

SOUTH AFRICA

CEDAW A/53/38/Rev.1 (1998)

100. The Committee considered the initial report of South Africa (CEDAW/C/ZAF/1) at its 387th, 388th and 393rd meetings, on 24 and 29 June 1998 (see CEDAW/C/SR.387, 388 and 393.)

Introduction by the State party

101. The representative of South Africa indicated that her country had acceded to the Convention on the Elimination of Discrimination against Women, without reservations, on 15 December 1995. The representative noted that the struggle to improve the status of women in South African society paralleled the country's efforts to reconstruct a society out of the legacy of the oppressive apartheid regime.

102. The representative informed the Committee that the new constitution was written in non-sexist and accessible language and had been widely disseminated in 11 languages and in Braille. The constitution guaranteed equality between men and women and prohibited discrimination on the basis of, *inter alia*, sex, pregnancy and marital status. Gender equality and provisions for affirmative action had also been constitutionally entrenched.

103. The representative noted that shortly after the new Government took office in 1994, an Office on the Empowerment of Women was established within the President's office to develop a women's empowerment policy for the new Government. Following an extensive consultative review, South Africa adopted a national machinery with a multi-pronged approach to gender mainstreaming and transforming gender relations. The Office on the Status of Women operated within the Office of the Deputy President and was mandated to translate government objectives of gender equality into meaningful government programmes. A draft policy on women's empowerment and gender equality had recently been completed. The Commission on Gender Equality was charged with facilitating the transformation of gender relations in civil society through education and public advocacy. Despite those advances, the representative indicated that the national machinery still required consolidation.

104. The representative noted that continuing deep entrenchment of patriarchy and customary, cultural and religious practices contributed to widespread discrimination against women in South Africa. She informed the Committee that violence against women and children was increasing, including domestic violence, sexual violence and sexual harassment, and described several policy initiatives in that area.

105. The representative reported that only 6 per cent of African women 20 years and older had graduated from tertiary education, while 20 per cent of African women had not had any formal education. Unemployment was higher among women than men and women were most often self-employed, with little job security and lower incomes than those in the formal wage employment sector. Consequently, the Government had passed a number of bills designed to ameliorate the

situation. The Government had also adopted temporary special measures in order to accelerate the equality between women and men in the public sector. A 1995 white paper on the transformation of the public service had set a target of 30 per cent for women among new recruits to middle and senior management within the public service. She noted that although few senior judges were currently women, a position paper on the transformation of the judiciary had recently been developed. She also indicated that South African women currently comprised 40 per cent of the staff of foreign missions.

106. The representative stated that the prevalence of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) was highest among heterosexual African women aged 20 to 24, particularly those who were poor and otherwise marginalized, and that health care was available to pregnant women and children under age six at State clinics and hospitals.

107. She indicated that according to the Customary Marriage Act, a woman married under customary law was deemed to be a minor under her husband's guardianship, but that Parliament was considering repeal of that and other acts pertaining to married women's rights under customary law.

108. The representative concluded by reiterating the Government's firm commitment to bringing its legislation in line with the Convention as well as to fully implementing the Convention and the Beijing Platform for Action and to providing services that will improve the quality of life for women in South Africa.

Concluding comments of the Committee

Introduction

109. The Committee commends the Government of South Africa for ratifying the Convention, without reservations, in December 1995. It commends the Government for the clarity and frankness of the report as well as the oral presentation, and for the extensive replies to the questions posed by the Committee.

110. The Committee expresses its appreciation to the Government of South Africa for its high-level delegation, headed by the Minister for Welfare and Population Development, which also included representatives of non-governmental organizations. The report refers to some of the Committee's general recommendations and describes programmes put in place to implement the Beijing Platform for Action.

Positive aspects

111. The Committee notes the efforts undertaken by the Government at the level of legislation, policies, programmes and awareness-raising to redress the effects left by apartheid on women and to achieve gender equality. It recognizes the crucial role women have played in the country's transition to a democratic, multiracial society and their continuing active participation in and contribution to the creation of an enabling environment of respect for human rights.

112. The Committee commends the establishment of national machinery as well as other bodies for

achieving the goal of gender equality. It also notes the active partnership of government with non-governmental organizations and the existence of a vibrant women's movement.

113. The Committee notes with satisfaction that while health workers are not forced to participate in the provision of legal abortions, they may not obstruct access to services for termination of pregnancy.

Factors and difficulties affecting the implementation of the Convention

114. The Committee notes that the legacy of apartheid for women includes widespread discrimination and underdevelopment, and is visible in areas such as women's high levels of unemployment, illiteracy and poverty and in the violence against women.

115. The Committee notes that while the constitution of South Africa includes an equality clause, the continuing existence of conflicts between the constitution and religious and customary laws perpetuates practices in various areas that are discriminatory to women.

Principal subjects of concern and the Committee's recommendations

116. The Committee recommends the adoption of a definition of discrimination in the constitution and other legislation which reflects the definition contained in article 1 of the Convention on the Elimination of All Forms of Discrimination against Women. The definition should be one which can be easily applied by courts in cases of discrimination on the basis of sex.

117. The Committee expresses concern that, in spite of the legal measures put in place, *de facto* implementation of such laws and policies have yet to be achieved in many areas. It also notes with concern the continuing recognition of customary and religious laws and their adverse effects on the inheritance and land rights of women and women's rights in family relations. The Committee notes the absence of a definition of gender discrimination in the constitution.

118. The Committee recommends that the Government complete, as a matter of priority, the adoption of legislation as well as ensure its effective implementation in order that women's *de jure* and *de facto* equality will be guaranteed. It also recommends that a uniform family code in conformity with the Convention be prepared in which unequal inheritance rights, land rights and polygamy are addressed, with the aim of abolishing them.

119. The Committee is concerned that the national machinery and the Commission on Gender Equality do not have sufficient financial and human resources.

120. The Committee encourages the Government to ensure that the national machinery as well as the Commission on Gender Equality are provided with adequate resources for entrenching gender equality firmly at this formative stage of the country's development as a democratic, multiracial society.

121. The Committee expresses its concern at the high level of violence against women, including the high incidence of rape, particularly of young girls. It notes in particular that, given the persistent

overall high levels of crime and violence in the country, there is a danger that efforts to address violence against women, although identified as a priority area in the National Crime Prevention Strategy, may become submerged in the larger struggle against violence in society.

122. The Committee recommends that efforts to prevent and combat violence against women continue to receive the priority attention they require, with a view to ensuring a comprehensive approach. Steps should be taken, including through education, awareness-raising and sensitization of the public, to deal with stereotypical attitudes that are amongst the root causes of violence against women and to emphasize the unacceptability of such violence.

123. The Committee encourages the Government to reinforce its existing strong collaboration with civil society and non-governmental organizations on violence against women with budgetary allocations commensurate with the priority attached to combating such violence.

124. The Committee recommends that the seriousness of rape, including marital rape, be emphasized and the law fully enforced. It also urges the Government to undertake research into the causes of the high incidence of rape so that effective preventive measures can be developed.

125. The Committee regrets that insufficient attention was being devoted to the problem of trafficking in women.

126. The Committee recommends that both the legal situation and the reality with regard to trafficking in women be addressed, and requests that information on this issue be contained in South Africa's next report.

127. Notwithstanding the implementation of several temporary special measures in the political field and appointments to decision-making posts, the Committee is concerned whether such measures have become acceptable.

128. The Committee encourages the Government to continue the use of temporary special measures, including quota systems, in upcoming elections. The Government is also urged to assess ways of extending quota systems to other governmental or governmentally appointed bodies to increase women's participation therein. In that regard, particular attention should be paid to public bodies dealing with business and economic matters to facilitate women's achievement of decision-making positions in those fields. The Government is further urged to ensure that supportive mechanisms are in place for beneficiaries of temporary special measures. The Committee also suggests that the Government consider carefully the advantages and disadvantages of different electoral systems for the representation of women.

129. Noting that women are under-represented in the judicial system, the Committee is concerned that women have problems gaining access to high judicial office. It is concerned that, in the appointment process, there is an emphasis on factors which generally favor male candidates.

130. The Committee recommends that special temporary measures, in accordance with article 4 of the Convention, be used to address the low number of women in the judiciary.

131. The Committee expresses serious concern at the chronic high rate of unemployment for women and the insufficient implementation of article 11 of the Convention. Given the large number of self-employed women and of women domestic/household workers, the level of their protection, including through insurance or social security schemes, raises grave concerns, as does the move towards regulated flexibility in employment legislation.

132. The Committee urges the Government to focus, as a matter of priority, on creating income generating activities for women. Existing efforts, including the use of quotas in job creation schemes, such as the community-based public works programme, should be expanded into areas where the number of unemployed women workers is particularly high.

133. The Committee is concerned about the uneven distribution of healthcare services in the country. It notes that insufficient data disaggregated by sex are being kept on birth rates and in disease registers. It notes with concern that the practice of female genital mutilation has not been given attention.

134. The Committee encourages the Government to continue its efforts to ensure equal access to health services throughout the entire country. It further encourages the Government to continue its efforts to ensure women, particularly poor women, access to family planning programmes and related information to increase women's choices and as a means of empowerment. It recommends further research into the prevalence of female genital mutilation and other harmful practices, such as witch burning, and recommends that the Government ensure the prohibition and eradication of such practices.

135. The Committee underlines that vulnerable groups of women, especially rural women, require specific measures to empower them to overcome the constraints of poverty, low levels of education and literacy, high unemployment and high fertility rates. It notes the need for rural women's participation in land reform programmes.

136. The Committee encourages the Government to implement special programmes for vulnerable groups of women in rural areas, including education and employment. The national machinery for women is encouraged to work actively on matters of land reform policy and problems of rural women to ensure their active participation in those areas.

137. The Committee requests the wide dissemination in South Africa of these concluding comments in order to make the people of South Africa, and particularly government administrators and politicians, aware of the steps that have been taken to ensure de facto equality for women and further steps that are required in that regard. It also requests the Government to continue to disseminate widely, and in particular to women's and human rights organizations, the Convention, the Committee's general recommendations and the Beijing Declaration and the Platform for Action.