensure that opportunities are created in the workplace which allow for the full enjoyment of this right.
- b) The state shall provide incentives to employers, such as tax concessions, to encourage them to employ disabled people.
- c) State assistance shall be provided to disabled people to enable them to engage in income generation through workshops and self-help projects.

Article 6. Sport and Recreation

Disabled people shall have the right to engage in sport and recreational activities and resources, such as sports facilities and financial assistance, as well as opportunities for participation, shall be made available to support their initiatives in this regard.

Article 7. Social Security

The state shall provide social security to disabled people who are without adequate income and all measures used to determine the adequacy of such income shall take into account additional costs incurred by them as a result of their disability.

Article 8. Housing

The state shall embark on a programme aimed at ensuring adequate, accessible and affordable housing for all disabled people.

Article 9. Transport

Affordable and accessible transport shall be made available to disabled people.

Article 10. Built Environ

All new built environs shall be accessible and safe to disabled people and all reasonable steps shall be taken to make existing built environs accessible and safe.

Article 11. Disabled Children

- a) Disabled children shall have the right to be treated with respect and dignity and shall be provided with equal opportunities to enable them to reach their full potential in life.
- b) The state shall ensure that all disabled children are properly cared for with adequate support.
- c) All forms of abuse of disabled children shall be prohibited and severe penalties imposed for such abuse.

Article 12. Disabled Women

All disabled women shall be treated with respect and dignity. They shall be free to make their own decisions and shall be protected from all forms of abuse which undermine their integrity in any way.

Article 13. Independent Living

Disabled people shall be entitled, encouraged and assisted to live independently in their communities and to develop the skills necessary to enable them to live in the broader society and they shall be provided with adequate and appropriate support systems to do so.

Article 14. Communication

Disabled people shall have the right to communicate freely and measures designed to ensure the full enjoyment of this right shall include the provision of braille and/or audio recorded material for blind people, the recognition and use of sign language for people with hearing and/or speech disabilities and mentors/advocates for mentally disabled people.

Article 15. Participation in Social Life

Disabled people shall have the right to make their own decisions in all areas of social life and this shall include freedom to engage in sexual relationships and to have a family.

Article 16. Prevention

All effective and appropriate steps shall be taken by the state and society at large to prevent disability.

Article 17. Positive Action

Positive action shall be applied to address existing discriminatory practices and disadvantaging conditions facing disabled people, giving special attention to the situation of under-represented groups such as disabled women and children, deaf people, mentally disabled people, people with albinism and disabled people living in underdeveloped areas.

Article 18. Enforcement

Appropriate and effective policies and legislation as well as accountable services shall be developed and enforced to provide all disabled people with opportunities for the full enjoyment of all these rights.

Women and disability

Shanaaz Majiet Writes

As a Black activist within the field of Disability and, in particular, Development of Women with Disabilities, I believe that as a disabled woman myself (Paraplegic - permanently confined to the use of a wheelchair due to spinal cord injuries) to have a valuable and crucial contribution to make on the issues pertaining to women and health.

I hold the view and argue that women with disabilities (and disability in general) have thus far been dealt with and shelved as solely a "health" issue; and therefore, that the needs of women with disabilities within the health sector have been extremely marginalised.

It is important to stress further that the lives of women with disabilities are not restricted to our health, but rather that disabilities affect other aspects of our lives, be it social, political, economical or emotional. In the same manner does the status of our health as both women with disabilities and able-bodied women have an impact on our total well-being as women of the world.

I also need to emphasize that the needs of women with disabilities cannot and must not be divorced or raised at a forum separate to that of women in general. It is imperative for us as women to unite and not sub-divide our oppression and create special categories for the health of women with disabilities.

The health of women with disabilities in Africa is a very neglected area which needs urgent and adequate attention. The specific health needs of Black disabled women, mothers and young girls in South Africa is unaddressed due to various political, economic and social reasons.

Disabled women's Reproductive Rights:

Many disabled women have been counselled by medical professionals and advised not have children. We are told that the child would suffer and that we as parents would not be able to cope with emergencies.

Physically disabled as well as mentally disabled women run the risk of involuntary sterilisation, usually carried out in conjunction and under the guise of some other operation.

The medical profession gets little training about disability, yet, since it is an authoritative and authoritarian profession, doctors are hesitant to admit ignorance and decisions are often on invalid premises.

The disabled women and mother has to be granted all kinds of help in order to enable her to preserve her independence in the responsibility for her duties or individual tasks and, above all, a network of encouraging mobile social services and the establishment of local agencies for treatment and advisory/information services.

Mothers with disability have anecdotally reported about practically inaccessible services for them delivering children to daycare centres; they see this as a service denial. There is also a lack of technological aids and support services, and little funding for work in this area. The needs of mothers with handicaps have subsequently been ignored since there is a denial of their right to a family life.

Resource: Women's Health Project
Newsletter no 6

DISABLED WOMEN MUST BE EMPOWERED
Based on an interview with Alda Oliphant

An area of invisibility is the violence targetted at disabled women in the townships. It is abuse done by family members, friends, and neighbours of the disabled woman. It is never talked about; it is taboo. Ignorance, torn loyalties, confused values and shame isolate and open the disabled woman to exploitation.

Alice is a paraplegic. Only after her parents discovered that she was pregnant, did they learn that their neighbour and friend had raped her. They secured an abortion for her and without consulting her, had her sterilized.

This story neglects to explain what happened to the rapist. The issue of reporting a friend and neighbour is a complex one for parents whose daughter has been abused. Sometimes the need for the family connection is seen to be more important than the daughter.

The culture of violence hinders the protection of disabled women:

Sheila is mentally handicapped. On the occasions that her grandmother used to go out, Sheila's uncle was at home to look after her. Her grandmother returned home one day to discover that the uncle was bringing friends into the house who payed him to have sex with his niece. When the grandmother decided to go to the police, her son threatened to kill her.

Where a disabled woman wishes to report an act of violence, her disability can be used against her:

Joyce is blind. Every day before school, her children take her to a specific street corner where she begs until they fetch her to bring her home. One day a nearby street vendor informed her that a demonstration was to occur and offered to take her to a place of safety. There was no demonstration. He took her to a deserted area where he raped her. Joyce knew her assailant; she knew his voice. Her family said that as she was blind she could not be sure. The police used her disability to reject her claim and jokingly asked if she wanted to have more sex.

The disabled woman who seeks a friend or partner finds herself in a dilemma. Sighted men do not want to be publically involved with a disabled woman. If they are alone together, it is likely that the woman is open to being exploited. Ignorance and shame, together with the complex survival strategies that make up the community networks, provide a veil to the violence and abuse against disabled women.

Disabled women's needs are no different from other women's needs. Disabled women's needs are no different from human needs.

Chapter 5 : Poverty

5.1 Women -headed households

The report only refers to the households headed by women in general, breaking it down to race, rural and urban location. No mention is made of the disabled women who in most cases are Africans living in the rural areas. The disabled women are always living with extended families and are never given a chance to live independently with their children.

Unemployment/Vocational Training

The majority of the disabled women live under poor conditions and are not employed. The report does not include disabled women under this category and yet there was no provision for them. Many disabled who would like to be gainfully employed are not mentioned. Only problems of women, rural and urban are reported. It is a well known fact that not all disabled women are eligible for disability grants and therefore need to be considered by the Government for open labour market or if they need vocational training for the provisions of skills, opportunities need to be open for all women as head of the households.

Public Day Care Centres for all.

Again, disabled children are left out in the report. We all know that disabled children do not get a chance to join in in most cases the Day Care Centres under the age of six as their parents only concentrate on taking disabled children for the medical aspects. They only get a chance when they are admitted in special schools. But those who are not eligible for special schools, really miss out.

7. Education

7.1.1 Illiteracy

Disabled women due to their isolation in the community are poorly educated in as much that although the Department of Education and Training had established adult education classes, in the communities, that is not accessible to the disabled women due to mobility problems.

7.1.2 School Enrolment

The question of special schools is not discussed in the report and yet the severely disabled can only benefit educationally through admission into special schools. The mainstream education is not accessible at times to the disabled women due to architectural barriers. Children in hospitals should also be included under Special Education.

7.2 Health

Under this section the provision of mobility aids by the Government has not been mentioned. Yet the Government has committed itself to design a comprehensive programme in consultation with disabled people to enhance their intergration into society by removing discriminating practises against them and so on. (RDP White Paper page 52).

E.P. CRIPPLE CARE SOCIETY
O.F. KREUPELSORGVERENIGING

55 PATERSON ROAD/WEG
Telegraphic address: Telegraafmaats
"KREUPAPEL"

PORT ELIZABETH
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P.O. Box/Postbus 536
6000

Our ref: SW24

Your ref: 24/7

National Council for the Physically
Disabled in South Africa
PO Box 426
MELVILLE
2109

5 December 1994

Attention: Ms H Marais

RE: BEIJING CONFERENCE REPORT

The social workers of this office comment as follows on
abovementioned:

The following woman issues need to be addressed urgently:

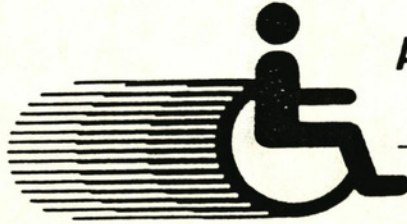
- Currently a married disabled woman can't get a disability grant because of her marital status, which is not the situation with a man
- Equal taxation
- Equal pay (same job, same pay)
- Family planning (women should motivate each other)
- Infant mortality rate
- Male and female breadwinners should be treated equally
- Violence against women:
 - often the police don't get involved because they see it as a domestic issue
 - rape in marriage should be recognised
 - rape court cases don't protect women
 - stiffer sentencing for rape (death sentence for people who rape children under 16)
- women should be put in posts because of the fact that they are qualified and efficient, not only because they are women
- programmes to prevent violence against women is very important, eg. on TV. Women should be taught that men don't have any right to abuse and manipulate them

M Meintjes

M MEINTJES (MS)
SUPERVISOR

MM/agh

**Vereniging vir Liggaamlik
Gestremdes**



**Association for Physically
Disabled**

Kimberley

Kimberley

FI Nr./FR No. 10 00069 000 4

Navrae: Mej. L.J. Koekemoer
Enquiries:

Verw: 184/94
Ref:

Mev. H. Marais
Nasionale Raad vir Liggaamlik
Gestremdes in Suid-Afrika
Posbus 426
Melville
2109

Mev. Marais

TERUGVOER : BEIJING KONFERENSIE VERSLAG

Daar kan soos volg terugvoer verskaf word:

Bl. 9 Daar kan vermeld word dat die Speaker van die Noordkaap Wetgewer wel 'n vrou is, anders as wat in die verslag deurgegee is. Dit is mev. E. Papenfus.

Bl. 46 Dit word as 'n leemte beskou dat die Staat nie betrokke is by die onderhoud van die Skuilings vir mishandelde vroue nie. Die skuling in Kimberley se voortbestaan word bedreig terwyl daar 'n baie groot behoefte bestaan en die skuling feitlik deurgaans vol is.

Daar word nêrens melding gemaak van die seksuele teistering van vroue in die werkplek nie. Volgens 'n koerantberig in Die Volksblad van 08.12.1994 is dit 'n probleem wat selfs in die Parlement ernstige afmetings toon en dat daar sekere gebiede in die Parlement is waar vroue glad nie meer veilig is nie. In hoe 'n mate kom hierdie verskynsel dan nie in ander werkplekke voor nie. 'n Struikelblok ten opsigte van hierdie probleem is ongelukkig dat die vroue nie graag voorvalle wil aanmeld nie.

Kan inligting asseblief aan hierdie kantoor voorsien word rakende die "verbruikersgroepe van Vroue met Gestremdheid".

Dankie vir u samewerking. U en u kantoor word 'n geseënde Kersfees en 'n voorspoedige Nuwe Jaar toegewens.

Die uwe

L.J. Koekemoer
L J Koekemoer
MAATSKAPLIKE WERKER

Posbus/PO Box 928
Tel: Sekretaris/Secretary 33315
Maatskaplike Werker/Social Worker 24453
33272
Fondsinsamelaar/Fund Raiser 28431
Faks/Fax 28431

08.12.1994

ASSOCIATION FOR THE PHYSICALLY DISABLED: EASTERN CAPE - PORT
ELIZABETH

CONSTITUTIONAL ASSEMBLY NATIONAL MACHINERY WORKSHOP AND PUBLIC
HEARING FOR WOMEN AND PRODUCTIVE RIGHTS CAMPAIGN

We would like you to raise the following issues at the public hearing:

- Women who don't qualify for housing subsidies on the same basis as men
- Even when the wife is the breadwinner municipal houses are registered in the husbands name.
- Married disabled women automatically loose their grants even if the husband doesn't work.
- When women open accounts they usually insist on the husbands income or details and not visa-versa.

M MEINTJES (Ms)
SUPERVISOR

ASSOCIATION FOR THE PHYSICALLY DISABLED - OFS

In response to the circular we received regarding the public hearing for woman, we would like to make the following contributions. We regard the following as discriminatory actions against woman, especially pertaining disabled woman:

- The present law declares that an abortion is legal if an unborn child suffers from serious mental/physical handicap. Such a law threatens the human right of the disabled child to live.
- Woman with disabilities have the right to motherhood, early sterilization by professionals with the mind set that the disabled woman do not have the right to motherhood, is not acceptable.
- i) A disabled woman who receives a disability grant would lose such a grant and her state medical benefits if she would enter into a marriage, where the spouse is earning an income. This discourages a disabled woman to enter into a marriage and to rear children in a family situation.

We would appreciate it if you could view our comments at the meeting.

Yours sincerely

LESABE SUTIL
SOCIAL WORKER

THERINA WENTZEL
PROVINCIAL DIRECTOR

ASSOCIATION FOR THE PHYSICALLY DISABLED - KIMBERLEY

CONSTITUTIONAL ASSEMBLY NATIONAL WORKSHOP AND PUBLIC HEARING
FOR WOMEN

There must be a commission for gender equality so that it can represent all women on national level and should be able to speak for women.

The powers and the functions for this commission must be to provide a political, administrative, legislative, judicial environment that enables women to enjoy, exercise and defend all their economic, social and political rights on an equal basis with men.

This commission of gender equality should be included in the constitution,

Miss Carine van der Walt
Social Worker

SUBMISSION TO THEME COMMITTEE FOUR: VIOLENCE AGAINST WOMEN

At a conference hosted by the Community Law Centre, University of the Western Cape, entitled 'Towards the Final Constitution: A Critique of the Present Constitution from a Gender Perspective', on 27-29 January 1995 in Cape Town, a working group on violence against women, representing a broad segment of women in South Africa from a range of social, class, religious and racial backgrounds, agreed that the following submissions in relation to violence against women needed urgently to be made to Theme Committee 4 of the Constitutional Assembly:

The working group urges the drafters of the final constitution to acknowledge the fact that gender-based violence permeates both the public and private spheres; that women are overwhelmingly the victims of crimes of violence especially rape and domestic violence; that gender-based violence is one of the greatest obstacles to the achievement of gender equality.

The following submission is therefore made:

1. The Interim constitution contains a number of rights which could be interpreted to protect, specifically women and children from violence, namely the right to dignity (section 10), freedom and security of the person (section 12) and the right to equality (section 8). However, these rights do not specifically address the issue of violence directed against people because of their status. Gender-based violence prevents women from participating equally and fully in the new order and is at odds with the spirit and purport of the constitutional undertaking: namely that all people shall enjoy freedom and equality. The Constitutional Assembly is urged to recognize that women cannot enjoy either of these rights in the presence of violence and threats of violence.

It is submitted therefore that a separate right should be included in Chapter 3 of the Constitution called *Protection from Violence*, to read as follows:

Every person shall have the right to be protected from physical, mental or emotional abuse or violence based on race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language.

Unlike the language of section 12 'freedom and security of the person', this clause imposes an affirmative duty on the state to protect people from violence, hence the word 'protection' as opposed to 'free'. Whilst the motivation for this submission is the protection of women from violence, a clause that singles out women for protection from gender violence (eg. 'Every woman shall have the right to be protected from rape and violence') would not capture the spectrum of abuse that may be suffered by women on the basis of the enumerated grounds set out in section 8 of the Interim Constitution. Moreover, it is not only women but children who suffer from domestic abuse and children may be male or female. This section aims to protect individuals from violence that is based on racial hatred, misogyny (rape, sexual assault, domestic violence), homophobia (gay-bashing) or any other violence rooted in prejudice which infringes the right of a person to be free from discrimination and to be treated as an equal.

Due to the affirmative duty on the state to protect all persons, but particularly women from gender violence, it is submitted that omissions (not only positive acts) on the part of the state to provide women with safe streets and safe homes should be recognized as the basis of constitutional action. Failure on the part of police to respond promptly to incidents of domestic violence; failure by magistrates to issue interdicts in terms of the Prevention of Family Violence Act 133 of 1993 and other such omissions ought to be constitutionally actionable.

2. The fundamental rights in Chapter 3 of the Interim Constitution may be limited in terms of section 33 of the constitution. There are two levels of protection afforded by section 33: a lower level of protection, where it must be shown that the limitation on the right is 'reasonable and justifiable in an open and democratic society based on freedom and equality and does not negate the essential content of the right'. Some of the rights subject to this level of protection are the right to freedom of speech and expression (section 15) and the right to equality (section 8).

The higher level of protection afforded to various fundamental rights and freedoms requires that in addition to being reasonable and justifiable, not negating the essential content of the right, the limitation also be **NECESSARY**. Some of the rights protected in this way are the rights to dignity (section 10), freedom and security of the person (section 11), freedom from servitude (section 12).

If the two-tiered limitations test is retained in the final constitution, our proposal is that the 'Protection from violence' right ought to be subject to section 33(1)(b) of Chapter 3 - the higher level of protection afforded by the limitations clause.

3. Alternatively, the above clause protecting people from violence should be included as a subsection of section 11 'Freedom and security of the person' as 11(3).
4. The interim constitution protects people from state infringements of their rights and freedoms. This is what is meant by the 'vertical application' of the constitution. It has not yet been determined whether or not the constitution will protect relationships between individuals and thereby have 'horizontal application'. The reality is that most gender violence occurs between individuals, by men against women. For this reason, a failure to interpret the constitution as having horizontal application, effectively denies women constitutional protection from gender-based violence. When a woman is raped or beaten, her human rights have been violated - both by the individual perpetrator and by the state for failure to protect her sufficiently. A full discussion of the intricacies of the application of the chapter on fundamental rights is beyond the scope of this submission. However, it is urged by the supporters of this submission that rights protection be extended horizontally to protect individuals from violence that is gender or race based.

Any queries in relation to these submissions should be addressed either to
Joanne Fedler, Law School, University of the Witwatersrand, tel: (011) 716 5581
fax: (011) 339 4733
or Bronwyn Pithey, Rape Crisis, Cape Town, tel: (021) 47 1467 fax: (021) 47 5458

Endorsed by:

Rape Crisis (Cape Town)
People Opposing Women Abuse .
Illitha LaBantu
Community Peace Foundation, University of the Western Cape
Advice Desk for Abused Women, University of Durban Westville
NICRO Women's Support Centre
Rape Crisis (Port Elizabeth)
Community Arts Project
Resources Aimed at the Prevention of Child Abuse and Neglect

SACP Submission on the Constitution:

A. Bill of Rights:

1. Reproductive Rights:

The SACP believes that every woman has a right to control over her own body and thus the right to make independent reproductive decisions.

In addition, every woman therefore should have the right to choose whether or not she wishes to terminate pregnancy.

Facilities should be provided for the termination of pregnancy by the state in such a manner that they are accessible, safe, hygienic and free.

Counselling services must be available to all women (and , if desired, their partners) so that they are able to exercise their freedom of choice, I addition, sympathetic, professional, non-judgemental counselling services need to be provided, both before and after an abortion for any woman who requires them.

Women who choose to have an abortion should also have the right to privacy and protection from it's opponents, as do all professional staff providing any linked service.

It is essential that the issue of abortion is not dealt with in isolation from the general struggle for the full empowerment of women, both educationally and economically. It is only when women have the complete freedom of control over their own lives that they will be in a position to make educated and well-considered decisions regarding their own reproductive lives.

The SACP, noting that this is not an issues that should be relegated to the Constitutional Court, thus calls for the repeal of the present abortion laws, and the creation of new legislation and entrenching the rights of women to abortion.

2. Equality Clause:

We support the equality clause, but with some additional legislation flowing from it., eg. the legislation protecting women from abuse by the Judiciary, the police, etc.

3. Socio-economic Rights:

The Labour Relations Policy should ensure the protection and equality of women and men at the workplace, and equal work for equal pay. All kinds of jobs and sectors to be opened for both men and women.

4. Women and the Family:

We need to move away from the thinking that caring for the family is the responsibility of women alone, in particular child-care. On this note , we cannot really separate Affirmative Action from removing the practical obstacles to women's political and social involvement by providing child-care facilities, sharing housework, development amongst women, setting meeting times to suit women, and most importantly changing men's attitudes towards women.

5. Women and Customary Law:

We recognise people's cultures and traditions and we respect them, but they should do away with all forms of oppression and discrimination of women, eg. forced marriages, depriving women the opportunity to develop to their full potential.

Noting that culture and tradition will have to undergo a process of change, we therefore recommend that women must be given the right to choose whether they want to abide by traditional and cultural practices as prescribed by a particular community.

6. General:

Gender Sensitivity of Local Govt. Bill:

It should be clear that gender imbalances should be redressed through Local Govt. structures. Noting that women are the ones that are left with the burden of maintaining houses, electricity, water, and other basic human needs within the household, this means that they are the ones who are directly affected by the lack of these facilities.

We therefore recommend that the Local Govt. Bill should be Gender sensitised in practice.

B. Aspects of the Constitution:

Representation and quotas:

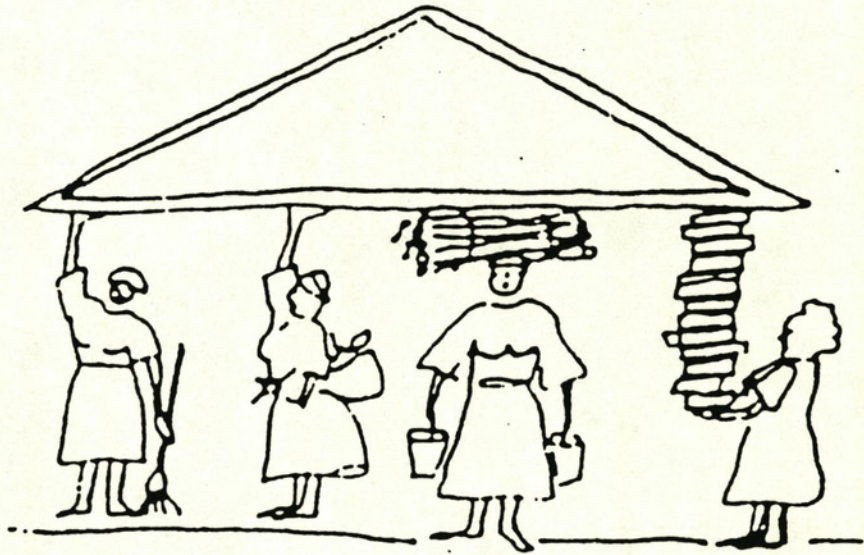
We recommend that quotas should go together with the empowerment of women.

Any other related issues in the Constitution:

In relation to women, the family and the law we further recommend:

- * mediation or counselling should not take place in the family court if violence has occurred, unless the woman chooses,
- * separate women's legal centres be set up in each Province and locality,
- * court support schemes be expanded
- * courts provide child-care facilities
- * safe places and waiting rooms be provided for women in court,
- * interpreters be provided for domestic violence cases as a statutory right for women from non-English speaking backgrounds,
- * a friend or family member be allowed in court to support children and traumatised women in court.

WOMEN'S



COLLEGE



**PUBLIC
FORUM**

**DIE
GRONDWET
EN JY?**

*Vroue,
kom sê
jou
sê*

**SAT
27
MEI**

**2-6
nm**

**ST. MATHEWS AME CHURCH
(oorkant Trinity Place) Halt Road**

Die VROUE KOLLEGE * Die VROUE KOLLEGE

also's press: 931-2142

VROU EN DIE GRONDWET

**OP DIE HUIDIGE OOMBLIK IS MENSE BESIG OM
DIE NUWE GRONDWET VAN SUID AERIKA TE
SKRYF!**

WAT IS DIE NUWE GRONDWET?

Die Grondwet is die hoogste gesagmakende dokument in die land.

Die Grondwet verduidelik aan alle mense hul regte in die land.

As die Regering nie gehoor gee aan hierdie regte nie, is hulle teenstrydig met die Grondwet.

As die Regering teen die Grondwet gaan, het mense die reg om die Regering hof toe te neem om hul regte te beskerm of te eis.
'n Spesiale hof is hiervoor gestig, naamlik die Grondwetlike Hof.

OPENBARE VERGADERINGS

As deel van die grondwetskrywende proses, is daar voorsiening gemaak vir die publiek om betrokke te raak deur te se watter regte hulle in die nuwe Grondwet opgeskryf wil he.

Die Grondwet Vergadering hou tans Openbare Vergaderings om insette te verkry van die publiek, maar tot dusver was daar nog geen Openbare Vergadering om insette te verkry oor probleme wat vroue ondervind nie.

Die interim Grondwet noem byna niks oor vroue se reg tot 'n goeie lewensstandard, behulsing, gesondheidsdienste, veilligheid in ons gemeenskap en in ons huise, werk, opvoedings ens.

Die interim Grondwet spreek nie die aspirasies en belangé van vroue direk aan nie, dus reel die Vroue Kollege 'n Openbare Vergadering, waar vrouens die geleentheid gegun word om sodanige sake te bespreek. Sodoende wil ons verseker dat Vroue Regte geadresseer en in die nuwe Grondwet Ingesluit word.

By hierdie vergadering sal ons die volgende bespreek:

Wat is die nuwe Grondwet en watter invloed het dit op u as vrou?

Watter kanale en maniere bestaan sodat u self insette kan lewer?

U sal ook die geleentheid gegee word om met ander vroue besprekings te hou oor wat u in die nuwe grondwet geskryf wil he.

**OP DIE 27 MEI 1995, HIER IN ELSIESRIVIER, KAN
U DEELNEEM AAN DIE PROSES EN VERSEKER DAT
U REGTE BESKERM WORD!**

**HIERDIE BESPREKING SAL OPGESKRYF WORD EN
OP 4 JUNIE 1995 AAN DIE GRONDWETLIKE
VERGADERING OORHANDIG WORD!**

WOMEN'S COLLEGE PUBLIC FORUM -
HELD AT ELSIES RIVER
ON 27 MAY 1995

PUBLIC FORUM TO ENABLE WOMEN TO MAKE SUBMISSIONS TO THE
CONSTITUTIONAL ASSEMBLY

INTRODUCTION

The Women's College, as part of its programme and its commitment to ensure grassroots women's participation in governance, hosted a public forum to ensure that women's voices are heard.

Although the Constitutional Assembly has made a public commitment to run public forums for communities, none of these forums focused specifically on women's needs within the new constitution. This public forum was thus the first of its kind in the Western Cape.

THE PURPOSE OF THE FORUM WAS:

1. To inform women about the constitution making process in the country.
2. To introduce them to the mechanisms available that will ensure women's participation in the constitution making process.
3. To collect submissions from women on issues affecting them as well as any other issues they think should be included in the constitution. These submissions will be presented at a public hearing of the Constitutional Assembly on 4 June 1995.

PARTICIPANTS

The Women's College invited members of the different political parties, community based organisations, non-governmental organisations, religious sector etc. We also used posters and pamphlets to advertise this event to unorganised grassroots women.

Approximately 100 women attended the forum.
(Attendance list attached)

PROGRAMME FOR THE DAY

Advocate Nono Goso gave an introduction to the constitution and the constitution writing process underway in the country, the mechanisms that exist for women's participation and the importance of their participation. The women present were then given the opportunity to pose questions and clarify some of the issues raised in the input.

After the input women were then given the opportunity to make proposals and recommendations on issues that they want included in the constitution. Discussion followed on these recommendations and proposals and the following points emerged.

The interim constitution guarantees equality before the law, but women feel that equality before the law means absolutely nothing to them, as they do not even understand the essence of it. Their reality is fraught with social and economic problems and their experiences are that there is a definite bias towards men and discrimination against women.

The following points were raised and discussed and are hereby submitted for inclusion into the constitution.

HOUSING

Raised the problem of single women in the lower income bracket (those who do not qualify for home loans/bonds from banking institutions) are automatically excluded from the government housing policy. Nowhere is provision made for them to rent or own a house provided by the state.

Felt strongly that single women should have the same rights as any other women and men to own or rent a house, provided by the state.

MAINTENANCE GRANTS

Women in receipt of maintenance grants (women whose husbands/partners are deceased, in prison, missing etc.) are not allowed to work if they are beneficiaries of the Welfare Dept. maintenance grant). The grant is very low, thus unable to support the family, thus forcing women to look for additional income. If the Department is aware of additional income, the grant is immediately suspended.

In the light of the fact that the maintenance grant is not sufficient to sustain families, it was felt that this law should be changed to allow women to work, whilst in receipt of maintenance grants.

PROSTITUTION

Irrespective of people's morals prostitution is a reality. Many women and young girls are forced into prostitution by socio-economic conditions. Sex Workers are exposed to harassment by the police as well as clients that they serve. Within their communities they are ostracised, because prostitution is morally unacceptable.

Because of the reality these women face and unlikelihood of prostitution being terminated overnight, it was felt that the rights of these women should be protected by the law.

RAPE/VIOLENCE AGAINST WOMEN

Rape victims hesitate to report rape/assaults because the authorities responsible for taking these reports are usually very unsympathetic to the victim. In most cases they are blamed for

what has happened and are treated very inhuman.

All women should have the right to protected from violence. Need for change of the environment where rape cases are reported. Proposal for the setting up of centres that are women-friendly, that would provide counselling services for women by women.

REPRODUCTIVE HEALTH/ABORTION

Right to choose

AVAILABILITY OF CREDIT

Married women are unable to purchase goods on credit, without prior consent from their husbands. However, when their husbands apply for credit no consent is required from the wife.

Demands equal access to credit.

EDUCATION

Right to education =

DIVORCE

Maintenance is only granted to the women if and when a child/children were born out of the marriage.

Childless women should have the right to claim maintenance from their husbands after divorce.

CENSORSHIP/PORNOGRAPHY

The relaxation of the censorship laws, give more exposure to pornography (women). These nude magazines that cater for men, depict women as sex objects and empty headed.

Women raised concern around how women are viewed by society and the influence of pornography in our local communities.

NON-SUPPORT

The law permits women to lay charges of non-support against the fathers of their children. The system does not work well, because men get away all the time, this is mainly because not enough effort is put into tracing them and arresting them. In the cases where men are brought before the court, the magistrates tend to be bias towards the men and the mother usually don't really benefit.

Stricter laws to force men to maintain/support their children.

UNEMPLOYMENT

Right to work, women should not be turned down for jobs merely because they are women. In some cases bosses don't employ women of child bearing age, because they argue that these women will take off from work, because of their responsibilities towards their children.

WOMEN AND THE RDP

The establishment of women's sections as part of the national, provincial and local RDP forums.

WOMEN AND LOCAL GOVERNMENT

WOMEN AND LOCAL GOVERNMENT

The establishment of a women's desk as part of Local Government structures.

WOMEN AND SOCIAL PENSIONS

The white paper on social welfare should address the issue of low pensions paid to old age women. In the light of the reality that the majority of old age women head households single handedly and that they take care of extended families with their pensions.

YOUNG WOMEN/LOST GENERATION

Particular concern about young women (lost generation), the need for government to implement programmes for them.

EDUCARE

Noting that only 5% (five percent) of the national budget is allocated to educare. Proposal for this to be increased.

WOMEN AND WORK

Women present felt that the work they do, be it in industry, home, community etc. should be recognised and valued.

