

GENDER SCORECARD 1997

In her final column for 1997, Dianne Hubbard of the Legal Assistance Centre sums up the legal developments around gender this year.

The good

Local Authorities Act

So much attention was focused on SWAPO's motives for retaining the party list system for another round of local elections that no one seemed to take much notice of the fact that the affirmative action provision for women was strengthened.

The rule for the first local government elections, where councils consisted of seven to 12 members, was that party lists had to contain the names of two to three women depending on the size of the council. For the upcoming local elections, councils will consist of seven to 15 members. Party lists for councils with 10 or fewer members must contain the names of at least three women, and party lists for larger councils must contain the names of at least five women (quaintly referred to in the law as "female persons").

The bad

New nature conservation regulations

In June, the Minister of Environment and Tourism amended the regulations under the Nature Conservation Ordinance. It is now possible for the *wife* or child of an owner of a hunting farm or a guest farm to apply for registration as a hunting guide. It seems unlikely that the Minister intended to discriminate against the husbands of land-owners. It is more likely that he was unable to conceive of the possibility that a woman might own a guest farm.

Inconsistencies on affirmative action

Since independence, several laws have specified that a certain number of the members of various governing bodies and boards must be women – including the Social Security Act, the Vocational Training Act, the Polytechnic of Namibia Act, the Namibia Sports Act and the Agricultural (Commercial) Land Reform Act. But this approach to affirmative action for women has not been consistent. For example, there is no mention of women on the governing bodies and boards established by University of Namibia Act, the Labour Act, the Namibia Development Corporation Act or the Namibian Housing Enterprise Act.

None of the laws passed by Parliament in 1997 included affirmative action for women on governing boards and bodies. The Namibia College of Open Learning Act empowers the Minister to appoint between 5 and 23 members to the Board of Governors on the basis of their expertise in education, but there is no requirement that the Minister consider the gender balance of the body.

There is no affirmative action for women on the board established by the Game Products Trust Fund Act either. The three board members representing different ministries must be of the rank of deputy director or higher – a rank which is quite likely to suffer from a shortage of women at present. But the other two board members must be drawn from community-based organisations, and a requirement that

at least one of these must be a woman might have helped to correct the imbalance of women in management positions at community level.

There is no explicit place for women on the Board of Directors of the new NamWater Corporation. The Permanent Secretaries of four ministries are automatically board members. One member must be a representative of the Association of Local Authorities, one must be an employee of the Corporation, and four to eight persons must be chosen from the private sector on the basis of their experience in water engineering, consumer interests, finance, business, law or the environment. The selection of the representatives from the private sector must “achieve a varied representation of interested parties”, but not necessarily a balance of gender interests.

Is the government committed to ensuring that all statutory bodies and boards include women? Does it depend upon the subject matter at hand? Or is it a hit-or-miss approach, depending on the attitude of the Ministry that sponsors the legislation? There appears to be a need for some guiding principle.

Women and land

The draft Communal Land Bill which was released for comment earlier this year failed to give any attention to gender, neglecting even the gender-related points which had already been put forward in the relevant policy documents. For example, the draft bill was silent on the principle of sexual equality in access to land, and on the problem of inheritance by women, even though these issues were raised in the policy documents. The option of registering communal land jointly in the name of husband and wife would be a strong mechanism for protecting the rights of rural women, but the most recent policy documents provides for joint registration only where families are legally constituted as family trusts. Affirmative action for women on Regional Land Boards was promised in earlier policy documents, but was omitted from the draft bill and the most recent White Paper. Rural women play a primary role in subsistence agriculture and should not be neglected when it comes to land rights. Fortunately, there is still time to give more attention to gender issues before the bill is finalised.

Other disappearing acts

In 1996, the Ministry of Health & Social Services announced that new children’s legislation (first put forward back in 1994) would be coming “soon”. In June 1997, the Minister said that new abortion legislation was expected to come into force “before the end of the year”. Draft bills on both of these topics were widely discussed but then disappeared from view. The intense controversy around abortion is not going to go away, so there is no good reason to keep postponing the debate. As for the children’s legislation, it is hard to imagine that anyone would object to greater protection for abused and neglected children. It is not enough to know that laws are somewhere in the pipeline -- we would like to see them coming out the other end.

The good-but-could-have-been-better

Workers’ health and safety

Health and safety regulations were issued in terms of the Labour Act in August 1997. It is commendable that these regulations give special attention to the health of pregnant women, but they fail to provide appropriate protection for Namibia’s 24 000

domestic workers. For example, there is nothing in the new rules to prevent employers from locking their domestic workers inside the work premises, even though a 1996 study by the Legal Assistance Centre found that this actually happens in practice. But the new regulations have been written with only larger employers in mind.

Maintenance

Building on recommendations put forward in a research report completed by the Legal Assistance Centre in 1995, the Law Reform & Development Commission proposed amendments to the Maintenance Act in a report published in September 1997. The suggested proposals would go a long way towards improving the maintenance system, but the bill which would implement them appears to be nowhere in sight – despite the fact that women have repeatedly cited an improved maintenance system as one of their highest priorities. Good, but *much* too slow!

Rape

A broad spectrum of organisations have been lobbying for rape reform for years now. After a particularly intense outburst of public rage sparked by the rape of yet another young child, this issue picked up momentum. A draft Combating of Rape Bill was circulated for comment in July 1997. The proposed bill is very progressive and answers most of the criticisms which have been put forward during the past few years. Fine-tuning is now taking place within the Ministry of Justice. The only thing which would be better would be to see this bill actually become law. We hope that the government will make a New Year's Resolution to put this item at the top of its agenda for 1998.

The road ahead

Cabinet recently approved a National Gender Policy which was launched by the Department of Women Affairs on 10 December 1997. This policy is very progressive and comprehensive, and it provides a good analysis of gender problems in specific sectors.

The strongest aspects of the policy are its concrete promises. For example, in the section on violence against women and children, the government pledges to enact a "Domestic Violence Act" which will penalise abusive partners. The section on gender balance in decision-making promises to apply affirmative action for women to the selection of regional representatives for the National Council. In the section on education, specific plans for assisting pregnant teenagers include establishing affordable child-care facilities and putting parental counselling services into place.

Unfortunately, much of the policy is rather vague. The government pledges to do things like "support" the development of programmes, "promote" equal opportunities for women, and "encourage" other parties to take positive action. It is in the nature of policy documents to be general, but we would have liked to see more specific priorities, goals and target dates for government action. Hopefully forthcoming programmes of action for specific sectors will provide more detailed plans and measurable objectives.

The most exciting part of the Gender Policy is the commitment by the Department of Women Affairs to establish a formal Presidentally-appointed Gender Commission within the next six months. The Commission will monitor the implementation of the Gender Policy and consider presentations and complaints from

the public. This is the sort of mechanism that can give the Gender Policy some teeth, and a promising prospect for the future.

Overall assessment for 1997: Many gender-related matters are off to a good start, but the real measure of success will be in the follow-through.