

What can the South African transition tell us about gender and democratization?

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Occasional paper # 9

September 2004

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Series editor: Karen Ross

Introduction

Although the South African transition to democracy has been seen as a relative success, the majority of transitions have been seen as disappointing in gender terms. As a result of these perceived failures, both scholars and activists have asked how far democratization can fulfil the hopes for greater political inclusion of those women who organized to bring an end to non-democratic regimes.¹ Initially drawing on the experience of Latin America, much of the research on women and transitions focused primarily on the roles played by women's movements.² As a result it has often been unable to explain an apparent paradox. Why is it that some of the most vibrant women's movements active during the breakdown of authoritarianism have not necessarily had the greatest success in achieving increased levels of descriptive and substantive representation for women after the restoration of electoral politics? The explanations that have been proffered have frequently been couched either primarily in terms of the mistaken actions and strategies adopted by the women's movements themselves or in blanket dismissals of political systems as male-dominated. More recently studies from East Central Europe have been incorporated into the gender and transitions literature.³ But despite the big variation in factors such as the nature of the transitions, the resulting institutional configurations and the roles played by women's movements, the outcomes of transitions in East Central Europe have been seen as largely negative in gender terms. The presence of active women's movements may therefore be a necessary, but not sufficient, condition for the achievement of higher levels of descriptive

¹ I would like to thank the Department of Political Studies at the University of Witswatersrand where I was based in July/August 2003 and Cathi Albertyn, Shireen Hassim and Sheila Meintjes for all their help and support. This research was funded by the ESRC grant no RES-000-22-0259.

² Susan Franceschet, "Women and Politics in Post-Transitional Democracies: the Chilean Case", *International Feminist Journal of Politics*, 3 (2, 2001), 207-36; Veronica Schild, "Market Citizenship and New Democracies: The Ambiguous Legacies of the Contemporary Chilean Women's Movement", *Social Politics*, 5 (2, 1998), 232-49.

³ Jane Jaquette and Sharon Wolchik, eds., *Women and Democracy: Latin America and Central and Eastern Europe* (Baltimore: Johns Hopkins University Press, 1998); Susan Gal and Gail Kligman, eds. *Reproducing Gender: Politics, Publics, and Everyday Life after Socialism*, (Princeton: Princeton University Press, 2000); Valerie Sperling, *Organizing Women in Contemporary Russia: Engendering Transition* (Cambridge: Cambridge University Press, 1999); Georgina Waylen, "Women and Democratization", *World Politics*, 46 (3, 1994) 327-54.

and substantive representation.⁴ More sophisticated analyses are needed if we are to be able to explain some apparently paradoxical outcomes.

One potential way of doing this is to introduce new cases.⁵ This can, not only develop cross-regional analyses but also allows greater the variation on the dependent variable thereby increasing the validity of the inferences that can be drawn.⁶ Few transitions to democracy have been seen as relatively successful in gender terms. South Africa is an exception. The adoption of a constitution with gender equality enshrined within it; the establishment of a package of state women's machineries; high levels of women's representation in parliament and the executive; as well as policy outcomes such as laws on domestic violence, and reproductive rights, are all seen as increasing levels of descriptive and substantive representation for women. Many of these achievements have been attributed to a broad umbrella group, the Women's National Coalition (WNC) that organized to influence the transition between 1990 and 1994. However, more factors, in addition to women's movements, must be incorporated into the analysis.

This paper will explore the conditions that enabled this women's coalition to achieve a number of its aims and will thereby increase our understanding of the complex interaction of different factors that help to determine how far women's organizing is effective during transitions to democracy. These wider factors will include: the role of women within the conventional political arena for example in political parties as well as wider contextual factors. The significance of a particular path or historical sequence, such as the type of transition and the institutional legacy of the previous non-democratic regime, will also be assessed. The particular institutional configuration of the political system and government institutions will also be considered as it influences relations between various actors and the possibilities for policy change.⁷ To develop the analysis, this article will be divided into three chronological sections. Each one will correspond to a different stage of the transition. Within each section the role of different actors and their interaction with the institutional context will be

⁴ Analyses that do this include: Sonia Alvarez, *Engendering Democracy in Brazil*. (Princeton: Princeton University Press, 1990); Elisabeth Friedman, *Unfinished Transitions: Women and the Gendered Development of Democracy in Venezuela*, (University Park: Penn State University Press, 2000).

⁵ This article concurs with Valerie Bunce, "Rethinking Recent Democratization: Lessons from the Postcommunist Experience", *World Politics*, 22 (January 2003), 167-92; and Evelyne Huber, "The Role of Cross-Regional Comparison", *APSA-CP*, 14 (Summer 2003) 1-6; that cross regional analysis is helpful and legitimate.

⁶ Bunce, 169.

⁷ Mala Htun, *Sex and the State*, (Cambridge: Cambridge University Press 2002).

examined. The analysis will begin with a discussion of the apartheid regime in order to assess the nature of the institutional legacy of the pre-existing non-democratic regime.

The apartheid regime 1948-1980

The non-democratic regime in South Africa had some distinctive features. The apartheid government that took power in 1948 formalized racial divisions that were already enshrined in laws that had their roots in the settler colonialism of the British and Boer communities that had joined together to form South Africa in 1910. This was an oligarchic society organized around social, political and economic inequality that privileged a white minority at the expense of the black majority.⁸ The National Party controlled the whites-only parliament (all other groups had been disenfranchised by 1948), remaining in power without interruption until 1994. There was little or no effective parliamentary opposition. Under apartheid, the state played a greater role than in liberal economies to support white dominance. It imposed large repressive structures to enforce laws associated with residential segregation, highly regulated foreign and domestic migratory labour systems and measures to stifle opposition. It also displayed huge racial bias in terms of public spending for example on health, education and agricultural support. Within the state and economy, it also prioritised the interests of one section of the white population, the Afrikaners.

Apartheid did not have the same impact on all women as women of different races were subject to different legal frameworks, leading Bozzoli to talk about a 'patchwork quilt of patriarchies in South Africa'.⁹ Black women were subject to customary law that technically denied them adult status so that they could not own or inherit property or gain credit. Rights over children also remained with men.¹⁰ Black men and women were also subject to different regimes under the migratory labour system and movement restrictions imposed on the non-white majority. White women were subject only to South African law that gave them significant legal

⁸ Elisabeth Jean Wood *Forging Democracy From Below: Insurgent Transitions in South Africa and El Salvador* (Cambridge: Cambridge University Press, 2000).

⁹ Quoted in Cathi Albertyn et al, eds., *Engendering the Political Agenda: A South African Case Study* (Johannesburg: Centre for Applied Legal studies (CALs), 1999) p. 3.

¹⁰ Sheila Meintjes, "Gender, Nationalism and Transformation: Difference and Commonality in South Africa Past and Present", in Rick Wilford and Robert L. Miller, eds., *Women, Ethnicity and Nationalism*, (London: Routledge, 1998) p. 65.

benefits over other women, such as the right to vote, but discriminated against them in comparison to white men for example in property and tax laws. In addition access to abortion was restricted and there were no effective laws against domestic violence.¹¹ Apartheid policies were justified by a right-wing white supremacist ideology that emphasised the necessity of separate development for different races. Within it, was a conservative vision of gender relations that saw white women primarily as mothers within traditional families (but divided black mothers and their children).¹² Despite the predominantly passive role ascribed to white women, Jacklyn Cock argues that they became increasingly militarised in support of the apartheid regime.¹³

Despite repression, mass organizing against apartheid did occur and women's movements played an important role within it. The National party's accession to power coincided with an upsurge of opposition. The ANC, formed as a moderate middle class organization in 1912, had become more radical in the 1940s. As part of efforts to create a mass base, a Women's League (ANCWL) and a Youth League had been set up and women were allowed to become full members of the ANC itself in 1948.¹⁴ The formation of the predominantly rights-based Congress Alliance by the ANC, the Indian Congress, the Congress of Democrats, the South African Congress of Trade Unions and South African Communist Party (SACP) was a key moment. In 1955 it launched the Freedom Charter in 1955 outlining the conditions for a non-racial democratic South Africa, using a discourse of rights that remained an important part of ANC doctrine. As part of this rights-based movement, the Federation of South African Women (FSAW) held its first conference in 1954, and in preparation for the Congress of the People, in 1955 drafted a Women's Charter that saw women's equality in the context of the national liberation struggle. The FSAW also organized mass resistance to the extension of pass laws to women, culminating in the

¹¹ Gay W Seidman, "'No Freedom without the Women': Mobilization and Gender in South Africa, 1970-1992" *Signs*, 18 (Winter 1993) p. 296.

¹² Deborah Gaitskell and Elaine Unterhalter, "Mothers of the Nation: A comparative analysis of nation, race and motherhood in Afrikaner nationalism and the African National Congress", in Floya Anthias and Nira Yuval-Davis, eds. *Women-Nation-State* (London: Macmillan, 1989).

¹³ Jacklyn Cock, "Keep the Fires burning: Militarization and the Politics of Gender in South Africa", *ROAPE*, (45/46, 1989) 50-64.

¹⁴ Women initially were only as auxiliary members, organised in the Bantu Women's League founded in 1918 see Judy Kimble and Elaine Unterhalter, "'We opened the road for you, you must go forward' ANC Women's Struggles 1912-1982" *Feminist Review*, 12 (1982). p8 of article.

march of 20,000 women in Pretoria in 1956.¹⁵ The ANCWL was active in many of these campaigns, playing a key role in the formation of FSAW, ensuring that it had membership on an organizational rather than individual basis.¹⁶ However, in a precursor to the potentially difficult relationship between nationalist and feminist mobilization, some tension existed between FSAW, ANC and ANCWL over issues of strategy, tactics and autonomy.¹⁷

The decade of mass politics ended in 1960 with shooting of anti-pass law demonstrators at Sharpeville as the apartheid regime became more fully authoritarian, banning of the ANC and ANCWL and increasing repression. Protest subsided as many leaders were either in prison or in exile and organizations went underground. The ANC decided to use means other than non-violence to achieve a non-racial democratic society, using radical rhetoric that talked as much about power and national liberation as rights and democracy. Umkhonto we Sizwe (MK) the ANC's armed wing was founded and a national liberation movement was built in exile. FSAW was not banned but its leadership was either arrested or forced into exile rendering it moribund.

By 1980 the contradictions within apartheid were becoming increasingly obvious. The regime could not ensure political stability. Mass opposition re-emerged in new forms in the 1970s. Strikes in Durban in 1973 were the first large-scale expression, contributing to the emergence of a nascent trade union movement. Protest, particularly by youth, provoked by the imposition of Afrikaans as the language of instruction, began in Soweto in 1976 and became widespread in the townships. Rejecting the rights-based 'charterism' that dominated the previous decades, the Black Consciousness Movement also rose to prominence. Women also took part in these labour and community struggles and boycotts.¹⁸ Despite the measures introduced in the mid 1970s to make all Africans citizens of tribal homelands, the apartheid regime was also unable to prevent continuing African urbanization, coinciding as it did with the need for a large labour force in industry, the mines and the service sector which made restrictions on movement ever harder to enforce. As a result of unrest and increasing

¹⁵ Cheryl Walker, *Women and Resistance in South Africa* (London: Onyx Press, 1982), pp. 153-188.

¹⁶ Meintjes, "Gender, Nationalism and Transformation" p. 71.

¹⁷ See Shireen Hassim, "Identities, Interests and Constituencies: the Politics of the Women's Movement in South Africa, 1980-1999", unpublished PhD thesis, University of Toronto, 2002, pp 1-90.

¹⁸ Seidman "No Freedom", pp 302-4.

international opprobrium, the economy suffered a steep decline in foreign investment in the second half of the 1970s.

Breakdown 1980-1990

In the face of a structural crisis and continuing opposition, the government introduced a programme of 'conservative modernization' at the beginning of the 1980s.¹⁹ This took two forms: the reform of the labour market and pass laws to create a stable urban workforce, and political reforms to give the coloured and Indian communities limited power-sharing through a tri-cameral parliament, together with some local representation for Africans in urban areas. This partial liberalization failed in both economic and political terms.²⁰ African urbanization continued apace and the new measures could not prevent increased opposition both internally and internationally. The labour reforms led to the huge growth of trade unions culminating in the formation of the Congress of South African Trade Unions (COSATU) in 1985. A huge number of community organizations, the civic associations, emerged in the townships. In 1983 the civics and other civil society organizations came together under the broad umbrella of the United Democratic Front (UDF) to oppose the National Party proposals for reform particularly the tri-cameral parliament. A two-year, increasingly radical, township revolt followed in August 1984 and in response to the growing incidence of 'people's power' repression increased and a state of emergency was declared in June 1986. Although civil society organizing did falter after the clamp down had effectively banned the UDF in 1988, its place was taken by the Mass Democratic Movement (MDM).²¹

The 1980s also saw the emergence of new forms of women's organizing in South Africa. Numerous community-based women's groups were active in day-to-day struggles for example around rents, services and health.²² An active rural women's movement (RWM) had also been

¹⁹ Elisabeth Jean Wood, "An Insurgent Path to Democracy: Popular Mobilization, Economic Interests, and Regime Transition in South Africa and El Salvador," *Comparative Political Studies*, 34 (October 2001) p.876.

²⁰ Jeremy Seekings, *The UDF: A history of the United Democratic Front in South Africa 1983-1991*, (Cape Town/Oxford/Ohio: David Philip/James Curry/Ohio University Press, 2000) p. 299.

²¹ *ibid.*

²² Jo Beall, Michelle Freidman, Shireen Hassim, Ros Posel, Lindy Stiebel and Alison Todes, "African Women in the Durban Struggle, 1985-1986" *South African Review*, 4 (1987) 93-103.

formed.²³ In addition three broad regionally based women's organizations: the United Women's Organization (UWO) in the Cape, the Natal Organization of Women (NOW) and finally the Federation of Transvaal Women (FEDTRAW) began organizing against the apartheid regime on a cross-class, cross-racial basis for the first time.²⁴ Upon the formation of the UDF, the UWO and NOW became affiliated to it. Although this decision connected grassroots women's activism to national politics and enhanced the power of community based organizations, according to Hassim they were weakened as they lost a cohort of leaders at the same time as the UDF had few women leaders and paid only lip-service to women's equality.²⁵ However a UDF women's congress was created and COSATU had also held a women's conference in 1988.²⁶ By the end of the decade, although they did not use the term feminism overtly, many women activists were organizing more explicitly around gender issues.

At the same time, women activists had begun to agitate for a different understanding of gender issues within the ANC itself. In the early 1980s, women's liberation was understood as a by-product of the national liberation struggle even by activists within the ANC women's section (the replacement for the Women's League). However, new factors such as the increased mobilization of women within South Africa, the presence of a new generation of young exiles, the growing numbers of women in MK, the influence of the international women's movement and the lessons drawn from the experiences of women in Angola, Mozambique and Zimbabwe, spurred on discussions. At the second ANC women's conference in 1987, the contested nature of the relationship between national liberation and women's liberation and the under-representation of women within the ANC was firmly on the agenda. By 1989 the women's section in London held a seminar on feminism and national liberation. ANC leaders began to make speeches giving support to women's struggles and recognising the problems they faced within the ANC.²⁷ But the issue was far from resolved.

²³ Amanda Kemp, Nozizwe Madlala, Asha Moodley and Elaine Salo, "The Dawn of A New Day: Redefining South African Feminism" in Amrita Basu, ed., *The Challenge of Local Feminisms*, (Boulder: Westview Press, 1995). pp.144-46.

²⁴ Sheila Meintjes, "The Women's Struggle for Equality during South Africa's Transition to Democracy", *Transformation*, 30 (1996) p.55.

²⁵ Hassim, PhD, pp.136-42.

²⁶ Seidman "no Freedom", p.308.

²⁷ For example Tambo declared in September 1985 'we should stop pretending that the women in our movement have the same opportunities as men', is widely regarded as the first of a number of important declarations made by ANC leadership about women, quoted in Hassim, PhD, p. 223.

Women's representation in the leadership of the ANC was still very poor in the late 1980s (only 3 of the 35 members of the NEC were women) and even the ANC Constitutional Guidelines issued in 1988, while appearing to incorporate the demands of women, did so only in very narrow and formal terms.²⁸ However, a number of significant changes had taken place by the end of the decade. Women active around gender issues had an increased visibility within the ANC as demonstrated by the in-house ANC workshop on Women and the Constitution held in Lusaka in 1989 to discuss the failings of the constitutional guidelines; and, in their policy statements, the ANC leadership had accepted the legitimacy of a gender agenda.²⁹

By the end of the 1980s a synergy existed between internal activists and ANC women in exile in terms of their debates and activities.³⁰ They came together for the first time at the Malibongwe conference co-ordinated by the ANC Women's Section in January 1990 to discuss issues such as how to include gender equality in the future democratic constitution, the political participation of women (including the need for quotas within the ANC), violence, education and customary law. Significantly the term feminism was used in the conference documentation.³¹ The final Programme for Action (in keeping with the demands made at the Lusaka workshop) included two important statements that 'national liberation in South Africa does not automatically guarantee the emancipation of women...and that there is an urgent need for united action towards the formation of a national women's structure'.³² Many of these ideas were incorporated into the subsequent ANC Statement on the Emancipation of Women of May 2 1990 which recognised that the emancipation of women was not a by-product of a struggle for democracy and had to be addressed in its own right, and pointed to the lack of women, particularly in decision-making structures within the ANC and of a strong mass women's organization. To achieve 'the emancipation and development of women', it advocated the (re)formation of the ANCWL, affirmative action within the

²⁸ Catherine Albertyn, "Women and the transition to democracy in South Africa", in Felicity Kaganas and Christina Murray, eds., *Gender and the new South African Legal Order*, (Cape Town: Juta, 1994) p.47.

²⁹ Interview with Mavivi Manzini, July 30 2003, Johannesburg.

³⁰ Hassim, PhD, p.175.

³¹ See Malibongwe Papers, held in CALs, University of Witwatersrand, Johannesburg.

³² Programme of Action, Malibongwe Conference Amsterdam Feb 1990. CALs. For a discussion of the Lusaka workshop, see Bridget Mabandla, member of the ANC Constitutional Committee, 'Protecting women's rights and promoting gender equality in a democratic non-racial and non-sexist South Africa', at the Lawyers for Human Rights Conference, Johannesburg, Nov 1990.

ANC, amendments to the constitutional guidelines and that the ANCWL should initiate a campaign for a Charter of women's rights 'that will elaborate and reinforce our new constitution'.³³

Just two weeks after the Malibongwe conference the National government announced the un-banning of the ANC and other organizations such as SACP and PAC. After a decade of what Stephen Friedman has called 'conflict and constitutional tinkering', it had been widely realised that apartheid was unsustainable and only a political solution could bring a resolution to the crisis as conflict had produced stalemate.³⁴ The collapse of the Soviet Union meant that communism was no longer seen as such a threat. Despite the increase in popularity of the extreme right, the moderates in the National Party had come to the fore and had already joined business leaders in secret talks with the ANC. A negotiated transition, in which it was recognised that the ANC would play a key role as the primary representative of the anti-apartheid forces and would be the eventual winner of any democratic elections, was formally underway. It was recognised, even by its most conservative supporters, that the glaring legal and political inequalities that characterised the apartheid regime could not remain in place with the move to majority rule. A transition to democracy would therefore bring huge political changes. However, it was assumed that the underlying economic structures (and therefore many accompanying inequalities) would remain in place as many of the economic advantages of the white minority would be safeguarded. Negotiations would therefore focus on political rather than social or economic issues. This position was acceptable to the ANC, as despite its radical rhetoric, it had, according to Marais, always privileged the political over the economic with an emphasis on winning state power and doctrines of democracy and civil rights.³⁵ Any post transition government would also inherit a state structure that had been created to support and uphold apartheid. This institutional legacy would affect the relative size of the policy window for changes to civil, political and socio-economic rights as well as gender inequalities.

³³ Statement of the National Executive Committee of the ANC of the Emancipation of Women in South Africa, May 2nd 1990.

³⁴ Stephen Friedman, *The Long Journey: South Africa's Quest for a Negotiated Settlement* (Johannesburg: Ravan Press, 1993) p. 7.

³⁵ Hein Marais, *South Africa, Limits to Change: the Political Economy of Transition* (London, Cape Town: Zed Press, University of Cape Town Press, 2001 2nd ed) p. 85.

The transition 1990-1994

Certain actors (both groups and individuals) were therefore poised to play key roles at the beginning of the transition. Although it is impossible to talk of a women's movement at this point, a range of women had mobilised as part of the national liberation movement but also increasingly as women, both internally and within the ANC in exile. Key women activists were determined to ensure that women's claims for equality, that they had put on the agenda as a legitimate part of opposition demands, would not be left out of the transition. ANC women activists also recognised their weakness within their own organization and the strategic need for a broad women's organization from which gender claims could be fought for more successfully. Thought had already been given to the kinds of future constitutional arrangements that would be most likely to promote gender equality. The ANC discourse of rights, proclaiming that all races should be incorporated into citizenship on equal terms could also be used to increase the policy window available to reduce some gender inequalities.

Women's organizing

After the un-banning of the ANC and the release of Nelson Mandela in February 1990, the initiative and power within the opposition lay with the ANC in its future incarnation as a political party. Civil society organizations had to decide what strategies and goals to adopt in the new context. Many women's organizations maintained their links to the opposition but in new forms. The re-emergence of political organizations like the ANCWL (see below) saw the affiliation of many women's organizations to its structures. New types of organizations, such as gender research and policy units also began to emerge, contributing to the NGO-ization of some women's organizations, a trend that continued after the first non-racial elections.³⁶ Some already-organized constituencies of women such as women within trade unions and rural women developed their own demands for the new democracy.³⁷

Finally, the most important development was the formation of a broad alliance, the Women's National Coalition (WNC). The WNC was set up to draft a women's charter of equality that would gather the demands of both

³⁶ ref to Alvarez etc

³⁷ Albertyn, "Engendering", p. 9.

individual women and women's organizations.³⁸ The initial initiative came from the ANCWL who called a meeting with a very broad range of organizations in September 1991 to discuss embarking on a Charter of Women's Rights campaign.³⁹ Although launched at the behest of the ANCWL with prominent members of the ANC such as Frene Ginwala as prime movers within it, the WNC was an independent organization that could articulate its claims independently of the ANC. It was officially launched in April 1992 when around seventy organizations came together across geographical, racial and class lines. By February 1994 they numbered more than 90 organizations and 13 regional coalitions, ranging from the National Party, the Inkatha Freedom party, RWM, SACP, COSATU to the Girl Guides and Soroptimists. The WNC recognised the obvious differences between women and negotiated diversity through coalition politics rather than the creation of one national organization.⁴⁰ The wide range of organizations that participated in it all realised that, without action from women organized as women to fight for inclusion and to make the claims for equality and women's rights, there was a danger that they could be marginalized from the transition process.

The WNC had a twofold role. The first aim was to contribute to the building of a national women's movement through the grassroots campaign to draft the charter of women's equality. The second aim was to influence the national political process of writing the constitution and designing the new political system.⁴¹ The charter campaign was ambitious. It was seen as a mobilizing and educating process in which fieldworkers would conduct focus group type discussions with groups of women about their diverse needs and aspirations. These would form the basis of the Charter. It was envisaged by many as a participatory process that would inevitably take some time. The charter was also intended to serve as the basis for the WNC's interventions into the constitutional negotiations. As pointed out by several commentators these two aims were not always compatible and resulted in some disputes about tactics and goals within the WNC.⁴² Intervention into the national negotiations required strategic flexibility and

³⁸ Shireen Hassim, "'A Conspiracy of Women': The Women's Movement in South Africa's Transition to Democracy", *Social Research*, 69 (Fall 2002) p.700.

³⁹ Invitation to meeting on Charter of Women's Rights Campaign from ANCWL Facilitating Committee to CALs, Univ of Wits, 26 Aug 1991.

⁴⁰ Jacklyn Cock, 'Women in South Africa's Transition to Democracy', in Joan W Scott, C Kaplan and D Keates. eds., *Transitions, Environments, Translation*. (New York: Routledge, 1997), p. 313.

⁴¹ Albertyn "Women and the Transition" p.51.

⁴² *ibid* p. 52; and Hassim, "A conspiracy" p. 710.

the ability to respond quickly to rapidly changing circumstances that often precluded the widespread consultation and participatory practice that was to be part of the charter campaign. After a huge amount of research and discussion, the Women's Charter for Effective Equality was finally ratified in June 1994. It consisted of 12 articles that ranged from basic demands for equality to substantive demands in the fields of health, education, family life, culture, violence and the economy. It was also accompanied by a wide-ranging report of the broader findings of the charter campaign.⁴³ In the end the Charter was produced too late for the document itself to be included in the draft constitution.

But as we will see, the WNC did facilitate the intervention of organized women into the transition process and the coming together of the "triple alliance" of activists, academics and political women. It also consolidated other activities that were taking place to strategise about interventions.⁴⁴ For example it held a conference in May 1993 to debate the issues that had been raised by an earlier IDASA workshop around women and governance, particularly what arrangement of state women's machinery would be most effective at promoting gender sensitivity within the new government.⁴⁵ However ultimately it was less successful in its more ambitious aim of building a broad based grassroots women's movement. But it is not possible to fully understand the role of the WNC without understanding the wider institutional context, particularly the political parties and the negotiations, within which it was operating.

The political parties

The ANC, although not yet a political party in 1990, was clearly going to play a key role in the transition and afterwards. As a national liberation movement, it had highly organized structures outside South Africa with complex procedures and rules. As we have seen, although women had low

⁴³ The Origins, History and Process of the Women's National Coalition. Report of the Women's National Commission Research, October 1994. Johannesburg.

⁴⁴ Cathi Albertyn, Shireen Hassim and Sheila Meintjes, "Making a Difference? Women's Struggle for Participation and Representation" in Glenda Flick, Sheila Meintjes and Mary Simons eds., *One Woman, One Vote*, (Johannesburg: EISA, 2002) p.35 - check Albertyn paper etc see notes.

⁴⁵ See for example Cathi Albertyn, 'Women and Politics: Choices in Structural Mechanisms to Empower Women in a Democratic Government', paper given at Workshop on Structural Mechanisms to Empower Women in a Democratic Government, University of Natal, 4-6 Dec 1992.

levels of representation within the power structures, an increasingly vocal and organised group of women activists were poised to build on some of the gains of the late 1980s when the transformation of the ANC into a political party and the wider transition to democracy began. A strong women's section was one potential vehicle.

The ANCWL was re-launched in August 1990 as an autonomous organization linked to the ANC as had been advocated in the May 1990 statement on the Emancipation of Women. As well as activists from the ANC women's section returning from exile, it absorbed many internal women's organizations, such as the regional organizations, affiliated to UDF. However, the ANCWL, although it could play a key role, could not be hegemonic within the women's movement and organizations like the WNC, because of its weak links to internal women's organizations. Its position within the ANC was also uncertain. Some feminist commentators at the time pointed to its lack of support and resources.⁴⁶ Despite the presence of a number of feminist activists in the ANCWL, its weakness within the ANC was demonstrated at the 48th Congress of the ANC held in July 1991. The ANCWL proposed a 30% quota for women on the NEC. After a heated debate, this was rejected by the majority of the delegates (only 17% of whom were women). Although ostensibly supported by the ANC leadership, there had been little discussion of this measure among the newly formed branches to convince them of its merits.⁴⁷ This defeat was seen as a strategic failure by key members of the ANCWL who partly attributed it to a lack of preparation. They were determined not to let it happen again.⁴⁸ But it was also seen as further evidence that on its own the ANCWL could not successfully pressure the ANC, and it hardened the resolve of many to develop a strong organizational presence for women, even if it meant going outside the ANC.⁴⁹ Perhaps as some compensation for the defeat, the ANC leadership finally set up the Emancipation Commission that had been talked about for some time which leading feminist activist, Frene Ginwala, as the deputy chair, could then use as a base outside of the ANCWL to organise around gender issues within the ANC.⁵⁰

⁴⁶ Sheila Meintjes, 'Looking for the Women's League? Leave a Message...', *Work in Progress* 70/71, (1990), p.15-16.

⁴⁷ Meintjes "Gender, Nationalism and Transformation", p. 78.

⁴⁸ Mavivi Manzini, Interview.

⁴⁹ Hassim PhD, p.254-5.

⁵⁰ *ibid* p. 255.

Within some of the already existing parties, such as the Democratic Party, the white liberal party that had formed the official opposition to the government, and even in the National party, there were also a small number of women pressing gender concerns during the transition. A certain amount of cross party contact and organizing also took place and the political parties were among the large number of organizations represented in the WNC. A number of women from the right-wing and rather traditional Inkatha Women's Brigade also ensured that they were represented within the negotiating team for Convention for a Democratic South Africa (CODESA). It is now possible to analyse how these different groupings came together in the processes of transition.

The negotiations

The negotiations that determined the nature of the new South African polity did not take the form that many activists, such as those in the UDF, had hoped for. The political system was not designed in a national convention but in elite level multi-lateral and bi-lateral negotiations, many of them secret, between the political parties.⁵¹ After 'talks about talks' were held in 1990 and 1991, CODESA met for the first time in December 1991 in the context of high levels of political violence. Very few women (only 23 among more than 400) were included among the delegates.⁵² A flurry of protest resulted both publicly in the press and within some of the political parties. The ANCWL, critical both of the way CODESA had been established and of its terms of reference, co-ordinated research and submissions on many of the issues being considered by it. It also pressured the ANC to adopt a proposal that a multiparty Gender Advisory Committee (GAC) should be established as a working group of CODESA to monitor to progress of the negotiations and make recommendations.⁵³ Women delegates from the other parties joined the ANC women in GAC and in the women's caucus at the subsequent Multi-party Negotiating Process (MPNP) discussed below.⁵⁴ Although an important symbolic victory, GAC never

⁵¹ Jeremy Seekings, p. 294.

⁵² Albertyn "Women and the Transition" p. 52 fn61.

⁵³ According to Stephen Friedman it set itself a limited task by focusing on finding ways of ensuring women's maximum participation in the transition rather than on women's rights per se. 'The Missing 53%', in Friedman, *The Long Journey*, p. 130.

⁵⁴ Sheila Camerer, National Party Representative in MPNP and member of the Women's Caucus stressed for example how women from a range of parties united across party lines during the negotiations. Interview Johannesburg, July 28 2003.

really had the chance to establish a role for itself before CODESA was dissolved as a result of the political violence.⁵⁵

Women's lack of influence in CODESA acted as a spur to the formation of the WNC and it was able to play a role in the MPNP that replaced CODESA in March 1993.⁵⁶ As part its efforts to influence the transition process, the WNC identified three key tasks in its lobbying of the negotiations.⁵⁷ First the inclusion of women in the negotiating teams, second the inclusion of non-sexism in the constitutional principles and third the inclusion of an equality clause in the constitution that would over-ride the right to custom and tradition. The first aim of more women in the negotiating teams was achieved relatively easily. Agreement was reached that one of the delegates from each party and government that formed the negotiating teams had to be a woman. However, the technical committees, that drafted the reports that formed the basis of the interim constitution, initially had minimal numbers of women on them and even when more women were included, virtually ignored gender issues. The presence of exclusionary informal networks, the lack of technical expertise and inexperience of many of the women involved, coupled with the nature of the negotiations, combined to reduce the influence of the women delegates.⁵⁸

Despite these obstacles women did organise around the second and third aims outlined above. The WNC helped to ensure that the 'triple alliance' of women academics, politicians and activists could achieve greater influence over this second round of negotiations than they had over CODESA.⁵⁹ Women politicians and activists particularly within the ANC were helped by feminist legal academics in the preparation of technical and constitutional submissions. As already described, a women's caucus existed among the women delegates of the different political parties. The WNC established a monitoring team to monitor the technical committees and the Negotiating Council and give help and advice to the Women's Caucus. In addition to submissions made by a range of women's organizations, the WNC could also make submissions in its own name, claiming to represent a broad constituency of women.⁶⁰ The synergy of this triple alliance,

⁵⁵ See Albertyn et al "Engendering" p.11.

⁵⁶ Shireen Hassim and Amanda Gouws, "Redefining the Public Space" *Politikon*, 25 (2, 1998) p.64.

⁵⁷ Ibid p714.

⁵⁸ Albertyn, "Women and the Transition"

⁵⁹ Albertyn et al "Engendering", p12-13.

⁶⁰ For example the submissions on a Bill of Rights made in 1993. Including papers from Western Cape Women's Organization, Women's Health Project, Women's Legal Status Committee, Abortion Reform Action Group and Black Sash on abortion. CODESA papers, CALs, University of Witwatersrand.

facilitated by the WNC, enabled strategic interventions to take place within the MPNP which none of the partners in the alliance could have achieved on their own.

The WNC protested about the exclusion of non-sexism from the first draft of the constitutional principles. In the end women parliamentarians in the constituent assembly won the argument for the inclusion of the principle of non-sexism when the interim constitution was presented in 1994.⁶¹ The need for an equality clause in the interim constitution was also accepted early on in the negotiations. However the biggest area of contention was around the issue of customary law and whether it should be subject to the equality clause. Traditional leaders wanted customary law excluded to safeguard forms of inheritance, property and marriage that maintained their hereditary power. The WNC, and within it the RWM, lobbied and argued vociferously that to exclude customary law would be, according to Catherine Albertyn to exclude the most oppressed and marginalized groups namely rural black women.⁶² Unsuccessful attempts were made to broker a compromise between these two opposing positions. It was not until the last minute of the MPNP that the traditional leaders lost and customary law was made subject to the equality clause. Partly as a result of the attempts to negotiate a solution, the creation of two new institutions was envisaged: a Council of Traditional Leaders and a Commission for Gender Equality (CGE). The CGE would be mandated to promote gender equality and make recommendations to parliament about any law affecting the status of women.⁶³

The process of transition ended with the first non-racial elections held in April 1994. The National Party felt that it had secured the best deal it could hope for.⁶⁴ A procedural view of democracy was adopted at the negotiations.⁶⁵ The political system was to be a unitary multi-party democracy with a PR closed list system in contrast to the racially restricted constituency based plurality system. It has subsequently been dubbed a semi-presidential presidential system as the president ceases to be a member of the Assembly.⁶⁶ The first elected parliament would also form the Constituent Assembly that would approve the interim constitution designed

⁶¹ Hassim, "A Conspiracy" p. 718.

⁶² Albertyn, "Women and the Transition" p.59.

⁶³ Albertyn et al "Engendering" p.93

⁶⁴ Sheila Camerer, interview July 28 2003.

⁶⁵ 1991 Declaration of Intent of CODESA 1, signed by all major players, quoted in Albertyn, Hassim and Meintjes, p.27.

⁶⁶ Roger Southall, "The State of Democracy in South Africa", *Journal of Commonwealth and Comparative Politics*, 38,(Autumn 2000), p.156.

during the negotiations with its progressive Bill of Rights that protected gender equality as part of its enshrinement of individual and collective rights. A ‘sunset clause’ declared that for the first five years there was to be power-sharing between the main parties in a government of National Unity and that vested interests such as the Afrikaner bureaucracy were to be protected.⁶⁷

The ANC contested the 1994 election with lists that contained 32% women candidates as a result of a 30% quota, with women candidates placed in winnable positions on the party’s list. After the failure of the quota proposal for internal party positions at the 1992 conference, women activists continued to lobby for one and in the discussions about the procedures for deciding the electoral lists, the ANC leadership supported the inclusion of a 30% quota in the list guidelines.⁶⁸ Other parties, such as the National Party and Democratic Party, although they were opposed to quotas did field far more women candidates in 1994 than they had in 1989. The proportion of women NP MPs increased from 4.3% to 11% and for the DP from 6% to 14% implying a contagion effect.⁶⁹ The ANC had fought the 1994 election with the Reconstruction and Development Programme (RDP) as its ‘socio-economic policy framework’. This emphasised the provision of basic needs through redistribution but within a social democratic framework.⁷⁰ Activists from the ANCWL policy section had been instrumental in arguing that gender issues should be integrated into all ANC policy rather than in a separate women’s policy. As a result women activist had been part of the drafting of the RDP and so it had within it proposals for the mainstreaming of gender into most policy sectors. Although not without its problems, it provided a framework that had the potential for substantive policy gains. Other political parties, the Inkatha Freedom party, the National Party, the Democratic Party and the Pan African Congress, also felt that they had to contest the elections with gender platforms.⁷¹

⁶⁷ Marais, pp. 83-99.

⁶⁸ Mavivi Manzini claimed that ANC women carried on strategising about how to achieve quotas after the 1992 defeat, for example running workshops. For the national elections, it was decided that a man should put forward the proposal. The 30% quota was modelled on other experiences and set at a level that was thought to be near ‘critical mass’ but also acceptable to the party. Interview July 30 2003.

⁶⁹ Julie Ballington, ‘Women’s Parliamentary Representation: the Effects of List PR’, *Politikon*, 25, (Spring 2, 1998), pp 77-93.

⁷⁰ Albertyn et al, *Engendering* p.14.

⁷¹ *ibid*, p.15 .

Conclusions

As a result of the negotiations, the future political system was to be a unitary PR closed list one and the first parliament was to form a constituent assembly to approve the interim constitutions. For the first non-racial elections, the ANC adopted a 30% quota for its candidates list. Because the ANC won a landslide victory as expected, gaining 252 out of the 400 seats, women formed 27.2% of the total number of elected representatives. There have also been relatively large numbers of women in government and not all of them in the 'caring' positions so often given to women ministers. The State women's machinery was eventually established according to the many of the ideas outlined in the transition period. Levels of descriptive representation in post transition South Africa have therefore been relatively high. There are, however, more questions over the nature of women's substantive representation that cannot be examined here.

This examination of the South African case has allowed us to explore some of the conditions under which women's mobilizations on the basis of gender identity, organizing for increased participation and gender reform can achieve their aims. It has shown that the broader context within which women were acting was crucial. The particular historical and institutional character of the transition, such as the structure of the negotiations and the openness of certain participants to women's claims, was central. Many of the conditions that facilitated the incorporation of gender concerns during the transition period were in place before 1990. Women had been active in the 1980s both internally and within the ANC in exile. They had been able to use the discourse of charterism to further gender claims. ANC women also realised that they were not strong enough of their own to achieve their aims. A large range of women activists also agreed that strategic intervention into the transition was necessary. The WNC was the strategic intervention that allowed the triple alliance of key feminist activists, academics and politicians to engage with the transition process. The nature and role of the ANC as a political party, the role played by feminist activists within it and the character of the transition all played an important part in facilitating the emergence and activities of the key women within the transition process.

Biographical note

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