



THESE ARE DRAFT MINUTES. THEY ARE CONFIDENTIAL AND RESTRICTED TO THE MEMBERS OF THE GENDER ADVISORY COMMITTEE, ITS STEERING COMMITTEE, THE DAILY MANAGEMENT COMMITTEE AND THE MANAGEMENT COMMITTEE. THEY ARE STILL SUBJECT TO APPROVAL BY THE CHAIRPERSON OF THE GROUP AND TO RATIFICATION BY THE TECHNICAL GROUP ON LEGISLATION OF THE GENDER ADVISORY COMMITTEE AT ITS NEXT MEETING.

**DRAFT MINUTES OF THE MEETING OF THE TECHNICAL GROUP ON LEGISLATION OF THE GENDER ADVISORY COMMITTEE HELD AT THE WORLD TRADE CENTRE ON 1 JUNE 1992.**

PRESENT: D Bjorkman (convenor) Inkatha Freedom Party  
CJ Roscher South African Government  
VT Gquiba Ciskei Government  
D Dowling Transkei Government  
SM Landers Labour Party  
J Quince South African Communist Party  
J Hunter National Party  
  
I Thompson (Minutes)

**1. Objectives**

The objectives of the group were defined as follows:

- 1.1. To identify existing legislation, regulations and by-laws that discriminate against women
- 1.2. To source the above information through consultation
- 1.3. To make recommendations to the Steering Committee
- 1.4. In pursuit of the above mentioned objectives, to identify and receive relevant information from the Steering Committee which requires research, further investigation and clarification.
- 1.5. To promote and facilitate harmonisation of existing legislation between the RSA and the TVBC states.

**2. Itemisation of statutory source documentation**

- 2.1. The Law Review Report (Louise Tager)
- 2.2. The Magistrates Court Act 32\44
- 2.3. Labour Act - the basic conditions of employment

## MANAGEMENT COM\SUBCOM\GAC\TECH GROUP\LEGISLATION\MINUTES 1 JUNE

- 2.4. Workmens Compensation Act 30\41
- 2.5. Dependants of Workmen
- 2.6. Mines and Works Act 27\56
- 2.7. Companies Act 61\73 - disqualification of directors
- 2.8. Matrimonial Property Act 88\84
- 2.9. Human Tissues Act
- 2.10. Abortion and Sterilisation Act
- 2.11. Public Service Act 111\84
- 2.12. Labour Relations Act 28\56
- 2.13. Report of the UN on elimination of discrimination against women
- 2.14. UN Convention on elimination of all forms of discrimination against women
- 2.15. Discrimination against women - a global survey (E Rhoodie)
- 2.16. Interests of Women - National Manpower Commission (report)
- 2.17. Discrimination in the Public Service
- 2.18. Conditions of service for women teachers
- 2.19. Women's Bureau - Gender Workshop
- 2.20. Women and the Law - G Carpenter (paper)
- 2.21. Nairobi Convention - Women's News (paper)
- 2.22. Fair Lady article (5/6/1991)
- 2.23. Staatsamptenaar May 1989
- 2.24. Teachers' Federal Council Report
- 2.25. Women's Bureau Press Release - Frances Bosman
- 2.26. Pretoria News articles (15/1/1992)
- 2.27. Interim Report on Human Rights - G Carpenter
- 2.28. Transkei Marriage Act (1978)

MANAGEMENT COM\SUBCOM\GAC\TECH GROUP\LEGISLATION\MINUTES 1 JUNE

- 2.29. Transkei Public Service Act (1978)
- 2.30. Transkei Labour Relations Act Amendment
- 2.31. Ciskei Pensions Act and Black Administration Act
- 2.32. Sex Discrimination Act of UK - extracts (1975)
- 2.33. Discrimination against women by law, culture and attitude
- 2.34. UIF Act
- 2.35. Public Service Staff Code
  - a) Application of the WCA on the Public Service
- 2.36. Government service pension regulations
- 2.37. Medical Schemes Act
- 2.38. Social and ideological function of SA customary law - R Suttner
- 2.39. SA Law Commission - submission of Bill of Rights
- 2.40. Guardianship - to be submitted
- 2.41. Taxation - to be submitted
- 2.42. Citizenship - to be submitted
- 3. Regulations**  
Awaiting submissions and itemisation
- 4. By Laws**  
Awaiting submissions and itemisation
- 5. Informal Policies**  
Awaiting submissions and itemisation  
This will include unfair and discriminatory practices in the private and public sector.
- 6. Recommendations**
  - 6.1. The Technical Group recommends the investigation of a draft Sex Discrimination Act.
  - 6.2. The Technical Group requests the time-frame of a week to produce a report.

7. **Next meeting**

The next meeting will be held on Monday 8 June 1992

THESE ARE DRAFT MINUTES AS APPROVED BY THE CHAIRPERSON OF THE GENDER ADVISORY COMMITTEE. THEY ARE CONFIDENTIAL AND RESTRICTED TO THE MEMBERS OF THE GENDER ADVISORY COMMITTEE, ITS STEERING COMMITTEE, THE DAILY MANAGEMENT COMMITTEE AND THE MANAGEMENT COMMITTEE. THEY ARE STILL SUBJECT TO RATIFICATION BY THE GENDER ADVISORY COMMITTEE AT ITS NEXT MEETING.

DRAFT OF MINUTES OF THE MEETING OF GAC TECHNICAL COMMITTEE TO INVESTIGATE GENDER DISCRIMINATORY LEGISLATION ON TRADITIONAL LEADERS.

### STRUCTURE OF TRADITIONAL LEADERS

1. Undemocratic
2. Patriarchal

#### 1. Undemocratic Structure of Traditional Leaders

- 1.1 A person becomes a Chief by birth or appointment not through democratic elections

#### 2. Patriarchal

- 2.1 Chiefs are always men with very few exceptions, the structures they use are predominantly male in their composition. e.g. Councillors, Tribal Authorities, "Ibunga", "Ibandla", "Inkundla"

#### 2.2 Attitude

- 2.2.1 Women are expected to be submissive, subordinate, subservient to men. The women have to stay home bear children, and look after the family. This is common amongst all societies.

- 2.2.2 Women have lower status than men, and cannot take decisions.

#### 2.3 Powers and duties of Traditional Leaders

- 2.3.1 The Traditional Leaders have both Traditional and Executive power.

- 2.3.2 Executive powers are legally defined by local authorities.

2.3.3 Traditional powers are guided by the accepted norms and values of that particular area.

2.4 Power

2.4.1 Before the colonialists came Chiefs and Kings ruled this country.

2.4.2 Chiefs are Custodians and guardians of our customs and traditions.

2.4.3 Chiefs have a right to allocate land.

2.4.4 Chiefs have to see to it that people pay tax and other levies.

2.4.5 The land is usually allocated to men. e.g. unmarried men in the family can approach the Chief for allocation of land where as it is not done with unmarried women and widows.

2.5 Economic Powers

2.5.1 Traditional Leaders collect all sorts of levies e.g. land, cattle, traditional economies etc.

2.5.2 Male dominated structures decide what to do with the levy. They decide how much fine should be paid when a woman is raped, assaulted etc.

2.6 Security Powers

2.6.1 Chiefs have a right to maintain Law and Order.

2.6.2 The Traditional law enforcement officers are always men.

2.7 Customary Powers

2.7.1 As custodians of our Traditions and customs they have to take responsibility even for customs that discriminates against women e.g. Lobola, Polygamy, Customary union, Ukungena, Ukuthwalwa. (explanation below)

"Ukungena"- when your husband dies one of his brothers or a relative take you as a wife and the children.

"Ukuthwalwa" - Abduction of a girl and subsequent forced marriage.

2.7.2 Inheritance

2.7.2.1 e.g. after the death of the Father the eldest son automatically is entitled to everything. In some of the homelands this law has changed but in practice this is still what happens.

3. Arbitrator

Traditional Leaders mediate in conflict situations between families.

- 3.1. Discriminatory mourning amongst husbands and wives.
- 3.2 Sexuality - when a man has many romantic relationships is classified as prestige, where as if its a woman it is seen to be a disgrace.
- 3.3 The stigma of unmarried women and men, and also women who cannot have children.
- 3.4 Deflowered girl - Community embarrasses the man who takes a virgin to bed.
- 3.5 "Ukuhlolwa" examination for virginity
- 3.6 Initiation School, circumcision - there is discrimination against women and men who have not been to these schools.