

2/4/10/5/13/11

CONSTITUTIONAL ASSEMBLY

**SUBTHEME COMMITTEE 6.3
THEME COMMITTEE 6
SPECIALISED STRUCTURES OF GOVERNMENT**

**WORKSHOP ON NATIONAL MACHINERY FOR THE ADVANCEMENT OF WOMEN -
JUNE 2/3 1995**

PROGRAMME

Friday 2 June 1995

- 9:30 - 10:00 **Registration and Tea**

- 10:15 - 10:30 **Opening and Welcome**
 Speaker: Ms Baleka Kgositsile (Chairperson Subtheme 6.3)
 Facilitator: Ms Jenny Malan (Member of Subtheme 6.3)

- 10:30 - 11:30 **What are the needs of South African women?**

 Panelists: Dr Prinsloo (Unisa Department of History), Ms Rhoda Kadalie (Gender Equity Unit, University of the Western Cape).
 Facilitator: Ms Jenny Malan (Member of Subtheme 6.3)

- 11:30 - 12:00 **Introduction and recent history of women's struggle for equality (including discussion on the Commission for Gender Equality in the interim constitution and the status of National Machinery in South Africa - using the Beijing Report):**

 Speaker: Ms Mavivi Myakayaka - Manzini (Member of the Constitutional Assembly)
 Facilitator: Ms Patricia De Lille (Member of the Constitutional Assembly)

- 12:00 - 12:30 **What is National Machinery**

 Speaker: Dr Catherine Albertyn (Co-ordinator Gender Project, Centre for Applied Legal Studies, University of Witwatersrand and Technical Advisor to Subtheme Committee 6.3)
 Facilitator: Ms Patricia De Lille (Member of the Constitutional Assembly)

12:30 - 13:30 **Lunch**

13:30 - 14:30 **What is already in place? - Identification and explanation of existing structures and how they will advance the rights of women including:**

- a) **Human Rights Commission**
- b) **Public Protector**
- c) **Gender in the RDP**
- d) **Courts**
- e) **Parliamentary caucus**

Panelists: Ms Sheila Camerer (Member of Subtheme 6.3), Advocate Janet Kentridge, Ms Mmatshilo Motsei (Gender Co-ordinator Reconstruction and Development Programme).

Facilitator: Mr Cyril Ramaphosa (Chairperson Constitutional Assembly)

14:30 - 16:30 **Small group discussion on the following:**

What are the needs of South African women? This discussion should be an attempt to identify some of the needs that a Commission for Gender Equality or other structures could meet.

What structures (other than Commission for Gender Equality) are already meeting/could meet those needs?

What are the constraints facing us - economic, political, social.

16:30 - 18:30 **Report back from small group discussion
Facilitator: Ms Baleka Kgositsile (Chairperson Subtheme 6.3)**

Saturday 3 June 1995

8:30 - 9:00 **Tea**

9:00 - 11:00 **Comparative survey of national machinery in Commonwealth countries, including benefits, constraints and limitations. In addition this would also examine examples of both enforcement**

and policy models.

Speakers: Commonwealth: Ms Maria Kapere (Under Secretary for Women's Affairs, Namibia), Ms Susanne Tongue (Australian Law Reform Commission), Ms Sarah Longwe (Consultant, Zambia).

Facilitator: Ms Dene Smuts (Member of Subtheme 6.3)

Respondents: Prof Ronel Erwee (Graduate School of Management, University of Pretoria and Technical Advisor to Theme Committee 6.3), Ms Thuli Madonsela (Centre for Applied Legal Studies).

Facilitator: Ms Dene Smuts (Member of Subtheme 6.3)

- 11:00 - 13:00 Small group discussion on the following:
- Should we have a Commission for Gender Equality and what form would it take?**
- 13:00 - 14:00 **Lunch**
- 14:00 - 15:00 Small group discussion on the following:
- How should the Commission be constitutionalised, if at all?**
- 15:00 - 17:30 Reportback to plenary and consensus or identification of options.
Facilitator: Ms Baleka Kgositsile (Chairperson Subtheme 6.3)
- 17:30 - 17:45 Vote of thanks - Mr Hassen Ebrahim (Executive Director Constitutional Assembly)

Mr Cyril Ramaphosa opened this session of the workshop and made the following remarks:

1. The workshop was an important event in CA's calendar as it provided an important opportunity for interfacing between the CA and important sector of society, i.e, women.
2. The workshop presented an opportunity for women of our land to reach consensus on a broad range of key issues for consideration by the CA.
3. Mr Ramaphosa assured delegates at the workshop that all submissions that will be made at the workshop will be treated seriously by the CA.
4. Mr Ramaphosa concluded his talk by declaring that key projects of the South African Society are deracialisation and the emancipation of women. And added that the struggle for non-sexist order in our country should be waged by both men and women. In this regard Mr Ramaphosa registered his disappointment at the few number of men who attended the workshop.

SPECIALISED STRUCTURES FOR TRANSFORMING SA SOCIETY

Four papers were presented under this rubric by Ms S Camerer, MP (National Party MP and TC6.3 member), Ms J Kentridge (Advocate of the Supreme Court of South Africa and a member of Johannesburg Bar) and Ms M Motsei (RDP Office).

Ms Camerer began her input by asserting every woman parliamentarian has experienced one form of discrimination or the other. Parliament, Ms Camerer contined, is dominated by men who inherently like power.

Ms Camerer proceeded to identify all specialised structures relating to transformation and monitoring existing under the interim constitution:

The Human Rights Commission (HRC)

The HRC, so argued Ms Camerer, should be flexible in performing its functions.

She referred to the equality clause in the Bill of Rights and averred that the clause had two components, i.e, equality in the sense of equity and fairness and equality in the context of establishing mechanisms to assist disadvantaged groups.

Gender Commission on Gender Equality

Ms Camerer explained that the interim constitution creates an enabling framework for the establishment of Commission on Gender Equality whose object shall be the promotion of gender equality.

Ms Camerer also explained that Parliament has established an Adhoc Committee for the Establishment of the Commission for Gender Equality. This Committee,

explained Ms Camerer, had already considered draft legislation on Gender Equality prepared by the Department of Justice. Ms Camerer added that this draft legislation was slovenly drafted.

Ms Camere also made the point that women would that the Commission on Gender Equality would not necessarily be an effective machine, as it would operate under severe constraints.

Public Protector

The role of the Public Protector is to protect the public against abuse of public resources by state officials through corruption and maladministration.

Parliamentary Women's Caucus

The idea of establishing a Parliamentary Women's Caucus is a brilliant one especially in a male dominated society like South Africa. However, a number of problems were raised respecting the the existing "Parliamentary Women's Caucus":

1. The Caucus is dominated by the ANC and therefore not de facto multi-party institution;
2. The withdrawal of the speaker, Ms Frene Ginwala, from the Caucus is blow as Dr Ginwala as distinct ability to bring women, across ideological lines, together. Mr Ginwala's withdrawal has affected the participation in the caucus of women from parties other than the ANC;
3. Meetings of the Caucus are poorly organised;

Despite the above problems, Ms Camerer asserted that the caucus had done some positive things such as the organisation of the Womens day on 9 August 1994.

Adv J Kentridge considered all structures provided for within the interim Constitution. Advocate Kentridge asserted there were a number of structures established in the constitution for purposes of advancing the course of human rights. The Commission on Gender Equality was one such structure which came into the constitution as an after thought being a means to placate women in the quest for gender equality.

Advocate Kentridge argued that the following factors would have to be taken into account in considering the Commission on Gender Equality:

1. There is a need to avoid a proliferation human rights structures as such such structuers are only as good as the people within them;
2. Women should not only be heard on sectional interest issue as every single issue is a women's issue;

3. Given dearth of resources in our country, in considering the Commission on Gender Equality, it is important for women to consider the best mechanisms of utilising resources.

Advocate Kentridge proceeded to consider some of the structures provided for in the Interim Constitution, i.e, the Human Rights Commission and the Public Protector.

The Human Rights Commission is provided for in s115 of the Interim Constitution. The Constitution give the HRC broad Bill of rights: Promises to people : = btw men & women. Make this real. What does women do if rights are violated. HRC s115 sets out broad powers.-- info programs. Advise. Women must be placed in centre. HRC mediate and negotiate. Courts slow arduous and expensive. Also emp to make inv

Public Protector - courtesy, respect, maladmin. It also has to be sensitive to women. Avoid overlap. Don't rush structures think care fullt

Matshilo Motsei: RDP - transformation of govt . Women marg. Wanted to consult but this not possible becous . Draft policy doc to be circulated for comment. women not represented in water comm. Land Rest - Violence against women. women dangerous. Gender sensitive program.

Group 1

What are the needs of SA women

Imp for women to access govy and ministries
link with parl
Exec arm of govt to address needs of women
Access of info
Safety and security
implementing structures
capacity building

Review of structures in existence
GC clear policy
Research
Gender input to policy making
GC must have teeth

Constraints

Not taken seriously
Finance and resources
Lack of skills
Subservient
Support systems
Culture and religion
Strong women's mov
Poor co-ord

Diversity - recognise eg racism

Patriarchy

Group 3

Constraints

Poor Co-Ord. How will GC co-ord. Women Parl lost contact with civil soc. Gc should go to lower level. Finance not a constraint. Standing com to ensure GC. Coord with HRC,PP. Dev of problems. Inv systemic problems. Take matters to crt and refer to HRC. Gathering of data in add to research. Com should be able to start and monitor legislation. Support RDP and refer some issues to NGO's . Powers necessary to give effect to = clause.

Group 2

Mbatha - Cals.

Needs:

Poverty and unemploymnebt. Posit of women under Cust law needs to be addressed.

There is need for Gender C. Possible for structure to overlap. Finance. Human resource. Elist.

Why GC: Women's rts inc in H RTS. GC should be at lowest level.

Group 4

Needs

Information about structures. Educ.

News laws and laws reform programme. Dev. Impl of gender policy. Existing structures not sure about them. WM thru NGO strong. Within WM capacity bldg.

Dev of sup and adv centre where to go

Monitoring and structoures and gov.

Networking and forming alliances.

Look at problems of the disabled.

Constraints

Male culture makes it impossible to lobby

Bal of power btw legis and exec

Questions

Elizabeth: Parliamentary caucus non existence. Not proper quest for forum. ANC leader on Gender.

Corvettes and GC frugal
Uneducated women

Not equality but equity. Do not denude notion of equality to equity. NGO coalition already exists.

GC as part of National Machinery. Interaction.

When Gender Com. Clarify role of GC. Monitor and put pressure. Sexual Orientation.

SUMMARY

Group 1
Have GCE. Gender
Entrenched in const.
Prov govt should created

1. Nat policy on gender to remove sex
GCE should have a focus.
GCE should have vertical horizontal application. Substantially budget. Transform
attitude towards gender

Group 2

Entrench Nat Machinery ref to GCE;
Ref to time frame for establishment of GCE;
Role: Policy monitoring. Role of structures and service delivery would be gov't
structures.
Selection process should be broadly reps.

Group 4

Concur

Mechanism to be entrenched. Prioritization
Warnings Body flexible and defined minimalist. If not in constitution it would be
victim of budgetary cuts.
Give content to terminology.
Gender encompasses power relate
Independent, accountable and across party political lines.
GCE to be part o

Group 3

GCE should be effective at all levels of govt.
Research, feed not parl
Info supply. Substa equality. Cri.
CG should monitor and make policy. Flexible. GCE should interact with women. GCE
independent of govt and should be sensitive. Matters of women should not be in
Pres' office.
Accountability of leadership

Summary

Consensus, there is a need to constitutionalise National Machinery specifically GCE.
GCE would investigate imb.

Resolutions:

ADHOC COMMITTEE

The Workshop noting the following:

- (a) that the Adhoc Committee on Gender is considering legislation on the Commission on Gender Equality in terms of the provisions of the Interim Constitution; and
- (b) that a year has lapsed since the inauguration of the Government of National Unity.

Resolves as follows:

1. A report on the proceedings of this workshop be made available to the Adhoc Committee; and
2. The Adhoc Committee on Gender be requested to finalise its work on legislation for the CGE within a month of receipt of the report.

CEDAW

The workshop on National Machinery for Women held at the WTC on 3 June 1995 noting the following:

- (a) that SA has signed, but not ratified, CEDAW;
- (b) that the ratification of CEDAW would serve as a useful basis for formulating a national programme for the empowerment of women.
- (c) that the UN will hold its 4th Conference on Women in September 1995; and
- (d) that South Africa will celebrate its 1st National Women's day on 9 August 1995.

Resolves:

1. that the GNU should ratify CEDAW and set up structures for the implementation of CEDAW;
2. that CEDAW be ratified by the GNU on or before 9 August 1995.

NATIONAL MACHINERY WOMEN

Resolve that:

1. the *Adhoc* Committee, the RDP office and TC6.3 should, within a month from date hereof, meet to commence a process of co-ordinating and producing, for broad consultation purposes, comprehensive proposals for the development of a National Machinery for Women.