

November 2018



Name of process

South Africa's Transition to Democracy

Type of process

Peace-making and constitution-making

Outcome of process

- A new non-racial and non-sexist constitution consolidated democracy
- Political violence declined sharply after 1994, but South Africans remain unreconciled and socio-economically divided, and gender-based violence and violent crime remain widespread

Women's inclusion

- Direct representation at the table
- Observer status
- Consultations
- Inclusive commissions
- Public decision-making
- Mass action

Women's influence

High influence on the content of the constitution due to:

- Coalition-building across political divides in to the common cause of gender equality
- Strong pre-existing civil society networks
- Significant numbers of strong feminist leaders in political parties and civil society
- Financial and technical support to the women's coalition and women in the negotiations
- Voluntary party quotas for women negotiators and candidates for the first elections

South Africa's Democratic Transition (1990-1998)

South Africa's democratic transition, which involved the negotiation of a political settlement (1990-94) and an interim governance process (1994-98), ended the brutal repression, excessive political violence, and regional wars fueled by the authoritarian white minority regime. After several rounds of negotiation and national dialogue, the racist legal system of apartheid was replaced with a constitution that protects the human rights of all South Africans irrespective of ethnicity or gender and establishes a liberal democratic system of governance.

Women recognized and seized the opportunity to advance gender equality as part of the anti-apartheid movement and the democratic transition. They formed a powerful multiracial coalition across political divides to secure a place at the negotiation table, observe the talks, consult women at the grassroots, mobilize support in a referendum, and stage protests. The Women's National Coalition comprised strong feminist leaders and, despite resistance, ensured that their demand for gender equality was enshrined in the constitution. By insisting on a gender quota for candidates fielded by the African National Congress (ANC), which won the first democratic election in 1994, women achieved a high level of representation in the first parliament. The commendable

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but short-lived Truth and Reconciliation Commission (TRC), and a permanent Commission for Gender Equality, however, did not suffice to genuinely reconcile South Africans or to fully protect women’s newly gained constitutional rights. Political violence declined sharply thanks to the democratic transition, but the socio-economic disparities created by racial segregation persist. Women in vulnerable communities in particular continue to be affected by poverty, a lack of educational opportunities, HIV/AIDS, rampant violent crime, and widespread sexual violence.

I. Background

South African society has been shaped by three centuries of settler colonialism and a system of racial segregation that sought to entrench white supremacy by socially and geographically separating people into racially and ethno-linguistically defined groups.¹ In 1913, the Land Act allocated a mere seven percent of the total land area to black South Africans, and the majority of the population was forced to live in overcrowded, environmentally degraded reserves.² In 1948, the Afrikaner National Party (NP) took power and enforced an unprecedented level of segregation that it dubbed “apartheid.” The NP declared the reserves to be independent “Bantustans” and Africans were denied the right to permanently live in urban areas. Instead, African men were recruited as migrant workers in mining towns, and black South Africans were required to stay in townships outside the cities and carry passes. By 1994, some 3.5 million people had been forcibly displaced from areas that had been reserved for whites.³ Black women and men were denied basic political and human rights until 1994.⁴ Africans were denied equal educational opportunities and systematically deskilled to preserve whites’ economic privileges.⁵ The legal system under apartheid based rights on race, excluded the Bantustans from the nation state, and co-opted customary law and indigenous African authorities, who retained jurisdiction over their subjects in rural areas.⁶

Black women and men were denied basic political and human rights until 1994

Resistance to the white settler regime formed early on and was spearheaded by the ANC, which was founded in 1912. It was banned in 1960, and then led an armed struggle from exile until its leader, Nelson Mandela, was released from prison in 1990 for negotiations with the Government.⁷ The well-organized anti-apartheid movement gained international support through civil society organizations (CSOs), including women’s groups and trade unions, as well as through the underground structures and armed wings of the ANC and Pan African Congress (PAC). As early as the 1950s, the ANC Women’s League (ANCWL) and the multiracial Federation of South African Women played a key role in organizing a Defiance Campaign and marches, and in drafting a Freedom Charter that would guide the liberation struggle for decades.⁸ Young women featured prominently in the Black Consciousness Movement that inspired the 1976 Soweto youth uprising and joined the underground structures and armed wings of the exiled liberation movements.⁹

Young women featured prominently in the Black Consciousness Movement

Women's organizations were instrumental in launching the United Democratic Front

In 1983, a broad civil coalition came together within South Africa. The United Democratic Front (UDF) assembled some 1.5 million supporters from non-racial organizations including trade unions and faith-based groups, and was formed in response to the Government's attempt to co-opt coloured and Indian South Africans by giving them immaterial political representation.¹⁰ Women's organizations like the United Women's Congress, the Natal Organisation, and the Federation of Transvaal Women were instrumental in launching the UDF, and the UDF set up a Women's Congress.¹¹

It was during the 1980s that the tide turned against the apartheid regime. International sanctions, economic demise, a military defeat in Angola, and an unprecedented wave of protests organized by the UDF rendered the country ungovernable. Violence escalated, with the Government stepping up repression and assassinations, and clandestinely fuelling conflict between ANC supporters and their civic allies, and the rival Inkatha Freedom Party (IFP).¹² Externally, there was a shift as the Cold War came to an end. Western powers had in part tolerated the apartheid regime because South Africa had been seen as a bulwark against communism in Africa; the collapse of the Soviet Union led to the apartheid Government's international isolation.¹³

In February 1990 Prime Minister F.W. de Klerk lifted the ban against the ANC and PAC, and announced the release of Mandela. De Klerk sought a negotiated settlement with the ANC that would leave his Government in control for decades to come; an ethnic power-sharing arrangement with extensive minority rights, rather than black majority rule.¹⁴ However, violence escalated further as negotiations began; more than 14,000 people died between 1990 and 1994. Police repeatedly opened fire on protesters, and white supremacist militants orchestrated a campaign of shootings and bombings. Most fatalities, however, resulted from armed conflict between the multi-ethnic ANC and the Zulu-dominated IFP. The Government gave covert support to the IFP, and then portrayed the clashes as evidence that Africans were unfit to govern.¹⁵

To create conditions for dialogue and contain the violence, 26 political parties and organizations signed a National Peace Accord (NPA) in September 1991. This provided for Peace Committees, a Commission of Inquiry, and the deployment of 15,000 peace monitors.¹⁶ In December, the Convention for a Democratic South Africa (CODESA) began. It was a national dialogue to develop a new democratic constitution, transitional institutions, an electoral system, and a power-sharing government. Several parties boycotted the Convention and De Klerk continued to hope that the process would end with his Government still firmly in charge.¹⁷ In April 1992, women from various political and civil society organizations formed the Women's National Coalition (WNC), which would serve as the principal vehicle for women's engagement in the transition. They campaigned to get issues of women's rights and gender equality on to the agenda.¹⁸

The Women's National Coalition would serve as the principal vehicle for women's engagement in the transition

However, CODESA was suspended as De Klerk came under pressure from conservatives in his party. He sought a stronger mandate to negotiate, and in a whites-only referendum, a majority of voters supported the President's bid to seek a negotiated settlement. CODESA 2 reconvened in Johannesburg, but the talks

collapsed in June 1992, after the Boipatong Massacre, in which IFP supporters killed 46 people, mostly women and children, and Government security forces made no effort to intervene or to arrest the perpetrators.¹⁹ Mandela withdrew his delegation from CODESA, and the ANC embarked on a mass action campaign with its civic allies. De Klerk's moral authority collapsed when the National Peace Accord's Commission of Inquiry presented evidence that the security apparatus had participated in political killings and supported the IFP.

The chief negotiators of the ANC and Government, Cyril Ramaphosa and Rolf Meyer, nevertheless resumed bilateral talks. In September 1992, the Government and the ANC produced a Record of Understanding outlining transitional institutions and a draft constitution, and agreed that elections should be held by April 1994. Despite frustrations at being excluded from the process and terms being dictated by the major parties, the IFP, white right-wing parties, and the homeland governments that formed the Concerned South Africans Group (COSAG) accepted a further round of multiparty talks.

The Multi-party Negotiation Process (MPNP) opened in April 1993 and comprised 208 representatives of 26 political groupings. Their mandate was to complete negotiations on the interim constitution, transitional governance structures, and electoral rules. Although extremist Afrikaner militias sought to derail the process and the IFP walked out, in November 1993 the MPNP's Negotiation Council adopted a comprehensive agreement including an electoral act and an interim constitution that stipulated the installation of a Government of National Unity (GNU).²⁰

The ANC's gender quota had a significant impact on women's representation in parliament

The agreement paved the way for South Africa's first democratic elections, which took place on 27 April 1994. Preceded by massive electoral violence, 91 percent of registered voters nonetheless exercised their franchise.²¹ The ANC won 62.6 percent of the vote, the NP 20.4 percent, and the IFP 10.5 percent. Mandela became the President of the Government of National Unity.²² The new parliament elaborated the permanent constitution that came into effect in February 1997.²³ The ANC's gender quota had a significant impact on women's representation in parliament.²⁴

In 1995, the Truth and Reconciliation Commission (TRC) was established, chaired by Archbishop Desmond Tutu. It enabled some 20,000 victims of apartheid to make statements and granted amnesty to 849 perpetrators.²⁵ The new constitution also established a permanent Human Rights Commission and a Commission for Gender Equality.²⁶ The TRC has informed transitional justice and national healing mechanisms across the globe.

The representation of women in powerful political office has grown steadily since 1994

However, the TRC and the institutional framework to promote human rights and gender equality did not suffice to reconcile South Africans and to fully protect women's constitutional rights. Political violence declined sharply thanks to the democratic transition, but the massive socio-economic disparities that were created by racial segregation have been perpetuated in the new South Africa. The representation of women in powerful political office has grown steadily since 1994,

but women in vulnerable communities in particular continue to be affected by poverty, a lack of educational opportunities, HIV/AIDS, rampant violent crime and widespread gender-based violence. The constitutional rights and socio-economic equality of South African women are yet to be fulfilled.²⁷

Actors Involved in the Process

The main actors included in the process were the white minority Government of the Afrikaner National Party; the African National Congress and Pan African Congress, and their armed wings in exile; the Inkatha Freedom Party, which maintained militia-like structures and enjoyed strong support in Natal, the KwaZulu homeland, and among Zulu migrant workers in the Transvaal; and the governments of several homelands.

The United Democratic Front coalition and the South African Communist Party rallied behind the ANC, and white fringe parties like the liberal Democratic Party (DP) and the right-wing Conservative Party were also involved in the dialogues, as well as civil society groups that were not aligned to the UDF. The radical Azanian People's Organisation boycotted the process and white supremacist organizations like the paramilitary Afrikaner Resistance Movement (AWB) sought to derail it from the outside.²⁸ Significant civil society actors such as the Congress of South African Trade Unions were represented through the ANC. Importantly, the Congress of Traditional Leaders of South Africa was a major rural constituent of the ANC and sought to advance its interests through the party. The interim governance period saw the involvement of significant civil society organizations such as Khulumani, which encouraged participation in the TRC process.²⁹

Women Involved in the Process

Women who participated in the transition represented feminist as well as conservative perspectives

Women members of the political parties and civil society organizations participated in the negotiations and transitional institutions or sought to influence the transition from outside. The UDF disbanded in 1991 and merged into the ANC when it became a legal political party, and women UDF activists therefore joined the ANC and its Women's League. The IFP had a Women's Brigade, and women in the DP and NP also organized among themselves. The women who participated in the transition represented feminist as well as conservative perspectives and were from a range of ethnic, class, and ideological backgrounds. They were divided in their understanding of gender roles and gender equality.³⁰

In 1992, however, women overcame their divisions to form the Women's National Coalition, in response to their underrepresentation in the CODESA negotiations and with the objective of promoting gender equality in the new constitution. Its demands comprised issues such as economic and educational opportunities, access to healthcare, and protection from violence. Until 1994, the WNC was the principle vehicle for organizing, coordinating, and promoting women's demands vis-à-vis the negotiations. It lost momentum after the 1994 elections.

Poor, rural women were underrepresented within the multiracial leadership of the WNC and parties, but the Rural Women's Movement was a strong voice that promoted the reform of customary law and opposed the exclusion of women from decision-making in communal areas during the term of the first democratic parliament and interim government.³¹

Modalities of Inclusion of Women's Groups

Women engaged in the transition process through several modalities of inclusion.³² Some women were directly represented as part of the parties' negotiation teams. Women activists set up observation mechanisms, engaged in public consultations, took office in inclusive commissions, participated in several referendums, and took mass action to advance their interests.

Through these modalities, women's groups successfully fought for their representation in the negotiations, the establishment of gender equality as a constitutional principle, and an institutional framework to protect and promote women's rights during the lifespan of the interim constitution and in the new democratic South Africa.

1 | Direct Representation at the Negotiation Table

Although generally underrepresented, women were directly represented in parties' delegations to the constitutional negotiations at the CODESA and MPNP conferences, as well as in the first parliament that served as a constitutional assembly.

The Convention for a Democratic South Africa

The negotiation agenda of CODESA comprised the interim constitution, transitional government, an electoral system, the future of the homelands, and the implementation roadmap. It brought together 200 delegates from 19 organizations. It was boycotted by white right-wing groups, the PAC (which demanded international mediation), and the IFP (which ultimately walked out after the Zulu king's representative was excluded).³³ Women were directly represented in the delegations of the IFP and ANC, whose negotiation team comprised Frene Ginwala, a staunch feminist leader.³⁴ However, overall, only 5 percent of delegates were women. Women's concerns drew little attention as opposition groups prioritized the end of racial segregation over gender equality.³⁵ This marginalization of women prompted uproar among women activists. Thanks to their effective advocacy, CODESA's Management Committee proposed the inclusion of women in every delegation.³⁶ The CODESA talks, however, soon collapsed.

MPNP

The MPNP consisted of a plenary, a Negotiation Council (which replaced a short-lived Negotiating Forum), a multiparty Planning Committee, and seven Technical Committees of independent experts.³⁷

Opposition groups prioritized the end of racial segregation over gender equality

The reconfiguration of dialogue provided women with a window of opportunity

The reconfiguration of dialogue at the MPNP provided women with a window of opportunity to push their demand for greater representation, which they did, with protests by the ANCWL, as well as others. The Negotiation Council eventually accepted the WNC proposal that all parties' delegations be enlarged to four members, to include one woman with full voting rights. Women were still underrepresented in the MPNP's Technical Committees, however.³⁸ The PAC delegation was the only one to be led by a woman.³⁹

In any case, greater women's representation did not automatically mean that the WNC's demands were addressed. The WNC's drive to establish gender equality as a constitutional principle overriding customary law encountered fierce resistance from traditional leaders. The ANC only supported the WNC's position after its Women's League threatened to boycott the elections.⁴⁰

The First Parliament / Constitutional Assembly

The WNC pushed for the inclusion of women on all parties' candidate lists for the first democratic parliamentary elections. Thanks to the continued pressure of women within the party, the ANC adopted a 30 percent gender quota and ensured that women were given good positions on candidate lists so that they were likely to be elected. This quota, and the ANC's vote share of 62.6 percent, translated into the proportion of women in the National Assembly increasing from 2.4 percent to over 26 percent.⁴¹

The direct representation of women during the interregnum proved essential

The direct representation of women in parliament during the interregnum proved essential in ensuring that gains made were not reversed, particularly as the parliament was meant to serve as a Constitutional Assembly. Women were represented in all committees, including the Joint Standing Committee on the Improvement of Quality of Life and Status of Women, which women had included in the interim constitution to analyze all legislation passed by parliament with respect to its gender implications. The first parliament, moreover, passed critical legislative changes on customary marriage that gave women the right to own land and property, and on women's reproductive rights.⁴²

2 | Observer Status

The WNC observed the talks and set up a monitoring group to facilitate this role. Focusing on key concerns of women that, for instance, comprised equal educational opportunities and poverty alleviation, the group issued reports that stemmed from their observations, and served as a basis for discussions about the WNC's strategy vis-à-vis the talks and to coordinate women's positions.⁴³

During the MPNP, WNC activists set up the Multi-Party Negotiation Process Monitoring Collective with a donation from the Danish Government. The aim was to achieve close cooperation between the observers and women negotiators. Feminist lawyers scrutinized draft documents, and a full-time observer was charged with relaying discussions at the MPNP to the Collective.⁴⁴ These legal experts

continued to observe and monitor the Constitutional Assembly, to ensure that none of the gains made during the multiparty talks were reversed. The mechanism was an important device to ensure that women outside the talks remained informed about developments at the negotiation table and could give feedback to women represented in the parties.⁴⁵

3 | Consultations

The CODESA and MPNP did not provide for any formal outreach programme and the interim constitution was adopted without consultation. However, the ANC leadership engaged in sporadic informal consultations with its constituents, including feminist activists. The WNC structures also regularly liaised with women in the parties' delegations.⁴⁶

More importantly, the WNC embarked on an extensive public consultation process.⁴⁷ Part of the aim of the Women's Charter Campaign was to ensure the representation of women at the grassroots in the talks, and WNC activists consulted over two million women across the country to articulate common positions with regards to the Bill of Rights of the new constitution. With the assistance of legal experts and feminist academics, these opinions were collated to draft the Charter. The public consultations also served to raise popular awareness about the constitution-making process and its implications for women.⁴⁸ These broad-based consultations significantly raised the credibility of the WNC and the legitimacy of its demands.⁴⁹

WNC activists consulted over two million women across the country

4 | Inclusive Commissions

A number of inclusive commissions were established both during the negotiations and during the lifespan of the interim constitution; some became permanent. Several, of particular interest to women and gender, are discussed here.

Gender Advisory Committee

Responding to women's protests and lobbying against their underrepresentation in parties' delegations, CODESA's Management Committee set up a Gender Advisory Committee (GAC), following a proposal by the ANCWL. The GAC was tasked to monitor and advise on the gender implications of CODESA's terms of reference, the decisions of its Management Committee, and the proposals of its working groups. The GAC, however, could only make non-binding recommendations, and the negotiators regarded it as a sop to the women's lobby rather than a commitment to the inclusion of women's concerns. In any case, the GAC never fully developed as the CODESA process collapsed.⁵⁰ Nonetheless, the idea that women had specific political interests was forced onto the formal negotiation agenda for the first time.

The idea that women had specific political interests was forced onto the negotiation agenda

Peace Committees

The NPA established national, regional, and local Peace Committees to prevent and monitor violence, keep the authorities in check, and improve relations between police and communities.⁵¹ The women's movement did not play a particular role

in the Peace Committees, but thousands of individual women served on these Committees and took on a critical role as local peacebuilders and monitors. The Black Sash women's organization and church groups supported these efforts by setting up additional monitoring groups.⁵²

The TRC's terms of reference were criticized by feminist organizations

Truth and Reconciliation Commission

The TRC's composition was representative of South African society and women made up a third of the commissioners. However, its terms of reference were criticized by feminist organizations and scholars for failing to adequately address the gendered and structural aspects of apartheid, and for focusing too much on individual testimonies. In response, the TRC introduced special women's hearings. Nonetheless, according to Meintjes, the effects apartheid had on the lives of women could not be adequately addressed by the TRC.⁵³

Permanent Commission on Gender Equality

The women's movement's efforts to set up an institutional framework to promote gender equality resulted in the establishment of a permanent constitutional Commission on Gender Equality (CGE), the above-mentioned Joint Standing Committee of Parliament, and the Office on the Status of Women, whose functions and responsibilities were partly overlapping. The CGE was enshrined in the interim constitution, but only came into existence during the first parliament in 1997.⁵⁴ Thanks to its status as a statutory body established by the constitution and only accountable to parliament, the CGE, whose 12 members were appointed by the President but could only be removed by a special sitting of parliament, enjoyed a high level of independence that was meant to protect it from unwanted interference by political parties and the government.⁵⁵

The Commission on Gender Equality did not use its status and powers to effectively advance gender equality

During its first five-year term, the mixed-gender CGE comprised gender activists from women's organizations, trade unions, religious and cultural groups, and academics, and was chaired by an outspoken women's rights activist, who was also a staunch member of the ANC and SACP, which had come into government. The Commission was criticized for understanding gender as "women" and the institutions for gender equality were found to lack a strong rapport with civil society.⁵⁶ In subsequent years, its membership did not use the Commission's status and powers to effectively advance gender equality. According to Meintjes, 20 years after the CGE came into existence, its impact has been almost insignificant.⁵⁷

5 | Public Decision-making

South Africa's democratic transition comprised two voting processes: the 1992 whites-only referendum in which the a majority of eligible white voters mandated the Government to continue negotiations at CODESA 2; and the first democratic elections with a universal non-racial franchise, which took place in April 1994.⁵⁸

In the 1992 referendum, members of women's organizations that were affiliated to the anti-apartheid movement mobilized white voters in favour of the continuation

of negotiations. These efforts were vital given that those white South Africans who opposed apartheid had a strong sense of civil disobedience, and had in the past boycotted elections they had deemed illegitimate as they were based on a racial franchise.⁵⁹ In 1994, women's organizations engaged in a voter education campaign.

6 | Mass Action

Women's groups staged protests and campaigned in mass media

Women's organizations were part and parcel of the broad civil society coalition that led the struggle against apartheid and organized a multitude of protests and strikes both before and during the transition period.⁶⁰ As far as gender-specific mass action campaigns were concerned, the WNC and affiliated women's organizations staged protests against the underrepresentation of women during CODESA and at the opening session of the MPNP conference. These protests, combined with sustained lobbying of party leaders and the threat of an election boycott, were instrumental in achieving the inclusion of women in parties' delegations. During the MPNP conference, women's groups, including the Rural Women's Movement, staged protests and campaigned in mass media to prevent the negotiators from accepting traditional leaders' demand that customary law override the constitutional principle of gender equality.⁶¹

After the interim constitution was adopted, the women's movement lost its momentum, in part because its leadership took political office, and the WNC was not the effective civil society watchdog that many had hoped it would be.⁶² Women's organizations, however, engaged in mass action to protest against gender-based violence when the first parliament reviewed the Domestic Violence Act, and played an important role in the campaign to demand access to antiretroviral drugs from the reluctant government in response to the HIV/AIDS pandemic.⁶³

II. Analysis of Women's Influence: Enabling and Constraining Factors

South Africa's women's movement had significant influence on the negotiation and content of the constitution

South Africa's women's movement had significant influence on the negotiation and content of the constitution thanks to: coalition-building among women across political, ethnic and class divides; effective advocacy strategies; financial and technical support; the presence of significant numbers of feminists in political parties; strong pre-existing civil society networks with ties to the international anti-apartheid movement; and the acceptance of a gender quota for negotiation teams and candidates in the election of the first parliament. Women's influence was constrained by the resistance of conservative forces with patriarchal attitudes in the dominant political parties and among traditional authorities; the political fragmentation and social heterogeneity of the women's movement; and the failure to sustain the momentum within the women's movement beyond the negotiation period.

The fight against racial discrimination and for the equality of all South African citizens provided a window of opportunity to women to advance gender equality,

and women recognized this. The following section distinguishes between a number of process and context factors that either enabled or constrained the influence of women in the South African case.

Process Factors

1 | Coalition-building among Women across Political Divides

Women's activists' success in forging a gender-based coalition was critical

Women activists' remarkable success in forging a gender-based coalition across political and societal divides was critical to achieving the representation of women's voices in the negotiation and implementation mechanisms, and enshrining women's equal rights in South Africa's democratic constitution.⁶⁴

It was the failure to include women and represent women's interests in the CODESA talks that prompted women from different political, social, and ethnic backgrounds to form the Women's National Coalition, which came to comprise 90 organizations and 13 regional coalitions.⁶⁵ The common purpose of achieving gender equality held the Coalition united and highly mobilized for the duration of the negotiations, despite the variety of women's understanding of what gender equality implied.⁶⁶ In line with the anti-apartheid movement's tradition of writing charters, the WNC saw that a charter would build consensus among women and give their demands greater legitimacy and weight.⁶⁷ The Women's Charter for Effective Equality represented a national consensus among women across societal divides on the minimal demands of the women's movement.⁶⁸ It comprised claims for equality in all spheres, including law, economy, education, development and infrastructure, political and civic life, family life and partnership, custom, culture and religion, health, and media.⁶⁹ Its impact was tempered because it was not finalized until after the interim constitution was adopted.

Despite its leaders also being members of political parties, the WNC was relatively independent of those parties, in part because of the breadth of voices that the WNC represented. According to Hassim, this set it apart from previous women's organizations.⁷⁰ After the 1994 election, however, the WNC lost momentum, and it did not live up to its objective of remaining an effective watchdog for gender equality in the democratic dispensation.⁷¹ Nonetheless, women went on to form a strong parliamentary caucus, thanks to the trust built across party lines.

2 | Both Enabling and Constraining Selection Criteria and Procedures

It was women representatives who ensures that women's equal rights were codified in the interim constitution

Gender did not constitute a criterion in the selection of negotiation team members for the CODESA conference, and only a few eminent women party leaders were included.⁷² At the MPNP, the parties' negotiation teams were expanded from three to four members thanks to sustained lobbying by women activists, so that each would include one woman with full voting rights. It was the women representatives who ensured that women's equal rights were codified in the interim constitution.⁷³ Women were aware of limitations on their inclusion, and that many key decisions were made (or already had been made) in bilateral closed-door meetings between

the chief negotiators of the principle conflict parties, but nonetheless deemed their representation indispensable if women's concerns were to be considered in the new political order.⁷⁴

Parties that refrained from adopting a gender quota only had a handful of woman representatives

The effectiveness of the ANC's gender quota for the parliamentary elections has been widely acknowledged.⁷⁵ Parties that refrained from adopting a gender quota for candidates, such as the NP, only had a handful of woman representatives. The ANC's 30 percent quota for women candidates, and its policy of putting women in electable positions, resulted in women's share of seats being ten times higher than in the legislature of the apartheid regime. The representation of women in the first democratic legislature was important in safeguarding achievements made in the negotiations and passing critical legislation.⁷⁶

3 | Effective Transfer, Communication, and Advocacy Strategies

Women saw the opportunity of the transition process for women's rights and gender equality, and were highly strategic in their approach to the negotiations. They successfully employed transfer, communication, and advocacy strategies to demand their inclusion, and to integrate their demands in the constitutional and political transitional mechanisms.⁷⁷

Senior feminist leaders had offices in both the WNC and political parties

The WNC's influence on the negotiations strongly depended on its relationship with the parties, and it is important to bear in mind that senior feminist leaders held offices in both the WNC and political parties, the ANC in particular. They directly engaged their party leadership and negotiators to promote women's interests.⁷⁸

Women used public relations strategies to gain public support and exert pressure. The Women's Charter Campaign was powerful for mobilizing women across the country. In 1991, a diverse group of women's organizations, universities, and senior women in political parties wrote letters to the editors of various newspapers or bought newspaper advertising space to highlight the marginalization of women and women's concerns during the CODESA talks.⁷⁹ This added pressure contributed to the introduction of the GAC at CODESA.⁸⁰ Similar strategies added pressure for direct representation at the MPNP.⁸¹

In addition, the WNC sent a submission to the MPNP calling for the explicit inclusion of the principle of non-sexism and prohibition of gender discrimination in the Constitutional Principles. The parties resolved to include the prohibition of gender discrimination in the interim constitution. It was the strategic advocacy of women Members of Parliament that ensured that non-sexism was added in the final constitution.⁸²

4 | Mixed Attitudes of Negotiating Parties

Attitudes of leaders and members of the negotiating parties towards the inclusion and demands of women varied considerably within parties. On the one hand, the leadership of the ANC comprised feminists who clearly enabled women's influence.⁸³ As did the presence of a significant number of feminist politicians in the first parliament.⁸⁴

Conservatives showed no intention of promoting women's influence

On the other hand, conservative parties, and conservative members of other parties, showed no intention of promoting women's influence.⁸⁵ When the ANCWL approached to Negotiation Council to lobby for the inclusion of women at CODESA, the majority of the members were unresponsive, and some argued that women knew little about politics. The ANC's support proved crucial for the approval of the women's proposal to create the Gender Advisory Commission.⁸⁶ During the MPNP talks, Technical Committees comprised few women and gave little priority to women's concerns, in part due to the culture of the men-dominated parties.⁸⁷ A non-sexism clause was not included in the constitutional principles of the interim constitution as party leaders deemed it implicit to the principle of non-discrimination. (It was later added to the final constitution).⁸⁸

Context Factors

1 | Patriarchal Societal Attitudes and Resistance by Traditional Leaders

Traditionally, all ethnically and religiously defined groups of South Africa's diverse society were, to a varying degree, patriarchal. The conservative Afrikaner NP regime's traditional gender roles left little room for women, including white women, to engage in public life. African family structures assigned a domestic role to women and customary law sharply limited rural women's rights to self-determination and property.

Traditional African authorities represented through CONTRALESA formed a powerful interest group thanks to their influence on rural voters. Under customary law, women had the status of minors, and the WNC's bid to establish gender equality as a constitutional principle that would override customary law encountered fierce opposition from CONTRALESA and traditionalists within parties.⁸⁹ The conflict over the supremacy of the constitution would result in a Constitutional Court ruling that upheld the principle of gender equality.⁹⁰ Traditional leaders also opposed the property rights women received under the Customary Marriage Act that was passed by the first parliament.

2 | Strong Women's and Other Civil Society Groups and International Networks

The women's movement was part of, and carried by, a broad-based and highly organized civil society alliance that opposed apartheid. Both were well-connected with the international anti-apartheid movement and women's organizations, and like-minded governments.⁹¹ Women's organizations had been part of the 1950s anti-apartheid movement; white women expressed opposition to apartheid through the Black Sash organization. Regional women's organizations, such as the United Women's Congress, the Natal Organisation of Women, and the Federation of Transvaal Women joined the UDF, which established a Women's Congress in 1987.⁹² Although the liberation movements had been banned, women also organized in the ANCWL, and in the underground structures and armed wings of the exiled ANC and PAC.⁹³

The women's movement was part of, and carried by, a broad-based and highly organized civil society alliance

The WNC, which consisted of an organizational rather than individual membership, benefited both from the structures and experience of the pre-existing organizations, and close links to the parties and negotiation platforms. The extraordinary mobilization of both the anti-apartheid and women's movement did not endure, however, after the UDF merged into the ANC and the ANC-led government took office.⁹⁴

3 | Financial and Technical Support

Financial support from a range of governments, as well as the international anti-apartheid movement, assisted the women's movement's ability to organize in a national coalition, hold conferences, establish observation of the MPNP, and conduct extensive public consultations. However, transport costs proved a barrier to the inclusion of rural women and other economically marginalized communities.⁹⁵

Feminist academics and constitutional law experts provided technical support to the WNC and to women who were deployed to the national dialogue processes. Although not well-received by all activists, the professionalization of women's politics was, according to Hassim, critical to the WNC's impact.⁹⁶ Women ANC negotiators were supported by high-profile constitutional experts, and women deployed to the Technical Committees received technical support from WNC experts.⁹⁷ Input by gender experts would prove important during the elaboration of key legislation in the first parliament. The TRC also adjusted its work after advice from gender experts, and introduced women's hearings.⁹⁸

Feminist academics and constitutional law experts provided technical support

4 | Political and Social Divisions between Women

The left-leaning anti-apartheid movement had built a non-racial coalition that bridged ethnic and class divides, but building a national coalition among women from all of South Africa's communities and political camps constituted a formidable challenge.

The WNC was dominated by the leftist ANCWL and ANC-affiliated organizations. This made it difficult for women from the DP, the Women's Brigade of the IFP, the NP, and fringe parties to participate. The ideological divides between socialist and liberal as well as feminist and religious conservative women prompted tensions over the understanding and substance of gender equality.⁹⁹

Moreover, the educational inequities created by apartheid meant that coloured, Indian, and white women were overrepresented in the WNC's leadership structures and among technical experts.¹⁰⁰ The WNC and affiliated women's networks centered on privileged middle-class women in urban areas, and efforts to enable the meaningful participation of women from poor and remote rural communities in the elite-driven transition proved unfeasible.¹⁰¹ Thanks to the leaders of the Rural Women's Movement, these marginalized communities nevertheless had a strong voice that promoted their interests throughout the transition.¹⁰²

Efforts to enable the meaningful participation of women from poor and remote rural communities proved unfeasible

III. Conclusion

South African women activists from different parts of society formed a national coalition and successfully used the window of opportunity provided by the democratic transition to force their demand for gender equality onto the negotiation agenda and into the new constitution. The transition produced an institutional architecture to promote the constitutional principle of gender equality and women are nowadays well represented in political office. However, the socio-economic rights of women in marginalized communities that would give substance to the principle of gender equality remain unfulfilled and women continue to be subjected to widespread gender-based violence and discrimination.¹⁰³

The presence of forceful feminist leaders in the negotiations and in the parties, and the coalition that cut across political divides, meant that South African women were not only able to enhance their direct representation in the talks but to enshrine gender equality in the interim constitution. Gender quotas for the composition of negotiation teams and for the first democratic parliamentary elections were critical to greater direct representation of women in key forums.¹⁰⁴ Effective advocacy and transfer strategies got demands to the negotiation table.¹⁰⁵ Women activists also benefited from international financial support, the technical expertise of legal and gender experts, and a highly institutionalized and broad-based network of civil society organizations that led the struggle against apartheid. Patriarchal attitudes were common in parties and most societal groups, and women's rights activists faced particularly forceful resistance by traditional authorities, but overcame this through leveraging the electoral weight of women as a national constituency.¹⁰⁶

The constitution protects the rights of women, yet these rights have yet to materialize for a vast number of South African women

South Africa's transition ended apartheid, replacing it with a non-racist and non-sexist constitutional democracy. But it did not succeed in transforming the huge economic disparities that continue to run along racial lines, and the short-lived peacebuilding efforts were inadequate to reconcile South Africans in the long run. The constitution and a permanent institutional framework for gender equality protect the rights of women, who are well-represented in high political offices. Yet, for a vast number of South African women in vulnerable communities, these rights have yet to materialize. Women continue to lack educational and economic opportunities, access to healthcare, and protection from violent crime, gender-based violence, and discrimination. Moreover, traditional authorities have in various instances failed to observe the equal rights of women enshrined in the new constitution.¹⁰⁷

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Women in Peace and Transition Processes

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