



The rights of people with disabilities and women empowerment in South Africa: How far so far?

Introduction

South Africa has made great strides towards creating conditions of equality and affirming human dignity for its citizens. There is, however, a long way to go towards achieving fairness and substantive equality as the state often suffers strategic and implementation deficiencies. The commitments that are expressed in the legislative framework do not always translate into real and practical programmes to empower those who suffer disadvantages or discrimination.

The rights of women and people with disabilities are human rights. In the case of women, their rights should be asserted in specific terms: against the pervasiveness of patriarchy. It is possible that a country can have the most progressive legislative and institutional framework guaranteeing human rights, and that women may have equal representation with men in formal institutions, yet still suffer the effects of patriarchy and subliminal forms of discrimination at the societal level and private domains. The gap between legislation and actual social relations can be vast.

A towering progressive country

South Africa's position on gender equality and prohibition of discrimination on the grounds of gender is the most illustrious example of the country's commitment to a rights-based political system. Equally important is the commitment expressed in policies aimed at advancing the rights of people with disabilities.

These are not mere sentiments on paper, but are also given weight by legislative and institutional forms: the Constitution, in particular the Bill of Rights; the Employment Equity Act of 1996; and the Promotion of Equality and Prevention of Unfair Discrimination Act of 1996. There are also Chapter 9 institutions dedicated to safeguarding and advancing human rights and gender equality, such as the Human Rights Commission and the Commission for Gender Equality.

It is worth noting that over the last 20 years, South Africa has achieved over 40% female representation in government institutions, making South Africa the second most progressive country in Africa in this respect, and the fifth in the world.¹ Further, the National Development Plan (NDP) proposes a range of measures to advance women's equality in employment, transformation of the economy, and in leadership in all sectors of society.

Institutional mechanisms

On disability, there are three dimensions that are often considered when weighing its effect on individuals, and the basis on which policy can be developed: impairment, which entails difficulties in bodily function or structure; difficulties in executing tasks or actions as a result of impairments; and participation restrictions in life or work activities.

External environmental factors related to social attitudes, architectural design, legal or social structures can hinder or facilitate the full integration of people with disabilities into social and economic activities. The emphasis of South Africa's legislative framework is on prohibiting discrimination on any grounds, including disability – and this is provided for in Section 9(3) of the Constitution, with Section 6 (5) (a) (iii) providing for the development and use of sign language.

Government seems aware of the needs of those with disability, but does not always demonstrate sufficient political will to address these where it matters the most. One of the powerful symbolism of government's awareness of the importance of championing gender equality and the rights of people with disabilities was the creation of the Department of Women, Children and People with Disabilities, with a Minister and Deputy-Minister, in the wake of the May 2009 general elections.

Prior to the creation of this department, these various focal areas existed as different units: Office on the Status of Women; Office of the Rights of the Child; and Office on the Status of People with Disabilities. The rationalisation of these units into a fully-fledged department with autonomy, even though it was still located within the Presidency, was an attempt to organise government's policies and planning on a more coordinated basis.

Having a dedicated department is a demonstration of awareness, but this on its own is not sufficient. Much more is required, especially in building or attracting the right kind of skills and resources to carry out the mandate of the department. On this score, the South African government suffers from implementation deficit.

The position of women

In what appeared on the surface as yet another groundbreaking legislative development, especially for women, in November 2013 the Department presented before Parliament the Women Empowerment and Gender Equality Bill. The Bill was designed to give strong effect to Section 9 of the Constitution. Its objectives were to ensure enjoyment of all rights and freedoms by every individual; promote gender equality by setting out practical measures; and entrench the values of non-racialism and non-sexism.

In addition, it sought to align laws related to women empowerment and the appointment and representation of women in decision-making positions; advance 50% representation and meaningful participation of women in decision-making structures in both public and private institutions; provide for the development and implementation of public education programmes on practices that unfairly discriminate on grounds of gender; and empower women through opportunities in education and skills development.

However, the Bill had to be shelved indefinitely by Cabinet. It came under stern criticism from opposition benches in Parliament for being too general and vague, and for seeking to impose high quota strictures (50%) and more layers of bureaucracy in the private sector.

By focusing much of the attention on institutional structures, and leaving the social sphere untouched, the Bill tackles only the symptoms and leaves the deep-seated causes undermining the empowerment of women unattended. There is also a patronising tone in the Bill towards women as needing training in values, amongst others. As such, it can be unwittingly disempowering.

At a broader economic level, women have still not made much advance outside of the public sector. According to Statistics SA, in 2001 the labour force participation rate of males in urban areas was 74.4% and 55% in rural areas. On the other hand, female participation rate was 62% in urban areas and 44.9% in rural areas. In 2014, female participation rate was 58.7% in urban areas, and 35.1% in rural areas, whereas that of males remains higher. Further, female workers tend to be concentrated in low-skilled and low paying jobs, and have to carry the additional burden of doing unpaid jobs at home, which is an inequitable tax levied upon them by patriarchy. A study released by Business Women's Association of South Africa in 2012, showed that even though women make up 52% of the South African population, they account for just 3.6% of CEO positions, 5.5% of chairperson positions, 17.1% of directorships, and 21.1% of executive management positions in the private sector.

A sharper strategic orientation

Weaknesses in government capacity, prickly relations with business, and absence of strategic finesse in executing policy have played a role in hindering empowerment initiatives. Progress with regards to championing the rights of women and of people with disabilities remains scant. In 2014, the Department of Women, Children and People with Disabilities was restructured, with the aspects on children and people with disabilities integrated into the Department of Social Development, and the aspect on women remaining in the Presidency as a fully-fledged ministry.

Given the limited period within which this department existed, it is difficult appropriately to measure its success. But some things are clear. The objectives related to advocacy and mainstreaming of gender equality; institutional support and capacity building for gender equality; and the actual monitoring and evaluation of gender equality have lagged behind. This has been compounded by weak technical capacities within that department.ⁱⁱ

At the substantive level, there is a focus on the priorities of the department on gender-based violence, promoting community dialogues, tackling the effects of poverty on households that are headed by women, and encouraging men to participate in campaigns aimed at combatting violence against women under the rubric of the "Count Me In" slogan.

Some social commentators have observed that this new ministry has started on the wrong footing. They argue that "the minister appears to have couched [her] campaign in a language that is not empowering of women, and to have framed the problem in a manner that does not attack patriarchy or advance gender equality."ⁱⁱⁱ The minister places emphasis on what the men should do as "protectors", and in so doing is infantilising women, as critics point out.

Conclusion

There is much that South Africa has achieved in laying out a framework to promote the rights of women and people with disabilities. The country is a step ahead not only of its peers in the developing world, but also of advanced industrial economies on various aspects of women empowerment and in protecting the rights of people with disabilities. The range of institutional and legislative instruments that the country possesses ensures that, at least, in public institutions, there is a lever through which to promote fairness and equality.

However, patriarchy is still prevalent in society. Until the progressive public virtues permeate across the different domains of our society, including the public sector, private sector, and civil society, there will be a strong need for government to pay attention to this critical area.

Government also needs to improve its capacities by attracting skills in the relevant departments. While the introduction of a dedicated department is a welcome development, this on its own will not change conditions in society. Society needs to be mobilized against patriarchy, and there is need to raise the level of social consciousness about the importance of all sectors of society to protect and promote the rights of people with disabilities. Government should at all times lead by example.

Endnotes

ⁱ Statistics South Africa, *Gender Series Volume 1: Economic Empowerment, 2001 – 2004*. Report number: 03-10-04. <http://www.statssa.gov.za/publications/Report-03-10-04/Report-03-10-042014.pdf>

ⁱⁱ South African Parliamentary Group, *Committee Report on Women, Children and People with Disabilities*, 08 July 2014.

ⁱⁱⁱ Suttner R., 2015, *Recovering Democracy in South Africa*, Johannesburg: Jacana Press, p.113-115.