

Book Review

Feminist Institutionalism in South Africa: Designing for Gender Equality

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This is a book that should be read by anyone interested in the health of South Africa's democracy. Although a gender lens is used, Amanda Gouws' edited volume *Feminist Institutionalism in South Africa: Designing for Gender Equality* (2022) provides a disturbing narrative of the closing down of activism within the state, which has become a general trend. Gouws, a Distinguished Professor of Political Science and the National Research Foundation (NRF) funded SARChI Chair in Gender Politics in the Department of Political Science at Stellenbosch University, has produced a book that tells a powerful story about the rise and fall of state feminism and gender design in South Africa within a matter of two decades. Writing from the perspective of a former Gender Commissioner (2012 - 2014) at the Commission for Gender Equality (CGE), an academic, vocal feminist and gender equality activist, Gouws has travelled this journey personally along with the other chapter authors, including four other former Commissioners (Cathi Albertyn, Sheila Meintjes, Gertrude Fester and Janine Hicks). Hassim notes that the CGE entered the discussions at the 1991 Convention for a Democratic South Africa (CODESA)¹ as 'part of a political trade-off with the establishment of a forum for traditional leaders' (Hassim at 36).

This book, however, does not focus solely on the CGE, but stretches across the period from the time of the constitution-making process in the early 1990s when the diverse Women's National Coalition (WNC) pushed a feminist agenda that influenced the outcome of the negotiations giving birth to a new democracy up to the establishment of the Department of Women, Children and People with Disabilities (DWPD) – which moved in and out of the Presidency after its establishment in May 2009 - and beyond. It ends with a powerful and hopeful account of the success of feminist campaigns that culminated in the adoption of the 2020 National Strategic Plan on Gender-Based Violence and Femicide by using 'direct action as a method of protest and political engagement' (Dlakavu at 247).

The main question of the edited volume is posed upfront: 'Can institutions be designed in such a way that they can ensure innovative measures for and institutionalise a feminist vision of gender equality?' (Gouws, p. 1). Upon reading the book, it becomes clear that state feminism is currently weak, if not non-existent and that the attempt at feminist institutional design has failed because of political interference.

¹ See Convention for a Democratic South Africa (CODESA). Available at: <https://www.sahistory.org.za/article/convention-democratic-south-africa-codesa>. (Accessed 5 October 2023).

From the outset, it became clear that the CGE was not a well-performing Chapter 9 constitutional institution, and as a result, late Minister Kader Asmal recommended that the CGE be merged with the South African Human Rights Commission (SAHRC) as far back as 2007.² This suggestion failed, however, because feminists and gender activists pushed back. After several reviews of the performance of the CGE, serious concerns remain despite the fact that there are some scattered indications of success which are addressed in Part 2 of the volume. As is clear from each chapter in this edited volume, the unfortunate fact remains that there is an anti-feminist politics often enacted by women themselves in state institutions, and this has led to a regression of sorts, undoing many of the gains of the WNC and fragmenting the South African women's movement.

Hassim notes that within 20 years, the experiment in feminist institutional design in South Africa fell into 'tatters', and the consequences for women were severe (Hassim at 42). She points out that women continue to be amongst the poorest citizens living in daily fear of violence, working in precarious conditions and bearing the brunt of the state's failure to provide adequate services (Hassim p. 42). This is a story of both hope and decline related in a conceptually coherent and clear manner throughout the book by authors who are well-known women's rights activists in their own right. They lament that such anti-feminist ideology has led to the National Gender Machinery (NGM) failing those it is meant to serve. At the beginning of the Institution-making process feminists wanted a 'package of structures' at all levels of the state that would facilitate relations and networks with feminist activists and women's movements who would then work with state feminism to drive transformation. This did not happen. Instead, the worst fear of feminists was realised when a single ministry of women was created by former President Jacob Zuma in 2009.

Unfortunately, as noted by Gouws (2022, 89) racial tension has marked the NGM and CGE since its inception. Feminism is perceived by some as an import from the West linked to essentialised gender identities. This tension led to imposed silence and inaction on the part of white Gender Commissioners who felt that they did not want to impose an unwelcome ideology. In addition, due to party political capital, Commissioners loyal to the ANC were introduced into a space that was meant to be independent. Lisa Vetten describes this as a system of cadre deployment (Vetten pp. 98–99) whereby party loyalists from the ANC Women's League (ANCWL) in particular had nestled within the NGM and the CGE and focused on remaining loyal to the ANC whilst putting gender equality on the back burner.

The book is divided into four parts that work together to provide an account of the narrative of institutional design, decline and dysphoria. Section 1 utilises a historical lens and is comprised of four chapters. Chapter 1, entitled 'Imagining a New World', is authored by Shireen Hassim, a veteran of the women's movement. Her contribution focuses on the vibrant feminist activism based on solidarity in the 1990s, which did not last. Sheila Meintjes writes in chapter 2 about governmentality – and poor governance – within the CGE from 1997 to 2016, which is followed by Gouws' chapter on CGEs structural problems and her personal experience of being straight-jacketed as a feminist Commissioner. Lisa Vetten wraps up this part of the book with an honest assessment of how the CGE and the rest of the NGM were 'undone'.

Part 2 contains two chapters written by former gender commissioners focusing on some pockets of success, with Cathi Albertyn analysing the Commission's legal interventions. She points out that the CGE usually joins in other cases as *amicus curiae* (friends of the court) and does not always advance substantive equality in its arguments, sticking to the more 'neutral' understanding of formal equality that is not transformative at its core. The biggest success of the CGE is documented by Janine Hicks in Chapter 6 in which she illustrates how like-minded Commissioners within the CGE worked with unions, NGOs and feminists inside and outside the formal system through a strategic use of alliances to ensure that legal provision was made to provide maternal benefits to informal workers.

Part 3 of the book returns to the challenges inherent in the design of the NGM. In Chapter 7, Fester writes about the complex and often uncomfortable interactions between the parliamentary committee (PC) to which the CGE reports and the CGE itself. In chapter 8, Philile Ntuli critically analyses the challenges that arose as a result of the creation of a single ministry to deal with 'women's issues', which led to fragmentation more than it did cohesion. In the following chapter, Joy Watson draws our attention to the importance of gender-sensitive budgeting and points out that this has not occurred in South Africa despite the need, for instance, to ensure that serious societal problems like gender-based violence (GBV) are properly budgeted for. In chapter 10, Adams-Jack looks at problem representations and the NGM in South Africa and argues that it is comprised of 'meaning in motion'. In other words, changes continue to occur depending on context and there is a need to ensure that these changes are for the positive and that woman benefit from them. This concept of motion provides a glimmer of hope.

Part 4, entitled 'In Abeyance of the State', contains one very powerful chapter written by Simamkele Dlakavu, a well-known young black feminist activist. Her chapter focuses on the possibility of impactful African feminist

² Parliament of the Republic of South Africa (2007). *Report of the ad hoc Committee on the Review of Chapter 9 and Associated Institutions. A report to the National Assembly of the Parliament of South Africa.* Cape Town, South Africa.

protest – including silent protest. She explains her own experiences of African feminist action and protest, which includes the powerful ‘One in Nine’ campaign, the #RURferenceList and the #totalshutdown movements. The chapter ends on a promising note as Dlakavu notes that feminist activists and leaders in the past two decades have been shifting to civil society and academia and therefore there is more of a possibility of change being driven from outside the state.

Ultimately, the chapters when read together weave a story of the success of the ‘broad church’ of the NWM which was established to influence the constitution-making process as the main negotiators were mostly men. The equality clause (section 9 of the Bill of Rights) and the institutionalisation of the CGE as a Chapter 9 institution which is meant to be independent and protective of South Africa’s hard-won democracy were seen as major successes by a group of like-minded women concerned with the feminist agenda and women’s rights. But after this, there was a turn to politicization, causing the racial and ideological polarisation of the women’s movement, driven mostly by the ANCWL. This is by no means unique to South Africa.

A powerful example of the damage this polarisation causes can be illustrated by a famous example from the United States. More than thirty years ago, Anita Hill testified in front of the United States Senate Judiciary Committee that Clarence Thomas sexually harassed her. Most people recognised that it looked bad, a black woman explaining her very real experience in front of a group of white men, one of whom was the current President of the United States, Joe Biden. Yet, as Kimberlé Crenshaw notes, what was more difficult to acknowledge was the central tragedy – “the false tension between feminist and antiracist movements”.³

Clarence Thomas and his supporters used race as an argument to trump gender by intimating that Anita Hill was damaging the black cause by wanting to block his appointment as a Supreme Court judge. Her experience as a (black) woman was less important than his experience as a black man. Thomas has proven to be a highly conservative Supreme Court judge who has been accused of unethical conduct by accepting and not declaring ‘gifts’ of holidays and other luxuries from far-right members of the United States oligarchy. On the other hand, Hill serves her community as a dedicated women’s rights lawyer.

Chronologically, the National Gender Machinery (NGM) developed over time. This was by design and meant to ensure that women exert influence both inside and outside the structures of the state. The first push was to develop a kind of matrix or ‘package’ model that allowed pockets of state feminism to grow. What was feared the most occurred three years after Jacob Zuma’s rape trial with his establishment of a Department of Women, Children and People with Disabilities (DWCPD) staffed mainly by political deployees and controlled to a large extent by the ANC Women’s League (ANCWL) who were allies of the former President. This led to ideological conflicts about the role of women and their rights in South Africa, based on a false dichotomy. Within this environment patriarchy thrived, buttressed by women.

Much of what led to the decline of state feminism is centred around the Zuma rape trial *State v Zuma* 2006 SA (WLD) and the consequences of it. In her hard-hitting book *The Kanga and the Kangaroo Court* (2007) Mmatshilo Motsei exposed the patriarchal discourse of the court and the dire consequences of the judgment on women who choose to report rape as Fezekile Ntsukela Kuzwayo (also known as Khwezi) who passed away in 2016⁴ had done. Khwezi was shamed, interrogated about her sexual history and blamed for wearing a ‘Kanga’⁵ in Zuma’s home. Of great concern was the response of the ANCWL, whose leader at the time responded to criticisms of the former President by vowing to ‘protect him with our buttocks’.⁶

Fester argues that race and class issues prevented camaraderie amongst women in the women’s movement (Fester p. 74). Throughout the 1980s, there was solidarity amongst women with a common cause, but self-censorship became prevalent post-1994. As a result, leadership remained predominantly male despite quotas being introduced in political leadership. The women inside the system placed party loyalty before the feminist struggle. Fester calls this the ‘hierarchy of oppression’ where there is framing of race as the *main source* of oppression, causing tension between a nationalist approach and a feminist approach to attaining gender equality and women’s rights.

State feminism failed and the package came undone because of anti-feminist sentiments becoming the norm within the state machinery. Most of the chapters in this edited volume ask the question of whether the interests of

³ Crenshaw, K. W. (2019). We still have not learned from Anita Hill’s testimony. *UCLA Women’s Law Journal*, 26, 17-20. <https://doi.org/10.5070/L3261044346>

⁴ TMG Digital (Sowetan). (2016). Who was Khwezi? Here’s what we learnt during the Zuma rape trial. Available at: <https://www.sahistory.org.za/archive/who-was-khwezi-heres-what-we-learnt-during-zuma-rape-trial-tmg-digital-sowetan-10-october>. (Accessed 5 October 2023).

⁵ Pather, R. (2016). The kanga, womanhood and how Zuma’s 2006 rape trial changed the meaning of the fabric. Available at: <https://mg.co.za/article/2016-08-10-the-khanga-womanhood-and-how-zumas-2006-rape-trial-changed-its-meaning/>. (Accessed 5 October 2023).

⁶ News 24. (2014). We will defend Zuma with our buttocks – Nomvula Mokonyane. Available at: <https://www.news24.com/news24/we-will-defend-zuma-with-our-buttocks-nomvula-mokonyane-20150429>. (Accessed 5 October 2023).

women are prioritised or whether party politics trump the importance of women's rights. Adams-Jack illustrates how political choices have shaped the gender discourse in South Africa for many years, particularly since 2009 (Adams-Jack p. 202).

Dlakavu begins chapter 11 with a powerful quote: 'I don't want to die with my hands up or my legs open' (Putuma, 2017, p. 75). This is a sad reflection of the way in which women live in fear, particularly of GBV. She bemoans the fact that the anti-feminist nature of the ANCWL's career politicians affiliated with the ANC took up space within state machinery to displace state feminism, which resulted in the disappearance of feminist consciousness in state institutions such as Parliament (Dlakavu p. 265). As other chapter authors have also pointed out, feminist activists and leaders have begun shifting to civil society and this is where the changes are more likely to occur in future.

The edited volume ends with a significant 'postscript', a copy of a letter sent to the Speaker of Parliament at that time, Lechesa Tsenoli, in 2021 requesting an independent enquiry into the poor functioning of the CGE. The letter was signed by several institutions supporting gender equality as well as a long list of subject experts and activists. To date, there is no evidence that such an enquiry has even been considered. The story thus continues to unfold, making this book even more relevant.

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