

Finally, the group established that there is a need for a follow-up meeting to be hosted by one of the participants. No time was set for this kind of follow-up.

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MCH 91-82-4-1



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OUR REF:

YOUR REF:

gender

PER FAX
October 26, 1992

- | | | | | |
|-------------|------------------|-----------------------|-----|----------|
| Attention : | Frene Ginwhala | ANC Emancipation, Jhb | 011 | 330 7242 |
| | Cathi Albertyn | CALS, Jhb | 011 | 339 6649 |
| | Loulsa Zondo | c/o Mavivi Manzini | | |
| | Mavivi Manzini | CALS, Jhb | 011 | 339 6649 |
| | Christina Murray | UCT Public Law | | 650 3776 |
| | Ilze Olckers | LHR, Cape Town | | 47 6182 |
| | Albie Sachs | Cape Town | | 22 2626 |

Comrades

Please find attached copies of minutes of our meeting on September 9, 1992

Please note - these notes were taken by several of the attendees and we have simply merged them.

Please feel free to comment.

Sincerely

Melanie Jacobs
BRIGITTE

b.c12610

*Women
Law
Group
1992*

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PER FAX

October 26, 1992

Attention : **Linda Zama**
 Fax # : **031 304 5736**

Dear Comrade

MEETING OF LAWYERS' GROUP - SEPTEMBER 9, 1992

I wish to hereby convey apologies from myself and the Women's Law Group for failing to contact you in time for the meeting of September 9, at UWC.

Find attached minutes of the said meeting; as you will recognise upon reading the minutes, it was suggested that we request you to convene a women's law group for Natal, to set up a research program and link with similar programmes such as COLAG, CLC and CALS. Your response in this regard will be greatly appreciated.

Sincerely

Brigitte S Mabandla
BRIGITTE S MABANDLA

cc: Women's Law Group

MINUTES OF THE FIRST SESSION OF THE WOMEN'S NETWORKING MEETING
September 9, 1992

PRESENT : Brigitte Mabandla Frene Ginwaha Christina Murray
 Louisa Zondo Cathi Albertyn Mavivi Manzini
 Ilze Olckers Albie Sachs

APOLOGIES : Linda Zama

1. The meeting began with a discussion about the agenda. Frene was asked to outline the reasons for calling the meeting and the agenda would then be adjusted where necessary. Brigitte also asked that the signing of the UN Conventions be discussed by the group.
2. Frene then described the origins of the meeting and informal caucus at the Aloe Ridge Judges Conference and the need for progressive feminist lawyers to make an input in the national debate and in the Women's Coalition. She then outlined the nature of the Coalition which had been in existence for about six months and which included 65-70 organisations.
 - 2.1 It was very broadly based (the Vroue Landbou Unie had recently joined), a fact which was both a strength and a weakness of the Coalition. However, the focus of the Coalition was narrowly defined to obtain the greatest unity, viz. to ensure that women obtain effective equality in the constitution.
 - 2.2 The Coalition was not the voice of women of South Africa and did not presume to speak on their behalf. However, it may be that the Coalition transforms itself into a national women's organisation at the end of it's year campaign.
 - 2.3 Frene then spoke about the process of the campaign. The emphasis was on the participation of women and a participatory research project which would use 100 field workers to engage in dialogue with women as to what they wanted changed in their lives.
 - 2.4 Additional research preparations involved the mapping of women in South Africa, their demography and fieldworker recruitment and training.
 - 2.5 During the collection of the demands, a media campaign would highlight the issues.

- 2.6 Thereafter the demands would be collated and the issues injected into the national debate.
 - 2.7 At the end of the campaign it was envisaged that there would be a database of material and issues for the Women's Coalition to take up in whatever manner it saw fit. Here it would be the task of the professionals to work out how to do this.
 - 2.8 Funding: this was ongoing. South African money had been used for the initial stages.
- 3 Frene then introduced a number of themes for discussion:
- 3.1 **Nature of the Charter**

Frene argued that the nature of the charter should flow from an understanding of gender oppression. We should consider whether there is a distinction between discrimination and oppression, and whether gender was the same as disability in this context. Her personal view was that we should avoid the term "women's rights" as this could lead to a ghettoisation of women's issues. We should be looking the issue of equality and how the structural subordination of women prevents them from claiming their rights on equal footing with men. This was important both strategically and for the attainment of effective equality.
 - 3.2 **Role of Lawyers**
 - 3.2.1 Frene suggested that lawyers should be involved in the public education programme and should be participating in the debate both individually and collectively. For example, it was necessary to respond to National Party propaganda that women are "okay" under its rule.
 - 3.2.2 The Coalition itself will use lawyers from a cross-section of the political spectrum. Progressive lawyers accordingly needed a network to strengthen this lobby. We should be involved in research, thinking and using our expertise on women's issues.
 - 3.2.3 This was being done in the ANC in the Emancipation Commission, but lawyers should organise outside of the ANC.
 - 3.2.4 Lawyers should also be involved in research and support work for policy, law reform and legislative programmes of the new government. Aspects of the bill of rights and the women's charter were also crucial.

4 The agenda was then settled:

- 4.1 Context)
- 4.2 Focus) covered in discussion with Frene
- 4.3 Process)
- 4.4 Nature of Charter
- 4.5 Role of lawyers/networking
- 4.6 Research
- 4.7 Conferences
- 4.8 The way forward

5 **The Context**

- 5.1 Brigitte raised the signing of the UN Conventions as a matter of concern. She said that the ANCWL has issued a problematic statement on this and that women should respond fully.
- 5.2 Cathi suggested that women had put women's issues on the agenda, particularly through the women's charter campaign, and that the NP was "jumping on the bandwagon" and engaging in the issue.
- 5.3 Frene went further to say that the government was attempting to subvert the momentum which had been initiated by women.
- 5.4 Brigitte felt that the context was important to allow us to be strategic in our work.
- 5.5 Christina suggested that the key question to address was how we retain the initiative.
- 5.6 Brigitte then made a proposal that a scholarly response to the signing of the conventions be formulated. A discussion on how to do this ensued in which the following points were made:
 - 5.6.1 the decision by the government was undemocratic and without the consultation of women;
 - 5.6.2 the signature was illegal or undemocratic in terms of international law and the illegitimacy of the present government
 - 5.6.3 a discussion of the substantive issues of the conventions would demonstrate the present inequality of women in South Africa.
- 5.7 Ilse suggested that one strategy would be to call the government's bluff and insist on the full implications of the conventions, as this could mean an improvement in women's status and position. However, she expressed a reservation that the illegitimacy and undemocratic nature of the government may militate against this option.
- 5.8 There was also some confusion as to the legal effects of signature and whether signature had in fact taken place. Frene said that signature alone did not change the laws of the country. Signature had to be ratified in parliament and the laws changed by the

legislative process. She suggested that the Convention had been signed in December 1991 (however this is not clear from the press reports).

- 5.9 Albie then intervened in the debate to make the following points:
- 5.9.1 The NP had signed the Convention to get votes and to head off the charter campaign.
 - 5.9.2 The Olivier Commission had made a similar statement about the common law. Albie suggested that a formal response be made to Olivier on this.
 - 5.9.3 Conventions do not provide the basis for substantive rights, but required a Charter.
- 5.10 Christina disagreed with Albie's last point, arguing that accession to the UN Charter does not require a Charter and that a charter can only provide a framework within which more detailed laws can be made.
- 5.11 Albie agreed with this, but stated that in his view, the "new democratic outlook" required an all-embracing charter which did not exclude detailed laws.
- 5.12 It was then decided to hold a discussion on the Charter until the proper time of the agenda.
- 5.13 It was generally agreed that the Convention was not enough, although it could legitimise rights and give leverage to the women's causes.
- 5.14 Albie suggested that we go through the Convention clause by clause to assess what was required for its full and effective implementation in SA. Brigitte added that this should be done for all conventions. Christina suggested that we do a publication on this and asked if CALS could take responsibility for this. She thought that the publication should explain what the convention says; how it is applied; and what were the problems with its application in SA. Frene thought that this should be a practical publication which could be circulated and used. It should cover all four documents.

6 Focus

It was felt that this had already been covered.

7 Nature of the Charter

- 7.1 Brigitte briefed the meeting on the international role of the charter as a political document and how several countries were considering this strategy as a result of the reversal of women's gains. In Canada, women had drawn up the "Women's Agenda"; Finland was considering charter; Sri Lanka and Colombia both had such documents.

- 7.2 Frene said that many international charters had been declarations of aspiration and that we wanted something that could be part of the constitution. The form that it would take was undecided. It was generally recognised that we should put as much as possible into the bill of rights. We should also be looking at the range of constitutional mechanisms needed to achieve what we want. We should also examine other charters for their implication on the women's charter. She felt that we did not need to discuss the status of the charter.
- 7.3 Christina said that she held an opposing view that the bill of rights should contain as little as possible. This informed her sense of how to proceed.
- 7.4 It was agreed that the various approaches and options in respect of the charter would be outlined and discussed after tea.

NETWORKING AND STRUCTURE

It was agreed that networking was desirable amongst women working in the area of "Women and Law". Regions were to be encouraged to devise mechanisms for networking. Concern was raised about the absence of Natal at this meeting. It was agreed that Linda Zama should be briefed about the outcome of the meeting and encouraged to form a group in Natal which will work in liaison with other regions on "Women in Law". P J Schukart, Navi Pillay, Leah Gcabashe, Bess Pillomer and Ann Skelton were suggested as persons who could link up with the Natal group. The meeting then discussed the relationship between researchers in the area of "Women in Law" and the National Coalition of Women. The following ideas were discussed :

That researchers pursue their programmes but be available when required by the coalition.

That in the event of work done for the coalition, there should be acknowledgement of their contributions by the coalition.

The question was raised specifically with regard to the group meeting and the coalition - viz., whether it formally constitutes a forum, to be called the national forum in relation to Law and Gender, or an ad hoc formation of different groupings. It was agreed that the group constitutes itself as an informal group of lawyers, available to be part of any other structure conceived by the coalition.

Strategies in Networking were then discussed.

It was agreed that there should be an inventory of what is being done in the area of research relating to gender issues. Further, that those gathered at this meeting should exchange information and circulate material relevant to gender issues. Efforts must be made to facilitate accessibility of research done, to activists and the community, whilst also targeting the legal profession. To this end, therefore, there will be a need to produce conceptual papers as well as papers geared at mobilising communities.

Participants at this meeting then discussed networking efforts in their regions. Cathi explained that in her area of work she has linked up with other women working in other areas of law, such as legal practitioners and academics.

They have formed a forum at which they have divided themselves according to areas of interest. Some women are working on land and housing. This group networks with PLANACT. They have a group that looks at women in the workplace, another at customary law.

Cathi explained that her particular area of research is to investigate how to ensure substantive equality through the constitution. Accordingly, her Centre is planning an equality conference around February 1993.

Mavivi, a co-worker, explained that her area of work relates to investigating customary law, its role in the future. She is also focussing on the role of the institution of chieftainship. She explained further that they have an intern who is doing rural field trips in preparation for the research database they intend establishing.

Brigitte explained that the Gender Project has a component of establishing a resource centre; that current work relates to inhouse research on constitutional issues in the context of gender. Accordingly, the Centre is also seized with investigating substantive equality for women in the constitution. She further said that the Centre is exploring the effects of customary law on women. There have been consultations with Muslim women with a view to organising a seminar on Muslim law; that with regards to customary law, attempts are being made to link up with Unitra and Fort Hare.

In response, Frene said that it was essential not to isolate Islamic women from the discourse of religion and women in general as this might impede the full treatment of the issue.

With regard to overlap between CALS and the C.L.C, Brigitte said that possible overlap could be avoided through consultations

Lize of Lawyers for Human Rights (LHR) explained that her gender programme is primarily regional, and they focus on the following issues :

- (a) Maintenance claims
- (b) Battering - they have five working groups dealing with this matter
- (c) Combating rape initiative - in this regard she explained that the AG has asked her to coordinate "Reform in the Rape Law".

She also networks with COLAG in constitutional and and jurisprudential work. She further explained about a judicial education project that LHR is likely to be involved in in liaison with the Canadians. In response to Lize's input on jurisprudential work, Cathi suggested that research should begin investigating gender bias in law reports

In response to the judicial education project Brigitte cautioned that Cathleen Mahoney is not properly linked to structures, and as such, Canadian women who spoke to her were unhappy about the programme. It was agreed that the matter needs to be looked into by LHR, as the idea was in principle, a good one. An appropriate programme should therefore be established to take that programme forward.

Christina gave an insight into what COLAG is doing. She explained that they have been doing the following :

- (a) investigating a format of a clause on substantive equality
- (b) affirmative action
- (c) family law
- (d) quota system for women in parliament and government

In response to the latter, Frene suggested that the concept of quotas in elected institutions should be looked at separately from quotas for elections.

CONFERENCES

Cathi & Mavivi attended a meeting facilitated by IDASA to discuss a Women's Ministry. The meeting aimed at preparing for a conference on a Women's Ministry. The workshops will be held on 5, 6, or 7 December 1992, and will be exploratory and informative. IDASA will facilitate the workshop. 15 - 20 academics, and various organisations (politics), are expected to attend.

GENERAL

The following issues were raised :

That the SA government has signed the JN Convention. Brigitte proposed that this matter be investigated further, and a protest letter sent to the Press.

Brigitte further said that she had heard that Thandabantu Nhlapo is involved in a law reform commission dealing with women's issues. She proposed that this matter be looked into.

Iize pointed out that women in the Western Cape region are raising the issue of abortion and would like the matter to be returned onto the agenda of feminist discourse.

It was further said that some institutions, under the guise of non-racialism, are dropping racial indicators in their statistics, and it was agreed that this may present a danger of establishing factual research where the same has implications for non-racialism.

WHAT IS TO BE DONE

- i) CALS should coordinate work on the list of UN documents / conventions on women.
CEDAW
CPRW Convention on Political Rights of Women
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Married Women.
The Coalition could be approached for funding for publication.
- ii) An article be written to the Press in response to the signing of the Convention by SA government. This article should be a collective effort, and this article should be released in the name of the National Forum of Law and Gender. Brigitte undertook to send her ideas to COLAG.
A general effort must be made to respond timeously in the Press, to issues that affect women.
- iii) Ilze and Cathi can facilitate on abortion and briefing document with IDASA.
- iv) Research should begin involving women lawyers in the sphere of family law reform. Christina will find out about Thabantu Nhlapola's involvement in the law reform commission. There is a need to link up with Thandabantu.
- v) The group is to urgently examine laws proposed for the transitional government with a view to ensuring equality of the sexes during this period.
- vi) The proposals of government on Gender and Labour recently announced by Kobie Coetzee should be scrutinised. Cathi is to send copies of his address to members of the group. The group is to take an interest in research on the unpaid labour of women.
- vii) It was agreed that Frene circulate documents relevant to the research on women and law to all the members of the group for scrutiny and response.
- viii) The group has to investigate property rights from a gender perspective, and network with LHR's land and rural studies project. The contact person there is Michelle Friedman.
- ix) The group should liaise with Frene in planning the Women's Coalition Conference, due in early 1993.
- x) It was agreed that the dropping of racial indicators in statistics should be investigated.