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Judith Nolde

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# **SOUTH AFRICAN WOMEN UNDER APARTHEID: EMPLOYMENT RIGHTS WITH PARTICULAR FOCUS ON DOMESTIC SERVICE AND FORMS OF RESISTANCE TO PROMOTE CHANGE**

Judy Nolde\*

## **Woman**

They were women then  
My Mama's generation  
Husky of voice, Stout of Step  
With fists as well as hands  
How they battered down Doors  
And ironed  
Starched white Shirts  
How they led Armies  
Headragged Generals  
Across mined Fields  
Booby-trapped Kitchens  
To discover books Desks  
A place for Us  
How they knew what we  
Must know  
Without knowing a page  
Of it  
Themselves.

- Alice Walker<sup>1</sup>

## **I. Introduction**

Black women in South Africa suffer first and foremost from the disability of apartheid.<sup>2</sup> It is often remarked that South African women

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\* J.D., Valparaiso University School of Law, 1993.

1. ALL THE WOMEN ARE WHITE, ALL THE BLACKS ARE MEN, BUT SOME OF US ARE BRAVE: BLACK WOMEN'S STUDIES xiii (Gloria T. Hull, et. al. eds., 1982).

2. HILDA BERNSTEIN, FOR THEIR TRIUMPHS AND FOR THEIR TEARS 8 (1978).

suffer a triple yoke of oppression: gender, race, and class. Black women suffer additional disabilities, both in law and in custom, as compared with black men. Some of these are rooted in the past; some are similar to those suffered by women in most countries around the world, relating to inferior job opportunities, discrimination under the law and many unjust forms of discrimination at all levels.<sup>3</sup>

Because of this discrimination, it is crucial that the legal status and capacity of women be addressed in present discussions of a new South African Constitution. The African National Congress's Constitutional Committee has drafted a discussion document, which delineates a Bill of Rights as well as a non-sexist Constitution: The new Constitution must reflect a commitment to full, free and equal participation in the new South Africa. Law and practice keep South African women out of their rightful place in helping to build democracy and enable a new nation to evolve, and deprive them of their human rights as individuals.

The new Constitution must therefore:

- guarantee equal rights for women and men in all spheres of public and private life;
- create mechanisms whereby the discrimination, disabilities and disadvantages to which women have been subjected are rapidly removed;
- give appropriate recognition to reproductive and birth rights;
- guarantee constitutional protection against sexual violence, abuse harassment or defamation;
- ensure that women are heard in all issues and participate actively in all levels of society.<sup>4</sup>

The statement of the National Executive Committee of the African National Congress on the Emancipation of Women in South Africa, May 2, 1990, further states that "the experience of other societies has shown that the emancipation of women is not a by-product of a struggle for democracy, national liberation or socialism. It has to be addressed in its own right within our organisation, the mass democratic movement and in the society as a whole."<sup>5</sup> In addition to a necessarily internal critique and analysis, the international community must also lend its critique and analysis. This paper attempts to examine and assess a sector of South

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3. *Id.*

4. AFRICAN NATIONAL CONGRESS, CONSTITUTIONAL PRINCIPLES AND STRUCTURES FOR A DEMOCRATIC SOUTH AFRICA 15 (n.d.).

5. *Statement of the National Executive Committee of the ANC on the Emancipation of Women in South Africa* (n.d.).

African society in which women are extremely oppressed and exploited: employment. Indeed, employment is one concrete way in which women can assert and empower themselves. In South Africa, however, women end up in the lowest skilled, lowest paid, and least protected jobs. Since World War II, more black women have been absorbed into the South African economy, notably in jobs which are an extension of women's traditional roles.<sup>6</sup> This paper will focus on women in domestic service because close to half of black South African women are employed in such work: 42.5% in 1980.<sup>7</sup> (See Appendix A) This overwhelmingly high percentage of black women performing low skilled tasks, receiving low wages and having virtually no legal protection, indicates the difficulty black women have securing other types of employment.

First, an overview of the parliamentary and judicial structures will be given, including an analysis of the present status of apartheid legislation. Second, specific legislation will be mentioned regarding employment. Third, other characteristics of domestic service, such as its social, economical, political, and psychological aspects, will be highlighted. Finally, South African women's organizations and trade unions will be examined to emphasize their history of promoting change. The author realizes that this is only a glimpse at some of the pertinent issues regarding women's employment in domestic service. Further research, especially interviewing, is needed to do this topic justice.<sup>8</sup> Also, as Christine Qunta says in *Women in Southern Africa*, "knowledge cannot best be determined by alien researchers, who are laden with their own trappings of history, values, culture and ideology, regardless of how progressive they may be."<sup>9</sup> But even laden with my own trappings, this is an attempt to highlight some of the key issues in an area in which a new South African government needs to be held accountable. Womens' rights are on the agenda for a new South African Constitution, and it is hoped that they will be fully implemented and realized.

## II. Parliamentary and Judicial Structures

Apartheid literally means separation of people according to race or caste. Over the last one hundred years, the South African government

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6. AFRICAN NATIONAL CONGRESS, *APARTHEID, YOU SHALL BE CRUSHED: WOMEN'S FIGHT AGAINST APARTHEID* 10 (n.d.).

7. Fatima Meer, *Women in the Apartheid Society*, in UNITED NATIONS CENTRE AGAINST APARTHEID - NOTES AND DOCUMENTS 14 (1985).

8. For an excellent account of the domestic worker's plight in South Africa, see JACKLYN COCK, *MAIDS AND MADAMS: A STUDY IN THE POLITICS OF EXPLOITATION* (1980). She conducted research focused on the Eastern Cape which included interviews with domestic workers and their employers.

9. CHRISTINE N. QUNTA, *WOMEN IN SOUTHERN AFRICA* 89 (1987).

enacted legislation that has created a totally divisive society, one in which the emphasis is always on the differences between people. Life roles are created at birth by skin color and sex. Thus, education, achievement, status, and jobs are predetermined. This applies most forcibly to black women, who are cast in a role so subservient and lacking in any expectations or opportunities of achievement, advancement or independence that it is difficult for them to develop beyond the function of reproduction and domestic work.<sup>10</sup>

This racial and sexual bias is legally established by a system developed through a blend of parliamentary supremacy, common law and customary law. Basic to the present constitutional structure of South Africa is parliamentary supremacy. Parliament may make laws on any subject it pleases and no court of law may inquire into the validity of any Act of Parliament, except one which affects equal language rights. Even under that exception, the court may only inquire whether Parliament has followed the correct procedure.<sup>11</sup> The legal structure then blends two components: common law (or Roman-Dutch law) and customary (or tribal law). Essentially, common law is used for all disputes, except in those instances in which African customary law regulates, inter alia, customary marriages, succession and guardianship.<sup>12</sup> Tribal law does not recognize individual rights and duties, whereas the common law does.<sup>13</sup>

The common law has its origins in Rome and Holland where women were assumed to be either property or children. Women are seen as people who need constant supervision and protection by father, brother and husband. Women cannot enter into contracts in their own right, nor can they acquire or dispose of property.<sup>14</sup>

Under customary law, women remain perpetual minors under the guardianship of their father before marriage, of their husband upon marriage, and of a male patrilineal relative on dissolution of the marriage or death of the husband. A woman cannot marry without the consent of her guardian and has no contractual capacity.<sup>15</sup> However, traditional tribal attitudes toward women are changing.<sup>16</sup>

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10. *Id.* at 9.

11. JOHN DUGARD, *HUMAN RIGHTS AND THE SOUTH AFRICAN LEGAL ORDER* 6 (1978). See this book for a thorough analysis of the South African judiciary.

12. *Id.* at 9.

13. *SOUTHERN AFRICA IN NEED OF LAW REFORM* 8 (Ajgm Sanders, ed. (1981).

14. See J. Dugard, *supra* note 11, at 81.

15. Julia Segar & Caroline White, *Constructing Gender: Discrimination and the Law in South Africa* 10, Paper presented at the 'Putting Women on the Agenda' conference sponsored by the Lawyers for Human Rights, Johannesburg, Nov. 23-25, 1990.

16. MURIEL HORRELL, *THE RIGHTS OF AFRICAN WOMEN: SOME SUGGESTED REFORMS* 1 (1975).

A woman can be subject to either common law or customary law. However, it is not the woman who makes the choice of law but, rather, the commissioner of the courts set up by the legislature.<sup>17</sup> Section 27 of the Natal Code summarizes the attitude of the South African government toward African women: Subject to section 28, a female is deemed a perpetual minor in law and has no independent powers save in her own person and as specially provided in this code.<sup>18</sup>

This legal status of women may now be in transition. Presently, negotiations are taking place for a new South African Constitution. The present Constitution was enacted in 1983<sup>19</sup> and contains no Bill of Rights or provision for freedoms such as are found in the United States' Constitution. Section 52 of the South African Constitution excludes blacks from voting by providing a franchise to every "white person, coloured person and Indian" who meets appropriate voting qualifications.<sup>20</sup> Section 53 excludes blacks from holding parliamentary office by requiring that all members of Parliament be qualified voters.<sup>21</sup>

Significant apartheid legislation has been repealed as South Africa has experienced sweeping changes in Parliament. In 1986, the government abolished the Influx Control Act, which was a system of regulations through which the government was able to prevent blacks from rural areas and homelands from going to cities and industrial centers looking for work. Many, but not all, political prisoners have been released from prison. The Population Registration Act 30 of 1950 was repealed on June 5, 1991. This Act divided the population into racial groups and people were then registered by race. The Group Areas Act 36 of 1966, also repealed on June 5, 1991, was the basis for division of the country according to race and forced the black population to move to homelands.

However, much of the internal security legislation, other forms of "control" legislation, and a lack of economic power still exist, so that the underpinnings of white domination continue. For example, the Internal Security Act 74 of 1982 is still intact for the most part. This Act allows the government to restrict freedom of opinion, freedom to assemble and freedom of movement wherever it suspects that some act is dangerous to security. All political acts which are criminally punishable and the state's

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17. SEE C. Qunta, *supra* note 9, at 83.

18. *Id.*

19. Act No. 110 of 1983.

20. Act No. 110 of 1983 § 52.

21. Act No. 110 of 1983 § 53.

counter-measures are set out in this Act.<sup>22</sup> But on May 2, 1991, the government amended the Act so that now, under Section 29, suspects can be held initially only for a period of ten days and the police must get court approval for an extension of that confinement. Those in opposition to apartheid argue that the entire Act should be repealed because it is too easy to obtain a court approval for an extension of confinement.

Black South Africans, who comprise seventy-seven percent of the population, still have no right to vote. There are still separate schools for whites and blacks; whites have superior facilities and school materials, whereas blacks have inferior facilities and are overcrowded. As for the position of women, they continue to bear the triple yoke of oppression of gender, class, and race. Something more than legal reform is necessary to emancipate women from patriarchal authority. Women must receive education and participate, along with men, in productive activity outside the home before they can plausibly assert claims to equality of status.<sup>23</sup>

### III. Labor Legislation

"In an abnormal environment, there can be no normal labour relations."<sup>24</sup> Labor legislation is briefly outlined below, with particular emphasis on its effects on South African women employed as domestic workers.

Domestic workers are in a legal vacuum because they are not protected by many labor laws. Perhaps that is not surprising, given the nature of the work and the economic status of the worker. Still, those who are on the lowest rung of the ladder and who have the least power to advocate their rights, often need the most legal protection. However, what is most troubling about the lack of legal protection for domestic workers in South Africa is that domestic service constitutes the largest single source of employment for black women after agriculture.<sup>25</sup>

In 1977, the Wiehahn Commission was set up to investigate labor legislation. The Commission consisted of representatives of employers and of white unions. The one black member was a businessman.<sup>26</sup> The major reform that came from its report was the Labor Relations Act of 1981, which replaced the Industrial Conciliation Act of 1956 and the Native

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22. LABOUR UNDER THE APARTHEID REGIME 94 (Michael Kittner et. al eds. 1989).

23. HAROLD J. SIMONS, AFRICAN WOMEN: THEIR LEGAL STATUS IN SOUTH AFRICA 188 (1968).

24. M. Kittner, *supra* note 22, at 34.

25. See J. Cock, *supra* note 8, at 307.

26. See M. Kittner, *supra* note 22, at 37.

Labor Relations Regulation Act of 1953. The Industrial Conciliation Act introduced job reservation for all industries. The Minister of Manpower was authorized to reserve certain jobs for certain population groups.<sup>27</sup> The Native Labor Relations Regulation Act denied blacks equal bargaining power and declared strikes by black workers illegal.<sup>28</sup> It also excluded black workers from the definition of being an employee and therefore, while able to organize, blacks were prevented from participating in collective bargaining. The Wiehahn Commission did not report on domestic workers, and therefore neither they nor agricultural workers are covered by the Labor Relations Act.

The Wiehahn Commission also did not report on domestic workers under the Wage Act, which stipulates a minimum wage for each industry. Therefore, domestic workers receive no protection under the Wage Act. There is a "customary" wage for such a position, which typically lags behind inflation.

The manner in which wages are arrived at in domestic service reflects the vulnerability and powerlessness of the domestic worker. The employer has complete control and discretionary power over the process. The two arguments used to justify low cash wages are: first, the work itself is unskilled; and second, the workers receive "payment in kind." Domestic work virtually entails unskilled labor; however, there is an enormous range of demands on the worker such as the skills expected, knowledge assumed, trust, responsibility that need to be taken into consideration for a wage determination. "Payment in kind" is basically an implied contract, which can include anything but generally includes food and board. Under this doctrine, the employer has an enormous amount of discretion in determining exactly how and how much the domestic worker is to be paid, while the domestic worker has very little, if any, bargaining power.

In domestic work, there is no legal provision for contracts of employment, negotiating procedures, sickness benefits or pension rights. Domestic workers' only rights are in the common law, which certain statutes may override. Most employees are women who, if married under community of property notions, are considered perpetual minors under South African law, and thus many of them cannot bring actions in their own right.<sup>29</sup>

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27. *Id.* at 36.

28. *Id.*

29. Judy K. Gaitskell et al., *Class, Race and Gender: Domestic Workers in South Africa*, 27/28 REV. AFR. POL. ECON. 103 (1983).



The Labour Relations Amendment of 1984 places more restrictions on the black labor force: agreements between employers and unions must be submitted to the Minister of Manpower. He may declare them invalid if he considers them to be irreconcilable with the public interest or that of employers or employees; unregistered unions no longer have access to the labour court.<sup>30</sup>

The Basic Conditions of Employment Act 3 of 1983, which regulates work hours, overtime pay, and leave provisions, makes no distinction between men and women, in effect making it possible for women to work in industry at night.<sup>31</sup> Yet again, domestic workers are excluded from the provisions of this Act.<sup>32</sup>

Domestic workers work the longest hours, with the exception of farm labourers.<sup>33</sup> It is also important to remember that most black women domestic workers also do all of the domestic work and assume child care responsibilities in their own homes, after long hours of work.

With regard to maternity rights, the Wiehahn Commission recommended that the period of maternity leave be increased, that the remuneration during maternity leave be raised, that women be guaranteed the right of reinstatement after maternity leave, and that they be protected from dismissal on account of pregnancy.<sup>34</sup> These recommendations were not adopted. Presently, maternity rights are only granted under the Basic Conditions of Employment Act, in the form of a prohibition on employment for one month before and two months after confinement.<sup>35</sup> Thus, a pregnant woman worker faces prospective dismissal without reinstatement or legal redress. Also, under South African law, a woman does not have the freedom of choice legally to terminate the pregnancy; it only allows for therapeutic abortion.<sup>36</sup> The Machinery and Occupational Safety Act of 1983 regulates the health and safety of employees at work and is one of the few regulations that includes those engaged in agriculture and domestic service.

The Masters and Servants Act, which provided that the desertion by a servant was a criminal offense, as was the refusal to obey a lawful order, was repealed. In the Cape, wages could be held back by the

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30. See M. Kittner, *SUPRA* note 22, at 92.

31. RACE AND THE LAW IN SOUTH AFRICA 145 (A. J. Rycroft et. al. eds. 1987).

32. Act No. 3 of 1983 § 1(2).

33. See J. Cock, *supra* note 8, at 41.

34. *Id.*, quoting Wiehahn Commission RP 47/1979 at ¶ 5.

35. Act No. 3 of 1983 § 17.

36. Abortion and Sterilization Act No. 2 of 1975.

employer to pay off debts owed by the servant to him or her, but unless prior agreement had been entered into, deductions for breakages were illegal unless the employer could successfully prove "dereliction of duty" in court. Deductions for breakages are now sometimes threatened by employers. Ironically, as much as the Masters and Servants Act worked against the domestic worker, now she has no protection at all.

Clearly, domestic workers have very few legal rights and little legal protection. They are in a legal vacuum, and it is important to consider other social, economical, and psychological characteristics of their work to understand the ways in which legislation might be changed to address these issues.

#### IV. Characteristics of Domestic Service

The black woman's role in South Africa's precapitalist society was essentially domestic, focused on housework and reproduction. Her production was seen to be within the areas of housework and reproduction, rather than within a wider societal structure of power and production.<sup>37</sup> In the nineteenth century, the capitalist mode of production involved not only the appropriation of means of production (notably land), but also the integration of the "conquered" as workers into a system where African men worked in agricultural labor on white farms and African women worked in domestic service and agricultural labor. This involved the separation of Africans from the ownership of the means of production and a consequent dependence upon employment by owners of such property, as wage labor. Thus, historically, the power and prosperity of the white people in South Africa are based on the systematic exploitation of black South African labor.

Within this framework, most women are employed in occupations associated with family life and household maintenance. They perform the basic functions of a wife and mother. Their opportunities for paid work outside this narrow range of typically feminine occupations are very meager. Discrimination is largely to blame for the virtual exclusion of African women from other professions.

African women experience three kinds of oppression: gender, race and class. As a gender, women are viewed as the reproducers and consumers in a society where their roles' focus is on procreation and maintaining the household. As a race, black women are seen as inferior beings. As a

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37. CHERRYL WALKER, *WOMEN AND GENDER IN SOUTHERN AFRICA TO 1945* 27 (1990).

class, black women suffer from lower levels of education and lack of employment opportunities. It is not surprising, then, that the second largest sector employing black women, after agriculture, is domestic service.

Also, there is a generational factor to domestic work when the domestic workers' mothers are domestic workers. This is especially the case when girls are forced to leave school at a younger age than boys. They never break out of the cycle.<sup>38</sup>

The demand for domestic service is intact. The demand is determined by the degree of urbanization, the structure of the white household, and the racist assumption that one or more black servants form an essential component of the standard of living of whites of all classes.<sup>39</sup> In a country where the white South African woman, wife, mother — where her mother and grandmother before her and all the people around her employed domestic workers — most South African white women never questioned their reasons for employing domestic workers. They "have assumed this as a right."<sup>40</sup>

Why do black South African women in domestic service remain in positions of incredible subordination? Are they in a cycle of oppression in which there is no escape? Domestic work provides a wage; it is a means to an end in a society that is complex and hostile. Given the triple yoke of oppression, improper uses of human and natural resources is the result. There are few alternative employment opportunities for a black South African woman who has few employable skills and an inadequate education.

Domestic workers are viewed as deferential workers, which implies an acceptance of legitimacy of their own subordination. Yet "[m]ost domestic workers reject the legitimacy of inequalities." They recognize their own dependence in the entire structure; they reject the legitimacy of distribution of power and control within the structure; and they adopt a mask of deference as a way of coping.<sup>41</sup>

However, the domestic worker, rather than the economy and politics, has continued to be of primary importance in defining women's position and shaping both their social identity and self-awareness. Historically, it

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38. JANE BARRETT, VUKANI MAKHOSIKAZI: SOUTH AFRICAN WOMEN SPEAK 46 (1985).

39. See D. Gaitskell, *supra* note 29, at 90.

40. J. Barrett & V. Makhosikazi, *supra* note 38, at 37.

41. See J. Cock, *supra* note 8, at 104-05.

is precisely this that has provided South African women with the enormous potential to unite women as women across boundaries of race and class.

### V. South African Women in Organizations and Trade Unions

Black female energy, initiative and solidarity are at the forefront of promoting change in South Africa. The collectivized strength of South African women has historically played a significant role in the anti-apartheid movement. South African women have a different approach, a different set of values and priorities, than men have. That is surely reflected in Appendix B, where women voice their demands for societal change in an excerpt of the "What Women Demand" provisions of a document compiled in preparation for the Congress of the People in 1955.

South African women have held numerous protests and boycotts. As early as 1910, women protested and thus effected the withdrawal of the 1893 law that required all African and coloured women to produce work permits on request by police in order to establish their right to be in the area. The women formed a Native and Coloured Women's Association and marched on the local administrative offices, dumping their passes and facing arrest.<sup>42</sup> In the 1950s, there were more pass protests. During the 1952 Defiance Campaign organized by the African National Congress, Annie Silinga declared, "I will carry a pass the day the prime minister's wife carries a pass!" For her refusal to carry a pass, she was harrassed, arrested, charged with treason and imprisoned. Though she could have received a pension had she agreed to carry a pass, she grew old and poor and, to the day she died in 1984, Annie Silinga never carried a pass.<sup>43</sup>

In 1979, the government announced that rents in Soweto would increase. There were enough protests by women that the rents did not increase.<sup>44</sup> Women engaged in boycotts designed to protest rent increases for dwellings that lacked some of the most basic amenities. In 1986, the losses from this boycott were estimated to be \$500,000 a day.<sup>45</sup> As a boycott, they deprived the apartheid regime of rental income, which showed their opposition to residential segregation and their own subjugation.

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42. See F. Meer, *supra* note 7, at 25.

43. Joyce Hollyday, *You Have Struck the Women, You Have Struck the Rock: Women in the Freedom Struggle in South Africa*, SOJOURNERS, Dec. 1988, at 18-19. This article includes several interviews with prominent South African women leaders of organizations such as the Federation of Transvaal Women (FEDTAW).

44. African National Congress, *supra* note 6.

45. Paulette Pierson-Mathy, *Women and Children: Repression and Resistance to Apartheid in South Africa*, in UNITED NATIONS CENTRE AGAINST APARTHEID, *supra* note 7, at 9.

South African women have come together to form associations, unions, and a variety of support, educational, and inspirational groups. Religion has played a significant role in bringing women together. In the early twentieth century, women's prayer groups met compelling social and psychological needs. In church structures, both mainstream and separatist, women found outlets for organizational talents and energies that were otherwise frustrated by racial, patriarchal and class mechanisms of suppression and control.<sup>46</sup>

It is important to comment on several of the women's organizations that are at the forefront of the anti-apartheid movement. The following includes a brief description of several organizations and unions where women play significant roles, but it is by no means an exhaustive study.

During the 1930s, the idea of organizing women on a broadly-based political level was successful within the Communist Party of South Africa (CPSA). Ray Alexander joined the Party and played a large role in preparing the groundwork for establishing the Federation of South African Women (FSAW). She came to South Africa with the task of organizing unions from scratch among dockworkers, shopworkers, and food and canning workers around Cape Town. For working women, she brought a strong feminist consciousness. She actively promoted such issues concerning women as the need to organize, women's poor working conditions, and the difficulties faced by women who have dual employment face. She appealed to Congress for organizational and educational work among women.<sup>47</sup>

The Federation of South African Women was founded in 1954 on the initiative of such leading women as Ray Alexander and Helen Joseph. The organization was established because of the need for a mass women's organization to struggle against forms of exploitation which particularly affected women, and to encourage women to participate more actively in the broader anti-apartheid struggle. Also, a specific women's organization was needed to fight against the sexism existing within other anti-apartheid organizations. The FSAW is most known for its campaign against the extension of passes to women in the 1950s. Twenty thousand women marched to the Union Buildings in Pretoria on August 9, 1956 to protest, and August 9 has thus been designated South Africa Women's Day.<sup>48</sup>

Democratic white opposition to apartheid is most active among women in the Black Sash, which is a political group founded by white women in

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46. See C. Walker, *supra* note 37, at 16.

47. C. Walker, *supra* note 37, at 51. See this book for an extensive study of the women's resistance movements in South Africa of the past century.

48. ROBERT DAVIES ET. AL., *The Struggle for South Africa* 366 (1988).

1955 to protest the Nationalist Party's proposal to enlarge the Senate and thus to secure the two-thirds majority necessary for taking coloured voters off the common voters' roll.<sup>49</sup> The organization adopted as its emblem a black rose, and its members wore black sashes in public demonstrations to mourn the abrogation of the South African Constitution by the Nationalist Party.<sup>50</sup> The Black Sash has been particularly active in advising women of their legal rights and in setting up educational centers.

In 1985, the Congress of South African Trade Unions (COSATU) adopted a set of resolutions (found in Appendix C) on working women in South Africa. Because these resolutions were included in the formative platform of COSATU, they clearly reflect a heightened profile of women in labor and, indeed, in liberation movements.<sup>51</sup> The resolutions break new ground in presenting prospects for women workers to organize further around issues of their concern: "The structure of COSATU, with its emphasis on strong, local, cross-union shop steward councils and its regional congresses, is one that will potentially allow for organization around women's issues at the local level where women have a stronger union voice."<sup>52</sup>

The African National Congress's (ANC) Women's League has a newly-elected president, Gertrude Shope. In a May 16, 1991 interview, Ms. Shope shared the following about the organization:

Our approach is informed by our belief that many women in South Africa have got their own groupings such as churches, political formations, burial societies and cultural organizations. We feel this richness needs to be tapped as a national strategy for women's advancement. Time is ripe to come together as women on issues that affect us and with one voice, tackle the problems of the country. We have established a Women's Emancipation Desk to look at our cultural background, oppressive laws and all aspects that lead to women being trampled in society.<sup>53</sup>

The ANC Women's League produced a document on June 11, 1991, setting forth its goals and determinations with respect to women's protection and advancement. It is titled, "Programme of Action, a Plan of Action on Affirmative Action and Women's Emancipation." Within the document, domestic workers' concerns are addressed:

49. *Id.* at 384.

50. *Id.*

51. *Broadening the Agenda: COSATU Resolution on Women*, 2 S. AFR. REP., June, 1986, at 9.

52. *Id.* at 12.

53. *Women - the Way Forward*, NEW NATION, May 10-16, 1991, at 11.

Together with SADWU, the Women's League will address the needs of domestic workers and campaign around their demands. Support will be given to the COSATU campaign to get domestic workers covered by the Labour Relations Act. Members of the Women's League who employ domestic workers will be urged to ensure they meet levels of pay and conditions laid down by SADWU, and to draw their workers into the Women's League.<sup>54</sup>

Women face considerable hindrances in becoming involved in union work. Many unions, such as COSATU, are male dominated and the gender subordination struggle continues within the organization. In patriarchal systems, the struggle becomes one of whether the male is on the side of the oppressor, in his patriarchy tradition, or on the side of the oppressed. Other gender subordination issues revolve around the women's role in the union itself and her level of activity. For instance, does the union only allow her a position of secretary or a more active, responsible position? Also, husbands may become suspicious of their wives, leaving for nighttime meetings. Along with the suspicion, women are seen as neglecting their primary responsibilities of caring for the children and doing the domestic chores if they are away attending meetings. Most definitely, men and women need to work together. They need to confront their fears, and concerns and work through them, acknowledge differences, maintain respect for the other's gender and yet work toward a common goal of liberation in mind and body.

Also, women face the prospect of losing their jobs if they become involved collectively. Within the South African society, conformity is rewarded whereas nonconformity invites threats and intimidation.

Domestic workers face considerable hindrances in becoming involved in union work. The atomised nature of their work makes it exceedingly difficult for them to gather to share stories, complaints and struggles. However, in spite of all the challenges for such organization, a Domestic Workers Project, Association, and Union have been formed.

The Domestic Workers and Employers Project (DWEPP) was begun in 1972 by the South African Institute for Race Relations. DWEPP's aims are to create better employer/employee relationships, to revise working and wage conditions of domestic workers, and to improve their status and personal image.<sup>55</sup> DWEPP established complaint offices and centres of concern in Witwatersrand in Natal, East London, and Cape Town.<sup>56</sup> Thus,

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54. ANC Women's League Programme of Action, June 11, 1991.

55. See D. Gaitskell, *supra* note 29, at 102.

56. *Id.* at 104.

DWEP really does not perform an organizational role. However, it has attempted to form a union among live-in domestic servants (South African Domestic Workers Association), which began in 1981 and its aims are similar to those of the DWEP.

Florence de Villiers and Maggie Owens formed the National Domestic Workers Union in 1977. Ms. de Villiers had at one time been a domestic, and she rebelled against the oppressive maternalism of her employers.<sup>57</sup> The membership is now 50,000, and the Union works to demand a minimum wage and better working conditions nationally. The union is involved politically, socially and economically, and it is affiliated with COSATU. The very existence of such a union among domestic workers, who for so long lacked any form of organization, is a sign of a new era.

## VI. Conclusion

Black women in South Africa have a spirit and determination not to be crushed by the triple yoke of oppression by race, gender, and class. Historically, their strength has played a pivotal role in the broader anti-apartheid movement. Yet their voices, protests, and boycotts are rarely heard or even publicized. For instance, there is not a lot of published material on women in South Africa. Even in the many books documenting the anti-apartheid movement, rarely are women mentioned. Hence, there is a need for documentation, through published work on women in South Africa, especially now at such a critical time in South Africa's history. Their voices need to be heard, their plights need to be recognized and addressed in a new constitution for a new South Africa.

Employment can be a source of empowerment in all societies, not only is it a source of empowerment for the more direct purpose of obtaining income, but it is also a source of empowerment for self-awareness and self-identity. When women are not given the opportunity to fulfill educational goals and seek jobs to use applicable skills and talents, they are denied a very significant part of themselves as well as what they have to offer society.

For many years in South Africa, black women have been employed mostly in jobs that are extensions of their domestic work in the home. Not only are many black South African women denied the opportunity to fulfill vocational goals and dreams but, even within the work for which they are employable, there is tremendous exploitation accompanied with

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57. DIANA RUSSELL, *LIVES OF COURAGE: WOMEN FOR A NEW SOUTH AFRICA* 169 (1989).



little legal protection, especially in domestic service. Domestic workers are simply not covered under labor legislation and thus are subject to low wages, unfair dismissals, and lack of benefits. What is most shocking about this is that domestic service is the second largest source of employment, after agriculture, for black South African women.

Historically, black South African women have come together to share collectivized strength through church gatherings, protests, boycotts, associations, organizations, and unions. In their own way, they have resisted apartheid and have advanced significant change. Amazingly, as atomized and exploited as the domestic workers are, they have even come together through associations and a union. Black women are organizing, and have been for a long time, to resist the evils of apartheid and patriarchy. It is hoped that their wisdom, knowledge, and talent will be truly utilized in the development of a new South Africa, a time hoped for when the triple yoke of oppression ceases to exist.

### Appendix A

Percentages of the work force in each race group in domestic service, agriculture and production, 1960 -1980:

	1960 <sup>58</sup>	1970 <sup>59</sup>	1980 <sup>60</sup>	Dom. Serv.	Dom. Serv.	Dom. Serv.	Agric. Prod.	Agric. Prod.	Agric. Prod.
African Male	7.1	42.0	22.8	7.7	38.5	27.9	9.4	21.9	51.1
Female	59.1	23.0	2.7	36.8	43.9	4.1	42.5	15.8	10.7
White Male	5.4	13.3	29.6	7.3	8.7	29.4	9.4	6.7	32.7
Female	6.5	1.2	6.3	5.7	0.9	3.6	5.6	0.7	2.8
Coloured									
Male	4.6	32.5	40.6	4.9	23.9	28.6	6.8	21.7	51.5
Female	56.7	3.0	20.3	41.6	4.0	26.5	32.1	8.6	26.1
Indian Male	10.3	9.3	28.6	8.3	4.3	25.3	6.2	2.9	40.9
Female	24.1	8.0	26.5	10.2	1.3	37.4	7.2	0.7	39.7

From FATIMA MEER, WOMEN IN THE APARTHEID SOCIETY (United Nations Centre Against Apartheid, April, 1985).

58. VI SOUTH AFRICAN BUREAU OF STATISTICS 8, No. 1 (1960).

59. South African Department of Statistics, Report No. 02-05-04 & 02-05-11 (1970).

60. SOUTH AFRICAN STATISTICS 1982, Table 1-31.

### Appendix B

The following are portions of "What Women Demand," compiled in preparation for the Congress of the People, 1955. FSAW II A.<sup>61</sup>

#### We Demand

Four months maternity leave on full pay for working mothers.  
Properly staffed and equipped maternity homes, ante-natal clinics, and child welfare centres in all towns and villages, and in the reserves and rural areas.

. . . . .

We demand these for all mothers of all races.

#### We Demand

Compulsory, free and universal education from the primary school to the University.  
Special schools for handicapped children.  
Vocational training and apprenticeship facilities.

. . . . .

We demand these for all children of all races.

#### We Demand

Proper houses at rents not more than 10 per cent of the earnings of the head of the household.  
The right to own our own homes and the land on which we build them.  
The right to live where we choose.  
Lighting in our streets.

. . . . .

We demand these for all people of all races.

#### We Demand

Better shopping facilities, particularly in the non-European townships.  
Controlled prices for all essential commodities: Food, Basic Clothing, Fuel.  
Fair rationing of essential foods and fuel when in short supply.

. . . . .

We demand these for all people in all places.

#### We Demand

The right of all people to own and work their own farms.  
The development of all uncultivated land.  
The fair distribution of land amongst all people.

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61. See C. Walker, *supra* note 47, at 285.

Efficient organisation of the distribution and marketing of food.

. . . .

We demand sufficient food for all people.

We Demand

More and better land for the reserves.

Schools for children living in the reserves.

Maternity, medical and social services in the reserves.

The abolition of migratory labour which destroys our family life by removing our husbands and which destroys their health through the conditions of their labour and the compound system.

. . . .

We demand that the reserves become food producing areas and not reservoirs of cheap labour.

We Demand

The transfer of trust farms to the ownership of the African people.

The abolition of convict farm labour.

The payment of minimum cash wages for all men and women on farms.

The abolition of child labour on all farms.

The inclusion of farm workers in all industrial legislation.

. . . .

We demand these rights for all people in the rural areas.

We Demand

That equal invalidity and old age pensions be paid for people of all races.

Homes and proper care for all aged and sick people.

National medical services for all sick people.

Adequate and equal hospital services for all people.

That all African workers in all spheres of employment be covered by unemployment insurance and illness allowances.

. . . .

We demand these fundamental rights for all people.

We Demand for all women in South Africa

The right to vote.

The right to be elected to all State, Provincial or Municipal bodies.

Full opportunities for employment in all spheres of work.

Equal pay for equal work.

Equal rights with men in property, in marriage, and in the guardianship of our children.

And together with other women all over the world,

We Demand

The banning of atomic and hydrogen bombs.

The use of the atom for peaceful purposes and betterment of the world.

That there shall be no more war.

That there shall be peace and freedom for our children.

### Appendix C

Key extracts from the COSATU Resolution on Women, December 1985.  
COSATU resolves to fight:

Against all unequal and discriminatory treatment of women at work, in society and in the Federation;

For the equal right of women and men to paid work as an important part of the broader aim to achieve full and freely chosen employment;

For equal pay for all work of equal value—the value of work must be determined by organized women and men workers themselves;

For the restructuring of employment so as to allow women and men the opportunity of qualifying for jobs of equal value;

For childcare and family facilities to meet workers' needs and make it easier for workers to combine work and family responsibilities;

For full maternity rights, including paid maternity and paternity leave and job security;

For the protection of women and men from all types of work proven to be harmful to them, including work which interferes with their ability to have children;

Against sexual harrassment in whatever form it takes;

For adequate and safe transport for workers doing overtime and night work.<sup>62</sup>

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62. See *Broadening the Agenda: COSATU*, *supra* note 51, at 11.

