

C12

[12]

**GENDER
ADVISORY
COMMITTEE**

143



REPORT OF THE GENDER ADVISORY COMMITTEE TO CODESA 2

Due to enormous public pressure about the lack of representation at CODESA of women, who form 53 % of the population, and subsequent suggestions and submissions by women's organisations, political parties and other organisations, the Management Committee of CODESA decided to form the Gender Advisory Committee. The GAC is a subcommittee of the Management Committee charged with the special task of looking into the Terms of Reference, minutes and decisions of each of the Working Groups, and those of the Management Committee, and advising on their gender implications. All CODESA participants have so far sent representatives to the GAC with the exception of the Bophuthatswana and Venda Governments.

The GAC met for the first time on 6 April and has diligently studied the Terms of Reference, minutes and most of the decisions already taken by the Working Groups as well as internal and external submissions from women's organisations and political parties, with an unusual spirit of unity. The GAC has reached consensus on many issues, but consensus was not reached on others.

144

1. **RECOMMENDATIONS AND ADVICE ON THE GENDER IMPLICATIONS OF ISSUES RAISED IN WORKING GROUP 01**

1.1 **The Free Political Participation of Women**

Noting the Terms of Reference of Working Group 01, Items 1.1.4 (k), (p) and (o), the GAC recommends the following:

- 1.1.1 The rights of access of women to public facilities and meeting venues should be ensured, as should their right to meet with political organisations. This recommendation is necessary so that women can participate without fear and on an equal footing in the political process.
- 1.1.2 The right of access of political organisations to public facilities, and their right to meet with potential voters, is meaningless unless women may participate in the democratic process on an equal footing without fear of public or private harassment and intimidation.
- 1.1.3 That the roles mentioned here (Item 1.1.4 (o) of the Terms of Reference of Working Group 1) concerning educative and informative campaigns should be broadened to include specific educational campaigns informing women of, inter alia, their right to vote, particularly in areas where women are unlikely to be reached by usual media.

1.2 **Agreements on Political Intimidation and Women**

With regard to the agreement reached by sub group 2 of Working Group 1 on the Definition of Political Intimidation, the GAC recommends that the following additions be made to the activities which would, as per the aforesaid agreement, be considered, in particular, as forms of political intimidation (refer to Item 4.2 of the Minutes of the meeting of Sub-Group 2 of Working Group 1, 2 March):

- 1.2.1 To compel women, both within and outside the home, by virtue of the "power" vested in men with whom they may associate, to adopt a particular political position; or to similarly prevent women from engaging in free political activity.
- 1.2.2 To use political patronage in any form that threatens or denies an individuals political, social and economic rights, especially noting that women are frequently the victims of such practices.
- 1.2.3 To sexually harass any individual and thereby prevent him/her from the freedom of the right of expression/opinion, association and movement.

With regards to item 1.3.3 above the GAC defines sexual harassment, in general terms, as sexual advances without express consent, including innuendos or language of a defamatory or offensive nature, in all spheres, including political, social and economic life and in the media.

1.3 **Agreements of the Interpretation of the National Peace Accord**

With regards to agreements reached by Sub-Group 2 of Working Group 1 re the implementation and interpretation of the National Peace Accord, the GAC recommends that the following additions be made (refer to Item 6.1.6 and Item 6.4.1, respectively, of the minutes of Sub-Group 2 of Working Group 1, on 7 April):

- 1.3.1 That the reference to "Business representatives" in clause 7.4.4.3 of the NPA be interpreted to include representatives from professional and women's organisations.
- 1.3.2 The NPA make special efforts to include representatives of relevant local and tribal authorities as well as local women's structures into all RDRC and LDRC structures.
- 1.3.3 With regards to item 1.4.2 above (and with specific reference to items 6.1.6, 6.3.2, 6.4.2, 6.5.2, 6.6.2, 6.6.3 and 6.8 of the minutes of the meeting of WG1 SG2, 7 April) the GAC recommends that as part of its input on the interpretation and implementation of the NPA Working Group 1 recommend that women be included in all structures created by the NPA, RDRC's and LDRC's to ensure that gender implications of all decisions and functions of these structures, are considered.

1.4 On the Security Forces, Free Political Activity and Women

Noting that the many acts of violence committed against women allegedly by the security forces are a source of grave concern, the GAC recommends that:

- 1.4.1 any such crime be immediately investigated;
- 1.4.2 violent crime against women be treated with stricter and more stringent disciplinary action;
- 1.4.3 when searches of homes are conducted, women police must accompany male police;
- 1.4.4 the position of high ranking officers who are unable or unwilling to maintain adequate control over their forces be urgently reviewed;
- 1.4.5 any peace keeping force should include women within their structures at all levels;
- 1.4.6 the gender sensitivity of these forces (refer to item 1.5.5) be monitored;
- 1.4.7 all individuals be informed of their rights with regard to the role and functions of these forces (refer to item 1.5.5);
- 1.4.8 these forces (refer to item 1.5.5) be trained to be gender sensitive and to ensure that they do not violate the rights of women.

Noting the lack of agreement in Working Group 1 over the definition of political prisoners, no recommendations with regards to the gender implications of this issue could be agreed upon.

The GAC also recommends that any Security Force established in the country, including the TBVC states, must begin to immediately redress race and gender imbalances both in their composition and functioning at all levels and introduce a Code of Conduct and norms which will create confidence among all the people of South Africa.

1.5 Working Group 01 Terms of Reference

The GAC proposes that Item 1.1.4 (c) of the Terms of Reference of Working Group 01 should be amended to read as follows:

"The amendment and/or repeal of any remaining laws militating against free political

activity including the elimination of racial and gender discriminatory laws."

1.6 The Media in the Transition (Recommendation to Working Groups 01 & 03)

The GAC recommends that Working Group 1 and Working Group 3 agree upon a politically neutral Independent Communications Authority which shall:

- * include gender conscious persons;
- * facilitate media access for women;
- * monitor and discourage sexist programmes, articles and advertising;
- * encourage non-sexist, non-discriminatory publications;
- * ensure the participation of women on all media bodies, at all levels;
- * organise that radio and television programmes which educate women about the democratic process and their right to participate therein without fear of intimidation, are prepared as a matter of urgency

2. Recommendations and Advice on the Gender Implications of the Issues Raised in Working Group 02

2.1 Constitutional Principles

The GAC advises that:

- 2.1.1 It fully supports a Justiciable Bill of Fundamental Human Rights to be attached to the constitution.
- 2.1.2 It fully supports the concept of a qualified Equality Clause in the Bill of Rights and the Constitution.
- 2.1.3 It recommends that Working Group 2 address the problem of redressing and eliminating gender inequalities.
- 2.1.4 It recommends to WG 2 that they take note of the desirability of a document containing a set of ideals regarding gender issues, which should be accepted by a future Constitution Making Body as a document to be used by the courts to assist women in claiming and exercising their rights under the constitution and Bill of Rights to ensure gender equality.
- 2.1.5 The GAC further recommends to Working Group 02 that the Bill of Rights include some form of rights and protection for children.

2.2 Constitutional Language

The GAC recommends that the terms "men and women" and "men, women and children" be used wherever respectively appropriate, in the drafting of the Constitution, in place of the terms "people" or "persons".

2.3 On Agreements Reached Regarding Constitutional Principles

Regarding the "Provisional Areas of Commonality that Already Exist" in Working Group 02 as adopted by the Steering Committee of WG 02 on 27 April, the GAC recommends the following (refer to Document prepared by the Steering Committee of Working Group 2 on 27 April):

- 2.3.1 Item 1.1.3 should be amended to read "The diversity of languages, cultures and religions will be acknowledged, within the non-racial and non-sexist principles of the Constitution."
- 2.3.2 Item 1.1.7.1 should be amended to read "A judiciary that will be independent, non-racial, impartial, gender sensitive and inclusive of women."
- 2.3.3 Item 1.1.7.2 should be amended to read "An entrenched and justiciable Bill/Charter of Fundamental Rights, which will protect the rights of women and children."
- 2.3.4 Item 1.2.2 should read "At each level there shall be democratic representation, consistent with non-racial and gender sensitive principles."
- 2.3.5 Item 1.3.1 should read "A new constitution shall provide for effective

148

participation of minority political parties consistent with democracy, non-racialism and non-sexism"

2.4 Constitution Making Body/Process

- 2.4.1 The GAC recommends that when drawing up the electoral procedures, methods should be sought to encourage full participation of women. This should apply to both encouraging women to exercise their political rights to campaign and stand for election as well as to vote. These provisions would include, among others, education programmes, elimination of sexual harassment (refer to item 1.3), drawing up of electoral lists and giving women reasonable exposure in the media.
- 2.4.2 The GAC strongly recommends that all parties include a fair proportion of women in their electoral lists. It is essential that women are evenly distributed within the lists, to ensure their inclusion in the elected body.
- 2.4.3 The GAC recommends that any committees set up by the Constitution Making Body must contain an adequate number of women.
- 2.4.4 The GAC recommends that the Constitution Making Body should consider a sub-committee to monitor and raise gender issues in the drafting of the Constitution and the Bill of Rights.
- 2.4.5 The above 4 proposals should apply to future elections at a local, regional and national government level.

3. Recommendations and Advice on the Gender Implications of the Issues Raised in Working Group 03

3.1 The Funding of Programmes for Women

The GAC advises that Working Group 3 reach an agreement on the principle of funding and programmes to ensure the meaningful participation in, and education about the democratic electoral process.

In order that women be timeously informed about the franchise, and thus enabled to participate in interim elections without fear of pressure or intimidation, it is suggested that such agreement be expeditiously concluded.

3.2 The Technical Report to the Steering Committee of Working Group 3

The GAC advises the Technical Committee, Working Group 3 and its Steering Committee on the following points concerning the Technical Committee's recommendations made on 27 April:

3.2.1 In addition to Item 7.1 of the report:

"* Shall include women in its composition."

3.2.2 Item 10 of the report should state:

"The transitional executive structure will be constituted by legislation agreed to by Codesa, will have a multi-party character, including women and be . . ."

3.2.3 The reference to "persons" in line 14 of Item 10 of the report should be replaced by a reference to "men and women".

3.2.4 Line 5 of Item 14 of the report should read:

"Save for agreement that the TEC must have multi-party character, including women, the precise criteria . . ."

3.2.5 It is also recommended that the proposed TEC should include a Gender Structure, the exact nature of which is still to be determined.

3.3 Women and Local Government

The GAC advises that special mechanisms be created to promote the participation and representation of women in local government structures, so that these structures more closely reflect the gender composition of the populace.

Any projects undertaken during the life of CODESA and the Interim or Future Governments should be aimed at the interests of all groups in local communities including women.

3.4 The Media in the Transition (Recommendation to Working Groups 01 & 03)

The GAC recommends that Working Group 1 and Working Group 3 agree upon a politically neutral Independent Communications Authority which shall:

- * include gender conscious persons;
- * facilitate media access for women;
- * monitor and discourage sexist programmes, articles and advertising;

- * encourage non-sexist, non-discriminatory publications;
- * ensure the participation of women on all media bodies, at all levels;
- * organise that radio and television programmes which educate women about the democratic process and their right to participate therein without fear of intimidation, are prepared as a matter of urgency

3.5 Women and the Foreign Service

Noting that South Africa's foreign relations have mainly been conducted by men, as from the interim government women should be trained, employed, promoted and recognised on an equal basis with men within the diplomatic service. Any existing discriminatory regulations and practices with respect to gender and race in South Africa's foreign service need to be removed.

3.6 Land and Women

The GAC wishes to place on record that no consensus could be reached on the following proposals concerning land and women:

Proposal 1: That Working Group 3 suggest an urgent Commission of Enquiry into legislation which prevents women's access to land ownership in South Africa and the TBVC states, and that the results of such an enquiry be immediately embodied in legislation.

Proposal 2: That Working Group 3: (1) look into those laws which prevent/inhibit women's ownership of or access to land in South Africa and the TBVC states, with the intention of amending or repealing those laws and (2) that there should be an immediate moratorium on the sale and transferral of all state property to private or corporate individuals and organisations.

4. **General Recommendations to Codesa (to all Working Groups)**

4.1 **Non-Sexist Language in CODESA documentation**

The GAC recommends that CODESA documents should explicitly define the word "person" as referring to both men and women.

4.2 **Gender Discriminatory Legislation**

The GAC recommends the repeal of all legislation in South Africa and the TBVC states which discriminates on the basis of race, creed or gender which circumscribe and impede free political, economic or social activity. We suggest that this be attended to by a general law asserting certain basic civil and political rights, combined with an omnibus law repealing all legislation in accordance with a schedule of Acts to be provided by the GAC. We advise Working Groups 1, 2, 3, 4 and 5 to assist in the identification of such legislation.

5. **Conclusion and The Way Forward**

In conclusion, and in view of the short period of time which the GAC had had at its disposal, the GAC wishes to point out that, as of 7 May, proposals and recommendations on the proceedings of Working Group 4 and 5 have not yet been formulated, and that there are certain areas in other Working Groups on which consensus has not yet been reached. The GAC would also wish to look at present discriminatory legislation which needs to be repealed or amended. The GAC therefore recommends that it continues with its work after CODESA II both in terms of uncompleted work, feed-back on its submissions from the relevant Working Groups and forthcoming agreements emanating from the various Working Groups and committees.