

Are women better or worse off since 1994?



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I began researching this article determined to celebrate the gains women have made since 1994. There are many, and they are not insignificant. For many years the primary struggle in South Africa was a racial struggle and liberation movements focused on this as a primary concern. Despite this, women made great change, change that is commemorated each year on the 9th of August as Women's Day.

At the same time, women's rights in South Africa are at a turning point like never before. Women make up the majority of the South African population. They are also the worst affected by poverty, gender based violence (GBV), HIV infection, and climate change. There is much to be done, and examining the gains women have made is important in entrenching a sense of efficacy and, most importantly, of hope.

It is equally important to look at where women are falling short. These failings hold women back from occupying an equal position to men socially, economically and politically. Without acknowledging these shortcomings we will be unable to act upon them. If we assume that women's rights are 'achieved', what will inevitably result is a sense of complacency and apathy.

Where we've gone right

Improving legislation

Over the past eighteen years, Parliament has passed a number of laws that have improved women's legislative access to sexual and reproductive health, land, employment, and their recourse against discrimination and violence. Particular pieces of legislation and legal precedents can be seen as examples of the improving, progressive nature of legislation. Although beyond the scope of this article, it is equally important to review the application of these pieces of legislation to ensure that they are applied in a manner that is beneficial to women's freedom.

- **The Choice on Termination of Pregnancy Act No 92 of 1996, and Amendment Act 1 of 2008.**

These Acts allow for access to safe and legal termination of pregnancy up until 12 weeks at the request of the pregnant woman, and between the 13th and 20th week if certain criteria apply. In addition, the Amendment Act provides criteria that have to be met for a facility to be able to offer termination of pregnancy.

- **Recognition of Customary Marriages Act No 120 of 1998**

The Recognition of Customary Marriage Act aimed to provide for "equal capacity and status of spouses in customary marriages", to ensure that all marriages are registered to allow for the provision of legal rights within a marriage, and to provide for the cancellation of such marriages. This is critical in ensuring

that women in customary marriages are treated as equals, rather than objects transferred from one family to another.

- **The Domestic Violence Act No 116 of 1998**
This Act provided for women to have access to protection orders to prohibit abusers from coming near them, and places a positive duty on police to assist victims of domestic violence.
- **The Promotion of Equality and Prevention of Unfair Discrimination Act No 4 of 2000, and Amendment Act 52 of 2002**
This Act prohibits unfair discrimination on the basis of gender, which is critical in fields such as employment, land and housing.
- **The Criminal Law (Sexual Offences and Related Matters) Act 32 of 2007**
This Act expanded the definition of rape and created a number of new crimes, in an attempt to cover the extent to which violence against women is meted out. The Act also ensured that rape within marriage is classified as rape, and removed the cautionary rule, where rape survivors' testimony was to be regarded with suspicion.

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In addition, there have been a number of progressive policies developed to provide for access to anti-retrovirals for women living with HIV and to improve the Prevention of Mother-To-Child Transmission (PMTCT) of HIV. The PMTCT programme began in 2002, and has reduced the rate significantly.¹ The advocacy of the Treatment Action Campaign has been critical in ensuring that women living with HIV are

able to access services and have healthy pregnancies.

Where we're going wrong

- ***Political commitment to gender equality***

At present, 42% of Ministers in Government are women and women² make up 45% of the National Assembly.³ Yet, few of these women dispute legislation that is passed which will disempower women.

The Commission for Gender Equality is a body created by the Constitution to protect women's rights and gender equality, and to monitor South Africa's progress in achieving the United Nations Millennium Development Goals. Informed by international declarations, such as the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Beijing Platform for Action (BPA), this body is entrusted with holding Government accountable for achieving a gender-equitable South African society. However, this potential is realised far too infrequently, because of a lack of budget and political clout.

Although a new Department of Women, Children, and People with Disabilities was created in 2009, this cannot, in my view, be seen as a commitment to gender equality or the advancement of women. The Department's budgets are blown each year on women's day events with little impact on women's real lives. It is also worth noting that few civil society organisations that work with and for women were invited to the most recent sitting of the Women's Parliament.

- *The Traditional Courts Bill*

Today we stand at the edge of the abyss. Despite public outcry, the Traditional Courts Bill is being bulldozed through Parliament, while at the same time the formal spaces for engagement are being narrowed each day. One cannot help but conclude that when politicians are losing their hold on power they come after women's rights. (One only needs to watch the news to see how this is happening in the United States at the moment with sexual and reproductive health rights.) The Traditional Courts Bill will limit women's rights in the interests of a minority of traditional leaders. It is oppressive lawmaking at its best, or in this case, its worst.

- *Sexual violence*

In addition, it is oft quoted that South Africa has one of the highest rape rates in the world of a country not at war and that a girl in South Africa has more chance of being raped than of learning to read.⁴ In the most recent Crime Statistics, 64 514 sexual offences were reported⁵. It is estimated by most service providers in the field that this number represents only a fraction of the real number of offences committed.

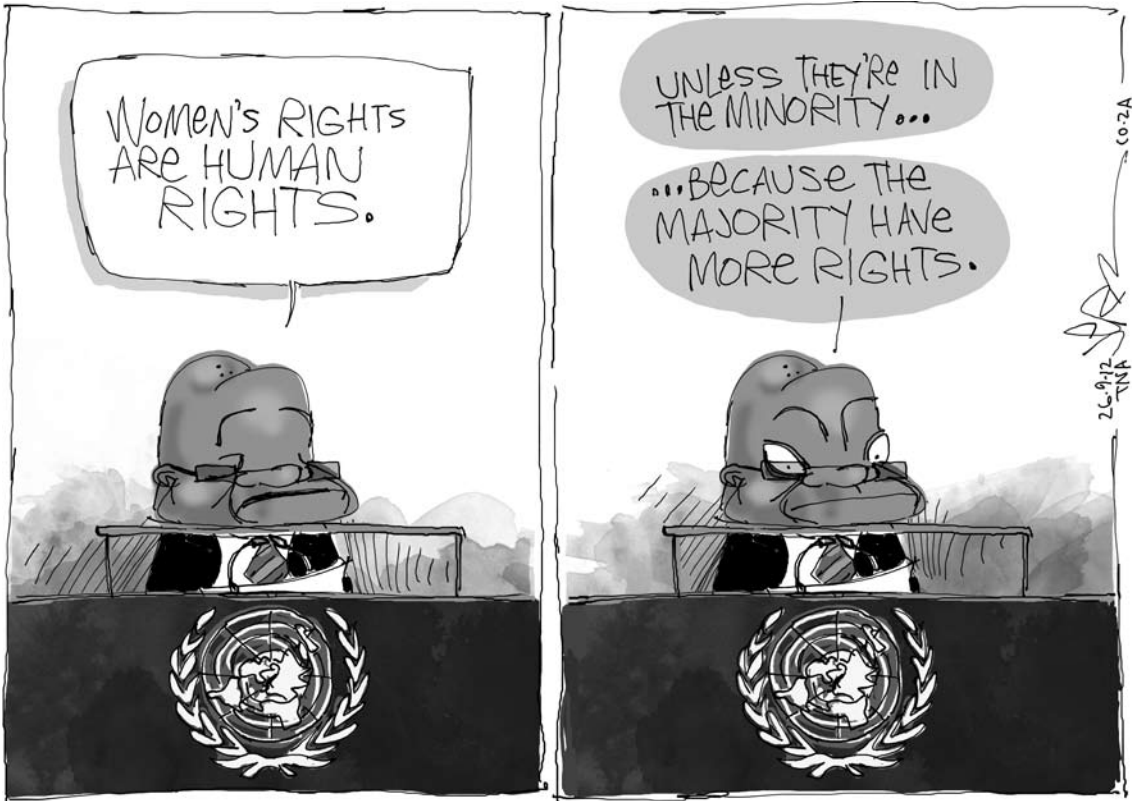
A further indication is the number of centres that assist women in reporting their rape and provide counselling to survivors to assist them to heal that are closing down because of a lack of funding.

In addition, sexual violence against marginalised groups, such as lesbian women, has also been on the rise and violence against sex workers continues⁶. Sexual offences are always incredibly traumatic for the survivor, and yet the process of cases through South Africa's criminal justice system, the low conviction rates, and the low distribution of maximum sentences, is indicative of a lack of political will to investigate and prosecute these crimes.

A further indication is the number of centres that assist women in reporting their rape and provide counselling to survivors to assist them to heal that are closing down because of a lack of funding. These centres fill the gaps in government services, and it is desperate that they are closing at a time when they are needed most. It is difficult to feel free when you are threatened with a culture of sexual violence, and this is a reality that many women face.

- *Maternal health*

Our maternal mortality rate (MMR) is also higher now than it was in 1980. In the 2008 – 2010 period, 4687 mothers lost their lives⁷, despite the fact that South Africa has the highest per capita spending on health in sub-Saharan Africa.⁸ These numbers also vary dramatically. According to the Department of Health, the 2008 MMR was 176.22 deaths per every 100 000 live births.⁹ Human Rights Watch estimated that for the same period it was around 625 per 100 000.¹⁰ The World Health Organisation put the figure as closer to 300 per 100 000.¹¹ The Commission for Gender Equality puts it at 400 per 100 000.¹² Regardless of the exact numbers, they all suggest a worrying increase, particularly because, according to a 2011 Human Rights Watch report, 92% of women attend antenatal care, and almost 87% deliver in health facilities.¹³ Our HIV infection rates do have something to do with this increase: in 2010 alone, 59.9% of maternal deaths were HIV related.¹⁴



Thanks to *My name is Jerm* for permission to publish this cartoon. <http://jerm.co.za/>

- *Representations of women in advertising*

The South African advertising industry continues to put forward narrow conceptions of women and women's appropriate gender roles. It is possible to listen to a day's worth of advertising on the radio and hear women in only a few roles (mother who loves cleaning, angry vindictive boss, or nagging girlfriend etc).

It is important that advertising, which promotes a diversity of ideas of what a woman can be, is aired and promoted.

The promotion of ideas like this makes it difficult for women to occupy alternative roles in the minds of fellow women and, in particular, of men. If young girls only hear stereotypes about women that cast their voices as 'nagging' or relegate them to the domestic sphere, this will have a profound effect on their ability

to imagine themselves in a different world.

Unequal gender relations disempower men, as well, by limiting them to roles where they are unable to be active fathers, caring brothers, or non-violent friends. It is important that advertising, which promotes a diversity of ideas of what a woman can be, is aired and promoted.

What now?

“It is a dangerous thing to assume that just because we were raised in a feminist era we are safe. We are not. They are still after us.”¹⁵ – Ellen Neuborne

The worst thing we could become in this context is complacent or complicit. The beauty of South Africa’s democracy and parliamentary system is that it was designed to be participatory. It is critical, at this time, that women participate to ensure that their lives do not get worse.

Nelson Mandela quite rightly said “freedom cannot be achieved unless the women have been emancipated from all forms of oppression.” The freedom of some should never be founded on the lack of freedom of others. Women’s lives have undoubtedly improved in many respects since the advent of democracy. But it is clear that there is a long way to go.

NOTES

- 1 <http://www.aidsmap.com/South-Africas-PMTCT-programme-reduces-mother-to-child-transmission-to-under-4/page/1880446/>
- 2 South African Government. Ministers List. <http://www.info.gov.za/leaders/ministers/index.html>
- 3 South African Parliament. Women and Parliament. <http://www.parliament.gov.za/content/Women%20and%20Parliament%20English~1.pdf>
- 4 David Smith. 2010. “We have a major problem in South Africa.” The Guardian. <http://www.guardian.co.uk/lifeandstyle/2010/nov/18/south-africa-murder-rape>
- 5 The South African Police Services. 2012. Crime Statistics. http://www.saps.gov.za/statistics/reports/crimestats/2012/categories/total_sexual_offences.pdf
- 6 The Sex Workers Education and Advocacy Task Force, Sisonke and the Women’s Legal Centre. 2012. “Stop Harassing Us. Tackle Real Crime. A report on human rights violations by police against sex workers in South Africa.” Accessible via http://www.wlce.co.za/morph_assets/themelets/explorer/violence_against_women/General/Sex%20Workers%20Report.pdf
- 7 The South African Department of Health. 2012. Saving Mothers: The Fifth Report on the Confidential Enquiries into Maternal Deaths in South Africa. Page iii. Accessible via www.doh.gov.za/docs/reports/2012/savingmothersshort.pdf
- 8 HRW. 2011. Stop Making Excuses. Accountability for Maternal Health Care in South Africa. Page 15. Accessible via <http://www.hrw.org/reports/2011/08/08/stop-making-excuses>
- 9 The DOH. Saving mothers. Page IV.
- 10 HRW. 2011. Stop Making Excuses. Page 2.
- 11 Margaret C Hogan, Kyle J Foreman, Mohsen Naghavi, Stephanie Y Ahn, Mengru Wang, Susanna M Maleka, Alan D Lopez, Rafael Lozano, Christopher J L Murray. 2010. Maternal Mortality for 181 Countries, 1980 – 2008: a systematic analysis of progress towards the Millennium Development Goal 5. *Lancet* 2010; 375: page 1609 – 23. Page 35.
- 12 Weaknesses in South Africa’s Progress with women’s equality and the Millennium Development Goals, Agenda: Empowering Women for Gender Equity, 26: 1, 91 – 103. Page 95.
- 13 HRW. 2011. Stop Making Excuses. Page 3
- 14 World Health Organisation, UNICEF, UNFPA and the World Bank. 2012. Trends in the Maternal Mortality Ration 1990 – 2010. Page 45. Accessible via http://whqlibdoc.who.int/publications/2012/9789241503631_eng.pdf Page 35.
- 15 Ellen Neuborne. “Imagine my Surprise” in Barbara, Findlen (Eds). Listen Up: Voices from the next feminist generation. Seal Press: 1995, 2001. Page 184