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# Texts and tests of equality: The Women's Charters and the demand for equality in South African political history

Shireen Hassim

## abstract

South African struggles for gender equality have been embodied in two charters produced in 1954 and 1994. To the extent that there is a manifesto of the South African women's movement, it may be found in these documents. The charters articulate a vision for a democratic society, and give content to the idea of gender equality as it may be achieved in the specific context of a postcolonial, post-apartheid future. This article argues that the charters are political signs that constitute the political community of women, lay out the agendas for collective action, and address the holders of power in society. The clauses of the two charters reflect continuities in the ambitions of women's organisations. Importantly, though, reading the charters from the perspective of two decades of democratic government it is also possible to detect how shifts in political and economic context have affected the possibilities for feminist ambitions to be realised. Thus the charters operate both as texts that form part of the democratic tradition, as well as tests for the ways in which the democratic State has advanced gender equality.

## keywords

Women's Charter, Women's Charter for Effective Equality, gender equality, substantive equality, Federation of South African Women, Women's National Coalition

## Introduction

On very rare occasions in history women come together to articulate common interests and a political agenda for change. South Africa (SA) had (at least) two such moments of collective action in the 20th century, 50 years apart. In 1954, at the inaugural conference of the Federation of South African Women (FSAW) (Figure 1), the Women's Charter was adopted.<sup>1</sup> It articulated a wide-ranging set of demands that defined the concept of women's liberation, including the right to childcare and the right to live in the city. Then in the early 1990s the Women's National Coalition (WNC) began a grassroots

campaign to collect women's demands in the period of constitution-making, resulting in the Women's Charter for Effective Equality.

The charters<sup>2</sup> are book-ends to the most significant half-century in modern South African political history, beginning with assertion of an urban, mass-based nationalist demand for political freedom and culminating in the overthrowing of apartheid. Together the two charters established an approach to equality that emerged out of women's concrete struggles against apartheid, capitalism and patriarchy, reflecting the intersectional character of gender equality that is at the heart of South African feminism.

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Figure 1. Some of the FSAW members in the 1950s. © UWC-Robben Island Mayibuye Archives, care of [www.sahistory.org.za/](http://www.sahistory.org.za/)

Twenty years later, as South Africans mark two decades of democratic government officially committed to gender equality, it is worth looking back at the hopes and aspirations embodied in the two charters. How far along is the country on the road to equality? Have the charters, particularly the Women's Charter for Effective Equality, framed the strategic interventions of the African National Congress (ANC)-led State, as it was intended to by the framers?

The article begins by arguing for close attention to the charters as political texts that embody multiple layers of both experience and meaning. As authoritative texts, the charters have not been accorded the same recognition as the Freedom Charter, nor have they been given sufficient scholarly attention in discussions of the roots of democratic thinking in SA. The article then addresses three key dimensions of the charters as political texts: the notion of political community and of the good society that is advanced, the ways in which the concept of equality is framed, and the intended audiences for the text.

The article then examines the demands of both charters in the context of the past

20 years of democracy. A separate but significant aspect of the two charters is the extent to which they live in the spirit and actions of women's organisations. That aspect is not addressed here, for reasons of space and methodology. Instead I have chosen to focus on the democratic State in the last section.

I pose these texts as democratic tests set by the women's movements of their times. Both were born out of hope that a government elected by the people and with a commitment to equality, reflecting the progressive ideology of the ANC, would advance women's rights and status. In a sense, the texts of the charters work as the tests by which we might assess the progress of equality in the first two decades of democracy.

### The political life of charters in SA

Written documents such as charters and petitions have a particular political role in representing the views of people. In the first instance, they are a form of political voice that is explicitly collective, and that establishes a political community. They have a specific form of address that instantiates a group as a public community. For example, the Freedom Charter

opens with 'We, the people of South Africa' – a statement of a racially inclusive community that was profoundly significant in the context of the divisive policies of apartheid.

A charter may also claim legitimacy by referencing the longer historical struggles of that public community, thereby retroactively constituting the collective as a longstanding moral community and adding the weight of political tradition to the demands.

All three key charters in South African history (the Freedom Charter, What Women Demand, the Women's Charter for Effective Equality) also have the quality of universalism, articulating the importance of rights for all citizens. These are claims made within a modernist vision of nation, in which social hierarchies and differences will be transcended by the recognition of all people as inherently entitled to full citizenship. Charters represent, secondly, a set of claims generally against the State, global institutions or perhaps against a political movement. Thirdly, a charter lays out an ethical position. That is, it articulates a vision of the good society, a set of normative virtues that ought to guide relationships between citizens, and between citizens and the State.

Although charters might have a fleeting quality, reflecting a particular moment of political imagination, they act as signs in that they constitute meaning that persists beyond the moment. The political language that charters introduce (or reinforce) frames the ways in which campaigns are conducted. The Freedom Charter, for example, was the touchstone for much of ANC policymaking throughout the latter half of the 20th century, and continues to be seen as a document that is close to the political heart of members of the ANC.

Support for the Freedom Charter was the line of demarcation between those movements and individuals that supported the ANC's approach to democracy (the 'Charterists') and those who articulated other visions of liberation. It is treated as a core, founding document of South African democracy. In contemporary politics, it is invoked in debates about whether this or that faction of the ANC is 'true' to the Freedom Charter principles, and it remains the document that is used to distinguish the ANC from other political parties.<sup>3</sup>

Charters also act as political signs in other ways: they are complicit in constructing what we might term the myths of community, the imagined forms of unity that transcend differences in power and resources. They invoke community in particular ways, appealing to some commonalities and downplaying others.

These qualities of charters invite closer scrutiny of these documents. Although the Freedom Charter has received considerable attention from scholars, the two Women's Charters have been relatively neglected. For example, with notable exceptions (Dubow, 2000, 2012), analyses of the history of rights in SA tend to treat the Freedom Charter as the first document in which the idea of a unitary, nonracial SA is articulated. That is patently untrue, as the Freedom Charter was drafted in 1955, a year after the Women's Charter. There is still, then, a lingering recuperative task at hand to include women's struggles into the story of South African democracy. To be sure, although the 1954 charter was a major inspirational text in the 1980s, women's organisations have not used the 1994 charter as the authoritative text within which to frame contemporary gender politics. This may to some extent account for the differential impact of the Women's Charters compared to the Freedom Charter.

although the 1954 charter was a major inspirational text in the 1980s, women's organisations have not used the 1994 charter as the authoritative text within which to frame contemporary gender politics.

Both the 1954 and the 1994 Women's Charters are radical in their relationship to nationalism and to struggles against apartheid. They articulate the idea of community differently from the Freedom Charter, pushing universality beyond nonracialism to include women as full members of the nation. As a result, over the course of the half-century, the ANC's powerful tagline was shaped – 'a non-racial, non-sexist democracy'. They give form to the emerging politics of gender in SA, by claiming that women too constitute a collectivity with interests that are distinguishable from those of men, however much they may be entangled in other forms of collectivity together with men. They also frame equality in ways that are substantively more far-reaching

than the Freedom Charter, by addressing the rights of women in the private sphere.

For the most part I am treating the charters as texts. That is, I focus on the specific language that they use and the political import of that language. However, I am fully aware that even as texts they constitute certain kinds of compromises with language, and that they may elide a wealth of political contestation over particular choices in framing.

### The instantiation of political community

A fruitful beginning is to ask in whose name the charters were issued – what is the political community that is being instantiated in the public sphere, and in whose name claims are being represented. In defining the FSAW and the WNC as moments of instantiation of political community, it is important to recognise that instantiation is not a singular historical moment. That is, political community is not a discrete entity that is constituted at a fixed point, after which it continues to exist in a fixed and stable manner. The word instantiation works against the national narrative of a singular trajectory under the banner of a liberation movement. Rather, I use the idea of instantiation in the dictionary sense, as a concrete and specific representation of an idea (in this case of women as a political collective). In other words, what is of interest in this article is the particular notion of the political community of women which emerged in the two historical periods of the 1950s and the 1990s.

Immediately we can discern a major difference between 1954 and 1994 in the way in which the community of women is invoked. The 1954 charter opens with the words: “We, the women of South Africa, wives and mothers, working women and housewives, African, Indians, European and Coloured, ...”. The 1994 charter is much simpler, more direct and unqualified in the way that it names the community: “As women, citizens of South Africa, we are here to claim our rights.”

These preambles to the charters speak volumes about the political contexts in which women organised, and the delimitation of the language in which claims could be made.

The timing of the 1954 charter, drafted at the inauguration of a new women’s organisation independent of male control,

underscores its role in the instantiation of women as political community. It was intended to lay out a manifesto for action for a new movement. In 1954 a rising nationalist movement was demanding a set of rights and fundamental change in political structures on the grounds of a progressive understanding of social change. Throughout the 20th century at least, women had been involved in a range of organisations from trade unions, the Communist Party and the ANC to *stokvels* and women’s solidarity networks (Berger, 1992). Yet by the 1950s the activities of many anti-apartheid organisations were being drawn into an alliance that would present a united front, and under whose banner a more powerful mass movement could be built.

The formation of the FSAW, although part of the broad politics of the Congress Alliance, was remarkable for initiating the idea of a women’s movement that could operate independently from primarily male movements. In its nonracial character it went against that prevailing assumption that different races were better organised separately, and strove to create one organisation for all women. The ANC Women’s League members were core to the Federation, but they were not the only members. The very idea of the Federation envisioned a universalism that was distinct from the ideas of community offered by other political movements of the time.

### Universalism, gender and nation

The charter also made an uncomplicated claim on the basis of modernity, reflecting an era of African nationalism in which anti-colonialism was framed as an attack on the under-development of African people:

The level of civilization which any society has reached can be measured by the degree of freedom that its members enjoy. The status of women is a test of civilization. Measured by that standard, South Africa must be considered low in the scale of civilized nations.

The register of the 1954 charter is significant in illuminating the possibilities for women’s collective mobilisation at the time. The idea that women constituted a distinct political collective was relatively new in SA in the 1950s, and the FSAW reflected a historical moment. As Hilda Bernstein (1985: 87)

reflected, it embodied “both the idea that women have common interests and also a strong political attitude”. This idea was in many respects contested by the national liberation movement, for whom the identities of race and nation were the dominant, if not the only, framing for political mobilisation.

Appealing to women’s affective identities centred the nationalist conception of women as rooted in family in the first instance, rather than in the public sphere. Women’s role in public politics was legitimised within a language of working for the nation, rather than in the interests of women’s liberation *per se*, independently of struggles against capitalism and apartheid. Consequently the form in which women ought to appear as collective was as a subordinate structure within political organisations that cohered around race and class interests.

Working with this idea that there was no distinctive basis to women’s rights separate from nation, the charter appealed on the grounds of ‘women’s lot’:

We women share with our menfolk the cares and anxieties imposed by poverty and its evils. As wives and mothers, it falls on us to make small wages stretch a long way. It is we who feel the cries of our children when they are hungry and sick. It is our lot to keep and care for the homes that are too small, broken and dirty to be kept clean. We know the burden of looking after children and land when our husbands are away in the mines, on farms, and in the towns earning our daily bread.

We could read this statement in diametrically opposed ways, and indeed those different readings have been the basis of rich feminist debate about the ways in which women’s struggles might be theorised (see, for example, Walker, 1982; Budlender *et al*, 1984; Kemp *et al*, 1995; Hassim *et al*, 1987; Gasa, 2007). On the one hand, women’s right to exist as political collective is justified on the grounds that women bear specific gendered roles as the carers of society, and as the shock absorbers for failures of institutions such as labour markets, families and households. On the other hand, the very fact of claiming the distinctiveness of gender experiences in itself can be radicalising. To use the metaphor of the genie being out of the bottle: once the proposition is accepted that women have the

right to organise themselves, the ends to which they may organise are unpredictable.

Both the ANC Women’s League and the FSAW drew on a deep sense of what Temma Kaplan (1982) called ‘female consciousness’, which developed from “the cultural experiences of helping families and communities survive”. This form of female (and possibly feminist) consciousness was regarded within the maternal nationalist paradigm as the taproot for the political role of women. The language of ‘mothers, wives, and housewives’ is enabling in crucial respects, as it acts as a means to blunt any criticism that women were not entitled either to be political actors or to make their own demands.

The strategic intuition among the framers of the 1954 charter was astute. Indeed, as women began to mobilise and organise their own structures of political action somewhat autonomously from men, they encountered resistance. The most well-known example of this male pushback occurred in relation to the FSAW’s campaign against the extension of passes to women. The FSAW’s position was to defy the laws, and to take the consequences: ‘no bail, no fines’. That meant, of course, that they were prepared to go to jail. The ANC leadership argued that instead of seeking confrontation with the authorities, the Federation should concentrate on educational campaigns.

Julia Wells (1993: 117) describes the impact of male meddling in the political campaigns of women as having a negative effect in the medium term. It led to women’s militancy being pacified, as the Federation sought to:

... prove their allegiance to the male-dominated ANC leadership ... When Federation members proposed a huge march to deliver their half million signatures [against passes], they agreed to allow the (male) leaders of the ANC to set the date. No date was ever set and the demonstration never took place, much to the disappointment of many women.

Supporters of the more moderate approach, such as Helen Joseph (1986: 70), agreed to the terms of the ANC. She noted:

... we were disappointed and a little angry at first, but we were also disciplined and we were a part of the whole liberation struggle. There was no room for any

rebellious spirit on our part and there was none. Bail and fines were paid and women returned to their homes.

Despite these setbacks, the FSAW maintained an active life throughout the 1950s.

The maternalist legitimization of women's activism did not entirely displace more radical demands. By radical I mean those demands that related to the possibility of women acting against forms of gender oppression and exploitation. There were two aspects to this radical possibility. The first lay in the articulation of a political community that was inclusive across race, and that identified patriarchy (without using the term specifically) as binding women across other more apparent differences. The category 'woman' was seen to stand above race or ethnicity (it included specifically 'African, Indians, European and Coloured'). In this aspect, the 1954 Women's Charter prefigured the inclusive wording of the Freedom Charter a year later.

The second radical dimension of the charter was to address women's social rights and not only their political rights. The first sentence of the preamble demanded:

the removal of all laws, regulations, conventions and customs that discriminate against us as women, and that deprive us in any way of our inherent right to the advantages, responsibilities and opportunities that society offers to any one section of the population.

the charter identified the common forms by which women were subordinated across race: in the family, in the community and in the workplace.

I will return to the reference to conventions and customs in the section on equality, but here it is important to dwell on the transcendent notion of gender and the commonalities of patriarchal experiences across races and cultures that the charter identified. Whereas the Congress Alliance foregrounded the exploitation and oppression of African people as the central concern, and understood white, coloured and Indian people to be in a position of support for the primary struggle of Africans, the charter identified the common forms by which women were subordinated across race: in the family, in the community and in the workplace.

Between the instantiation of women as a political community visible and active in the public sphere in 1954, and the apogee of modern claims-making in the design of a democratic State in 1994, lies a complex history of women's organising. Enormous leaps were made in the recognition of women as a political community. Women's agency no longer had to be hedged with gestures to their relationships to others and their capacities to act on behalf or for the improvement of others. In 1994 women's claims were made in a straightforward fashion on the basis of their citizenship rights, rather than as members of a nationalist movement.

In explaining this shift, we have to turn to the character of women's political formations in the intervening years. Globally, women's movements were growing in scale and impacting on conceptions of democracy in new ways. The overthrowing of colonialism and transitions to new forms of State – not all democratic, and few that included women as full rights-bearing citizens – in what was then called the 'Third World' catapulted feminists into renewed attention to the limits of dependence on nationalist movements.

In SA, from the late 1970s, in the context of economic crisis and an implacable apartheid State, women began organising at community level. The issues that animated this organisation related to the gendered burdens women bore in households and families: rising food prices and rents, inadequate housing, lack of public transport, access to water and electricity. The so-called 'bread and butter' issues (that is, issues that were in the first instance about the socio-economic condition of people rather than their political rights) inspired a vast network of community organisations with women as footsoldiers, and indeed separate organisations of women.

Among the women's organisations that emerged in this period and grew in the early 1980s were the Natal Organisation of Women, the United Women's Organisation, and United Women's Congress, and the Port Alfred Women's Organisation. These became the bedrock of resistance to apartheid, and as has been documented elsewhere, their demands for women's rights shaped the policies of the United Democratic Front and the ANC, leading to the insertion of 'non-sexist' in all the language of those movements as one of the core values of democracy.

Despite the many successes of organised women in developing a robust politics of gender within the anti-apartheid movements, it was also evident throughout the 1980s that the language of equality could be superficially appropriated without women being allowed any real agency and leadership in crafting political strategies. These tensions over the role of women played out in the ANC in exile, where the increasing numbers of women in the ranks of Umkhonto we Sizwe as well as in the political organs in exile were not matched by women's access to the party's National Executive Committee. They also found expression in the United Democratic Front, where women's organisations were incensed that their own programmes of action were frequently pushed aside so that they could take on strategies defined as important by men (Hassim, 2006).

The stark symbol of women's political marginalisation was failure to include a single woman in any of the teams that were constituted by political parties and movements to negotiate the terms of a democratic society. That exclusion galvanised women across political organisations, leading to a groundswell of anger and a determination to ensure that women would have a place at the negotiations. The WNC was formed in 1992, an organisation remarkable once again for crafting a political form of alliance that transcended the understanding of male-led movements.<sup>4</sup>

The WNC was not only a coalition of women across race and class, it was also a coalition across ideological differences, instantiating the idea of a political collective on the simplest of grounds. The single common marker was the idea of inclusion in the processes of determining a post-apartheid SA: it identified the most common denominator among women who were politically active, and in one stroke of brilliance captured the idea that a democracy in which women are not represented is not a democracy at all.

Beyond the demand for inclusion in the negotiations, the core activity for the WNC was the drafting of a charter of women's demands. Unlike the 1954 charter, which was the manifesto by which a movement was launched, the WNC sought to build from a simple base of the broadest coalition to the complex target of defining what women's interests might be in the context of democracy.



Figure 2. One of the champions of the 1994 Women's Charter campaign, Debbie Budlender.

Given the differences in the ideological stances of the affiliates of the WNC, it made sense not to begin with a statement of demands that might be divisive (and hence undermine the unity with regard to the negotiations). The careful approach to the charter also reflected changes in how women's organisations thought about the role of leaders and members in the 1980s. In organisations like the United Women's Congress and the Natal Organisation of Women there had been many experiments with participatory decision-making and with processes of ensuring that all women had voice in organisations. Pregs Govender and Debbie Budlender (Figure 2), who led the 1994 Women's Charter campaign, came from this tradition of building participation rather than letting leaders decide what the agenda should be.

The process of drafting the 1994 charter as a set of grassroots demands of women allowed the charter to speak in an authoritative voice, and to claim equality. It began asserting the status of women not only as equal members of society, but also as active political agents in the creation of a new society – as 'full and equal participants'. In this sense it instantiated women as agents in the new democracy that was being imagined and designed, as citizens rather than as subjects of the nation.

There are striking similarities in both documents, in their appeal to what the 1954 Women's Charter called a 'single society' and what the 1994 charter noted: "we cannot march on one leg or clap with one hand". In both historical moments, the good society is one in which no member is left in a subordinate position. In both charters, inclusion is a political and ethical virtue.

## The idea of equality

The idea of equality is surprisingly stable across five decades, when comparing the two documents. Both documents include in the concept of equality the dimensions of economic, political and social transformations. Importantly, both note the complicities of the law in upholding inequalities, especially those in the private sphere.

In both documents equality is thickly understood as involving the removal of both the formal aspects of discrimination as well as the systemic reproduction of gender hierarchies. In the 1954 charter the demands include the rights to participation and representation in decision-making, full legal equality in respect of property, marriage and children, and the removal of legal restrictions on women's mobility. The document also includes rights that relate to women as economic actors. It demands the right to work and equal pay for equal work.

The naming of custom and tradition as an obstacle to the equality of women is also radical in the sense that the drafters were prepared to tackle the private power of men.

The maternalist approach is given a radical dimension in the demand for social provision of childcare, free education for all children and State provision of welfare services. The naming of custom and tradition as an obstacle to the equality of women is also radical in the sense that the drafters were prepared to tackle the private power of men. Indeed, the charter boldly declares – despite the commitment to working with men for a better society – that women's oppression arises from

... the refusal of a large section of our menfolk to concede to us women the rights and privileges which they demand for themselves. We shall teach the men that they cannot hope to liberate themselves from the evils of discrimination and prejudice as long as they fail to extend to women complete and unqualified equality in law *and in practice*. (Emphasis added)

This universalism was located in the vision of a modern society in which the traditionalist past would be superseded by a set of values that recognised the inherent equality of all citizens.

In 1994 the WNC was more forthright in naming these practices as patriarchal:

At the heart of women's marginalization is the patriarchal order that confines women to the domestic arena and reserves for men the arena where political power and authority reside ... Women want to control their lives. We bear important responsibilities but lack the authority to make decisions in the home and in society.

It also proposes a stronger protection for women in the Constitution, demanding in Article 9 that "custom, culture and religion shall be subject to the equality clause in the Constitution". Article 7 calls for restructuring of traditional institutions in accordance with principles of equality, and demands women's right to participate in traditional institutions of decision-making, and equal representation on traditional courts.

There are other significant shifts over the half century in the ways in which equality was understood. The 1954 charter was clearly heteronormative in its framing of equality – it was assumed that the task was to be equal to men, and for women to have equal status within families as well as the public sphere. However, the underpinning conception of families was that they were the product of conventional heterosexual relationships. Heteronormativity was taken for granted: "there was a time when every women reaching marriageable age was assured of a husband, home, land and security".

The charter paid attention to the destruction of tribal and kinship bonds as a result of the migrant labour system and urbanisation. It recognised that women had become wage-earners in their own right, and wanted the reform of laws that rested on older conception of women's status. The drafters were clear that while the traditional social structure of families had been disrupted, the protections that were offered to women in that system needed to be provided in other ways. Yet they do not offer any inkling as to their thinking about what alternative family and household systems might look like.

By 1994 these kinds of issues had been more widely debated – no doubt influenced by the intensification of urbanisation as well as the greater independence of women from traditional marriage and family systems. The 1994 charter recognised the diversity of

families, and includes a capacious demand that “all family types have to be recognized and treated equally” as well as the right of all people to choose their partners. In various forms throughout the document, sexual and reproductive rights are introduced into the language of equality; these included the right to choose a partner and the “right to decide on the nature and frequency of sexual contact within marriage and intimate relationships” (Article 8).

The 1994 charter echoes the 1954 charter in calling for women to have equal rights in marriage, especially with regard to inheritance and property and the right to credit. This was a reflection of how little progress had been made in the intervening half century with regard to women’s formal equality. If in 1954 SA was lagging behind ‘other civilisations,’ it was evident in 1994 that the apartheid State had managed to fall even further behind global shifts in the recognition of women’s status.

In 1994 modernity appears in the same political form as 1954 as a set of political rights claimed against the State, but this time it is a claim on the basis of human rights and democracy, rather than the compromised idea of civilisation. The context is one in which a new Constitution was being drafted and new institutions of the State were being elaborated:

If democracy and human rights are to be meaningful for women, they must address our historic subordination and oppression. Women must participate in, and shape the nature and form of our democracy.

In the Women’s Charter for Effective Equality, the demand for social justice is more strongly articulated. Article 6 on social services demands these “as a right and not a privilege”, and puts the burden of provision explicitly on the State. It lists four principles that should underpin the provision of public services: social justice, equality, appropriateness and accessibility. The word ‘effective’ was specifically chosen to describe the kind of equality envisioned: limited not just to political and legal equality but also to women’s social and economic power.

A new framing in 1994 was the inclusion of the strategy of affirmative action as a way of recognising and redressing disadvantages accreted over time. This was part of the

strategy for effective equality, by which was meant the equality of outcomes rather than the same treatment for all people.

Both documents see economic inequalities as substantially limiting any formal rights women may be granted. In 1954 the Women’s Charter argued for women’s right to work and equal pay for equal work, radical demands in the context of apartheid policies that sought to exclude women from the cities. The 1994 charter recognised for the first time the impact of women’s unpaid labour on their access to labour markets and on their gendered burdens in the household. It also noted the predominance of women in the precarious informal economy. The document makes significant links between the public and private sphere in other ways as well. For example, it considers that unless the power relations in households are shifted, women will remain exploited and subordinate. Sexual and reproductive rights are one part of the solution, according to the charter. The other is to ensure that “all members of the household should endeavor to share in domestic labour” (Article 8) and that women should have access to household finances.

### The texts as tests: how equal are women after 20 years?

Twenty years after the creation of democracy, it is interesting to subject the country to a test of progress in relation to the demands of the Women’s Charters. A systematic study would require more space than this article. Instead, in this section I focus on a selected range of categories for an indicative response to the question: formal equality (political participation and representation, and status in law), changes in social and cultural attitudes to gender equality, and the securing of women’s economic rights.

A significant and long-lasting contribution to South African democracy was the inclusion of three central aims in the charters in the Constitution of 1996: a) women’s legal and political equality is recognised, and equality trumps any cultural values of gender difference; b) the demand for socio-economic rights as part of a conception of justice was incorporated into the Constitution, and coalition with other partners like the trade union movement was vital in securing this; and finally c) affirmative action is recognised

as a vital strategy to redress historical disadvantages.

Through the mobilisation of the LGBTI movement sexual rights are also included in the Constitution, and this reinforces the demands made in various places in the 1994 charter for the recognition of the sexual and reproductive rights of all people. On all these fronts the central historical contribution of the women's movement in its various manifestations was to persuade the framers of democracy that gender inequality (and not just racial and class inequalities) was a significant faultline in South African society.

Since the adoption of the new Constitution, progress towards implementation of these goals has been uneven. In two areas there was relatively rapid movement towards equality: representation and legal equality. The key ally of the women's movement, the ANC accepted – finally, in the run-up to the 1994 elections – that affirmative action was required to ensure that women had a place in Parliament and Government. A quota has been utilised in every election, bringing an increasing number of women into Parliament and making the appointment of women MPs to Cabinet positions virtually a routine process.

The introduction of the Bill was a reminder that legislative gains can be reversed if there is not a significant movement acting as a watchdog for equality.

A set of institutional structures aimed at creating space for articulating gender equality in Government policies (the national gender machinery) was also set up. These institutions have been less successful in making an impact on spending to redress inequalities, but at least in design there was a relatively quick response to the demands of women's organisations.

The second area of rapid change was in the eradication of most forms of unfair legal discrimination from the statute books. Most of the legal rights that the two charters demanded, such as the right to contract, to inherit, to own property and obtain credit, are secured in South African law. Importantly, law as well as social policies reflect the understanding that both charters demanded in respect of family forms, dismantling formally the idea of the nuclear family and recognising

the diversity of social arrangements in SA (Sevenhuijsen *et al*, 2003).

However, there remain some significant gaps with respect to political participation and representation as well as legal equality. These arise from the bifurcated system of law and government that was inherited from apartheid. In rural areas that are under the control of traditional authorities, despite the constitutional guarantees, women are less likely to have equal voice. Some chiefs do, in practice, facilitate the participation of women and recognise that the traditional institutions need to be democratised.

The ANC, once an ally for feminism, has proved less reliable in upholding the rights of women. For example, it introduced the Traditional Courts Bill, which would mean that rural black women continue to contend with systems of governance based on the denial of equality – something their urban sisters do not have to face. The Traditional Courts Bill was deeply unpopular – seven out of nine provinces refused to ratify it, and a powerful civil society movement was launched to challenge it which was ultimately successful. Aninka Claassens (2012) argues that the Traditional Courts Bill gives chiefs autocratic power over people living in tribal jurisdictions that is even more widespread than the power they had under the apartheid system. The introduction of the Bill was a reminder that legislative gains can be reversed if there is not a significant movement acting as a watchdog for equality.

Custom and tradition continue to reinforce gender inequality, and use of legal strategies has only been partially successful. A proper review of debates in personal law is beyond the scope of this article but is available in Mbatha *et al* (2007). African customary marriages, Muslim marriages and marriages between people of the same sex were not recognised in apartheid civil law. Changes to the marital regime have been slow, and equality in marriage is still not fully guaranteed in South African law due to resistance from cultural brokers such as priests. African customary marriages have been fully recognised in the law, and a major victory was recognition of same-sex marriages in 2006. In contrast, it took 20 years for Muslim marriages to be recognised in the law, and even with the recent accreditation of imams under the Marriage Act, Muslim women's unequal

status in terms of Muslim marriage laws poses a major challenge to equality.

Other aspects of change that are aspired to in both charters, such as women's equality within families, their ability to make sexual decisions and their access to household finances, fall within the difficult area of the private. Although women's right to choose abortion has been made legal (in the Choice in Termination of Pregnancy Act of 1996), in practice poor women struggle to obtain abortions in Government health facilities due to the resistance of health care providers based on conscientious objection arguments. The consequence is that illegal abortions remain only too prevalent for poor women.

In addition to these problems of poor implementation of gender equality commitments, the norm of equality remains contested in society. There have been no serious systematic studies of attitudinal changes with regard to gender equality. In the World Values Survey, support for gender equality is regularly tested. Kotze and Steenekamp's (2009: 54) evaluation of these (imperfect) data shows that while 82% of the parliamentarians who responded to the survey supported gender equality, only 56% of church leaders and 52.9% of civil servants supported this idea.

Perhaps more revealing of the impact of socio-cultural norms is the increase in violence against women, especially black lesbian women. Intimate partner violence accounts for approximately half of all female homicides in SA, suggesting that women are highly unsafe within the home (Abrahams *et al*, 2012). Watson (this issue) shows that reports of domestic violence made to the police have increased by 18% in the space of the reporting years 2011 and 2012.

Although the State has committed itself to dealing with gender-based violence, and activism against this pandemic is both deep and broad (including a Government-sponsored annual programme of 16 Days of Activism), most activists are frustrated by the lack of meaningful leadership (see Gouws, this issue). The rise of traditionalist values in politics, represented, for example by President Zuma's views on homosexuality, as well as on marriage as the most appropriate aim for young women, have been commented on by several scholars (Gqola, 2007; Motsei, 2006; Robins, 2008, among others).

However, it is not only the male political leaders who are less likely to exemplify support for gender equality. Comments made by Minister of Women Lulu Xingwana at an exhibition of artwork on women's bodies revealed a deeply conservative concern with representations of women's nudity and sexuality. The values of gender equality have been cast in a dichotomous fashion: increasing support for parity in representation goes hand in hand with declining public support for women's sexual and political autonomy (Hassim, 2014).

Increased representation of women, a key goal of both charters, has changed the landscape of political parties and to some extent has changed the face of politics. It is no longer the case that, as the 1994 charter worried, politics is the arena of men. However, neither has increased representation in the State necessarily facilitated equality to the extent to which the women's movement anticipated. Bureaucratic resistance, political co-optation and limited capacities to influence macro-economic policies have all limited the effectiveness of representation as a tool for radical change (Salo, 2005; Gouws, 2004).

Finally, in 1954, 1994 and 2014, one stark fact remains consistent – women find themselves predominantly in the ranks of the poorest in society. The expansion of social grants by the ANC Government, and particularly introduction of the Child Support Grant, has been a major poverty alleviation tool, but it cannot compensate entirely for an economy with limited jobs and one, moreover, that has large sections that are informal and outside the regulations on working conditions that have been secured for formal sector workers.

According to the National Planning Commission, women-headed households are more likely to be poor, and despite the virtual elimination of gender differentials in quantity of education, they continue to earn less than men: "About 61 percent of women live in poverty, and 31 percent live in destitution, compared with 39 percent and 18 percent of men respectively" (National Planning Commission, 2011). Under these conditions, as was recognised acutely in both charters, women's effective equality remains a tenuous dream.

## Notes

1. For a definitive history of the Federation of South African Women see Walker (1982).
2. All references to the Women's Charter (1954) and the Women's Charter for Effective Equality (1994) made within this article are based on the texts published on the website [www.anc.org.za](http://www.anc.org.za). In the form that they appear online, the texts are not paginated.
3. See, for example, debates about whether the Economic Freedom Fighters may or may not be the 'inheritors' of the Freedom Charter: <http://www.bdlive.co.za/national/politics/2013/07/29/mantashe-hits-out-at-eff-for-distorting-the-freedom-charter>
4. For a fuller discussion of the WNC, see Meintjes (1996) and Hassim (2006).

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