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**ANC  
WOMEN'S LEAGUE**

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6 March 1992

The Daily Management Committee  
CODESA

Dear Sir/Madam,

Re : ANC WOMEN'S LEAGUE REPRESENTATIONS TO CODESA

Please find herein enclosed written representations of the ANC Women's League to CODESA.

As you will note there is an introduction followed by submissions to each of the 5 working groups.

We hope that these will be taken into consideration during discussions.

Yours in the struggle,

A handwritten signature in cursive script, appearing to read 'G. Shope'.

**GERTRUDE SHOPE**  
**PRESIDENT**

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## **ANC WOMEN'S LEAGUE**

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### **AFRICAN NATIONAL CONGRESS WOMEN'S LEAGUE**

#### **WRITTEN REPRESENTATIONS TO CODESA**

The African National Congress Women's League (ANCWL) is the largest women's organisation in South Africa. It is autonomously constituted and represents a broad spectrum of South African women.

The ANCWL believes that the terms of reference of all the working groups have implications for women. It is not only when a new constitution is drafted that consideration has to be given to gender issues. It is essential that, even prior to that stage, we ensure that the current democratising process eliminates discrimination and oppression of any kind and catapults us into a non-racial, non-sexist and democratic society. Our task in these representations is to ensure that the principles of non-sexism<sup>1</sup> and equality, adopted in the Declaration of Intent, are institutionalised in the transition to a democratic South Africa. We have not, however, confined ourselves to gender<sup>2</sup> issues.

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<sup>1</sup> Sexism may be defined as the system and practice of discriminating against a person on the grounds of sex. Specifically, it refers to unfair prejudice against women, the stereotyping of women, the defining of women in regard to their sexual availability and attractiveness to men, and all the conscious and unconscious assumptions which cause women to be treated as not fully human, while men are identified as the norm.

<sup>2</sup> We feel that we ought to distinguish between sex and gender. "Sex" refers to the biological characteristics of men and women. "Gender" refers to the differential social and cultural characteristics that we attribute to men and women.

At Codesa 1, the absence of women in the negotiation process was raised, and it was agreed that CODESA would rectify this weakness. In this respect, it is important that CODESA looks at different mechanisms which would ensure the increased participation of women in the current process and in the process of writing up a new constitution.

In Working Group I, we will show that there are particular factors affecting the free participation of women in the political process. The exercise of civil liberties, the Peace Accord, the role of the police force, the role of the media and education about CODESA - all have to be looked at from a gender perspective. Do they facilitate or do they further inhibit the participation of women in the political process, or do they just preserve the status quo which already mitigates against women's participation?

In Working Group 2, democracy and all other political practices should be defined as both non-racial and non-sexist. Equality should be entrenched in the Constitution and affirmative action must refer to gender as well as race. The participation of women in the constitution-making body and the electoral process needs to be assured.

Any interim government arrangement proposed in Working Group 3 needs the structured participation of women to ensure that the interests of women are represented during this period. This body should ensure that the gender issue is addressed in all interim matters, for example, the defence force, the Budget, foreign relations, media, land, local government and development.

In Working Group 4 where the reincorporation of the TBVC states is considered, special attention must be paid to the repeal of discriminatory laws and to the position of black rural women. It is important that the views of this group are heard, and that information about CODESA is disseminated to them.

Working Group 5 has the task of implementing and monitoring the decisions and agreements of CODESA. All Working Groups need to ensure that the representation and interests of women are promoted and entrenched in the interim period, but there is a particular duty on Working Group 5 to do this.

## **AFRICAN NATIONAL CONGRESS WOMEN'S LEAGUE**

### **CODESA TERMS OF REFERENCE**

#### **RECOMMENDATIONS FOR WORKING GROUP 1**

**CODESA has recognised that**

**democracy requires that all the participants in the political process should be free to participate in that process without fear and on an equal footing and on a basis of equality with the other participants.(1.1)**

**In our understanding this means addressing the structural inequalities and disabilities not only of race, but also of gender.**

**In South African society women have suffered systemic oppression and occupied a subordinate position in the home, the work-place and in the public sphere.**

**Gender relations in the home have created dependency and subordination for most women in this society. The domestic division of labour has relegated women to child care and domestic work. In this arena, women's unpaid domestic labour has provided a significant, but unrecognised contribution to the maintenance of individual households, the economy and society. This has been one of the reasons why society has placed women in a position of subordination and economic dependence.**

**The relegation of women to the home has also rendered them vulnerable to violence and exploitative practices which are hidden from the public eye. There is little protection for women against such violence as the home is perceived as a private domain.**

**The subordination and oppression of women has also determined the access of women to paid employment. The unequal sexual division of labour in the work-place has concentrated women in particular categories of work, and has affected women's pay, promotion and treatment. A particularly blatant example of women's inequality in the work-place is the high level of sexual harassment. Domestic workers are especially subject to sexual exploitation and violence.**

Women are generally invisible in the public sphere. There has been little or no representation of women and their interests in politics and political organisations. Women's contribution to politics has been marginalised. The only political space open to women has been in "women's issues" which are solely seen as women's responsibility.

The subordination of women is reflected in the legal system, particularly in customary law, and in the manner in which the law has been distorted, interpreted and fossilised in the courts and in the legislative process. Women have suffered disadvantage by the definition of their legal status and capacity. Criminal law (particularly those areas concerning violence against women), the laws of marriage and of the family, property ownership, tax and contractual ability are examples of the laws which have entrenched women's subordination. Moreover, the law has failed to protect women or to ensure their equal treatment.

These are some of the reasons why women have not enjoyed full and free participation in the political process. Women in rural areas have been particularly disadvantaged. Without addressing the systemic nature of women's subordination, CODESA will not be able to achieve its aim of fostering and establishing a climate in which all individuals and organisations can participate in the political process freely and without interference and intimidation (1.1.1).

The conditions for women's full participation in the political process require that CODESA address the following:

1. Women's right to exercise their civil liberties
2. Violence against women
3. Women's participation in the Peace Accord and its structures.
4. The possession of weapons by private persons.
5. Women and the police force.
6. Women and the defence force.
7. Women and the media.
8. Education about CODESA.
9. The participation of women in CODESA.

1. Women's right to exercise their civil liberties.

It is the urgent task of CODESA to ensure that a political climate is created in which men and women are free to exercise all their civil liberties. The subordinate position that women occupy in society means that special effort needs to be made to overcome their political and social disadvantages and to allow them to exercise their rights on an equal footing with men.

Women should have the right to make their own independent decisions about their participation in the political process.

2. Violence against Women.

As women we are concerned about the wave of violence which is sweeping our country. Women in the communities are affected by the increasing levels of violence in a particularly direct way. Research has shown an increase in domestic violence and rape. This is exacerbated by deteriorating socio-economic conditions and leads to the break-up of families.

Women suffer direct and indirect violence at the hands of men in the home, the work-place and in the public sphere. This acts to intimidate and restrict women in their political activity. The issue of violence against women and men's control over women has to be directly addressed by CODESA and the interim authority. Women have to be free of all forms of violence, abuse and subtle forms of harassment, including the use of sexual or other stereotypes, which may block their freedom in any way.

3. Women's participation in the Peace Accord and its structures.

We strongly believe that it is urgent for CODESA to take up the implementation of the Peace Accord.

It is our view that the Peace Accord should include within its purview, violence against women.

In most, if not all, of the methods of dealing with violence, women's organisations were not involved or consulted. For example, in the Peace Accord, no women's organisations were involved. Political parties, Bantustan governments, and trade unions signed the Accord. These groupings hardly drew women into the process.

Local Dispute Resolution Committees, which are the grassroots structures in the peace process, are meaningless unless they include women.

We believe that without the inclusion of women in all peace processes, there will be no solution to the violence in our country.

4. The possession of weapons by private persons.

South Africa's gun-licensing laws allow for the private possession of numerous firearms. There is an alarmingly high number of licensed weapons, as well as large numbers of unlicensed weapons in the country. This has increased the violence in the townships and suburbs of South African towns and cities.

Crime has proliferated as a result both of the economic recession in which South Africa finds itself, and the wide and easy availability of firearms.

The African National Congress Women's League (ANCWL) believes that greater control over the use of licensed weapons is needed. This is particularly important with respect to the public carrying of firearms by private persons. This is intimidating and may impede the exercise of free political activity. Furthermore, the police need to enforce the law respecting the carrying and licensing of firearms more vigorously, and in good faith.

In our view, South Africa should ultimately be free of firearms.

5. Women and the Police Force

The police force in South Africa is not seen as neutral by the majority of South Africans. The dominant perception of its role is one of collusion, inaction and corruption. The police are seen to be players in the political violence. This makes it impossible for women and competing political groups to accept police attempts to act as mediators or referees in the endemic violence in South Africa.

Policemen have also participated in acts of violence against women. Police have been accused of sexual torture in their treatment of women detainees. More generally, there is evidence of policemen sexually harassing women in the course of their duties. These are notorious methods by oppressive regimes of controlling women and children.

In the light of these allegations, it is imperative that the police force introduce codes of conduct and ethics which deal with the issue of police violence against women, and of sexual harassment.

It is also imperative that the police force begin to enforce the law in good faith. The way in which it is enforced appears to be selective, and appears to exacerbate or even engender conflict and violence. Further, we believe that the carrying of guns, knives and so-called cultural weapons in public should be prohibited, and that the police should act to disarm persons carrying such weapons. CODESA is urged to find ways of addressing this situation as a matter of urgency.

Of particular concern to the ANCWL is the composition of the police force. There is a notable absence of women in the force. The ANCWL recommends that this situation be redressed by the active recruitment of women from all sectors of the population into a future democratically constituted police force.

6. Women and the defence force.

A single unified defence force should be created which is committed to the principles of non-racialism, non-sexism, democracy and national unity.

Women should be included in the debates around the formation and principles of this new defence force. Particular attention should be paid to the eradication of discrimination against women in training, deployment, command structures and combat roles.

Conscription into a new defence force should be voluntary and should include the active recruitment of women from all sectors of the population. Programmes of affirmative action should be introduced.

7. Women and the Media

The public media should be governed by the principles of political neutrality and fair access (1.1.4f). In this respect, the ANCWL recommends that the principle of non-sexism be enforced by both public and private media. Moreover, we recommend that control of the public media during the interim period be removed from government control and handed to an Independent Communications Authority comprised of representatives of the South African community, including women.



A fundamental principle of this authority should be that the content of the media is both non-racist and non-sexist. Programmes for and about women are an important part of this principle.

In respect of the media, CODESA needs to address two issues. The first is how to redress the unequal access of sections of South African society, in particular women, to the media. The second issue is how to ensure that the principles of non-racism and non-sexism are adhered to in the private media. One suggestion is that the Independent Communications Authority withdraws licenses to media groups, including political parties, which do not adhere to these principles.

8. Education about CODESA

Education and campaigns about CODESA should focus on the issue of political tolerance. In particular, the ANCWL recommends that CODESA has campaigns which address the question of violence against women and which dispel degrading and stereotyping myths about women, their private role and their exclusion from politics.

All sectors of the population should be permitted and encouraged to debate constitutional and political issues and should have access to the political parties and representatives of their choice. Particular attention should be paid to ensuring that women in the homes and in the rural areas are provided with access to information about CODESA and the political process. Of particular concern here is the servile and restricted position of people in domestic employment, especially live-in domestic workers, and farm workers. Employers have no rights over their workers' political identity or political ideas. This issue also needs to be addressed in the TBVC states and the Bantustans. Free political activity must become a fundamental principle.

9. The participation of women in CODESA

CODESA One adopted non-sexism as one of its principles in the Declaration of Intent. Yet it cannot be said that women or women's interest are represented at CODESA. In other words, one of the basic principles of democracy, the participation of the majority in decision-making, is being violated by CODESA. It cannot claim to represent the voice of women if it does not have mechanisms to include the representation of women and their organisations.

**The response so far given by the management committee to resolve this problem is that political parties should include women in their delegations.**

**We feel this response denies the fact that gender oppression is actually structured in society and permeates all aspects of life. In this way we cannot rely on political parties to deal with this situation. To solve this dilemma we need to create special mechanisms which will redress the problem. One of the mechanisms we suggest is the formation within CODESA of a Gender Advisory Committee, set up by the Management Committee. The Advisory Committee would receive all documentation from the Working Groups, would review the gender implications of such documents, and return these to the working groups for amendment. The Committee would have a further supervisory function, in ensuring that changes were implemented.**

## **AFRICAN NATIONAL CONGRESS WOMEN'S LEAGUE**

### **CODESA TERMS OF REFERENCE**

#### **RECOMMENDATIONS FOR WORKING GROUP 2**

#### **1. CONSTITUTIONAL PRINCIPLES AND THE GENDER QUESTION**

The African National Congress Women's League (ANCWL) recommends that a principle which characterises a future South African state as non-sexist is vital.

The responsibility for eliminating sexism should be placed upon the state and entrenched in the Constitution.

The ANCWL does not seek rights for women that are in any way different from those enjoyed by all citizens. However, because of the history of subordination of women, and the fact that women bear children, it is necessary to recognise that special provision will have to be made to ensure that women are, in fact, equal to men in a democratic South Africa.

Our recommendations are:

- 1.1 that in drafting the Bill of Rights, full account should be taken of gender differentiation and the subordination of women.
- 1.2 that the new Constitution should also include a Charter which will assist women in claiming and exercising the rights in the Constitution and Bill of Rights on an equal basis with men.
- 1.3 that provision for affirmative action on the basis of race and gender must be made in the Bill of Rights.
- 1.4 that all laws, customs and practices that discriminate against women shall be held to be unconstitutional.

#### **2. THE CONSTITUTION-MAKING BODY:**

- 2.1 The Constitution must be made by a body elected on the basis of one-person, one-vote, on a common voters roll and with a vote of equal value.

- 2.2 This body should include a large number of women to ensure a proper democratic process.
- 2.3 Political parties should apply affirmative action in their selection of candidates for the constitution-making body by including women in their lists. This means that there should be a representative portion of women equally distributed throughout these lists. Proper exposure should be given to women candidates by giving them campaign platforms.

### 3. ELECTIONS.

The historical oppression of women has created a male-dominated political culture amongst all racial, ethnic and religious groups. Politics has become an almost exclusive male domain in many societies, not only in South Africa, where men resent and actively prevent women from debating political issues and seek to prevent their participation in elections. Women too, have internalised this culture. Where women attempt to exercise an independent choice, men often impose their preferences upon women and prevent them from doing so. If democracy is to be effective, then it is important to break this mould in order to facilitate and create a climate for the confident expression of women's opinions in the political arena.

In particular, the ANCWL believes that the following are important :

- 3.1 CODESA should institute education programmes which address the issue (see recommendations to working group one).
- 3.2 At a later date, it will be necessary for the Electoral Commission or body controlling elections, as well as political parties, to address and educate the community. At the appropriate time, the ANCWL will make submissions to the Commission.
- 3.3 In any election the voter identification procedures must take into account that women, particularly African women, are less likely to have identification documents. Alternative arrangements should be found for the identification of these voters in the election process.
- 3.4 Whatever mechanisms are decided upon for the electoral process, these need to make special provision to reach women and facilitate their participation.

## **AFRICAN NATIONAL CONGRESS WOMEN'S LEAGUE**

### **CODESA TERMS OF REFERENCE**

#### **WORKING GROUP THREE - TRANSITIONAL ARRANGEMENTS / INTERIM GOVERNMENT / TRANSITIONAL AUTHORITY.**

#### **1. INTERIM ARRANGEMENTS FOR THE PARTICIPATION OF WOMEN**

Regardless of what form the interim government takes, it is imperative that women participate in all its structures and that their interests are protected.

The African National Congress Women's League (ANCWL) recommends that women's interests should be represented and protected in the interim period as follows :

- 1.1 During the period of Codesa and any nominated or appointed interim authority, a Gender Advisory Committee should exist. The ANCWL will make further recommendations about its composition, powers and terms of reference at the appropriate time.
- 1.2 Once a constitution-making body has been elected, that body should establish a Gender Commission to deal with gender issues and sexism. At the appropriate time, the ANCWL will make representations about its composition, powers and terms of reference.

#### **2. KEY ISSUES, PROCESSES AND PROBLEMS IN THE INTERIM PERIOD.**

The ANCWL sees the following issues as important for consideration in the interim period. Many of these issues have already been raised in more detail in our recommendations to Working Groups 1 & 2 and the reader is referred to these.

- 2.1 The unification of the defence forces is a matter of priority for the interim authority. This unified defence force will then need to begin immediately to redress race and gender imbalances in their composition, and to introduce codes of conduct and norms which will create confidence amongst all the people in the country.
- 2.2 The Budget in the interim period needs to begin to equalise the benefits of national expenditure and focus on redistribution to the disadvantaged, particularly women, who have suffered the greatest neglect under the apartheid regime.
- 2.3 Development is a vital component in the need to redress the inequalities and imbalances of apartheid. The ANCWL believes that the process of development should begin in the interim period. Human resources and development in its training and resource allocation has to become gender sensitive and provide access to and for women.
- 2.4. South Africa's foreign relations have mainly been conducted by men. In the interim period, women should be employed on an equal basis with men, in establishing and maintaining foreign relations. Any existing discriminatory regulations and practices with respect to gender and race in South Africa's foreign service need to be removed.
- 2.5 In the arena of local government the participation and representation of women should reflect the gender composition of the local communities. Any projects undertaken during the life of CODESA and the interim government should be aimed at the interests of all groups in local communities, including women.
- 2.6 Any structures established to ensure an impartial media must :
  - 2.6.1 include women;
  - 2.6.2 ensure access for women to the media;
  - 2.6.3 ensure that women's issues are publicised; and
  - 2.6.4 bring an end to all forms of sexist, pornographic and objectifying portrayals of women.

- 2.7 Land and women: The history of dispossession of land has meant that the land is predominantly owned by whites and by men. Women have been disadvantaged in their occupation and ownership of, and access to land.**

**The present government is in the process of transferring state land to private individuals. In our view this should cease immediately, not only because we believe that the question of the redistribution of land is one for a future democratic government, but also because we are concerned that the full range of rights and interests of the dispossessed, especially women, will be ignored in the process of land allocation.**

## **AFRICAN NATIONAL CONGRESS WOMEN'S LEAGUE**

### **CODESA TERMS OF REFERENCE**

#### **RECOMMENDATIONS FOR WORKING GROUP 4 - FUTURE OF TBVC STATES**

The African National Congress Women's League (ANCWL) has fundamental problems with the terms of reference of this working group in so far as they contain an inherent assumption that the TBVC states are legitimate and have a choice about their reincorporation into South Africa. The TBVC states are a creation of apartheid and were constituted without consultation with the people of these regions. The elimination of apartheid should be accompanied by the reincorporation of these states.

The process of reincorporation must pay particular attention to the following :

1. **The immediate removal of all discriminatory laws of the TBVC states :**

After independence, the TBVC states enacted sexist legislation in introducing, for example, polygamy, the flogging of women, the prohibition of married women's employment in the civil service, including educational institutions, and discriminatory marriage and family laws. The position and status of women in these states worsened. All laws which operate against women in the TBVC states must be repealed.

2. **Citizenship**

The ANCWL endorses the position of the ANC that all people in the TBVC states should get their South African citizenship back.

3. **Equality of women**

In establishing the bantustans and the TBVC states, the South African government sought to entrench indirect rule through the manipulation of the system of traditional rule.



**This system has in all its aspects discriminated against women. Women have been excluded from all decision-making. Customary laws and land allocation have been particularly glaring in their discrimination against women.**

**The equality of women cannot be established without the democratic transformation of the system of customary law and the institution of hereditary rulers and chiefs.**

**Our views follow the ANC's constitutional guidelines which state that :**

**the institution of hereditary rulers and chiefs shall be transformed to serve the interests of the people as a whole in conformity with the democratic principles embodied in the constitution.**

**We believe that the entrenchment of the principle of non-sexism is a crucial part of this transformation.**

**4. Strategies to inform the population**

**We have made specific recommendations to Working Group 1 about the importance of ensuring that women have access to information. This will be particularly important for women in the TBVC states, where a high proportion of women will be illiterate. Special effort must be made to communicate with the population of the rural areas through oral education programmes.**

**5. Business confidence and the relevance for women.**

**Investment within the areas of the TBVC states has been encouraged by special tax benefits, subsidies and privileges. The ANCWL is not opposed to investment in these areas, but we are opposed to the exploitative manner in which this investment has taken place.**

**There is evidence that the residents of these areas have been disadvantaged, inter alia by corruption, the payment of excessively low wages, the absence of protective labour legislation and the refusal to recognise trade unions.**

**Women, as the most vulnerable and exploited section of society, have experienced the worst effects of business involvement. Furthermore they have experienced sexual exploitation, for instance, in the denigration of women in casinos and the promotion of pornography and prostitution.**

**As a result these regions and the people in the TBVC states have been significantly disadvantaged by such investment. Special attention must be paid to future investment to ensure that there is equitable investment in all regions of the country and that this investment benefits women.**

## **AFRICAN NATIONAL CONGRESS**

### **CODESA TERMS OF REFERENCE**

#### **RECOMMENDATIONS FOR WORKING GROUP 5**

The African National Congress Women's League (ANCWL) believes that the transition to a democratic South Africa should take place as soon as possible. Within this process special attention must be paid to the representations and interests of women to ensure that the principles of non-sexism and equality are entrenched in the spirit and letter of the new constitution.

Our understanding of the terms of reference of Working Group 5 is that this group has the task of monitoring the process at CODESA, implementing the decisions and agreements reached by CODESA, disseminating information about CODESA and identifying key issues and problems that may arise from the above.

In this respect, we wish to draw the working group's attention to the following issues and tasks :

1. There should be public access to all documentation of CODESA (1.1.4 e).
2. All information relating to CODESA should be made available to the African National Congress Women's League and other women's organisations (1.1.4 e).
3. In the dissemination of information by CODESA, particular attention should be paid to reaching people in rural areas, particularly women (1.1.4 e).
4. In view of the high level of illiteracy in the country, it is important that CODESA find oral methods of disseminating its information (1.1.4 e)
5. It is our view that public oral hearings at CODESA will constitute an important mechanism to reach all sectors of the population (1.1.4 e).

6. **With respect to its monitoring function (1.1.4 d) and its task of implementing agreements (1.1.4 i), we believe that this working group will have to work closely with the proposed Gender Advisory Committee to ensure that the principles of non-sexism and equality contained in the Declaration of Intent are entrenched. In practical terms this means that this working group needs to ensure that the process takes account of and implements the ANCWL recommendations.**
  
7. **In order to create a climate conducive to free political participation (working group 1), CODESA needs to address all discriminatory legislation, both in terms of race and gender. There are many laws which entrench discriminatory practices and ideas about women and which consequently impede women's ability to participate freely and without fear in the political process. It is the urgent task of working group 5 to begin identifying these laws for repeal and amendment (1.1.4 f & g).**

# Article 16

## ENFORCEMENT

ANC

### *General*

1. The fundamental rights and freedoms contained in this Bill of Rights shall be guaranteed by the courts.
2. Provision shall be made for the establishment of a constitutional court.
3. The terms of the Bill of Rights shall be binding upon the State and organs of government at all levels, and where appropriate, on all social institutions and persons.
4. All persons who claim that rights guaranteed them by the Bill of Rights have been infringed or threatened, shall be entitled to apply to a competent court for an order for the declaration or enforcement of their rights, or for the restraining of any act which impedes or threatens such rights.
5. Any law or executive or administrative act which violates the terms of the Bill of Rights shall be invalid to the extent of such violation, save that the Court shall have the discretion in appropriate cases to put the relevant body or official to terms as to how and within what period to remedy the violation.