

African Gender and Development Index

South African Report

**Centre for Applied Legal Studies
University of the Witwatersrand**

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The Report will be published as a South African Report during 2005.

The Report measures progress to gender equality in South Africa as at April 2004.

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Table of Contents

Acknowledgements	i
Researchers	ii
Glossary	iii
CHAPTER ONE INTRODUCTION	1
I The Gender and Development Index	2
II South Africa as a new Democracy	3
III Women in South Africa	4
IV The Changing Policy and Planning Context	6
V Methodology	7
VI How South Africa Scores	16
The African Women's progress report grid	19
CHAPTER TWO THE GENDER STATUS INDEX	20
Introduction	21
Social Power	22
Education	22
Enrolment rates	22
Dropout rates	26
Literacy	26
Health	28
Child health	28
Life expectancy at birth	30
New HIV infection	31
Time spent out of work	31
Economic Power	32
Income	32
Wages	32
Income	33
Time-use or employment	35
Time-use	35
Employment	37
Access to Resources	38
Means of Production	38
Management	39
Political Power	42
Public sector	42
Civil society	46

CHAPTER THREE WOMEN'S RIGHTS	49
The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	51
The Optional Protocol to CEDAW	55
Article 2 of CEDAW – Equality	56
Article 16 of CEDAW – Marriage and Family Life	60
The African Charter on Human and People's Rights – Harmful Practices	64
 CHAPTER FOUR SOCIAL POWER	 69
The Beijing Platform for Action	71
Violence Against Women	75
Domestic violence	77
Rape	87
Sexual harassment	96
Trafficking	102
Children	107
Women's Health	112
Sexually transmitted infections (STIs)	114
HIV/AIDS	119
Maternal Mortality	130
Contraception	135
The Abuja Declaration on HIV/AIDS	140
Education	144
Policy on girl school dropouts	144
Education on women's/human rights	147
 CHAPTER FIVE ECONOMIC POWER	 153
ILO Conventions	154
Convention 100	155
Convention 111	160
Convention 183	166
Policy on HIV/AIDS	171
Engendering NPRS	177
Access to Agricultural Extension Services	181
Access to Technology	185
Equal Access to Land	189
 CHAPTER SIX POLITICAL POWER	 194
UN 1325 Conflict Resolution	196
Beijing PFA effective and accessible national machinery	202
Policies	
Support for women's quota and affirmative action	209
Decision making positions within parliament/ministries	213
Gender mainstreaming in all departments	216
 Bibliography and Sources	 220

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GLOSSARY

AGDI	African Gender and Development Index
AU	African Union
BPA	Beijing Platform for Action
CALS	Centre for Applied Legal Studies
CASE	Community Agency for Social Enquiry
CBO	Community based organisation
CCMA	Commission for Conciliation, Mediation and Arbitration
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEE	Commission for Employment Equity
CERMD	Confidential Enquiry into Maternal Deaths
CGE	Commission for Gender Equality
CIQLSW	Joint monitoring committee on the improvement of the quality of life and the status of women
COSATU	Congress of South African Trade Unions
CSW	Committee on the Status of Women
DoD	Department of Defence
DoH	Department of Health
DoJ	Department of Justice
DRC	Democratic Republic of Congo
DSD	Department of Social Development
ECA	Economic Commission for Africa
FEDUSA	Federation of Unions of South Africa
FET	Further Education and Training
GCIS	Government Communication and Information Service
GFP	Gender Focal Point
GSI	Gender Status Index
HSRC	Human Sciences Research Council
ICPD	International Conference for Population and Development
ICT	Information and communications technology
IDASA	Institute for Democracy in South Africa
IDT	Independent Development Trust
ILO	International Labour Organisation
ISRDS	Integrated Sustainable Rural Development Strategy
JCIQLSW	Joint Monitoring Committee on the Improvement of the Quality Life and Status of Women
MMR	Maternal Mortality Rate
MTCT	Mother to child transmission
NACTU	National Council of Trade Unions
NCCEMD	National Committee for Confidential Enquiries into Maternal Deaths
NCOP	National Council of Provinces
NCRC	National Children's Rights Committee
NEDLAC	National Economic, Development and Labour Council
NEPAD	New Economic Programme for African Development
NGO	Non governmental organization

NLC	National Land Committee
NPA	National Prosecuting Authority
NPRS	National Poverty Reduction Strategy
OSW	Office on the Status of Women
PEP	Post exposure prophylaxis
SADC	South African Development Community
SALRC	South African Law Reform Commission
SANAC	South African National Aids Council
SANDF	South African National Defence Force
SAPS	South African Police Services
STD	Sexually transmitted disease
STI	Sexually transmitted infection
UIF	Unemployment Insurance Fund
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
URP	Urban Renewal Programme
VAT	Value added tax

CHAPTER ONE

INTRODUCTION

INTRODUCTION

1 THE AFRICAN GENDER AND DEVELOPMENT INDEX (AGDI)

The African Gender and Development Index (AGDI) is a project of the African Centre for Gender and Development at the Economic Commission for Africa (ECA). The AGDI aims to be a measurement and a monitoring mechanism of governments' progress towards achieving gender equality in Africa. It seeks to be an 'African' index by addressing a range of social, cultural, political and economic concerns of women on the continent of Africa. It does so by providing quantitative and qualitative measures of progress of government progress in the Gender Status Index and the African Women's Progress Scoreboard. The ECA believes that this combination of 'hard' and 'soft' data 'seems best suited to capture the complex and dynamic reality of Africa women's lives' (Economic Commission for Africa, African Centre for Gender and Development: 2003, 7).

The Gender Status Index

The Gender Status Index (GSI) is a quantitative measure of women's social, economic and political power in South Africa. It seeks to measure the 'gender gap', ie. the differences in achievements by women and men in education and health (social power); income, time-use or employment and access to resources (economic power) and participation in the public sector and civil society (political power).

The GSI will ultimately produce one score of inequality, based on the measurement of issues that are specific to women in Africa.

The African Women's Progress Report

The African Women's Progress Report (AWPR) is a qualitative measure of government progress. It recognises that progress is measured not only in terms of political commitments, policies and laws, but also in the extent to which government has committed its institutional, human and financial resources to implementing such policies and laws. The AWPR thus sets up a grid for scoring up to thirteen steps that government should take to meet the challenge of effective equality for women. Like the GSI, the AWPR will produce one score after all the scores on the grid have been calculated.

The AWPR is a measure of governance. It looks at what government is doing and how it is doing it. Hence it is able to identify the points of strength and weakness in gender governance processes. It seeks to identify the sources of the problem by asking questions related to different stages of the policy formulation and implementation process. We are able to see whether the problem lies in government's failure to develop a policy or legislate. If there is a law or policy, we can identify the gaps in implementation? We can see, further, whether these relate to inadequate planning, a low allocation of resources or poor human capacity. The AWPR also allows us to identify patterns of governance across departments to see where gender is being addressed and whether or how it might be slipping off, or onto, the agenda.

The AWPR does not measure whether gender equality has been achieved, but tells us what steps government has taken towards this. It has little to say about the actual impact of policies on

women. Although there is some qualitative assessment of the nature of government actions (see the section on scoring below), the AWPR does not involve a detailed interrogation of effectiveness as measured by impact, or of the relationship between a policy and its impact on the ground.

South Africa is one of fourteen countries selected to participate in field trials of the AWPR. It is timely to do this as we celebrate 10 years of democracy. The AWPR provides an opportunity to reflect on progress over the past years and to assess the extent to which we have made use of the opportunities of the new democracy. It also allows us to reflect on plans for the future. Importantly, this first AWPR sets a baseline for progress in South Africa in the next ten years.

II SOUTH AFRICA AS A NEW DEMOCRACY

South Africa achieved democracy in 1994. Central to this democracy was a commitment to gender equality and the empowerment of women. The South African Constitution, with its emphasis on equality and women's rights provided the political and legal framework for the development of policies and laws to protect and benefit women.

In the first years of democracy, government and civil society worked together to achieve significant gains for women in policies and laws. This is reflected in the score-card of the AWPR. Early legislative gains addressed many issues of women's personal autonomy, including reproductive choice, gender-based violence and women's position in relationships and the family (laws relating to children, customary marriage and spousal maintenance). Other laws addressed economic participation in the workplace (law reform relating to parental rights, sexual harassment and discrimination) and women's political participation (in local government and through the Commission on Gender Equality). After 1994 the principle of 'gender equality' influenced policy formulation in development-related areas such as access to land, housing, water, health care and public works programmes. Overall, the policy and legal gains of the first democratic government addressed many aspects of women's political and social citizenship. These are significant achievements in the short space of less than a decade.

By the second democratic election in 1999, with an extensive policy and legislative framework in place for women, more intractable problems of transformation became apparent. Firstly, socio-economic indicators of inequality suggested that many women's lives had not improved substantially since 1994.¹ Despite evidence of material gains for some women in terms of greater access to basic needs such as healthcare, water and housing,² overall the record was of deepening gendered and class-based poverty and inequality. Many reasons have been given: they relate to questions of globalisation, economic policy, available economic resources, institutional capacity, the transformative capacity of the state and political will. Secondly, difficulties in implementing and enforcing the new 'women's laws' began to expose the gap between policy and legal frameworks and the daily lives of the majority of women. Research pointed to the difficulties in accessing abortions, maintenance and domestic violence interdicts, and in registering customary

¹ Indicators on poverty and inequality since 1994 suggest that the gap between the poor and the non-poor has widened. Inequality is on the increase along race and gender lines. See H. Bharat, M. Leibbrandt, M. Mazuyan, S. van der Berg and I. Woolard, 2001.

² In a survey by the National Employment Development and Labour Council (Nedlac) released in June 2000, close to 50 per cent of respondents said that the provision of water, housing and health had improved. H.C. Cawthra, A. Helman-Smith and D. Moloi, 'Annual review: The voluntary sector and development 1999/2000', *Development Update*, 3(3) (2001) 81.

marriages. The high level of gender-based violence (L. Vetten and K. Bhana, 2001) despite a range of legal and policy developments, is a particularly prominent concern. Thirdly, the growing rate of HIV infection, especially amongst women, exposed the particular and ongoing socio-economic vulnerabilities of women.

These problems have begun to focus the attention of women within and outside of the state on two sets of issues: Firstly, the state related questions of resources, capacity and effective governance; and secondly, the assumptions, norms and values that retard the effective reception of laws and policies within society. It is mostly the former issues of implementation, and transformation that are addressed in the AWPR.

III WOMEN IN SOUTH AFRICA

The inequality of women and men in South Africa emerges from a long and complex history of patriarchy, colonialism and apartheid which saw the development of a hierarchy amongst women on the basis of race, class and location. The exclusion of black South Africans from political and economic power under policies of racial segregation and apartheid, was compounded by cultural and social norms which saw black women suffering oppression on the basis of gender. The legacy of this past is that black African women still constitute a particularly disadvantaged group today.

Although South Africa is wealthy within the African context, it remains one of the most unequal societies in the world. The poorest 40% of households (equivalent to 53% of the people) account for less than 10% of its consumption, while the top 10% of households (a mere 5.8% of the population) account for over 40% of consumption.³ Official statistics confirm the strong racial, gender and rural bias to inequality and poverty in South Africa. In 1993, 44% of men and 48% of women lived in poor households. However, most of the poor live in rural areas with nearly two thirds (64%) of rural African men and seven out of ten (70%) rural African women in poor households.⁴ Two years later in 1995, official statistics revealed that almost half (49%) of women-headed households were among the poorest 40% ('poor') of households and just over a quarter (26%) were among the poorest 20% ('ultra-poor') of households. By contrast 31% of male-headed households were poor and only 13% ultra-poor.⁵

Amongst the poor, black African women have less income, are more likely to be unemployed, less likely to be educated and have less access to facilities and services than any other group. The overall unemployment rate for urban women is 28.6%, and 24.1% for urban men. This masks racial differences. The unemployment rate for urban African women is 35%, while it is 31% for urban African men (for rural Africans it is almost equal at 27.9 for women and 29.6 for men). These exceed those of urban coloured (23.7%), Indian (22.9%) and white (8%) women. Of those women who are employed, the majority of African women and coloured women are in elementary (unskilled) occupations. Fewer Indian women and white women fall into this category. The mean hourly earnings of African women (8,40) and African men (9,73) are lower than those of all other population groups (for white women, it is 28,17 and for white men it is 39,92).

³ Key Indicators of Poverty in South Africa Reconstruction and Development Programme, October 1995, p.7. Based on the World Development Report, 1994.

⁴ Country Gender Profile, South Africa. (Short version) D Budlender (ed) Swedish International Development Co-operation Agency, 1998, 14.

⁵ Budlender, 1998, 15.

More women than men have very little formal education in South Africa. In 2001, nearly one fifth (18%) of African women had no formal education at all, compared to 13% of African men. Less than 1% of white women and men have no formal schooling.

There is a great disparity in living conditions and access to services between the poor and the rest of the population. A third of the poor live in shacks or traditional dwellings, the vast majority have no access to electricity, running water in the household or modern toilets. Households in rural areas also tend to be poorer than urban ones. Again, women predominate in these households.⁶

These conditions make poor women especially vulnerable to violence. South Africa is a violent society⁷ with levels of gender related violence amongst the highest in the world. Women's organisations estimate that some 1.5 million rapes take place every year, of which less than one in thirty is reported. These levels of gender violence in South African society exist across race and class, although poor women are more vulnerable because of factors such as lack of secure housing, reliance on often dangerous forms of public transport and lack of household amenities.

South Africa also has one of the fastest growing rates of HIV infection in the world. More than one in five of the citizens of Gauteng, South Africa's richest province, are HIV positive. Up to one in four women between 16 and 35 are HIV positive with transmission rates said to be as high as populations of sex-workers. As a result South Africa is one of four countries where life expectancy is dropping because of Aids, one of the major reasons why it has slipped on the Human Development Index.⁸ South Africa is also currently ranked very low on the gender development index. The 1999 Human Development Report, ranked South Africa as 84, below Portugal (28), Chile (33), Colombia (51). This figure is in stark contrast to the gender empowerment measure (GEM) where South Africa is ranked at 18 in the 1999 Human Development Report, after UK (16) and Belgium (17), and ahead of Portugal (19) and Ireland (20).

The GEM reveals the degree to which opportunities for women to participate in economic and political fields have been opened by measuring the percentage of professional and technical jobs and administrative and managerial positions held by men and women, and the percentage shares of parliamentary seats held by men and women. The most striking challenge lies in closing the gap between women's formal empowerment in the political sphere and to some extent in the upper reaches of the economy, and their poor economic position. In the longer term, gender equality has to mean a real change in the economic and social position of women in South Africa. This means addressing the race, class and gender inequalities bequeathed to us by the dual legacy of apartheid and patriarchy.

The ANC government is committed to the eradication of the inequality, including gendered social and economic inequality. The African Gender and Development Index gives some sense of progress in addressing this gender inequality.

⁶ Key Indicators of Poverty in South Africa 1995, p. 17.

⁷ Statistics by the Ministry of Safety and Security suggest that 188 out of every 100 000 South Africans were victims of an armed robbery in 1998 with the murder rate being 52 in every 100 000. (Development Update 1999 vol.2 no.3, p. 35)

⁸ The Star 13 July 1999.

IV THE CHANGING POLICY AND PLANNING CONTEXT

The government inherited a state that paid little attention to co-ordinated action, effective planning, careful costing, considered budgetary processes and monitoring and evaluation of its output. The last few years have seen significant changes being introduced to the policy development and implementation cycle. This means that Government is currently addressing many of the implementation problems that are apparent in this research. This section provides a brief overview of some of these changes.

a) Integrated Governance

Integrated governance was introduced in 2001 to accelerate effective service delivery. This involves:

- Interactive and integrated governance;
- Improving co-ordination of efforts to transform the public service; and
- Improvement of government's monitoring and evaluation systems.⁹

Government departments are thus divided into clusters dealing with similar issues: Social Sector; Justice, Crime Prevention and Security; Economy and Employment; International Relations, Peace and Security; and Governance and Administration. A major challenge for government is to integrate gender across these five clusters.

b) The budgetary cycle – the Medium Term Expenditure Framework

The Medium Term Expenditure Framework (MTEF) sets up a three-year budgetary and planning cycle. Government departments are expected to plan and cost effectively in order to obtain budgetary allocations for their personnel and programmes.

c) Putting policy and planning first – the Medium Term Strategic Framework

The introduction of the Medium Term Expenditure Framework sometimes meant that budgetary decisions drove government activities in so far as ineffective or delayed planning meant that no money was available and no activities can take place.

The Medium Term Strategic Framework (Medium Term Strategic Framework) seeks to put policy prioritisation and planning back in the driving seat. It is a process of aligning national, provincial and local policy, planning and programme priorities with each other and with the overall policy goals of government (cabinet). It also envisages monitoring and evaluation systems.

c) Achieving inter-government integration

South Africa is a complex state with three spheres of government operating across the country. Inter-government integration seeks to ensure effective communication, planning and implementation across all spheres of government.

d) Monitoring and Evaluation

Monitoring and evaluation systems are an integral part of effective governance and delivery. These were virtually absent before 1994 and are in the process of being developed.

e) Integrating gender

Integrating gender in a positive way within and across all of the mechanisms discussed above is a huge challenge and strategies for doing this is still being developed within the Office on the

⁹ South Africa Yearbook 2002/2003 (2003) 52.

Status of Women. Critically, this will depend on ability of gender experts across government to intervene in the planning process and then to monitor progress. At present, this does not seem to be occurring enough and gender often seems to be outside of the policy and planning process. The OSW is in the process of defining entry points to this process. These might include:

- The identification and inclusion of gender indicators;
- Providing for gender to be an integral part of the cluster reports to cabinet;
- Requiring departments to provide an explanation of how a particular policy or programme impacts on gender when it is being discussed in cabinet.¹⁰

Thus, while there have been impressive progress in transforming the policy, planning and budgetary processes of the state, these still need to include gender in a more strategic, conscious and inclusive manner. This is one of the major challenges that arises out of this report.

V METHODOLOGY

The research was conducted by a team of researchers under the leadership of the Centre for Applied Legal Studies (CALS) at the University of the Witwatersrand. CALS was contracted to do this by the United Nations Economic Commission for Africa (Centre for Gender and Development).

As required by UNECA's terms of reference, the research team was multi-disciplinary and included an economist, lawyers, political scientists, gender development consultants and independent gender experts (see annexure 'A').

Two types of meetings occurred before the research commenced. Firstly, the research manager and two members of the team attended a week long training workshop in Addis Ababa in November 2002. Secondly, a one-day workshop was held to brief the full research team, as well as members of government (the Office on the Status of Women and the Presidency). This workshop was briefed by a representative from the Economic Commission for Africa and the team members who had attended a workshop in Addis Ababa. The full team then discussed the rationale for, and detail of, the GSI and AWPR, as well as its application in South Africa.

Team members were allocated sections of the report according to their expertise and provided reports to the editor who compiled this report.

a) Advisory Panel Meetings and process of consultation

The UNECA terms of reference required an Advisory Panel to be established to guide the process of developing the Report and to build consensus on the results between civil society and government. The UNECA Terms of Reference for the National Advisory Panels stipulated that the Panel should:

- Support the research institution in the collection of national data that is of high quality;
- Assist and facilitate institutions in accessing the relevant data;
- Review the institutions' methodology for collecting data;
- Review the data collected by the research institution;

¹⁰ The Advisory Group spoke of a 'Cabinet Memorandum' to facilitate this. However, we have not had sight of this document.

- Review the National Report prepared by the research institution, which includes the AGDI data before it is submitted to the ECA.

The Advisory Panel was not under the control of the research institution. The Terms of Reference specified its composition and required that it be convened and chaired by a representative of the National Machinery for Gender.

In South Africa, the Advisory Panel was selected and convened by the Office on the Status. The composition of the Advisory Panel differed from the Terms of Reference, by agreement at its first meeting, and included representatives from the Office on the Status of Women, the Commission on Gender Equality, all departmental Gender Focal Points, the Parliamentary Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women and gender experts.

It was envisaged that the Advisory Panel would have three meetings: The first to be briefed on the project and to identify data sources. The second to receive a status report from the research institution and the third to review the data and the national report. The Panel was required to validate the information.

In South Africa, five meetings of the Advisory Panel took place. The first followed the Terms of Reference. The remaining four combined the objectives of the stipulated second and third meetings. Thus the latest draft of the research was circulated before each meeting and formed the basis of discussion. The Advisory Panel would comment on drafts and provide further information sources when researchers were unable to access information. As consensus was reached on an issue, the data and score was confirmed and not reviewed at the following meeting.

As a result, these meetings came to play a key role in the research:

- Agreement was reached on various scores and points of disagreement were discussed and usually resolved.
- Information was provided and further sources of missing information were identified.
- Assistance was provided in interpreting what was required in some sections of the report.

As the gathering of information was an ongoing problem in the research we went beyond the Advisory Panel to seek information and consensus. Thus, in addition to the Advisory Panel Meetings, we also invited specific comments from some members of the Advisory Panel and civil society outside of meetings. This occurred in two ways. Firstly, we discussed the African Women's Progress Report at two meetings of the National Gender Machinery, where copies of drafts of the Report were distributed. Secondly, we specifically invited written comment from the Commission on Gender Equality.

By the end of 2004, we had consensus on about 75% of the Report. Various mechanisms were used to achieve validation of the entire report.

b) How the Information was collected for the Gender Status Index.

The GSI was compiled by an economist on the team who was based in a research NGO, but whom had previously worked part-time in the National Treasury. She worked independently to collect the information as required for the Gender Status Index.

The GSI was submitted to UNECA and to the South African Advisory Group and members of Statistics South Africa by August 2003. There was some delay in receiving feedback for all parties. Responses to the queries from UNECA were incorporated by way of explanatory paragraphs and footnotes.

Feedback from Statistics South Africa was eventually received in May 2004 and resulted in slightly different figures. The researcher on the CALS team provided the following explanations:

- The researcher was only able to use the 10% sample of the census that was available to 'outsiders'. Stats SA had access to the full census. Despite this there was less than 0,1% difference between the two sets of numbers which makes 0,1% difference to the rates at most.
- There were slightly bigger differences between the researcher's October Household Survey figures and those of Stats SA, but still minimal. It could be partly that Stats SA and SAS differ slightly in weighting, or that Stats SA decided to re-weight the data on the 2001 census.

The Stats SA representative at the September 2004 meeting of the Advisory Group agreed that the difference were so small that it was appropriate to proceed with the original figures. However, this remains subject to approval by the senior statistician at Stats SA.

b) How the information was collected for the African Women's Progress Report.

The African Women's Progress Report was compiled by a team of researchers under the auspices of the Centre for Applied Legal Studies at the University of the Witwatersrand.

The team accessed information from the following sources:

- Government websites
- NGO and research websites
- Interviews with members of specific departments or specific experts (face to face, telephone and email)
- Research reports and articles
- Advisory Group Meetings and feedback

The general process was to obtain as much as possible in documentary form, especially as we needed to verify our scores with hard data, and then to supplement with interviews. The OSW offered assistance by way of initial introductory letters and contact numbers, and it was initially thought that the process would not be too time-consuming.

However, we often struggled to find people or get information. In many instances, telephone calls and email messages often went unanswered. It seemed as if many people were just extremely busy and unable to respond to the requests of the researchers. Respondents were often unable to assist with the kind of technical detail or written evidence that was required for the report. Certainly, the information required was often detailed and was not merely within the purview of a Gender Focal Point. It was often difficult to identify the correct person to speak to. We had to speak to a variety of people in one department to obtain a full picture – there was no 'one-stop shop' of information.

On the other hand, documentary information was often very easy to access as many government documents are available on the internet. The internet was an excellent resource and we were very reliant on this as a source of information. However, the websites of different government departments varied in their accessibility and comprehensiveness. In all instances, more information could have been available online.

d) The Scoring Process¹¹

The African Women's Progress Report requires us to score government activities towards gender equality in relation to four categories of activity:

- Women's human rights,
- social power,
- economic power, and
- political power.

The brief from UNECA provides the following general criteria:

- ▶ no activity = 0
- ▶ some activity, but limited and/or falling short of international standards = 1
- ▶ comprehensive activity that complies with international standards = 2

UNECA also provides for the possibility for 'scoring' an activity as 'not applicable'. This applies where the activity does not apply to a particular topic. For example, not all topics require ratification of an international convention. Instead of scoring '0', we score an 'X' for not applicable. An 'X' attracts no score and does not prejudice the final score.

The scoring process is set out below. We first provide the guidelines given to us by UNECA (ECA, 2003: 60-64) and then comment on the scoring process in this research.

a. Ratification of International or regional convention or charter

This column measures whether the international conventions or charters listed on the horizontal axis of the African Women's Progress Report (Table 1) have been ratified, with or without reservations. In cases where there is no international or regional convention or charter or other document based on international consensus (such as the ICPD or Beijing Platform for Action) the squares in this column will remain empty.

Scoring:

- 0 - not adopted
- 1 - adopted with reservations
- 2 - adopted without reservations
- X- no relevant convention

We have scored '1' where a convention has been signed but not ratified. Where the ratification process is not yet open, we score a '1' for signature and '0' for no signature.

b. Reporting

This column refers to the reporting that States make on specific conventions that they are signatory to. In the case of CEDAW, countries report to the Committee on the Elimination of Discrimination Against Women within one year after the entry into force for the State concerned. Thereafter, at least four years and further whenever the Committee so requests.

Scoring:

- 0 - no reporting
- 1 - not all reporting done, but some have been done
- 2 - reporting is up to date.
- X- no relevant convention or no reporting requirement, hence not applicable.

¹¹ See completed grid on page 19.

c. Policy commitment

After an international convention, or charter has been ratified or before any of the other issues mentioned in the AWPS can be implemented, governments have to pass policy documents specifying their particular intentions and the activities to be undertaken to reach their goals. This column measures whether or not governments have drafted such a policy document and whether such a document has passed into the phase of implementation.

Scoring:

0 – no policy

1 – draft policy, not fully elaborated, not sufficiently comprehensive, falls short of international standards

2 – fully elaborated and approved policy.

X – Policy not applicable

In South Africa, the Constitution sets out a general policy commitment in many areas relating to women's rights. To score a '2', however, more detailed policy on the issue under consideration is usually required

On policy issues that specifically target women, we looked at whether the policy was sufficiently comprehensive to address the problem and complied in general respects with international standards. Where we were asked to determine whether gender policies existed in more 'general' areas such as education and health, we look at how women were included in the policy. If women seemed to be an 'add-on' or a special interest group, then we scored '1'. Where women were fully integrated as equal policy beneficiaries, we scored a '2'. A further distinction that we made between a '1' or a '2' score was to decide whether the policy was comprehensive (score '2') or fragmented/incomplete (score '1'). These were not always easy calls to make and we sometimes noted two scores in the Advisory Panel before deciding upon a common standard. These are noted in footnotes in the Report.

We have also distinguished between an enabling policy environment (ie. broad policies and political commitments are in place) that scores a '1' and a more detailed policy document that scores a '2'. Again, it was not always easy to make this call. Sometimes, we felt the constitutional framework and policy commitments were sufficient, eg. in relation to equality. At other times, we felt that they were not detailed enough, eg. in relation to 'harmful practices'.

It was clear that, this being a pilot study, there were insufficient guidelines in the original document and we have had to develop additional guidelines to the scoring process here.

d. Law or other legal measure

This column indicates whether the parliaments of African nations have passed national laws on the issues specified in the Scorecard. Some cells may not be filled in this particular column because a law may not be needed on a particular issue.

Scoring:

0 – no law or legal measure

1 – draft law law/s or not sufficiently comprehensive or in process of being drafted

2 – law or measure passed by parliament

X -law not required/not applicable

In South Africa, several laws are currently before Parliament. This only scores a '1'. In section where more than one law applies, anything less than a comprehensive legal framework scores a '1'. An inadequate law that is widely believed not to address a problem sufficiently also scores a '1'.

e. Development of plan/gender plan

The staff of the institution in charge with implementing the issues mentioned in the horizontal axis are responsible for developing a plan in which particular activities are specified, realistic and measurable targets are set. This item measures whether a plan/gender plan has been developed and is being implemented. It is also checking whether the particular item being measured has been planned for with specific targets being set.

Scoring:

0 – no plan has been prepared

1- the development of a plan/gender plan is in process

2- the plan/gender plan has been fully elaborated with objectives and targets set and the plan is in use

X- not applicable

This looks at the planning process of government. The question here is whether planning has taken place and whether this is a comprehensive process that consciously takes account of gender issues.

A score of '2' means that a fully elaborated and positively gendered plan is in place. Where several departments are involved in an issue, we have scored a '2' only when all departments have plans and these are more or less integrated. We have not required detailed co-ordination of plans.

We have scored a '1' where the planning process is not yet complete, or when plans are only partially in place, or when only some of the departments that should deal with a particular issue have plans and others do not. Note that in South Africa, some areas are split between national and provincial competencies. This means that general policy formulation may take place at national level, but detailed planning for implementation takes place at provincial level. Where this is the case, as in health, we have also measured provincial activities. We indicate, in each instance whether we are limiting our score to national activities, or whether we are also assessing provincial activities. In some instances, several laws require reform in a particular area before it can be said that the issue has been addressed. Hence, full plans cannot be made until all laws are passed. We have scored a '1' where this is the case.

We were always been clear about the standard of a '2' score. We have noted this in the body of the report. In particular, we were not able to determine whether a plan that includes women as beneficiaries but does not adopt a fully gendered approach should score a '1' or a '2'. See for example, the discussion on the National HIV/AIDS Plan. The Research Meeting at Addis Ababa in October 2004 confirmed that the plan should be 'fully gendered' to score a '2'.

In many instances, evidence of plans was very difficult to obtain.

f. Institutional mechanism

This column measures whether or not government departments or institutions have adequate institutional mechanisms, including gender desks or focal points, at appropriate levels to implement the items listed.

Scoring:

- 0 – no institution mechanism identified
- 1 - institutional mechanisms identified and partly in place
- 2 - institutional mechanisms identified and fully in place.
- X – Not applicable

In South Africa, many of the issues being scored are not necessarily the direct or only responsibility of a gender focal point, and we have also looked at the relevant departmental unit or enforcement mechanism. As it is policy to have a Gender Focal Point in a government department, we have reduced scores where these do not exist, even if all the other mechanisms are in place.

We have required all relevant institutional mechanisms to be in place for a score of '2'.

g. Targets

It is envisaged that plans should have targets.

Scoring:

- 0 - no targets set
- 1 - targets not sufficiently comprehensive or in process of being developed
- 2 - comprehensive targets
- X - not applicable.

Note that this does not measure whether the targets that have been put in place are effective.

We have only scored a '2' where targets are detailed, gendered and tied to plans. However, detailed targets were very difficult to access.

h. Involvement of civil society

This column measures whether and how much governments are working with NGOs, CBOs and civil society at large, in the particular item being looked at.

Scoring:

- 0 – no attention paid to civil society, no consultation has taken place, no support foreseen
- 1 – some attention paid to civil society
- 2 – extensive process of consultation has taken place, with the appropriate NGO's, and support for civil society incorporated in key activities.
- X – not applicable

South Africa scores well here. We have looked for involvement in more than one activity and have tended to focus on organised civil society. We have not tended only to measure national participation, or participation in relation to national issues. We have not used the standards of satisfaction of civil society organisations as a yardstick, or the extent to which government 'listens to' civil society (the quality of the consultative processes). Rather we have assessed government willingness to be open to civil society participation.

Occasionally, we have scored this more broadly to reward the overall democratic climate in South Africa in which limited or no civil society participation can be countered by other democratic mechanisms, such as taking the government to court. An example of this is the '2' score for HIV

and AIDS despite some evidence of difficult relations between government and some civil society actors.

i. Budget

Several countries, amongst others Tanzania and South Africa have implemented a gender-sensitive analysis of budgets. A gender-sensitive budget analysis allows one to disaggregate the government's mainstream budget according to its impact on women and men. Without such an analysis the gendered impact of particular budget items may not be recognised.

This column calls attention to the question whether governments have paid attention to the gendered impact their budget has on the specific item listed by allocating requisite financial resources for implementation.

Multi- and bilateral donor agencies in Africa typically supply part of the budget needed to implement the items listed in the Scorecard. Under this item only government funds are considered. Donor funds as far as they relate to government spending will be noted in the notes. Also not included are the funds spent by the private sector, even if they come from donor funds.

Scoring:

0 – no budget allocated for this item

1 – some funds allocated, but not sufficient to cover the costs needed to meet the targets set

2 – sufficient budget allocated to cover the targets set

We have not always been able to assess this in detail as the figures that are available tend to be at a general level that does not expose the actual budgets for the issue/programmes in question.

We are aware of the fact that a budget *should* be in place if the programme/plan/policy is accepted under the Medium Term Expenditure Framework. However, we have not necessarily assumed that this means that it *is* in place. Again it might be there at a general level, but might not be sufficient for the specific issue being measured.

We have tried to look to extraneous evidence such as over –spending (not enough) or under-spending (sufficient) to assist our assessment. Generally, however, this has been difficult to score and there has been insufficient information.

j. Human resources

This column measures whether sufficient and qualified staff are employed to implement the gender plan. This includes whether or not (adequate) efforts are being undertaken to train the staff that has to implement the specific item under consideration on an ongoing basis. This might involve both legal training on issues related to women's rights, as well as specific training for officers involved in the various departments or institutions that are entrusted with implementing the specific items mentioned in the Scoreboard. Another item assessed here is whether the staff have sufficient support to carry out their assigned tasks.

Scoring:

0 – no specific staff assigned

1 – some staff assigned, but with insufficient gender expertise and without sufficient support

2 – sufficient, qualified staff employed, who enjoy sufficient support

X – Not applicable

As the scores demonstrate, human capacity is a problem across the board in South Africa.

k. Research

Gender policy, and a gender plan can only be effectively implemented if there are sufficient data to support them. This column measures whether or not governments take sufficient care to ensure that data collection and analysis on the items concerned take place. The research may be undertaken by specific government agencies, by research institutions or by independent researchers.

Scoring:

- 0 – no research needs identified and no research commissioned
- 1 – some research areas identified
- 2 – research needs identified and research conducted or commissioned
- x – not applicable

This proved to be a difficult measure at times. It was clear that research was necessary during processes of policy development and law reform, but less clear what research, other than that relating to monitoring and evaluation, was necessary once a law was in place. We have made an assessment on this and scored accordingly. For example, in gender based violence, it is clear that research is necessary into the causes and manifestation of violence, or under CEDAW, research is necessary to engage in reporting. In other instances, such as family and marriage law; the most important research tasks seemed to be ongoing and effective monitoring and evaluation.

In order to score a '2' research must be comprehensive or tied to a comprehensive plan.

l. Monitoring and evaluation

To ensure an efficient implementation of the targets set policies and activities need to be monitored regularly. This column measures whether or not the gender policy or plan under consideration is monitored, and whether the appropriate indicators to measure progress are being used for the specific item.

Scoring:

- 0 – no monitoring and evaluation mechanism in place and, no tools and appropriate indicators put in place.
- 1 – monitoring and evaluation tools identified and process put in place
- 2 – monitoring and evaluation under way /undertaken
- X – not applicable

It has been difficult sometimes to separate whether inadequate or incomplete monitoring and evaluation is a systems issue or a human resource/capacity issue. In most cases, in the absence of clear information, we have assumed that a comprehensive system is not yet in place.

m. Information and dissemination

Laws, conventions, charters and gender policies and plans can only be enjoyed by women if they know about their rights or about the kind of support they are entitled to. This column measures whether governments undertake sufficient efforts to ensure that the population at large is aware of the various issues listed, and whether the information spread is correct. This might include support to specific NGO's.

Scoring:

- 0 – no information undertaken
- 1 – some campaigns undertaken, but highly limited in coverage, by language, regional or media constraints
- 2 – extensive campaigns conducted which reach wide sectors of the population

General considerations:

In addition to the above, we have taken account of the stage of the policy or implementation process. Thus, in measuring 'research' for example, we have looked at what research has been done in relation to the stage of the process. For example, under contraception we score research as a '2'. This is due to the comprehensive work in the National Guidelines. However, as the process shifts to questions of implementation, we would expect different kinds of research to be done (and possibly a shifting score).

Note further that the notes are there to substantiate the scores, not to constitute a comprehensive description of the issue. We have included as much as information as we felt necessary to justify the score, but we do not claim that it is exhaustive.

Finally, we had to establish a cut-off for the collection of information. We chose April 2004 as this date. We have accordingly collected information up to the end of the second term of office of democratic government.

VI HOW SOUTH AFRICA SCORES

In this section, we set out our impression of the scores in the AWPR. These are based on the scores themselves as well as our analysis of the information obtained.

As the score '1' indicates action of between 5% and 95%, the findings set out below will not necessarily be reflected in significant scoring differential. A score of '2' requires full satisfaction with government performance and, as such, 'must be earned' (see section above on methodology).

a) Many impressive policies and laws

Overall, the South African score-card reflects the generally held view that South Africa has succeeded in putting in place an impressive array of policies and laws. The Government scores a high number of '2's for laws and policies. However, there are areas in which policies and laws are not yet fully in place (including inheritance law, trafficking and customary practices) and where gender is not fully integrated.

b) Gender can slip off the agenda

Despite an acknowledgement of the general problems of implementation, this research suggests a worrying slippage of gender in at least two ways:

Broad policy commitments that are inclusive of gender do not always cascade down into the specific policies and plans that are made. For example, we found that in some departments (including Labour, Education and Land and Agriculture) that gender issues were sometimes lost in implementation phases.

- We also found a tendency to leave gloss over gender in some broad policy and strategy frameworks, expecting that this would be picked up at 'lower' levels of planning and implementation (see Poverty Reduction, Access to Agricultural Extension and Access to Technology).

- In some instances, gender policies and plans were rather fragmented and incomplete. Gender programmes thus appeared *ad hoc* and disorganised. For example, we found several activities relating to sexual harassment in schools, but we were unable to find a single policy document
- or plan that provided a comprehensive framework for preventing sexual harassment and for dealing with its victims and perpetrators.

On the other hand, we also found evidence of government working to put gender back onto the agenda when it was not explicitly or fully provided for in policies. For example, the National Plan for HIV/AIDS does not mainstream gender, yet the human rights framework of this Plan has provided space for implementers to develop and engage gender programmes. For example, the Gender Unit in the Department of Health developed draft gender guidelines.

c) Women rather than gender

Another pattern is that government has performed better on 'women's' issues, ie. those policy areas that largely or exclusively benefit women, rather than those where both women and men are beneficiaries. Women's issues that relate directly to women and deliver primarily to women include gender based violence (where women receive protection) and areas of women's health (eg. where women access services). These tend to show better progress than other areas, such as land or education, where the concerns of women need to be integrated into policies and programmes that target women and men.

This suggests a lack of clarity as to what gender mainstreaming or gender integration means. There may still be a tendency to conflate gender with women, and to understand delivery in terms of gender as delivery on 'women's issues'.

d) The problem lies in implementation

Overall, the South African score-card reflects the generally held view that many of the problems lie in the more intractable problems of implementation and delivery.

In most items the scores start at '2' and drop to '1' or occasionally '0' in the implementation stages. The problems of implementation being experienced here are not necessarily specific to gender, but are being experienced across the state as South Africa undergoes its transformation from an unequal and undemocratic past. Delivery systems are problematic across many government departments, and getting these right is the key challenge of the second decade of democracy (Mbeki, State of the Nation Address, 10 May 2004). As pointed out by the Minister of Finance in his 2003 Budget Speech, human capacity and skills are a problem across the board. Many government departments, having engaged in internal restructuring and in policy and law reform process have only recently begun to grapple with additional issues of implementation.

It is important to note that many of the problems exposed in the AWPR are well known to government. Indeed, government is addressing a range of issues, including improved inter-governmental integration, planning processes and monitoring and evaluation systems. All are seen as fundamental to improved implementation.

The score-board indicates that systemic gaps exist in human resource capacity and negative gender attitudes, and in monitoring and evaluation. Closing these gaps will be important as government seeks to translate governance into impact.

e) Gender Focal Points

Gender Focal Points (GFPs) are a critical part of National Machinery for the Advancement of Women, and can play an important role in positively integrating gender issues in policy and

implementation. However, it is clear that many departments do not have these Focal Points or have appointed staff at a junior level. As a result, the benefits of these Focal Points have not always been seen, and there has not always been a correlation between the existence of a GFP and the extent to which a particular department has gendered policies and programmes. Where GFPs are 'effective', ie. where they have sufficient skills, resources and authority, they have been able to play a role in bringing a gender consciousness to policies and implementation.

f) Penetrating the policy and budgetary cycle

Despite impressive progress, this remains a huge challenge in South Africa. (see above, p. 5). Gender 'mainstreaming' largely remains a rhetorical commitment.

[illegible]

CHAPTER TWO

GENDER STATUS INDEX

(GSI)

INTRODUCTION

In this chapter we set out the result of the calculations for the Gender Status Index, as well as some explanation of the result. These should be read in conjunction with the African Women's Progress Report and we cross reference between the two where appropriate.

The indicators follow, as closely as possible, the instructions in the document produced by the United National Economic Commission for Africa (UNECA). Deviations from the instructions are explained under the relevant indicator, as are other complications in relation to the South African data and situation. As requested, for every indicator we have attempted to give two different measures – one covering the first five year period and one covering the second. In some cases, two separate measures were not possible. In other cases, the measures for the two periods are not directly comparable as the nature of the sources differs. We have responded to queries raised by UNECA in explanatory sections and footnotes. The calculations were verified by Stats SA, although these are still subject to final confirmation.¹²

¹² At the Advisory Meeting of 27 September 2004, it was confirmed that calculations had been done to verify these figures and that the differences were immaterial. However, it was noted that the GSI still required final endorsement by Stats SA.

Social power

1 Education

In many African countries there are lower enrolment rates and high dropout rates of girl learners. Several factors account for this: the unequal burden of caring that girls take on in society, which is exacerbated by the effects of the HIV/AIDS epidemic, structural adjustment and the sex-differentiated nature of the labour market. For the continent, monitoring this trend is extremely important as it affects women's ability to be productive in the labour market.

This section measures whether there is a gender gap in school and university enrolment or in the school dropout rate. As shown below, South Africa does not have a problem of girls not being enrolled in schools, nor of girls dropping out of school more than boys. On the contrary, there is a slightly higher net enrolment rate discernable for girls, and more girls complete primary school. Of course, these figures conceal important racial differences. This gap increases in secondary school and women outnumber men in tertiary enrolment. More detailed examination of the latter shows that men outnumber women in natural science enrolments and in technikons. On the other hand, there are higher literacy rates amongst men.

ENROLMENT RATES

Calculation of net enrolment rates is difficult in South Africa as the age at which children were meant to (and actually did) start and finish school was different across and within different population groups at the beginning of the period, as well as across location. To add to the complications, the regulations in respect of starting age changed at least twice during the period and were not necessarily implemented immediately or effectively. We have thus used the UNECA-suggested cutoffs rather than cutoffs that might be more appropriate to South Africa. This approach will yield lower than actual net enrolment rates, but should not affect the gender ratios. Although many countries have eventually used 6-12 as the age cutoffs, we do not think the results would not change much. There might be a smallish increase in the rates, but this is likely to have a minimal effect on the ratio between male and female rates.¹³

PRIMARY ENROLMENT RATE

The Census of 1996 (own calculations based on 10% sample) gives the following numbers for girls and boys aged 6-11 years.

Persons aged 6-11 years

Year	Female	Male	Total
1996	2793017	2783529	5576546

The Census of 1996 (own calculations based on 10% sample) gives the following numbers for girls and boys aged 6-11 who are currently studying and have not completed primary school – and are thus presumably enrolled in primary school.

¹³ This point is in response to a query raised by Jacques Charmes to the calculations.

Persons aged 6-11 years currently studying and not completed primary school

Year	Female	Male	Total
1996	2104475	2045220	4149695

The two sets of figures yield the following net primary enrolment rates in which there is no material difference between girls and boys.

Calculated primary net enrolment rate

Year	Female	Male	Total
1996	75.3	73.5	74.4

The October household survey of 1999 provides a slightly later set of figures. They are, however, less accurate as they are based on a sample which is weighted and age-adjusted on the basis of the 1996 Census. Calculations based on the raw data give the following numbers for girls and boys aged 6-11 years.

Persons aged 6-11 years

Year	Female	Male	Total
1999	2991087	2971359	5962446

Calculations based on the raw data from the October household survey of 1999 give the following numbers for girls and boys aged 6-11 who are currently studying at school and have not completed primary school – and are thus presumably enrolled in primary school.

Persons aged 6-11 years currently studying and not completed primary school

Year	Female	Male	Total
1999	2636756	2600808	5237563

The two sets of figures yield the following net primary enrolment rates:

Calculated primary net enrolment rate

Year	Female	Male	Total
1999	88.2%	87.5%	87.8%

Both sets of figures yield a higher primary net enrolment rate for girls than boys.

Note that South African children have had a variable school starting age over the past few years. However, to calculate the 6-12 year old enrolment rate will involve a duplication of the first year of the secondary enrolment rate which starts at age 12, and would not provide a different overall rate. Hence we have kept the calculation at 6-11 year olds.

SECONDARY ENROLMENT RATE

The Census of 1996 (own calculations based on 10% sample) gives the following numbers for girls and boys aged 12-18 years.

Persons aged 12-18 years

Year	Female	Male	Total
1996	3140581	3039403	6179985

The Census of 1996 (own calculations based on 10% sample) gives the following numbers for girls and boys aged 12-18 who are currently studying, have completed primary school, but have not completed secondary school - and are thus presumably enrolled in secondary school or equivalent.

Persons aged 12-18 years current studying, completed primary but not secondary

Year	Female	Male	Total
1996	1576085	1328062	2904147

The two sets of figures yield the following net secondary enrolment rates

Calculated secondary net enrolment rate

Year	Female	Male	Total
1996	50.2	43.7	47.0

Calculations based on the raw data from the October household survey of 1999 yield the following set of tables:

Persons aged 12-18 years

Year	Female	Male	Total
1999	3552595	3471253	7023848

Persons aged 12-18 years current studying, completed primary but not secondary

Year	Female	Male	Total
1999	1845092	1551860	3396951

Calculated secondary net enrolment rate

Year	Female	Male	Total
1999	51.9%	44.7%	48.4%

Both set of figures yield a higher net secondary enrolment rate for young women than young men. The gap between female and male is larger than at secondary than at the primary level.

TERTIARY ENROLMENT RATE

The Census of 1996 (own tabulations based on 10% sample) gives the following numbers for women and men aged 19-25 years.

Persons aged 19-25 years, 1996

Year	Female	Male	Total
1996	2839652	2638464	5478116

The Department of Education records the following figures for enrolments in public universities and technikons for 1996.¹⁴ Women outnumber men. However, men outnumber women in the natural sciences. More detailed examination reveals that women outnumber men in the universities, while the reverse applies in the technikons.

University and technikon enrolments, 1996

Female	Women	Men	Total
Human sciences	212525	207717	420240
Natural sciences	52032	82269	134301
Total	270201	294954	565155

The values from the two tables above yield the following tertiary enrolment ratios for 1996. Despite the fact that there are more women than men enrolled, the enrolment rate for women was less than that for men in 1996.

Tertiary enrolment rates, 1996

Year	Women	Men	Total
1996	9.5%	11.2%	10.3%

Calculations based on the raw data from the labour force survey of September 2001 give the following numbers for women and men aged 19-25 years. These data may reflect an undercount of tertiary enrolments to the extent that are private universities and institutions other than universities and technikons at this level.

Population aged 19-25 years, 2001

Year	Female	Male	Total
2001	3017228	2856201	5873429

The Department of Education's Higher Education Management Information System (HEMIS) gives the following figures for enrolments in public universities and technikons for 2001.¹⁵ Again, overall, women outnumber men but men outnumber women in the natural sciences. As before, women outnumber men in the universities, while the reverse applies in the technikons. In terms of race, 61% of enrolments in 2001 were African, 5% coloured, 7% Indian and 27% white.

University and technikon enrolments, 2001

Female	Women	Men	Total
Human sciences	272179	206912	479091
Natural sciences	75381	95624	171005
Unknown	119	111	230
Total	347679	302646	650325

The values from the two tables above yield the following tertiary enrolment ratios for 2001.

Tertiary enrolment rates, 2001

Year	Women	Men	Total
2001	11.5	10.6%	11.1%

¹⁴ Data provided by Hennie de Beer.

¹⁵ Data provided by Hennie de Beer.

By 2001, as at lower levels, the tertiary female enrolment rate is higher than the male rate.

PRIMARY DROPOUT RATIO

The Department of Education only has full enrolment information from 1997. Primary school in South Africa includes grades 1 through 7, seven years. Thus the learners who commenced in 1997 can only be expected to be in grade 7 in 2003. Unfortunately, the figures for 2003 are not yet available. Further, the provinces have not yet all supplied the national Department with figures for 2002. We thus compare the numbers enrolled in grade 1 in 1997 with those in grade 5 in 2001.¹⁶ The figures include learners at both public and independent (i.e. private) schools. The proxy calculation suggests a slightly lower dropout rate for girls than boys. The limited time range for which data are available makes two measures for this indicator impossible.

Enrolment in selected grades and dropout date, 1997-2001

	Girls	Boys	Total
1997 grade 1	716440	777889	1494329
2001 grade 5	515532	533965	1049497
Proxy dropout rate	28%	31%	30%

SECONDARY DROPOUT RATIO

Secondary school in South Africa includes grades 8 through 12, a period of five years. The learners who were in grade 8 in 1997 can thus be expected to be in grade 12 in 2001. The following table gives the relevant numbers, as supplied by the national Department of Education.¹⁷ In respect of grade 12, it gives both the numbers enrolled and the numbers who passed. The dropout rate is calculated both for enrolment and passes in grade 12. In both cases, the female dropout rate is lower than the male one. The gap is less for the rate based on passes as a smaller percentage of young women than young men who sit the grade 12 examination pass it. The limited time range for which data are available makes two measures for this indicator impossible.

Enrolment in selected grades and dropout rate, 1997-2001

	Girls	Boys	Total
1997 grade 8	501214	472465	973679
2001 grade 12 enrolment	255169	206640	461809
2001 grade 12 passes	148577	128629	277206
Dropout rate based on enrolment	49%	56%	53%
Dropout rate based on passes	70%	73%	72%

ABILITY TO READ AND WRITE

The 1997 Human Development Report (UNDP, 1997: 147, 150) gives the following adult (15+ years) literacy rates for 1994 for South Africa. The rate is very similar for women and men, which casts some doubt on the source. This pattern would definitely not be found if the age-cutoff

¹⁶ Sourced from Andrew Lebepe of the national Department of Education.

¹⁷ Andrew Lebepe.

was higher and excluded younger people who benefited from increased access to education during the last years of apartheid.

Literacy rate (15+), 1994

Year	Female	Male	Total
1994	81.2	81.4	81.4

The 2002 Human Development Report (UNDP, 2002: 151, 224) gives the following adult (15+ years) literacy rates for 2000 for South Africa. For this year, the Report yields a slightly larger difference between the rates for men and women. The difference would be increased if the age-cutoff was higher and excluded younger people who have benefited from increased access to education over the last decade or so.

Literacy rate (15+), 2000

Year	Female	Male	Total
2000	84.6	86.0	85.3

The October household survey of 1999 (as calculated by the NSS) recorded the following responses to a question as to whether individuals were able to read and/or write in at least one language.¹⁸ For this measure, the female rate is again lower than the male.

Ability to read and/or write in at least one language (15+), 1999

Year	Ability to	Female	Male	Total
1999	Read	87.1	90.7	88.8
1999	Write	86.5	90.1	88.2

PRIMARY SCHOOL COMPLETED

The Census of 1996 (own calculations based on 10% sample) gives the following numbers for women and men aged 15 years and above who have completed grade 7, the final year of primary schooling.

Population aged 15+, 1996

Year	Female	Male	Total
1996	8748360	7758929	16507289

Calculations based on the raw data from the labour force survey of September 2001 yield the following numbers for women and men aged 15 years and above who have completed grade 7, the final year of primary schooling.

Persons aged 15+, 2001

Year	Female	Male	Total
2001	11099660	9974026	21073686

For both years, there are significantly more women than men who are recorded as having completed grade 7.

¹⁸ Note that there is no other reliable national source of literary rates outside of the October Household Survey. This is partly due to the fact that there is no generally accepted definition of literacy.

Further analysis of the Census 1996 data reveal some of the weaknesses in taking simple counts of women and men who have completed grade 7.

- Firstly, while it appears that more women than men have completed grade 7, the percentage for men (65%) is slightly higher than that for women (64%). This apparently anomaly is explained by the larger absolute number of women than men aged 15 and above in the population.
- Secondly, a different cut-off would reveal clear disparities. For example, 18% of women aged 15 years or more had never attended formal schooling, compared to 15% of men.
- Thirdly, and most importantly, the figures conceal race differences which are far larger than those between women and men. Thus in 1996, 94% of white people aged 15 and above had completed grade 7, compared to 84% of Indian, 71% of coloured, and only 58% of African people.

2 Health

When the ANC came to power in 1994, it faced a major task in transforming the health system from one characterised by racial segregation and discrimination to a more equitable system based on primary health care. In the 1997 White Paper on the Transformation of the Health System women were identified as a priority group, with an emphasis on women's empowerment, socio-economic status, equality and autonomy. (ANC, 1994a, 57). Within the overall transformation of the health system, maternal, child and women's health was recognised as a priority by the government (White Paper on the Transformation of the Health Systems in South Africa, chapter 8) and an integral part of primary health-care. The health section of the African Women's Progress Report shows that the Department of Health fares relatively well on issues of women's health,¹⁹ but perhaps less so in addressing women's health concerns within its broad programmes on HIV and AIDS.²⁰ In the Gender Status Index, we measure the health situation of girl and boy children. In both the stunting and underweight indicators, sex disaggregated calculations show higher figures for girls than boys. We also measure HIV infection in which women are shown to be more vulnerable.

STUNTING UNDER 3 AND UNDERWEIGHT UNDER 3

In both stunting under 3 and underweight under 3, there is only one sex-disaggregated figure available. This shows that girls fare worse than boys.

The 1998 South African Demographic and Health Survey (SADHS) did not include the child anthropology measurements which are normally found in such surveys as it was planned immediately after the 1994 Vitamin A survey that had the information. However, the report from the latter study (South African Vitamin A Consultative Group. 1995. Children aged 6-71 months in South Africa, 1994: Their anthropometric, Vitamin A, iron and immunization coverage status. Johannesburg.) does not provide separate measures for girls and boys. Professor D Labadarios of the Department of Human Nutrition at the University of Stellenbosch reported that there were no differences by sex and that the measurements recorded are thus applicable to both boys and girls (personal communication). The results for a later study, recorded below, cast doubt on this

¹⁹ See pages 112-139 of this report

²⁰ See pages 119-129 AND 140-143 of this report.

assertion. The report also does not give measures for the under-3s as a single group. Instead, the table below gives the percentage of children classified as undernourished in the age groups 6-11 months, 12-23 months, 24-35 months and 6-71 months (extracted from tables 4.1 and 4.2 of the report). These are recorded in the following table.

Anthropometric status, 1994

	6-11 months	12-23 months	24-35 months	6-71 months
Weight for height < -2SD	3.3	3.6	2.1	2.6
Weight for height < -3SD	0.3	0.6	0.4	0.4
Weight for age < -2 SD	7.1	9.0	10.2	9.3
Weight for age < -3 SD	1.2	1.7	1.8	1.4
Height for age < -2 SD	16.7	23.4	22.8	22.9
Height for age < -3 SD	4.0	6.8	6.7	6.6

The table below gives results from data from the National Food Consumption Survey conducted in 1999. The study focused on children from age 12 months, and the estimates therefore reflect values for children aged 1 year to 2 years 11 months. The estimates are based on data which were reweighted to correct for age and for oversampling. (Estimates were derived by Hannelie Nel).

Anthropometric status, 1999

Measure	Girls	Boys
N unweighted	372	440
N weighted	220.7	259.8
Height for age < -2SD	24.06	24.05
Weight for age < -2SD	11.08	9.26
Weight for height < -2SD	5.21	4.19
Height for age < -3SD	6.28	7.92
Weight for age < -3SD	3.24	1.06
Weight for height < -3SD	1.48	0.32

The table records higher figures for female than male for all measures except height for age < -3SD.

MORTALITY UNDER 5

The following table gives the under-5 mortality rate per 1,000 live births for female and male children in 1995. The rates were calculated using the ASSA2000 model of the Actuarial Society of South Africa (www.assa.org.za/aidsmodel.asp). In both instances, child mortality is higher for boys than for girls.

Child mortality, 1995

Year	Female	Male	Total
1995	67	75	71

The following table gives the under-5 mortality rate per 1,000 live births for female and male children in 2000 (Source: Bradshaw D, Groenewald P, Laubscher R, Nannan N, Nojilana B, Norman R, Pieterse D & Schneider M. March 2003. Initial Burden of Disease Estimates for South Africa, 2000. Medical Research Council: Table 1). 'The Infant Mortality Rate estimates come from the life-table generated in the ASSA model. The child mortality in the model was calibrated

to trends in IMR from the DHS estimates and the census indirect estimates – and includes an extrapolation of the impact of HIV/AIDS'. (Response by D Bradshaw to question of D Budlender).

Child mortality, 2000

Year	Female	Male	Total
2000	91	98	95

This table reflects an increase from 1995. This increase in both female and male child mortality between 1995 reflects the impact of the HIV/Aids pandemic.

LIFE EXPECTANCY AT BIRTH

Female life expectancy is higher than that of males in South Africa.

The following estimates for life expectancy are a direct output of the ASSA2000 model of the Actuarial Society of South Africa (ASSA) (www.assa.org.za/aidsmodel.asp). The metadata for the ASSA model (downloadable from www.assa.org) states the following about life expectancy:

Male and female mortality by age.

The adult values in this table are calculated from the total deaths and population figures for the relevant age on the *Population* worksheet. The calculations for children are more complicated, in that they are based on values for babies infected at birth and through breastfeeding and the relevant median time to death and mortality rates from the *Young* and *MortTable* worksheets. Both adult and child values are calculated as the average for two years to allow for the fact that the model operates from July of one year to June of the next rather than over a calendar year.

The ASSA model yields the following estimates of life expectancy at birth for 1996 and 2001 for male and female. The decrease between the two years is a result of the impact of HIV and AIDS. As expected, for both years female life expectancy is greater than male.

Life expectancy at birth: 1

Year	Female	Male	Total
1996	64.6	56.9	60.8
2001	56.5	51.1	53.7

The 2002 Human Development Report (UNDP, 2002: 224; 151) gives the following life expectancy figures for South Africa for 2000:

Life expectancy at birth: 2

Year	Female	Male	Total
2000	53.9	50.2	52.1

As with other statistics, the overall averages conceal significant racial differences. South Africa's first CEDAW report, submitted in 1997, reported life expectancy in 1995 as being 65.8 years for African people, 65.5 for coloured, 70.1 for Indian and 73.2 for white. Within each race group, the life expectancy for women was reported to be five or six years greater than for men.

NEW HIV INFECTIONS

The available statistics show that more women are being infected with HIV than men in South Africa.

Calculations based on the AIDS model of the Actuarial Society of South Africa (ASSA) yield the following estimates of new HIV infections for men and women aged 14 years or older for 1996 and 2001. This appears to be the only source of data on new HIV infections. In both years, the number of women infected is larger than the number of men infected.

New HIV infections of people aged 14 years and older

	Female	Male	Total
1996	403414	374195	777608
2001	355511	338367	693878

TIME SPENT OUT OF WORK

The following calculations are based on the raw data from the time use survey conducted in 2000 by Statistics South Africa. The data refer to all people aged 10 years and above. As expected, women spend less time than men on non-productive activities as they spend more time in production when one takes both paid and unpaid work into consideration. Unfortunately, only one measure is available for this indicator as the 2000 study is the only one that has been conducted on a national scale in the country to date.

Minutes spent on non-productive activities per day, 2000

Year	Female	Male	Total
2000	1109	1174	1139

Economic power opportunities

1 Income

Generally, statistics in South Africa reflect the world-wide trend that women earn less than men and are more likely to be clustered in low paying sectors of the economy. In South Africa the sex-disaggregated figures conceal a deep racial inequality which places African women in the lowest economic categories and white and Indian South Africans in the top categories.

WAGES IN AGRICULTURE

Calculations based on the raw data from the October household survey of 1996 yield the following mean monthly wages for paid employees in agriculture. The wage data from this survey are, however, unreliable. Firstly, the sample size was relatively small (20 000 households rather than the usual 30 000). Secondly, the sample was more clustered than usual. Thirdly, the income question was posed in terms of income brackets, and the means below are thus based on interpolations of the logarithmic means. Fourth, in 1996 Stats SA used less detailed prompts for the question as to whether the person had worked in the past seven days, and would thus have excluded those involved in more marginal agricultural work. Finally, the weights were calculated prior to the results of the 1996 Census. We should therefore not place too much reliance on the unexpected finding of higher mean wages for women than men.

A further general caveat about agricultural wages is that surveys focus on earnings through work in the past seven days. Because women are far more likely to be employed on a seasonal basis in agriculture, the timing of the survey will affect the findings.

Mean wages in agriculture, 1996

Year	Female	Male	Total
1996	2001	1225	1796

Calculations based on the raw data from the labour force survey of September 2001 yield the following mean monthly wages for paid employees in agriculture. The pattern found in this survey – of lower wages for women than men – is the expected one. By 2001, Stats SA prompts on work were better able to pick up on marginal work.

Mean wages in agriculture, 2001

Year	Female	Male	Total
2001	579	756	706

WAGES IN CIVIL SERVICE

Calculations based on the raw data from the labour force survey of September 2001 yield the following mean monthly wages for paid employees in national or provincial government. As expected, mean wages are lower for women than men.

Mean wages for public service, 2001

Year	Female	Male	Total
2001	4837	5175	4997

Unfortunately only one measure is available for this indicator as before 2000 the Stats SA surveys did not distinguish between employees in the private and public sectors.

WAGES IN FORMAL SECTOR (PUBLIC AND/OR PRIVATE)

Calculations based on the raw data from the labour force survey of September 2001 yield the following mean monthly wages for paid employees in the formal sector. As expected, mean wages are lower for women than men.

Mean wages for formal sector employees, 2001

Year	Female	Male	Total
2001	3295	3609	3488

Unfortunately, only one measure is available for this indicator as the Stats SA surveys before 1997 did not distinguish between formal and informal sector for employees.

WAGES IN INFORMAL SECTOR

Calculations based on the raw data from the labour force survey of September 2001 yield the following mean monthly wages for paid employees in the informal sector. The informal sector is defined to include domestic workers. The table suggests an even bigger gender gap in mean wages in the informal sector than in other areas of work.

Mean wages for informal sector employees, 2001

Year	Female	Male	Total
2001	617	976	743

Unfortunately, only one measure is available for this indicator as the Stats SA surveys before 1997 did not distinguish between formal and informal sector for employees.

INCOME FROM INFORMAL ENTERPRISE

The 2001 survey of employed and self-employed yields information about total gross income of non-VAT-registered businesses in the month prior to the survey. (In fact, it seems that the calculations may include some small VAT-registered businesses.) The table below shows the gross income for female- and male-owned businesses, the number of female and male owners, and (calculated from the above), the mean income for female- and male-owned businesses

(Statistics South Africa. 2002. The contribution of small and micro enterprises to the economy of the country: A survey of non-VAT-registered businesses in South Africa. Pretoria: 100; 16). As with employees, women tend to earn less than men. However, the gender difference is significantly larger than for employees in that men's mean income is more than twice as much as the mean for women.

Total and mean gross monthly income and number of owners of non-VAT-registered businesses, 2001

	Female	Male	Total
Total income (R000)	1069845	1637316	2707161
Owners (thousands)	1383	901	2284
Mean income	774	1817	1185

INCOME FROM SMALL AGRICULTURAL HOUSEHOLD ENTERPRISE

This information is (probably) not available for South Africa, as no survey has asked for this type of income

INCOME FROM REMITTANCES AND INTER-HOUSEHOLD TRANSFERS

Calculations based on raw data from the 1995 income and expenditure survey give the following mean 12-month values for male- and female-headed households for regular allowances received from family members living elsewhere. The first set of figures indicates total allowances received by all members of the households. The second set of figures indicates the allowances received by the head. On both measures, female heads record much larger amounts than male heads.

Regular allowances received from family members living elsewhere, 1995

	Female head	Male head
Total for household	1332	340
For household head	1182	253

Similar calculations based on the raw data from the 2000 income and expenditure survey yield the following comparable 12-month values for male- and female-headed households. Again, female heads record much larger amounts than male heads.

Regular allowances received from family members living elsewhere, 2000

	Female head	Male head
Total for household	1782	598
For household head	1586	400

The amount excludes alimony, maintenance and similar allowances from divorced spouses and other family members living elsewhere. The addition of those allowances would increase the gender gap in favour of women. However these data are not available in South Africa.

2 Time use or employment

Time use studies explore the differences in how women and men spend their time to identify the gendered patterns of productive and non-productive work and in time spent not working. As expected, in South Africa men record higher amounts of time in market economic activities. Men also spend slightly higher amounts of time in non-market economic activities, whereas women spend longer than men on household maintenance and care of persons.

TIME SPENT IN MARKET ECONOMIC ACTIVITIES (AS PAID EMPLOYEE, OWN-ACCOUNT OR EMPLOYER)

Statistics South Africa's 2000 time use survey used the trial international classification for time use surveys developed by the United Nations Statistics Division in New York. The trial classification organised activities into ten categories, which were further clustered into three broader categories defined in terms of the System of National Accounts. The first broad category referred to productive activities included in the SNA production boundary. These could be either paid or unpaid. The three sub-categories of this category were:

- work in establishments (roughly equivalent to formal sector work, to which Statistics South Africa added domestic work as a household employing a domestic worker is regarded as an establishment for national accounts purposes);
- primary production not for establishments, which included collection of fuel and water;
- other production of goods and services not for establishments (roughly equivalent to informal sector work)

These categories correspond roughly with the categories required for the AGDI, but not exactly. The market activities could be roughly equated with the first sub-category, and the non-market activities with the second and third sub-categories. However, some work in the first sub-category might be unpaid and some work in the third, or even second, sub-categories might be paid. (The AGDI sub-categories are, in fact, not precise in that a person could work as an unpaid family worker in market economic activities.) We have corrected for the possibility of unpaid market work by moving activity code 114 (unpaid employment in establishment) to the third category. We have also completely excluded the activities seeking employment and waiting to seek employment, which are included in sub-category 1 in the trial classification.

The calculations based on the time use data include all persons aged 10 years and above.

Mean minutes per day spent on work in establishments by sex and location, 2000

Location	Female	Male	Total
Urban	109	178	142
Rural	44	93	67
Total	81	143	110

As expected, men record higher amounts of time than women in work in establishments in both rural and urban areas. The proportionate difference between women and men is greater in rural than in urban areas.

TIME SPENT IN NON MARKET ECONOMIC ACTIVITIES OR AS UNPAID FAMILY WORKER IN MARKET ECONOMIC ACTIVITIES

As explained above, the South African time use survey does not provide the exact equivalent necessary for this indicator. Instead we use the proxy of primary, secondary and tertiary production not for establishments, and unpaid work in establishments. For both types of activity and in both rural and urban areas, men tend to spend slightly longer than women on these activities.

Mean minutes per day spent on SNA production not in establishments by sex and location, 2000

Urban	Female	Male	Total
Primary production	3	5	4
Work in non-establishments	11	16	14
Rural	Female	Male	Total
Primary production	46	56	51
Work in non-establishments	12	13	12
Total	Female	Male	Total
Primary production	22	26	24
Work in non-establishments	12	15	13

TIME SPENT IN DOMESTIC, CARE AND VOLUNTEER NON ECONOMIC ACTIVITIES

The next table is also calculated from the raw data of the time use survey of 2000. As expected, women tend to spend longer than men on household maintenance and care of persons in both urban and rural areas. Men tend to spend slightly longer than women on community service, but the time spent by both women and men on this activity is minimal.

Mean minutes per day spent on non-SNA production by sex and location, 2000

Urban	Female	Male	Total
Household maintenance	172	71	124
Care of persons	31	5	18
Community service	4	5	4
Rural	Female	Male	Total
Household maintenance	193	78	140
Care of persons	34	2	20
Community service	2	6	4
Total	Female	Male	Total
Household maintenance	181	74	131
Care of persons	32	4	19
Community service	3	5	4

SHARE OF PAID EMPLOYMENT, OWN-ACCOUNT AND EMPLOYER IN TOTAL EMPLOYMENT

The Census of 1996 (own calculations based on 10% sample) gives the following numbers for male and female employed according to status in employment. The work in family business category will include some people who are not paid. Men outnumber women in all categories, but less so among the family workers than in the other categories.

Employed persons by sex and status in employment, 1996

	Female	Male	Total
Self-employed	183730	330231	513961
Employer	122235	294732	416967
Employee	2970063	4419254	7389316
Work in family business	70280	72526	142807
Unspecified	356390	460911	817302
Total	3702699	5577654	9280353

Calculations based on the raw data from the labour force survey of September 2001 yield the following numbers for male and female employed according to status in employment. The employer category is an over-estimate in that it includes all people who said they were working in their own business and that there was someone else besides themselves working in the business. The table assumes that the other person/people are employees. There could, however, be some cases where two or three partners are working together in a business without employees. In this table, women outnumber men among the self-employed and among unpaid family workers. Labour force surveys usually obtain more accurate information in respect of employment than censuses because of the more detailed prompts and better trained fieldworkers.

Employed persons by sex and status in employment, 2001

Status	Female	Male	Total
Employee	3859803	4994720	8854522
Work alone family farm	121546	172330	293876
Self-employed	582515	396899	979415
Employer	215462	547313	762775
Unpaid family worker	80152	50742	130894
Unspecified	5436	7274	12709
Total	6169278	4864913	11034191

3 Access to resources

This section explores the gendered patterns of access to resources.

OWNERSHIP OF URBAN PLOTS/HOUSES OR LAND

This information is not available for South Africa as land registration records do not disaggregate by gender.

ACCESS TO CREDIT

In September 2001, Statistics South Africa conducted a survey of employers and self-employed (SESE) as an add-on to the six-monthly labour force survey. The survey estimated that a total of over 2,3 million South Africans were employers or self-employed in businesses not registered for value-added tax (VAT) (see note above), which can be understood as a proxy for informal sector businesses. Some had more than one business. The statistics below refer to the first business for each person. They show both the overall number of operators, and the number of women and men who borrowed from different sources to start their business. Overall, significantly more women than men operators were recorded. However, even in absolute numbers, fewer women than men borrowed from commercial banks, from business partners and from business associations.

Source of loans to start business, 2001

	Women	Men	Total
Total operators	1382401	900998	2283399
Borrowed from stokvel	50918	14138	65057
Borrowed from somewhere else	148133	68599	216733
* commercial bank	4228	6713	10942
* friends or relatives	125685	54822	180507
* credit societies	1897	0	1897
* moneylender	7574	2350	9924
* business partner	305	424	729
* business association	1159	1329	2488
* NGO or CBO	814	0	814
* Other	8312	3343	11655

FREEDOM TO DISPOSE OF OWN INCOME

Analysis of the raw data from the South African Demographic and Health Survey of 1998 reveals the following distribution of responses from 4 048 women who had earned money in the previous twelve months as to who took the decisions how to spend the money. The 4 048 women accounted for 34% of the total sample of women aged 15-49 years (Information provided by Debbie Bradshaw of Medical Research Council). The table suggests that a high proportion of women have at least some say over how their income is disposed of.

Decision-making on how to spend money earned by women aged 15-49 years, 1998

Decision-maker/s	Percentage
Woman	70.0%
Partner	2.9%
Woman together with partner	21.1%
Someone else	1.9%
Woman together with someone else	4.1%

Unfortunately, only one measure is available for this indicator.

EMPLOYERS

The Census of 1996 (own calculations based on 10% sample) gives the following numbers of male and female employers. As expected, there are more male than female employers.

Employers, 1996

Year	Female	Male	Total
1996	122235	294732	416967

Calculations based on the raw data from the labour force survey of September 2001 yield the following numbers for female and male employers. The numbers could be an over-estimate in that they include all people who said they were working in their own business and that there was someone else besides themselves working in the business. The figures assume that the other person/people are employees. There could, however, be some cases where two or three partners are working together in a business without employees. As in 1996, there are more than twice as many male as female employers.

Employers, 2001

Year	Female	Male	Total
2001	215462	547313	762775

HIGH CIVIL SERVANTS (CLASS A)

Analysis of the PERSAL public service payroll (Thompson K & Woolard I. January 2002. Achieving Employment Equity in the Public Service: a study of changes between 1995 and 2001. Working paper 02/61. Development Policy Research Unit, University of Cape Town: 14) yields the following number of women and men at managerial level in 1995 and 2001. In both years, there are significantly more women than men. But the difference is significantly reduced in 2001 after a significant expansion to the number of people termed managers.

Public service managers

Year	Female	Male
1995	6168	22417
2001	30481	51465

The Department of Public Administration provided the following percentage breakdown by both race and sex for senior management within national and provincial departments to the President's Office in January 2003. Senior managers include all personnel at salary levels 13 (Director)

through to 16 (Director-General). In all race groups, men outnumber women. The gender disparity is smallest for the African group. Nevertheless, African people remain under-represented among government managers when compared to the composition of the total population.

Percentage breakdown of national and provincial managers by race

Year	Women	Men	Total
Total	23,9	76,1	100
African	14,0	35,4	49,4
Coloured	1,6	5,4	7,0
Indian	1,5	5,8	7,3
White	6,7	29,5	36,3

MEMBERS OF PROFESSIONAL SYNDICATES

The information for the five professions indicated in the UNECA document has been extracted from census and survey data rather than from professional syndicates. The census and survey data are likely to provide a more accurate reflection of women and men currently practising the professions concerned. The ISCO categories selected are 214 for architects, engineers and related professionals, 242 for legal professionals, 222 for non-nursing health professionals, and 241 for business professionals.

The table below is extracted from the 10% sample from Census 1996.

Selected professions, 1996

Profession	Female	Male	Total
Architects, engineers and related professionals	4939	72139	77078
Legal professionals	5387	15645	21032
Health professionals (except nursing)	19437	27611	47048
Business professionals	31411	46256	77667
Total	56236	89511	145747

The next table is based on the raw data from the labour force survey of September 2001.

Selected professions, 2001

Profession	Women	Men	Total
Architects, engineers and related professionals	2633	42458	45091
Legal professionals	11362	19024	30385
Health professionals (except nursing)	17278	25033	42311
Business professionals	30376	46350	76727
Total	61649	132865	194514

Men outnumber women in all the categories in both years. The picture would be different if nurses were included in the category of health professionals.

In general, this information reports on the nearest approximation available on professions. This is because syndicates information is not (easily) available in South Africa. Thus we have been unable to extract specific information on Architects, or get any nearer to the groups of Lawyers and Doctors.

ADMINISTRATIVE, SCIENTIFIC AND TECHNICAL

The Census of 1996 (Statistics South Africa, *Census in Brief: The People of South Africa Population Census, 1996*, Report No. 03-01-11 1996, pages 48-51) gives the following numbers for male and female in the relevant ISCO major groups.

Employment in ISCO major groups 1, 2 and 3, 1996

Occupational category	Female	Male	Total
Legislators, senior officials and managers	100207	264695	364902
Professionals	481747	389208	870955
Technicians and Associate Professionals	260716	282166	542882

Calculations based on the raw data from the labour force survey of September 2001 yield the following numbers for female and male employed in the relevant ISCO major groups. The decrease in the number of professionals between 1996 and 2001 suggests that some of those who were previously classified as professionals might have been re-classified into major group 3, as associate professionals. In both years, men outnumber women among legislators, senior officials and managers. However, for the professional group women outnumber men in 1996 but the reverse applies in 2001. As noted above, a labour force survey is usually a more accurate source of employment data than a census.

Employment in ISCO major groups 1,2 and 3, 2001

Occupational category	Female	Male	Total
Legislators, senior officials and managers	155972	518859	674831
Professionals	236490	258705	495194
Technicians and Associate Professionals	629011	533511	1162522

Political power Agency

1 Public sector

This section measures the numbers of women and men participating in public sector positions. It thus measures formal representation. Many would argue that this is a significant prerequisite for more substantive representation.²¹

MEMBERS OF PARLIAMENT

South Africa's first report to CEDAW, submitted in 1997, reported the following number of male and female members in the National Assembly, the National Council of Provinces (NCOP) and in the nine provincial legislatures. The figures for the NCOP include only the permanent seats, as the other seats can be rotated between women and men according to the issue under discussion.

Women and men in the national and provincial legislatures, 1997

	Women	Men	Total
National Assembly	111	289	400
National Council of Provinces	8	46	54
Provincial Legislatures	102	323	425

The following table gives the breakdown of the provincial legislature figures for each of the nine provinces.

Women and men in the provincial legislatures, 1997

Province	Women	Men	Seats
Eastern Cape	14	42	56
Free State	7	23	30
Gauteng	25	61	86
KwaZulu-Natal	11	70	81
Mpumalanga	6	24	30
North West	11	19	30
Northern Cape	7	23	30
Northern Province	11	29	40
Western Cape	10	32	42
Total	102	323	425

²¹ See also Chapter Six on 'Political Power'.

In mid-2003, the situation was as in the following table in respect of the national parliament. The table excludes four vacant seats in the National Assembly. (Information obtained through Office on the Status of Women.)

Women and men in the national legislature, 2003

	Women	Men	Total
National Assembly	125	271	396
NCOP	20	34	54

In June 2003, the position in the provincial legislatures was as follows (information obtained from provincial liaison officers, Mpumalanga and Gauteng legislature offices, and Centre for Public Participation):

Women and men in the provincial legislatures, 2003

Province	Women	Men	Seats
Eastern Cape	14	49	63
Free State	6	24	30
Gauteng	29	47	76
KwaZulu-Natal	21	59	80
Limpopo	15	34	49
Mpumalanga	9	21	30
North West	11	22	33
Northern Cape	9	21	30
Western Cape	11	32	43
Total	125	309	434

CABINET MINISTERS

South Africa's first CEDAW report of 1997 reported the following numbers of women and men cabinet ministers and deputy ministers for 1994, immediately after the first democratic elections, and for May 1996, after a cabinet reshuffle.

Ministers and deputy ministers, 1994 and 1996

	Women	Men	Total
1994			
Ministers	3	24	27
Deputy ministers	3	9	12
1996			
Ministers	4	21	25
Deputy ministers	8	5	13

In mid-2003, the situation was as follows:

Ministers and deputy ministers, 2003

	Women	Men	Total
Ministers	9	20	29
Deputy Ministers	8	8	16

HIGHER COURTS JUDGES

South Africa's first CEDAW report of 1997 gave the following figures for the number of women and men judges in the country. Of the total of 186 judges, 156 were white men, 20 were black men, 7 were white women and three were black women.

Judicial positions, 1997

	Women	Men	Total
Constitutional Court	2	8	10
Land Claims Court	1	4	5
Labour Court	1	20	21
Transvaal Division Supreme Court	4	51	55
Western Cape Supreme Court	1	24	25
Natal Supreme Court	1	21	22
Other divisions Supreme Court	0	48	48
Total	10	176	186

The structure of the judicial system was subsequently changed. All the judges of the Land Claims Court are judges of the new High Court. Judges in the Labour Court are not judges of the High Court. The table below shows the position in 2003. It includes information on magistrates, although they are not part of the high court system.

Judicial positions, 2003

	Women	Men	Total
Constitutional Court	2	9	11
Supreme Court of Appeal	0	19	19
High Court	20	149	169
Magistrates	467	1312	1779

MEMBERS OF LOCAL COUNCILS

Monitoring of the 1995 local government elections in South Africa (reported in Chan H. 1996. Women and the Periphery of Power: A brief look at why women are under-represented in South Africa' premier democratic local elections. Institute of Democracy in South Africa: Pretoria: p3) provides the following figures of women and men councilors in local governments in the nine provinces. The table distinguishes between seats contested on the basis of proportional representation and those won on a ward or constituency base. Inspection of the table reveals that women generally performed better in terms of seats filled through proportional representation than for those contested on a ward or constituency basis.

Women and men in local government, 1995

Province	Proportional		Ward		Overall		
	Women	Men	Women	Men	Women	Men	Total
Eastern Cape	208	438	83	409	291	847	1138
Free State	142	297	53	617	195	914	1109
Gauteng	116	300	49	372	165	672	837
Mpumalanga	160	334	34	437	194	771	965
North West	66	161	31	245	97	406	503
Northern Cape	62	270	31	264	93	534	627
Northern	34	105	21	217	55	322	377
Western Cape	64	267	66	455	130	722	852
Total	852	2172	368	3016	1220	5188	6408

The elections in KwaZulu-Natal and in parts of Western Cape were held a year later, in 1996. An update report by the Institute of Democracy in South Africa (Holcomb D & Ndlela L. October 1997. Women and Local Government in KwaZulu-Natal and Western Cape. Mimeo) reported the following figures for these later elections.

	Women	Men	Total
KwaZulu-Natal	178	1062	1240
Western Cape	248	1201	1449

HIGHER POSITIONS IN CIVIL SERVICE (INCLUDING GOVERNMENT INSTITUTIONS, REGIONAL GOVERNORS AND AMBASSADORS)

Analysis of the PERSAL public service payroll (Thompson K & Woolard I. January 2002. Achieving Employment Equity in the Public Service: a study of changes between 1995 and 2001). Working paper 02/61. Development Policy Research Unit, University of Cape Town: 16) yields the following number of women and men in senior management in 1995 and 2001. The relative difference between women and men is much larger than for the broader category of high-level civil servant reported above.

Senior managers in the public service

Year	Female	Male
1995	272	3174
2001	833	3550

At the time of South Africa's first CEDAW report in 1997, 12 of South Africa's 92 foreign missions were headed by women.

2 Civil society

POLITICAL PARTIES

This section measures the gender breakdown of the decision-making fora of the major political parties in South Africa. We were not able to find all of the information in relation to all political parties in Parliament. We only include those that we were able to find. This includes the ruling party, the official opposition and others.

Leadership in Political Parties, 2000-2004

	Women	Men	Total
African National Congress, NEC²²	20	47	67
Democratic Alliance, National Leadership²³	1	8	9
IFP²⁴	-	-	-
New National Party²⁵	2	11	13
United Democratic Movement, National Executive Committee²⁶	1	5	6
Total	24	71	95

TRADE UNIONS

Organised workers in South Africa are represented in the National Economic Development and Labour Council (NEDLAC) which debates social and economic policy with government by three federations, the Congress of South African Trade Unions (COSATU), the National Council of Trade Unions (NACTU) and the Federation of Unions of South Africa (FEDUSA). The table shows the number of women and men on the highest governing bodies of each of these federations in May 2003. (Information collected from the organisations concerned by Ezekiel Mogodi of Community Agency for Social Enquiry (CASE)).

²² Elected December, 2002, <http://www.anc.org.za>

²³ <http://www.da.org.za> accessed November 2004.

²⁴ No information available <http://www.ifp.org.za>

²⁵ Federal Executive. <http://www.natweb.co.za> accessed February 2005.

²⁶ Elected 9 December 2001. www.udm.org.za.

Leadership in trade unions, 2003

	Women	Men	Total
COSATU	2	4	6
FEDUSA	1	9	10
NACTU	3	4	7

Unfortunately, only one measure is available for this indicator.

EMPLOYERS' ASSOCIATIONS

Organised employers are represented on NEDLAC by Business South Africa (BSA). The table shows the number of women and men on BSA's highest governing body in May 2003. (Information collected by Ezekiel Mogodi of CASE)0.

Leadership among organised business, 2003

	Women	Men	Total
BSA	3	40	43

Unfortunately, only one measure is available for this indicator.

PROFESSIONAL SYNDICATES

This measures how many women can be found in the decision-making or regulatory bodies of the medical, legal and architects professions.

Leadership in professional syndicates, 2004.

	Women	Men	Total
Law Society of South Africa, council (attorneys profession) ²⁷	5	15	20
General Council of the Bar ²⁸	3	7	10
Health Professionals Council of South Africa, Executive Committee. ²⁹	4	6	10
South Africa Institute of Architects ³⁰ Board of Representatives	5	11	16
Total	17	39	56

²⁷ <http://www.lssa.org.za> accessed November 2004.

²⁸ Telephone interview, General Council of the Bar, November 2004.

²⁹ <http://www.hpcsa.co.za> accessed November 2004.

³⁰ <http://saia.org.za> accessed February 2005.

HEADS OR MANAGERS OF NGOS AND HEADS OF COMMUNITY BASED ASSOCIATIONS OR UNIONS

The 2002 John Hopkins study (Swilling M & Russell B. 2002. The Size and Scope of the Non-Profit Sector in South Africa. Public & Development Management, University of Witwatersrand & Centre for Civil Society: Johannesburg) found that, overall, 59% of full-time managers of non-profit organisations were women (2002: 23).

The study used the following five criteria for defining a non-profit organisation – that it must be:

- Organised – institutionalized to some extent;
- Private – thus excluding government structures;
- Self-governing – not controlled by other bodies, such as government or for-profit businesses;
- Non-profit distributing – profits ploughed back into the basic mission of the organisation; and
- Voluntary – excluding professions requiring compulsory membership.

Unlike in some other countries, the definition included cooperatives, stokvels (rotating credit organisations) and burial societies.

The study does not distinguish between non-governmental organisations and community-based societies, and such a breakdown is not possible from this study. Instead, the study distinguishes between the following categories of organisations:

- Informal voluntary
- Section 21 company
- Church
- Union
- Stokvel or burial society
- Trust or foundation
- Political party
- Cooperative
- Other.

However, the number of women and men full-time managers for these categories cannot be extracted from the data. (Information provided by Bev Russell of Social Surveys)

Unfortunately, only one measure is available for this indicator.

CHAPTER THREE

WOMEN'S RIGHTS

This section on Women's Rights measures government progress in respect of the following:

- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- The Optional Protocol to CEDAW
- Article 2 of CEDAW – Equality
- Article 16 of CEDAW – Marriage and Family Life
- The African Charter on Human and People's Rights – Harmful Practices

CEDAW

INTRODUCTION

South Africa ratified the Convention on the Elimination of All Forms of Discrimination Against Women in January 1995. As with other conventions, the process of domesticating CEDAW in South Africa has taken place within different sectors through sector specific policies and laws. We have approached this section of the report not by measuring progress in relation to each clause of the Convention, but by measuring the extent to which South Africa has used CEDAW as an overall tool and guide towards gender equality.

RATIFICATION

2

South Africa ratified CEDAW without reservations on 15 December 1995.

REPORTING

1

South Africa submitted its first report, but is currently overdue on subsequent reports. It will now collapse the second and third reports into one, due in 2004 (OSW, Advisory Group Meeting, July 2003). A draft of this report is available,³¹ but as it is now overdue, this scores '1'.

POLICY

2

CEDAW is a convention that addresses gender equality and women's human rights, hence we measure here whether there are broad policy commitments in South Africa that promote the objectives of CEDAW. These can be found in several documents in South Africa, including the 1996 Constitution (Act 108 of 1996), whose Bill of Rights binds government and the more recently Gender Policy Framework developed by the Office on the Status of Women. In addition, CEDAW and the Beijing Platform for Action were translated into priorities for national action in 1995.

This scores a '2' as the overall policy framework is comprehensive and addresses all CEDAW provisions.

LAW

2

South Africa has ratified CEDAW, but this does not make it legally enforceable in this country. In South Africa, legislation must be developed in each policy area, as applicable, in order to make CEDAW effective and enforceable. However, the issue here is whether, as a matter of law, women can generally enforce their rights under CEDAW. In South Africa, this is achieved through the Constitution (Bill of Rights and provisions for considering international law) and several laws, including the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000. Although there will inevitably be some gaps in this legal

³¹ CEDAW Report (undated draft).
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framework (which are highlighted in the section on articles 2 and 16), this fairly comprehensive equality framework scores a '2' in this instance.

Score '2' as legal framework allows widespread enforcement of women's rights.

DEVELOPMENT OF A PLAN

1

CEDAW and the Beijing Platform for Action were translated into priorities for national action in 1995 in specific sectors. The National Policy Framework for Women's Empowerment and Gender Equality (undated, chapter 5) sets out a broad plan for the Co-Ordination Framework of the National Machinery. Under these, it is the responsibility of each sector to develop its own specific priorities and policies. For example, the 1999 Justice Gender Policy Statement is a development of the priorities within the Department of Justice. However, the OSW has an overall co-ordinating role (Office on the Status of Women National Gender Policy Framework, undated chapter five).

The OSW intends to develop a more comprehensive plan that responds to CEDAW, using the Gender Focal Points within specific government clusters. Within this Plan, the OSW will develop its co-ordinating and monitoring role, while the responsibility for policy and programme development and implementation will still lie with government departments (OSW, Advisory Group, 17 August 2003).

This scores a '1' as the overall detailed plan has not yet been developed and approved.

TARGETS

1

The priorities that were set also serve as targets for action. Additional targets for action exist in The National Policy Framework and in the resolutions of the Gender Summit. Broad cluster targets also exist. However there are not yet detailed and comprehensive targets. These will be developed as the more detailed Plan is developed for 2004 - 2009.

This scores '1' as detailed targets are still being developed as part of the more comprehensive plan.

INSTITUTIONAL MECHANISMS

1

CEDAW is implemented through the various government departments as discussed in throughout this report.

The OSW has a co-ordinating and monitoring role, while the Gender Focal Points have an implementing role within various departments.

The Parliamentary Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women has the task of monitoring government progress in terms of CEDAW and Beijing.

This only scores a '1' as not all of the envisaged mechanisms are in place, i.e. not all Gender Focal Points are in place or at the required level.

BUDGET

1

Budgets have been allocated for the National Machinery. However, the National Machinery reports budgetary constraints in terms of its work on CEDAW in relation to programmatic objectives. The CIQLSW (which has specific CEDAW related monitoring functions) has financial constraints in relation to carrying out research. In general, money tends to be available for personnel rather than programmes (OSW and CIQLSW, Advisory Panel Meeting, August 2003).

HUMAN RESOURCES

1

Human resources are not operating at full capacity as, for example, Gender Focal Points, are not always appointed at the appropriate level, nor do they always have the necessary skills and capacity. (See also Political Power: National Machinery). Hence this scores a '1'.

RESEARCH

1

Research is currently ad hoc and not properly planned and resourced. The OSW is working with Statistics South Africa to streamline their research and data collection capacity in relation to co-ordinating activities and reporting on CEDAW and other relevant conventions (OSW, Advisory Panel Meeting, August 2003).

The Parliamentary Committee has engaged in research on government's progress. It produced a report on progress in relation to CEDAW in November 1998. It also produced reports on government progress in relation to gender-based violence and HIV/AIDS and held hearings on a range of issues.

This scores a '1' as research is not yet fully planned and resourced.

INVOLVEMENT OF CIVIL SOCIETY

2

In the past few years, the National Machinery has become more inclusive of civil society and has involved civil society in several CEDAW related initiatives. For example, the CIQLSW held a two day workshop on improving women's participation in law-making; the National Machinery has recently held a series of meetings on the impact of newly enacted laws and holds open meetings every two months between its own institutions and civil society organisations.

This scores a '2' as there has been a concerted effort to be transparent and to involve civil society organisations in regular meetings and in special events such as 'Sixteen Days of No Violence Against Women'. At the same time, there is a need for the reach of the machinery to expand.

INFORMATION AND DISSEMINATION

1

The CIQLSW produces pamphlets and informs constituencies about issues and upcoming Bills and laws. But it is limited in its capacity to do this. The events described in the above section also constitute a way of disseminating information.

In general, dissemination is uneven across the country and information is difficult to access. There is no central data-base or website that provides information.

This scores a '1'.

MONITORING AND EVALUATION

1

The OSW has a key role in monitoring progress in relation to CEDAW. It currently does so in the preparation of country reports, but needs to set up a more systematic process of monitoring and evaluation.

The Joint Monitoring Committee of the Improvement of the Quality of Life and the Status of Women has a monitoring role and has recently carried this out by focussing on particular issues, such as gender based violence and HIV and AIDS.

This scores a '1' as the envisaged system is not fully developed and established.

OPTIONAL PROTOCOL

INTRODUCTION

The optional protocol to CEDAW allows citizens within ratifying states to bring complaints to the CEDAW Committee.

Only the ratification and information dissemination scores are relevant here.

RATIFICATION	0
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South Africa has not ratified the optional protocol.

REPORTING	X
NOT APPLICABLE	

LAW	X
NOT APPLICABLE	

POLICY	X
NOT APPLICABLE	

DEVELOPMENT OF A PLAN	X
NOT APPLICABLE	

TARGETS	X
NOT APPLICABLE	

INSTITUTIONAL MECHANISMS	X
NOT APPLICABLE	

HUMAN RESOURCES	X
NOT APPLICABLE	

RESEARCH	X
NOT APPLICABLE	

INVOLVEMENT OF CIVIL SOCIETY	X
NOT APPLICABLE	

INFORMATION AND DISSEMINATION	0
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The protocol requires that governments publicise its contents. There has been no such information dissemination in South Africa yet. Hence this scores '0'.

MONITORING AND EVALUATION	X
NOT APPLICABLE	

ARTICLE 2 - EQUALITY

INTRODUCTION

Gender equality is a founding principle and core right of the South African Constitution. Section 9 of the Constitution protects the rights of all persons to equal protection and benefit of the law, and to freedom from unfair discrimination on the basis of gender, sex, pregnancy and marital status.

As discussed below, article 2 of CEDAW deals with the duty of the state to protect women against discrimination. We have assessed this section largely in relation to South Africa's anti-discrimination legislation, customary law and the criminal law (relating to sexual offences) as these are specifically mentioned in article 2.

International framework

Article 2 requires a state to take policy measures to end discrimination against women. This requires states to:

- Include the principle of equality between women and men in the national constitution and laws, making sure that this becomes a reality in everyday life;
- Punish people who discriminate against women;
- Ensure there are courts/bodies where women can complain against discrimination;
- Ensure no government authority or institution discriminates against women;
- Amend or remove all laws, regulations, customs and practices that discriminate against women; and
- Amend any criminal or punitive laws that discriminate against women.

RATIFICATION

2

South Africa has ratified CEDAW.

Ratification scores a '2'.

REPORTING

1

South Africa has reported once, but is behind on its subsequent reports.

Incomplete reporting scores a '1'.

POLICY

2

The 1996 Constitution guarantees women and men equality and freedom from discrimination. In addition, the priorities identified by government after the Beijing Conference and the 1999 Justice Gender Policy make a series of policy commitments to repeal or amend discriminatory laws and to put new laws in place.

The comprehensive nature of these policy commitments in covering the equality issues raised in article 2 scores a '2'.

LAW

1

The government has passed several laws that address discrimination against women in the areas specified in article 2. These include the Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000, the Employment Equity Act, 55 of 1998, the 1997 Basic Conditions of Employment Act and the Recognition of Customary Marriages Act, 120 of 1998.

However, some important laws relating to discrimination have not yet been amended. Significant here is the customary law of inheritance, the law relating to muslim marriages and the current law of rape. Both are currently subject to a law reform process. The Sexual Offences Bill is currently before Parliament, but the inheritance law has not yet been tabled. There have been some important court cases which have advanced the rights of muslim spouses (*Amod v Multilateral Motor Vehicle Accidents Fund (CGE intervening)* 1999(4) SA 1319 (SCA), finding that a duty of support subsisted between spouses in a muslim marriage, and *Daniels v Campbell NO and Others* 2004 (7) BCLR 735 (CC), finding that muslim spouses could claim maintenance under the Maintenance of Surviving Spouses Act).

This scores '1' due to incomplete law reform processes.

DEVELOPMENT OF A PLAN

1

A broad plan for policy and law reform is set out in the Department of Justice's Gender Policy Framework. In addition, plans are in place for newly enacted laws such as the Promotion of Equality and Prevention of Unfair Discrimination Act (discrimination in all sectors). However, regulations governing Chapter Five of the Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000 are yet to be promulgated, so few if any plans for implementing the promotional measures in this Act are in place.³²

The discrimination sections of the Employment Equity Act are fully implemented within the Commission for Conciliation, Mediation and Arbitration and the Labour Courts.

Plans have not yet been developed for laws that are still in process, or in terms of s 25 of the Equality Act, hence this scores a '1'.

TARGETS

1

Some targets are in place where there are plans, however this cannot score a '1' as targets are not in place where laws have not yet been enacted.

INSTITUTIONAL MECHANISMS

1

The discrimination sections of the Employment Equity Act are fully implemented within the CCMA and the Labour Courts. These are all in place.

The Equality Act is implemented and enforced through Equality Courts. These are still in the process of being established. Claims may also be brought under the equality clause in the Constitution to the High Courts.

³² E.g. In terms of s 25 of the Act, all government departments should develop equality plans.
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Sexual Offences Courts are in place and there is a plan for additional roll out of these courts. One stop assistance centres (Thuthezela Centres) for victims of sexual violence are being developed and rolled out.

This scores '1' the Equality Courts and Sexual Offences Courts, in particular, are still being rolled out and are not yet fully in place.

BUDGET

1

The roll out of Equality Courts and Sexual Offences Courts is taking place over time, because of factors such as budgetary constraints. Part of this was due to the fact that Equality Courts were not provided for in the departmental budget prior to the enactment of the Act.

This scores a '1' as there are inadequate financial resources attributed to the full implementation of some of the relevant laws.

HUMAN RESOURCES

1

Commissioners and Labour Court judges are in place. The majority of sitting judges and magistrates have undergone some further education on the Equality Act (as required by the Act), however, only a small number have currently been designated as presiding officers of the Equality Courts. In addition, there is a question over the capacity of all magistrates, typically not trained in constitutional or labour issues to adjudicate all aspects of the Equality Act.

As a result this scores a '1'.

RESEARCH

1

Extensive research was conducted in the various law reform processes under scrutiny in this section. However, there is no gendered programme of research yet in relation to gender discrimination in the workplace or society generally.

This scores a '1' as there has been little evidence of attention to the needs of research or data collection on important discrimination issues subsequent to laws being passed in Parliament.

INVOLVEMENT OF CIVIL SOCIETY

2

Civil society was involved in the development and passage of all of the relevant laws. It was also involved in judicial training programmes for presiding officers of Equality Courts. Wide standing rules also allow civil society organisations to take a broad range of discrimination issues to court.

This scores a '2' as there has been comprehensive involvement of civil society in law reform and provision is made for ongoing involvement in the enforcement of rights.

INFORMATION AND DISSEMINATION

1

There has been some information dissemination on Equality Courts and Sexual Offences Courts. There has been little information dissemination since the implementation of the Equality Act.

This scores a '1' as the information has been limited.

MONITORING AND EVALUATION

1

Monitoring

Cases in the all courts are recorded in some way, although the method of recording will not necessarily be disaggregated by sex and gender.

Evaluation

We are not aware of plans for systematic evaluation of the relevant laws and programmes.

This scores a '1' because comprehensive monitoring and evaluation systems are not yet in place.

ARTICLE 16 – EQUALITY IN MARRIAGE AND FAMILY LIFE

INTRODUCTION

Article 16 deals with the question of equality in marriage and family life. In South Africa this applies to civil law, customary law and religious law, all of which regulate marriage and the family for different communities. It also applies to cohabiting families in which women are still subject to discrimination. About nine percent of the population live in permanent relationships, but have not married. The 2001 census showed the following breakdown of relationships/households in South Africa:

- 29 million single people
- 2.38 million co-habitees
- 7.369 million people in civil or religious marriages
- 3.127 people in traditional or customary marriages
- 31000 people in polygynous marriages

International Framework

Article 16 requires the state to take all steps to end discrimination in marriage and family life. Both women and men must:

- be free to marry the person of their choice;
- have the same rights and responsibilities during marriage and on divorce
- have the same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children;
- have the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- have the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children;
- have the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- have the same rights in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

In addition, the betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

RATIFICATION

2

South Africa has ratified CEDAW without reservations.

Ratification scores a '2'.

REPORTING

1

South Africa has submitted its first report, but is late on subsequent reports.

Incomplete reporting scores a '1'.

POLICY

2

Policy, as articulated in the Constitution, protects gender equality, and renders the codification of customary and religious law subject to the Constitution. The Gender Justice Policy provides for law reform in the majority of these areas. The Department of Social Development has also developed a policy on families that is inclusive of a variety of family forms (Department of Social Development, White Paper for Social Welfare, chapter 8). Within this broad framework, policy is given more detail in the SALRC and the courts, eg. in relation to co-habiting families, currently under review in the SALRC (Project 118, Domestic Partnerships) and by the courts (*Volks NO v Robinson* CCT 12/04 20/05/04).

This scores a '1' as there is a comprehensive policy framework, even if the detail has still to be put in place in some instances.

LAW

1

South Africa's legal framework improved substantially with the enactment of the Recognition of Customary Marriages Act. This law gave women equal status and decision-making with men, as well as equal rights over property and children. A minimum marriage age was introduced and consent made a requirement of customary marriage. However, most of these provisions were not made retrospective. The act recognises polygyny as a lawful form of customary marriage, having taken into account the effect of abolition on women and children. Registration is required (although failure to register does not nullify a marriage)– but provision is made for registration by one party or a third party.

While some court decisions have extended rights to muslim marriages (*Daniels v Campbell* NO 2004 (7) BCLR 735 (CC), *Amod v Multilateral Motor Vehicle Accidents Fund (Commission for Gender Equality Intervening)* 1999 (4) SA 1319 (SCA)), the full codification of Muslim personal law is still in process. Muslim marriages currently remain outside of the protection of the law. This affects women's rights. While many laws have begun to include the rights of co-habiting couples (eg. medical aid, pensions, children), the law relating to proprietary rights of cohabitees is still in the process of reform.

This scores '1' because of the incomplete cohabitation and muslim marriage processes.

DEVELOPMENT OF A PLAN

1

The Department of Justice Gender Policy Statement sets out an overall plan for review and reform of laws. Plans exist for laws that have been enacted, but not yet for those that are still in the process of being reformed. The Department of Justice also has a plan for the development of Family Centres and for the improvement of the services of the five existing Family Courts.

This scores a '1' as the law reform and consequent planning process to meet the requirements of article 16 of CEDAW is not yet complete.

TARGETS

1

Some targets exist in plans, but these will need to be extended and revised once all laws are in place. This scores a '1'.

INSTITUTIONAL MECHANISMS

1

The Customary Marriages Act falls within the jurisdiction of the Department of Home Affairs and the Department of Justice. Traditional leaders are accorded a role as 'intermediaries' where there are no Home Affairs offices.

The Act is to be implemented and enforced through the Magistrates Courts, especially the Family Courts. The latter courts have not yet been fully rolled out. The Department of Justice also intends to establish Family Centres country-wide.

This scores a '1' as not all of the envisaged mechanisms have been established.

BUDGET

1

The Recognition of Customary Marriages Act was not costed when it was enacted and no budget has yet been allocated to the Customary Marriage implementation plan.

This scores a '1' there are insufficient resources.

HUMAN RESOURCES

1

The Department of Home Affairs has registration officials in place and a training manual has been developed. However, women are still experiencing problems in registering their marriages which suggests that there remains a need for training and capacity building of officials.

A Bench Book has been written for magistrates and training takes place at Justice College. Magistrates generally experience problems of staff shortages, and not all magistrates have undergone training.

This scores a '1' given various capacity problems.

RESEARCH

2

Appropriate research was carried out by the South African Law Commission on the reform of customary law and is currently in process in the reform of muslim marriages and cohabitation.

It seems that the most important research function after enactment is the monitoring and evaluation of these laws (scored below). Hence this scores a '2' as all necessary research has been carried out.

INVOLVEMENT OF CIVIL SOCIETY

2

Civil society has been involved in law reform and information dissemination. In general, government has worked well with policy and advocacy organisations. It has also tried to

access rural and community based women through workshops and consultations by the South African Law Commission and the Parliamentary Committee on the Improvement of the Quality of Life and the Status of Women. Hence this scores a '2'.

INFORMATION AND DISSEMINATION

1

There has been information dissemination on the Customary Marriages Act and there are plans for radio programmes in various languages to publicise the Customary Marriages Act. In general, information dissemination is best when laws are passed. More information is needed on an ongoing basis.

This scores a '1' as some information and awareness raising programmes are still in planning stages.

MONITORING AND EVALUATION

1

Monitoring

The Department of Home Affairs collects statistics of registered marriages, although these are not disaggregated by region. The census and household surveys collect information on different types of households.

The Department of Justice Gender Focal Point collaborates with NGOs involved in monitoring, although there is no formal or comprehensive monitoring of laws.

Evaluation

The Department of Home Affairs has created a formal mechanism for problems to be communicated to it. There are plans to evaluate the Customary Marriages Act after five years.

This scores a '1' as monitoring and evaluation systems are not yet comprehensive.

AFRICAN CHARTER OF HUMAN AND PEOPLE'S RIGHTS – WOMEN'S RIGHTS PROTOCOL: HARMFUL PRACTICES

INTRODUCTION

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa was accepted in July 2003. It specifies various elements relevant to Africa following from international declarations and conventions.

Article 2(1)(b) calls for legislative measures to prohibit all forms of harmful practices that endanger the health and general well-being of women and girls. Harmful practices are defined as 'all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity'.

According to this definition, the following practices could be considered to be harmful practices in South Africa:

- Female genital cutting/mutilation (FGM)
- Virginity testing
- Abduction or forced marriage

FGM is widely accepted by African women as a harmful practice and has been included as such in the Women's Rights Protocol. Views differ on the extent to which it occurs and to whether it is a harmful practice in the South African context. More recently, questions have been raised about FGM possibly occurring in some immigrant communities.

FGM has not been raised as an issue by women's organisations, but some women argue that there are forms of FGM in South Africa that are harmful. We have taken the view that the uncertainty surrounding the practice in South Africa compels government, in the form of the Department of Health, to conduct research to establish whether it is indeed an issue that violates women's health or women's rights in South Africa. We score FGM therefore only in relation to the category of research.

Virginity testing, as currently carried out in South Africa, has been identified as a violation of the rights to life, health and dignity of women by the Commission on Gender Equality. While it might have had other more acceptable forms in the past, we have adopted the view that it is currently a harmful practice under the Women's Rights Protocol.

Abduction or forced marriage still exists in some areas of the country. Scarification can also occur in a harmful manner.

International framework

The protocol calls for legislative measures and further action to prohibit harmful practices. Article 6 calls for states to condemn these practices and to take all necessary measures to end them, including creating public awareness, prohibiting their amelioration (eg. through

medicalisation), rehabilitating victims and protecting and granting asylum to women who are at risk of these practices.

RATIFICATION

0³³

The Protocol is currently waiting for enough signatures to be open for ratification. As South Africa has not yet signed it in terms of this process, this scores a '0'.

REPORTING

X

Not applicable. There are no reporting requirements.

POLICY

1

Policy commitments exist at a fairly abstract level through the commitment expressed by signing the Protocol and the South African Constitution which protects women from violence and harm and affirms their rights to life, health and dignity. However, more detailed policies would be required to address all issues of harmful practices, such as virginity testing. These do not exist.

The absence of comprehensive policy framework means that this scores a '1'.

LAW

2

The Promotion of Equality and Prevention of Unfair Discrimination Act generally protects women against discrimination. Section 8 of the Act sets out a list of possible cases of unfair discrimination, each of which would need to be proved in terms of the Act. This section includes female genital mutilation,³⁴ gender-based violence³⁵ and 'any practice, including any traditional, customary or religious practice, which impairs the dignity of women and undermines equality between women and men, including the undermining of the dignity and well-being of the girl-child'.³⁶

In theory, the Act covers female genital mutilation and virginity testing. However, these sections have not yet been tested in the courts.

There is provincial legislation that regulates initiation practices, but these laws apply to male circumcision.

Some forms of female genital mutilation and virginity testing could fall within criminal definitions of assault and constitutional understandings of a violation of rights.

The Customary Marriages Act requires consent by both parties to a marriage and thus outlaws forced marriages.

³³ Note that this measure requires actual ratification to score. The fact that ratification is not yet possible does not affect the score as the African Gender and Development Index will measure progress over time, and is intended to assist in advocacy for change. The score will remain '0', for all countries, until such time as enough African countries have signed and then ratified.

³⁴ Section 8(b).

³⁵ Section 8(a).

³⁶ Section 8(d).

In sum, the legislative framework covers harmful practices in theory, by the lack of specificity or superior court precedent means that this is currently dependent upon judicial interpretation of the provisions. Nevertheless, this must score a '2'.

DEVELOPMENT OF A PLAN

0

No plan exists that specifically targets the eradication of harmful practices, such as virginity testing.

TARGETS

0

No targets exist.

INSTITUTIONAL MECHANISMS

0

There are no identified mechanisms in the absence of a plan.

HUMAN RESOURCES

0

No identified human resources in the absence of a plan.

RESEARCH

1

We are not aware of any research by government on female genital mutilation/cutting to establish whether it is an issue in South Africa for health or human rights reasons. However both the OSW and CGE have held consultations on harmful practices. The OSW has held consultations with Traditional Leaders and the CGE has carried out research on virginity testing and has developed a report on this in Kwazulu-Natal.

Although these consultations involve a level of research, there remains an absence of comprehensive, government (or other) research into the incidence and implications of harmful practices. Nevertheless, this scores a '1' to recognise the steps that have been taken.

INVOLVEMENT OF CIVIL SOCIETY

1

There have been some consultations by the OSW on harmful practices and by the CGE on virginity testing. Although this is limited activity, it nevertheless must score a '1'.

INFORMATION AND DISSEMINATION

0

There are no information or education campaigns on harmful practices. This scores a '0'.

MONITORING AND EVALUATION

0

There is no monitoring or evaluation of the incidence of harmful practices or efforts to remove them. This scores a '0'.

CHAPTER FOUR

Social Power

The social components of the African Women's Progress Report measure government progress on the following issues:

The Beijing Platform for Action

- progress in the Twelve Critical Areas of the Beijing Platform for Action;

Violence Against Women

- adherence to the provisions on violence against women contained in the Beijing Platform for Action and reaffirmed during the Beijing Plus Five meeting in New York, 2000; Article XXVII of the African Charter on the Rights of the Child;

Women's health

- the provisions on sexually transmitted infections, HIV/AIDS, Maternal Mortality and Contraception, especially as found in the 2004 International Conference on Population and Development Program of Action, as reaffirmed during the 'Cairo Plus Five' meeting in 1999;

The Abuja Declaration on HIV/AIDS

- progress on integrating a positive gender approach into government HIV and AIDS programmes as required by the 2001 Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases; and

Women's education

- policies on girl school dropouts and curriculum development and education on human/women's rights.

The Beijing Platform for Action

INTRODUCTION

The Beijing World Conference on Women was an important signpost in the struggle for gender equality in South Africa as it came one year after the achievement of democracy and provided an important focus for activism within the country. The Beijing Platform for Action subsequently provided an important mechanism for setting standards for progress by the new government. However, in South Africa it would be difficult to distinguish between the roles of CEDAW and the Beijing Platform for Action as guides towards gender equality as both have been used for priority setting and policy development, as well as monitoring. Hence we repeat some of the same information and scores in this section as we did with CEDAW in the 'Women's Rights' section.

RATIFICATION

X

This section is not applicable as the Beijing Platform for Action does not require ratification.

REPORTING

1

This section does apply as countries were expected to report at the regional and international meetings that marked five and ten years after the Beijing Conference. South Africa did submit reports for the Beijing +5 process in 2000. The South African Beijing +10 report has not yet been finalised. Hence, this scores a '1' as some reporting has been done.

POLICY

2

The twelve critical areas of the Beijing Platform for Action address a broad range of issues relating to gender equality and women's human rights. As with CEDAW, here we measure the broad policy commitments that South Africa has made to promote these objectives. These can be found in several documents in South Africa, including the 1996 Constitution (Act 108 of 1996), whose Bill of Rights binds government, and the more recent National Framework for Women's Empowerment and Gender Equality developed by the Office on the Status of Women. In addition, CEDAW and the Beijing Platform for Action were translated into priorities for national action in 1995.

This scores a '2' as the overall policy framework is comprehensive and largely addresses the critical areas of the Beijing Platform for Action.

LAW

1

South Africa has developed an impressive legal framework that provides legal protection for many of the issues identified in the Twelve Critical Areas of the Beijing Platform for Action. Unlike the section on CEDAW where the question was whether CEDAW was, in general, enforceable through law, attention to the twelve critical areas in the Beijing Platform for Action requires more detailed legislative attention. As discussed in several sections in this and the previous chapter on Women's Rights, the legal framework is not yet complete. Hence this scores a '1'.

Score '1' as legal framework for protection of women's rights not yet complete.

DEVELOPMENT OF A PLAN

1

CEDAW and the Beijing Platform for Action were translated into priorities for national action in 1995 in specific sectors. The National Policy Framework for Women's Empowerment and Gender Equality (chapter 5) sets out a broad plan for the Co-ordination Framework of the National Machinery. Under these, it is the responsibility of each sector to develop its own specific priorities and policies. For example, the 1999 Justice Gender Policy Statement is a development of the priorities within the Department of Justice. However, the OSW has an overall co-ordinating role (Office on the Status of Women, National Gender Policy Framework, chapter five).

The OSW intends to develop a more comprehensive plan that responds to CEDAW (and hence the Beijing Platform for Action as well), using the Gender Focal Points within specific government clusters. Within this Plan, the OSW will develop its co-ordinating and monitoring role, while the responsibility for policy and programme development and implementation will still lie with government departments (OSW, Advisory Group, 17 August 2003).

This scores a '1' as the overall detailed plan (deriving from sectoral plans) has not yet been developed and approved.

TARGETS

1

The priorities that were set also serve as generalised targets for action. Additional targets for action exist in The National Policy Framework³⁷ and in the resolutions of the Gender Summit. Broad cluster targets also exist. However there are not yet detailed and comprehensive targets fully integrated into government programmes. In February 2003, Government committed itself to introducing a system 'through which gender representation targets and content of programmes become part of the core performance criteria of every government institution and manager'.³⁸

Targets will be developed as the more detailed Plan is developed by the OSW for 2004 - 2009. However, it is important that these do not remain outside of the government as whole, but are effectively integrated.

This scores '1' as detailed targets are still being developed as part of the more comprehensive plan, and more broadly within government.

³⁷ Long term indicators of progress area set out in chapter six, pp 52-3 of the Policy Framework for Women's Empowerment and Gender Equality.

³⁸ President T Mbeki, State of the Nation Address, 14 February 2003.

INSTITUTIONAL MECHANISMS

1

CEDAW and the Beijing Platform for Action are implemented through the various government departments as discussed in throughout this report.

The OSW has a co-ordinating and monitoring role, while the Gender Focal Points have an implementing role within various departments.

The Parliamentary Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women has the task of monitoring government progress in terms of CEDAW and Beijing.

This only scores a '1' as not all of the envisaged mechanisms are in place, i.e. not all Gender Focal Points (a critical part of the National Machinery's ability to integrate gender into government as a whole) are in place or at the required level.

BUDGET

1

Budgets have been allocated for the National Machinery. However, the National Machinery reports budgetary constraints in terms of its work on CEDAW. The CIQLSW (which has specific CEDAW and Beijing PFA related monitoring functions) has financial constraints in relation to carrying out research. In general, money tends to be available for personnel rather than programmes (OSW and CIQLSW, Advisory Panel Meeting, August 2003).

Inadequate budgets scores a '1'.

HUMAN RESOURCES

1

Human resources are not operating at full capacity as, for example, Gender Focal Points, are not always appointed at the appropriate level, nor do they always have the necessary skills and capacity. (See also Political Power: National Machinery). Hence this scores a '1'.

RESEARCH

1

Research is currently *ad hoc* and not properly planned and resourced. The OSW is working with Statistics South Africa to streamline their research and data collection capacity in relation to co-ordinating activities and reporting on CEDAW, other relevant conventions and the Beijing Platform for Action (OSW, Advisory Panel Meeting, August 2003).

The Parliamentary Committee has engaged in research on government's progress. It produced a report on progress in relation to CEDAW and the Beijing PFA in November 1998. It also produced reports on government progress in relation to gender-based violence and HIV/AIDS and held hearings on a range of issues.

This scores a '1' as research is not yet fully planned and resourced.

INVOLVEMENT OF CIVIL SOCIETY

2

In the past few years, the National Machinery has become more inclusive of civil society and has involved civil society in several CEDAW related initiatives. For example, the CIQLSW

held a two day workshop on improving women's participation in law-making; the National Machinery has recently held a series of meetings on the impact of newly enacted laws and holds open meetings every two months between its own institutions and civil society organisations.

This scores a '2' as there has been a concerted effort to be transparent and to involve civil society organisations in regular meetings and in special events such as 'Sixteen Days of No Violence Against Women'. At the same time, there is a need for the reach of the machinery to expand.

INFORMATION AND DISSEMINATION

1

The CIQLSW produces pamphlets and informs constituencies about issues and upcoming Bills and laws. But it is limited in its capacity to do this. The events described in the above section also constitute a way of disseminating information.

In general, dissemination is uneven across the country and information is difficult to access. There is no central data-base or website that provides information.

This scores a '1'.

MONITORING AND EVALUATION

1

The OSW has a key role in monitoring progress in relation to CEDAW and the Beijing PFA. It currently does so in the preparation of country reports, but needs to set up a more systematic process of monitoring and evaluation. A key challenge is an integrated monitoring system.

The Joint Monitoring Committee of the Improvement of the Quality of Life and the Status of Women also has a monitoring role that is guided by CEDAW and the Beijing PFA and has recently carried this out by focussing on particular issues, such as gender based violence and HIV and AIDS.

This scores a '1' as the envisaged system is not fully developed and established.

Violence against Women

INTRODUCTION

Violence against women is sometimes said to be endemic in South Africa. South Africa is alleged to have one of the highest per capita rates of reported rape in the world at 115.6 for every 100 000 of the population in 1998 (Stats SA, 2000). In addition, smaller scale studies that seek to identify the actual level of violence and abuse have documented levels of between 19% and 40% in different parts of the country (Jewkes et al, 1999; Lovelife 2000). With such high levels of gender-based violence, it is not surprising to find that an enormous amount of work has been done by both government and civil society to address this problem. Indeed, in the past ten years, South Africa has responded fairly comprehensively to the problems of domestic violence, rape, sexual assault and harassment in constitutional, legal and policy terms. The issue of trafficking is also beginning to receive attention. With most of these frameworks in place, enormous challenges remain in the area of implementing these policies and enforcing the laws.

South Africa has also been active in the SADC region and co-ordinated the 1998 *SADC Conference on the Prevention of Violence Against Women*. This Conference reaffirmed SADC commitment to CEDAW and General Recommendation No.19 and resulted in a regional Declaration on Violence Against Women.

The South African Constitution entrenches the rights to gender equality (s 9) and to freedom from violence (s 12). In Justice Vision 2000, the document setting out the gender policy commitments of the Department of Justice, government committed itself to 'promoting gender equality, to eradicating violence against women and to addressing the needs of vulnerable groups, such as women and children'.

In this section we consider the South African government's progress in reducing violence against women, with particular reference to five areas;

- > domestic violence,
- > rape,
- > sexual harassment,
- > trafficking,
- > child abuse.

In general, reducing violence against women is one the key priorities of the South African government that affects the work of many government departments. As the notes will show, South Africa has made extensive progress in domestic violence and rape, especially in the development of policies, laws and plans and the identification of institutional mechanisms. In respect of human resources, problems of capacity remain and training is a vast and ongoing task. Information dissemination occurs, especially around Women's Day and the 16 Days of No Violence Against Women Campaign. However, harassment remains a serious problem in schools that needs more concerted government attention.

Government action on trafficking is still in its early stages. There is a commitment signified by the work of the South African Law Reform Commission and the research process there promises to be comprehensive and inclusive. However, government inevitably scores '0' on implementation here as policies and laws are still being developed.

There is progress on the policy and legislative fronts in relation to the sexual exploitation of children, but work still needs to be done on implementation.

International frameworks

Violence against women has been comprehensively addressed in international frameworks. Fairly detailed international standards exist, in Recommendation 19 of CEDAW, the Declaration on Violence Against Women, the Beijing Platform for Action and the Recommendations for Further Action emerging from Beijing +5. In general, states are called upon to take 'all appropriate measures to eliminate ... violence against women by any person, organisation or enterprise' (BFA, para 68(j)).

DOMESTIC VIOLENCE

INTRODUCTION

Domestic violence in South Africa

Violence and abuse in relationships remains widespread in South Africa. Research that has been conducted within various communities across South Africa has documented levels of between 19% and 40% in various part of South Africa (Jewkes et al, 1999; Lovelife, 2000). These studies have also identified entrenched social and cultural norms that make domestic violence a particularly difficult problem in South Africa.

The South African government and civil society organisations have paid particular attention to the problem of domestic violence. It is an area in which the policy and legal frameworks are comprehensive and in which government and civil society have worked together on many aspects of the problem, from policy development through to implementation and evaluation.

International Standards

The 1995 Beijing Platform for Action and the Further Recommendations of Beijing +5 in 2000 pay particular attention to the problem of violence against women. They call for the state to take

all necessary measures to ensure that women and girls are protected against violence and to ensure that there is recourse to justice.

This includes policies that 'provide for prosecution and punishment of perpetrators', 'introduc[e] actions to motivate perpetrators to break the cycle of violence', legislation ... to handle criminal matters relating to all forms of domestic violence (Beijing +5, Para 69(d)), and measure to provide avenues for redress (para 69(a) and (b)). The role of health workers is mentioned (para 69(i)). States are also called upon to establish appropriate mechanisms to handle criminal matters relating to all forms of violence and to ensure cases are brought to justice swiftly (para 69(d)).

Beijing +5 calls for continued research to develop a better understanding of the root causes of all forms of violence against women in order to design programmes and take measures towards eliminating those forms of violence (para 69 (f)).

RATIFICATION

X

No specific convention requires ratification. The South African government has adopted the provisions of the Beijing Platform for Action and has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (see section on 'Women's Rights' above). There is no score here as this is 'not applicable'.

REPORTING

1

South Africa is required to report on this as part the Beijing reporting process. As South Africa is behind on its reporting, this scores a '1'.

POLICY

2

The South African Constitution guarantees freedom from violence from public and private sources. Government has expressed a commitment to address gender-based violence and has formulated some more detailed policies within the Departments of Justice, Safety and Security, Health and Social Development.

Department of Justice

The Department of Justice listed violence against women as a critical area of concern in its *Gender Policy* (Department of Justice, May 1999). Here the relevant policy commitments relate to the effective implementation of the Domestic Violence Act:

- Develop effective and efficient responses through an integrated policy framework and guidelines to implement the Domestic Violence Act;
- Ensure that adequate administrative arrangements are in place for effective implementation of the Act;
- Ensure that responses to domestic violence protect the safety and dignity of victims.

Department of Health

The Department of Health has made a policy commitment to the training of health workers to deal with sexual violence (Department of Health, 1999-2004). It is currently reworking more detailed policy guidelines on addressing sexual violence.

Department of Safety and Security

The Department of Safety and Security and the South African Police Services have identified the reduction of the incidence of crimes against women and children as one of its four key strategic priorities for the medium term (Estimates of National Expenditure, 2003, Vote 23).

Department of Social Development

The Department of Social Development has identified the need to 'protect the rights of ...women and deliver services to ... [them] in an integrated fashion' as a policy priority (Estimates of National Expenditure, 2003, Vote 14, 354). The Department of Social Development is particularly concerned with rights advocacy for women and contributions to organisations (Estimates of National Expenditure, 2003, Vote 14, 365), as well as the provision of counselling and shelters. The Victim Empowerment Programme, under the lead of the Department of Social Development establishes policy commitments relating to survivors of domestic violence.

Although policies are being improved and updated, the comprehensive policy commitment across departments scores a '2'.

LAW

2

In 1998, South Africa passed the Domestic Violence Act, 116 of 1998. This was, in turn, as result of a review of an earlier 1992 Act dealing with the same issue. The Domestic Violence Act is the key piece of legislation that addresses domestic violence and provides women with a relatively simple and accessible procedure for obtaining an interdict against their abusive partners. The law has a broad reach to include physical, psychological and economic violence, as well as persons who live in same sex relationships and extended families.

Other relevant areas of law include the criminal law of assault (South Africa does not have a specific offence of 'domestic violence') and the law of delict providing damages for civil assault.

This comprehensive legal framework scores a '2'.

DEVELOPMENT OF A PLAN

2

The development of a plan or an implementation strategy to address gender-based violence is the responsibility of several government departments. For example, the Domestic Violence Act implicates the Departments of Justice, Correctional Services, Safety and Security, Social Development and Health. Although there is no comprehensive implementation plan, all relevant departments have developed departmental programmes to deal with domestic violence, and there are examples of departments working together on specific initiatives.

Department of Justice

Prevention of Violence against Women is a flagship programme of the Gender Policy. The Policy calls for :

- The development of policy guidelines to guide the conduct of service providers;
- An audit of current levels of service and the compilation of benchmark data;
- Development of a clear strategy for implementation of the Act; and
- The development of a framework for informal dispute resolution measures in response to domestic violence.

There is no comprehensive plan for implementing the Domestic Violence Act within the Department of Justice, and the Gender Policy serves as a Plan of Action (Interview, Gender Focal Point, Department of Justice). However detailed plans on issues relating to this are also found in other business units of the Department of Justice. For example, in 2003 attention was given to developing a Family Court blueprint for dealing comprehensively with family matters (including domestic violence) in the lower courts (Estimates of National Expenditure, 2003, Vote 24, 537).

Department of Social Development

The Department of Social Development is the lead department in the Victim Empowerment Programme, a key programme of the inter-ministerial National Crime Prevention Strategy. It is within this programme that support by way of counselling, information and shelters is provided to victims of domestic violence. A Plan (Strategy) was developed in 2002 for 2002-2005. Within this are plans relating to the implementation of the Domestic Violence Act (Department of Social Development, Fact Sheet).

Department of Health

The Department of Health (directorate on Maternal, Child and Women's Health) is currently developing more detailed policies to the training of health workers to address questions of sexual violence in their work (Advisory Group meeting, August 2003). This is in terms of a plan. Planning in the provinces is uneven (however this is not being measured here).

Department of Safety and Security

The SA Police Service (SAPS) implemented a strategic planning process after January 2000 in which the reduction of crime against women and children was identified as a key strategic priority. According to the Medium Term Expenditure Framework, the implementation of this is integrated across the operational activities of the SAPS (administration, crime prevention, operation and response services, detective services and crime intelligence and protection services) rather than in a single programme (Estimates of National Expenditure, 2003, Vote 23, 479-480). In 2003 the department identified the improvement of the investigation and prosecution of crimes, especially domestic violence as a priority. It also mentioned the need for more extensive police training to implement the Domestic Violence Act (Estimates of National Expenditure, 2003, 564). There are plans for the implementation of this Act within SAPS at national and provincial levels.

In general, planning is not always fully integrated across departments, although that is changing. For example, an integrated departmental plan for, *inter alia*, shelters, directories and training has been developed (Advisory Meeting, May 2004). Planning is also weaker in some provinces. However this is not being measured in this section.

The fact that plans are in place in each Department and that inter-departmental planning is also occurring scores a '2'.

TARGETS

2

Broad targets are set within the Medium Term Expenditure Framework, while more detailed targets and indicators on specific issues should be set within departments and units within departments.

Department of Justice

There are no broad targets set for gender within the Department, other than those that appear in the Gender Policy (Interview, Gender Unit, Department of Justice). Targets are set within the different business units that are not necessarily specific to gender, but would include gender issues. For example, the Medium Term Expenditure Framework establishes the following indicators for Court Services: Lower courts (including but not specific to domestic violence) have a target of 40 finalised cases per month (District Court) and five court hours worked per day. Specialised Courts (including Family Courts) are expected to complete all cases (Estimates of National Expenditure, 2003, Vote 24, 543).

The National Prosecuting Authority

The National Prosecuting Authority (NPA) sets particular targets for 'Access to justice for women and children' and 'the prosecution of cases involving women and children'. For 'Access to Justice', the indicator is set at 'public awareness and education campaigns' and the target is 1 per province in 2003/2004. For prosecutions, the indicator is the conviction rate in the Sexual Offences Courts of 60% in 2003/4 (Estimates of National Expenditure, 2003, Vote 24, 549).

Department of Health

Targets are set in the Department of Health in terms of the plan for gender based violence (Interview, Gender Unit, Department of Health).

Department of Safety and Security

The Medium Term Expenditure Framework identifies priorities over a three year period. In 2003 the department identified the improvement of the investigation and prosecution of crimes, especially domestic violence as a priority. This includes extensive police training to implement the Domestic Violence Act (Estimates of National Expenditure, 2003, Vote 23, 485). There are more detailed targets on this as part of the plan to implement the Act.

Department of Social Development

The 2002-2005 Plan for the Victim Empowerment Programme includes detailed targets for the period on a range of issues relating to domestic violence. In addition, the service delivery indicators for the Victim Empowerment programme are set out in the Estimates of National Expenditure (2003, 367). They relate to numbers of project funded and evaluated.

In general, targets are in place for the implementation of the Domestic Violence Act and for dealing with domestic violence. This scores a '2'.

INSTITUTIONAL MECHANISMS

1

Each relevant government department has a responsible unit for overall policy and programmes on gender-based violence. In addition, there are specialised units within some departments to address domestic violence.

The Department of Justice

Within the Department of Justice, the deputy Minister is responsible for gender issues. The Gender Unit plays a catalysing and facilitating role within the department, and monitor progress in implementing policy within the department. It works in conjunction with the relevant business units where appropriate (Interview, Gender Unit, Department of Justice).

Generally issues relating to legislation, policy, courts etc. fall within the relevant business units in the Department (mainly Court Services, State Legal Services and the National Prosecuting Authority).

Domestic Violence interdicts are sought within the Magistrates Courts and specialised Family Courts (under the Specialised Courts Programme), giving rise to problems of access and capacity in some areas.³⁹ Five pilot Family Courts have been running for several years but have been under-resourced. In 2003, additional resources have been extended to these Family Courts to enable them to work to full capacity, whereafter a decision will be taken on whether and how to develop further Family Courts in other areas. In general, the implementation of the Domestic Violence Act has strained the resources of all Magistrates Courts, placing additional work of clerks and magistrates without additional resources/appointments.

The National Prosecuting Authority

The Sexual Offences and Community Affairs Unit in the National Prosecuting Authority focuses on all relevant family violence issues in relation to the prosecution of crime.

Specialised Sexual Offences Courts deal with cases of sexual violence. About 29 courts have been established and more will be established over time.

The Department of Social Development

Overall responsibility for addressing problems of domestic violence falls within the Victim Empowerment Programme (VEP) that is located within the Transfer Welfare Services Directorate. The VEP has begun to set up 'One-Stop Centres' to provide a combination of services for women, including specifically trained police, health care services, courts, counselling services by government social workers and shelter provided by NGOs (Department of Social Development *Annual Report April 2001 to March 2002*, 74). Three have been established in Queenstown (Eastern Cape), Kwaggafontein (Mpumalanga) and the Western Cape.

The Department of Health

Overall responsibility for policy development falls under the Maternal, Child and Women's Health directorate. Training is carried out at provincial level.

The Department of Safety and Security

The Department has sought to improve its crime prevention and detection functions in domestic violence by restructuring its special investigating units to establish 46 Family Violence, Child Protection and Sexual Offences units (Estimates of National Expenditure, 2003, 575). These are expected to increase in the next few years.

³⁹ Magistrates have reported problems of capacity and demand to the writer in numerous workshops on training on the Equality Act.

As the mechanisms identified to implement the Act have been identified and are not yet all fully in place (although there are plans to roll these out), this currently scores a '1'.

BUDGET

1

One of the main problems with the Domestic Violence Act is that it was not costed at its inception. Courts found that they lacked training, stationery, vehicles and facilities (Vetten and Khan, 2003). Resources have thus only become progressively available over time. Overall, however, it is difficult to discern how much has gone to funding the Domestic Violence Act as the budget of the Department of Justice is not fully disaggregated by gender (Parenzee, 2004: 23).

Research by the Centre for the Study of Violence and Reconciliation found that problems of financial resources for domestic programmes take three forms. The first is that there is often no, or insufficient budgetary, allocation to a programme. Secondly, the allocation is often limited to personnel rather than programme costs meaning that capacity to act is restricted. Thirdly, funds may be underspent. This usually occurs in relation to personnel costs and suggests an absence of capacity within the state (Vetten and Khan, 2003, See also Parenzee, 2004).

Department of Justice

Expenditure on the Lower Courts and the Specialised Courts is set to increase by about 13.5 and 13.3% per annum in the current Estimates of National Expenditure (2003, 542). In 2003/4 R40 million was allocated for the protection of vulnerable groups through the building of Family Courts and Child Justice Centres, as well as the appointment of maintenance court officers and investigators (2003, 452).

However, there has clearly been a shortage of financial resources. For example, many of the Magistrates Courts were not provided with additional resources to implement the added duties under the Domestic Violence Act. In addition, the role and budgeting of the Family Courts as key courts for the implementation of the Domestic Violence Act remains unclear (Parenzee, 2004: 12-13)

Certain programme costs such as training are often funded by international donors. For example, NGOs (independently or together with the Department of Justice) have secured donor funding that deals with social context training and domestic violence.⁴⁰

Department of Safety and Security

Resources have been a problem in putting in place all the programmes identified in the various plans. Although there are SAPS officers on the ground, their ability to assist is limited by a shortage of resources such as vehicles.

Department of Social Development

Services have been constrained by limited resources, such as social workers.

Funding of NGOs by the government:

Some resources are directed by government towards partner organisations in civil society. To address problems of capacity, the state has provided limited funding to non-profit organisations to take on various functions.

Department of Social Development: This funding is often not enough to cover actual costs (Joint Committee on Improvement of Quality of Life and Status of Women, 15 May 2003).

⁴⁰ Law Race and Gender, in particular, receives funding from SIDA to conduct basic social context for magistrates, prosecutors and clerks at Justice College in Pretoria.

For example, the Department of Social Development is only able to facilitate funding (usually subsidies via provincial departments) for less than half the shelters for abused women and children run by NGOs and civil society (CASE 2000). Assistance is limited by resource constraints.

Department of Justice: The Department of Justice, together with a donor organisation, has recently participated in the establishment of a fund for NGOs working in gender based violence (Speech, Deputy Minister of Justice, 20 March 2003).

This scores a '1' as not all aspects of the Act have been budgetted for, all departments work within the constraints of limited resources and this has limited their ability to deliver on implementation plans. It is not clear that sufficient resources have been allocated for the targets set.

HUMAN RESOURCES

1

The effective implementation of the Domestic Violence Act requires sufficient, trained magistrates, prosecutors, court clerks, police officers, health workers, social workers and prison officials. Such training is not only needed on the letter of the law, but also on sexist attitudes and values. Given that state officials are implementing complex new acts that require a good understanding of gender relations, attitudes of officials have constituted a barrier to effective implementation. Research by the Centre for the Study of Violence and Reconciliation on the Domestic Violence Act is finding that a complex blend of cultural attitudes operate within discrete contexts. These can either assist or retard effective implementation of the law. Some of these attitudes relate to ideas of masculinity (Interview, Lisa Vetten). Effective implementation therefore requires sufficient, well-trained personnel (itself often meaning the transformation of attitudes through education and training). This is an ongoing process.

Department of Justice

Staff shortages continue to be experienced in Courts as magistrates and clerks often have to implement the Domestic Violence Act without additional human resources.

Justice College is the institution responsible for training magistrates and prosecutors, 'Social Context and Diversity Training' which addresses issues of gender and violence. However, this is funded by donors rather than government, it is not yet integrated as a compulsory part of the programme and there is no automatic follow-up training (CASE, 2000).

National guidelines for dealing with victims of sexual offences have been developed for all role-players: 'The National Policy Guidelines for Victims of Sexual Offences'. Subsequently, a more detailed training manual is being developed in 2003: The Integrated Training Manual. This has been developed with the assistance of all role players in the various government departments and civil society. In addition, the magistrates (the magisterial task-team) have developed guidelines for implementing the Domestic Violence Act in their courts (Interview, Department of Justice Gender Unit).

Training of judges falls under the Judicial Services Commission. Gender training has formed part of this training, but on an ad hoc basis.

Department of Health

Some training of health workers has occurred. Norms and Standards for dealing with victims of domestic violence offences have been introduced within the Primary Health Care package for South Africa. However, more comprehensive policies and guidelines are now being developed, as well as plans for enhanced training of all health-workers.

Department of Safety and Security

The South African Police Service faces general problems of under-staffing. Some training had occurred in relation to the Domestic Violence Act, and there are plans for enhanced training. However there remain problems with attitudes and capacity to implement the Domestic Violence Act.

Department of Social Development

Shortages of social workers have been experienced in the courts. Training on the Domestic Violence Act occurs under the auspices of the Victim Empowerment Programme and is ongoing (50 personnel were trained in 2002/3 according to the Departments 'Fact Sheet' on the Victim Empowerment Programme).

Problems with staffing and capacity to implement the Act mean that this scores a '1'.

RESEARCH

1

There has been an enormous amount of research conducted by civil society organisations, which government has been able to rely upon and respond to. In addition, government has conducted research through the Medical Research Council research on gender-based violence, and the Council for Scientific Research. Government has also entered into partnerships with NGO and university based research institutions. The OSW has also conducted research into compliance with the SADC Declaration on Violence Against Women.

Although important research takes place, and government is involved in this, there is not yet an overall co-ordinated research plan by government (Advisory Group Meeting, August 2003). As a result, this scores a '1'.

INVOLVEMENT OF CIVIL SOCIETY

2

Civil society is involved in many aspects of the state's work in gender-based violence. Some examples of this are set out below.

Law and policy

There was extensive involvement in drafting the new law and in advocacy in respect of the South African Law Commission and in Parliament.

Counselling and support

NGOs have traditionally worked in the area of counselling, advice and support. Government has entered into partnerships to facilitate some of this. For example, with Lifeline in providing the 'Stop Women Abuse' Helpline. Most shelters are provided by NGOs, with some financial assistance from government.

Training

Government enters into several partnerships with NGOs that assist in training court personnel or police officers.

Funding and support

In 2003, the Department of Justice announced its intention to expand its contribution to funding and support of NGOs working on gender-based violence, eg. in assisting in implementing legislation (Deputy Minister of Justice, 20 March 2003).

Research

Important research has been conducted by civil society institutions, eg. on the implementation of the Domestic Violence Act. This has assisted government.

Awareness-raising and education

Government and civil society collaborate in the annual 16 days of activism against gender-based violence.

Evaluation

The deputy minister requested the involvement of civil society in developing monitoring mechanisms to assess the impact of public information and education campaigns in 2003 (Deputy Minister of Justice, 20 March 2003).

Due to the extensive involvement of civil society and the openness of government to working with civil society in this area, this scores a '2'.

INFORMATION AND DISSEMINATION

1

Although information dissemination takes place, it does not have a wide enough spread and is not sufficiently well targeted (Advisory Meeting, August 2003). It finds a better coverage on ceremonial occasions and significant days such as Women's Day and sixteen Days of No Violence Against Women.

The state has been engaged in several public awareness campaigns, especially around Women's Day (9 August), the International day of no violence against women (25 November) and the '16 Days of No Violence Against Women'. For eg. in 1996, the Department of Justice held workshops with courts officials and in 1998 commissioned a special train to travel across the country with 'no violence' message.

In 2003, the deputy minister announced that government interventions would be expanded (Deputy Minister of Justice, 20 March 2003).

The Department of Justice has also assisted in funding a Stop Women Abuse Helpline, a project of LifeLine South Africa to provide anonymous counselling and advice.

The Guidelines on Sexual Offences are accompanied by an information brochure for survivors, informing them of what to expect from service providers.

The Department of Social Development prepared promotional material at the opening of the One-Stop Centres and organised events on International Women's Day (Department of Social development Fact Sheet: Victim Empowerment Programme).

The parliamentary joint monitoring committee on the improvement of the quality of life and the status of women has held regular hearings and consultations on gender – based violence (Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women, Report, May 2002).

This scores a '1' as there is scope to improve coverage and targeting of information.

MONITORING AND EVALUATION

1

Monitoring

Monitoring takes place within most departments in terms of keeping basic information. For example, the SA Police Services keeps statistics of domestic violence and of complaints against police officers (Crime Information Analysis Centre, December 2001) The Department of Justice records the numbers of interdicts obtained in the Magistrates Courts. There is also a process of recording prosecutions and convictions in the Sexual Offences Courts. However, this information is not always comprehensive or available in a user-friendly manner for gender purposes (Interview, Gender Unit, Department of Justice).

The Victim Empowerment Programme makes provision monitoring of its programmes.

The Parliamentary Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women has engaged in several study tours to monitor the implementation of the Domestic Violence Act (Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women, 2000-2003).

Evaluation

Government has undertaken periodic reviews of its work. In general, evaluations tend to be ad hoc, rather than systematic and built into plans.

Department of Justice

The Department of Justice has conducted/commissioned the following evaluations:

- Family Courts
- Awareness programme in Sexual Offences Courts (SOCA) (Department of Justice 'Five Years of Law Reform').

The deputy minister announced an intention to develop mechanisms to assess the impact of public information and education campaigns in 2003 (20 March 2003).

Department of Social Development

The Victim Empowerment Programme makes provision for evaluation of its programmes to commence in April 2003.

Department of Safety and Security

The Department has started to evaluate some of its domestic violence programmes.

Department of Health

There is a commitment to audit current levels of service delivery and to compile data, for example, amongst health workers in Gauteng. This has yet to occur.

This scores a '1' as effective and comprehensive monitoring and evaluation systems are not yet fully in place in all departments.

RAPE

INTRODUCTION

Research has found high levels of coercive sex in South Africa. Indeed violence in relationships is said to be so endemic that men and women often accept coercive and even violent sex as 'normal' (CIETafrica, 2000). For example, research in Gauteng found that more than a quarter of women (27%) and nearly a third of men (31%) agreed that forcing someone you know to have sex with you is never seen as sexual violence (CIETafrica, 2000).

Little direct evidence exists as to the actual incidence of rape in South Africa. South Africa certainly has one of the highest rates of reported rape in the world, with nearly 120 out of 100 000 women reporting a rape to the police (Stats South Africa, 2000). It is, at this stage, impossible to determine the actual incidence of rape and whether high reporting levels mean better policing or a very high incidence of violence. It has been argued by Rape Crisis that under-reporting is as high as 50% (<http://www.rapecrisis.org.za>), others have said that up to one in nine rapes are reported (Jewkes). However, more research is needed to understand the relationship between reporting levels and incidence.

The high level of gender based violence in our society has meant that there has been a high level of responses to the issue within government. In the past ten years there has been a substantial amount of work in government departments, and more recently, a more co-ordinated attempt to understand rape and develop a comprehensive and co-ordinated response across government departments. There are some success stories, some improvements in conviction rates – however, much more needs to be done before we can say with any confidence that we are reversing the tide of gender based violence.

International Standards

The Declaration on the Elimination of Violence Against Women and the Beijing documents set out a range of actions required by states to reduce and eliminate sexual violence. These include the development and strengthening of laws that provide swift and effective access to courts (Beijing + 5, para 69(b) and (d)), fair procedures, (para 69 (d)), 'just and effective remedies' and 'penal, civil, labour and administrative sanctions' to punish perpetrators and redress the harm caused to women (para 69 (d)).

States are also required to develop 'preventive approaches' of a 'legal, political, administrative and cultural nature' that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur (para 69 (d)). They should ensure that law enforcement officers and public officials are trained to sensitize them to the needs of women (Declaration, article 4(i)). The role of health workers is also mentioned (Beijing +5, para 69 (i)).

States are required to inform women of their legal rights in seeking redress (Declaration, article 4(d)).

States should also provide adequate resources in government budgets for activities related to the elimination of violence against women (Declaration, article 4(h)).

States should promote research, collect data and compile statistics on the prevalence of violence against women. They should encourage research on the causes, nature, seriousness and consequences of violence against women and on the effectiveness of measures implemented to prevent and redress violence against women. These statistics and findings of the research must be made public (Declaration, article 4(k); Beijing +5, para 69 (f)).

Civil society should be included in this work. States should recognize the important role of the women's movement and non-governmental organizations wide in raising awareness and alleviating the problem of violence against women. They should facilitate and enhance the work of the women's movement and non-governmental organizations and cooperate with them at local, national and regional levels (Declaration articles 4(0) and (p)).

RATIFICATION

X

Not applicable.

REPORTING

1

South Africa is required to report on this as part the Beijing reporting process. As South Africa is behind on its reporting, this scores a '1'.

POLICY

2

The South African Constitution guarantees freedom from violence from public and private sources. Government has committed itself to reducing violence against women and the Departments of Justice, Safety and Security (SAPS), Health and Social Development and the National Prosecution Authority have particular responsibilities. General policy commitments have been made in all departments. The Cabinet has also approved, in 2002, an 'Anti-Rape Strategic Framework' that calls for a balanced approach in dealing with victims and perpetrators and which sets out short, medium and long-term policy objectives. This affects six government departments.

Department of Justice

Justice Vision 2000 commits the government to reviewing law and procedures relating to rape and sexual violence. The Gender Policy of the Department of Justice sets out the following policy commitments:

- development of an effective legal framework for addressing the scourge of sexual violence against women, including
 - reviewing the substantive and evidentiary laws of rape
 - reviewing legal procedures related to sexual violence
 - improving service provision for victims
 - designing structure to ensure justice for victims and a fair hearing for the perpetrator.

The Justice Gender Policy also commits itself to ensuring that research takes place in the causes of the high rape statistics.

The following policy decisions have been made:

- The laws relating to sexual violence have been referred to the SALRC and should go before cabinet in 2003.
- National Policy Guidelines for Victims of Sexual Offences were completed in 1998. These seek to establish a cohesive framework for all role players in dealing with sexual offences.
- A commitment to the national roll-out of Sexual Offences Courts has been made.⁴¹

⁴¹ Justice Gender Policy

A more detailed policy on the procedural and substantive law of rape has been developed in the South African Law Reform Commission, some of this is currently being discussed in parliament.

Department of Safety and Security

The Department of Social Development has identified the reduction of the incidence of crimes against women and children as one of its four key strategic priorities for the medium term.⁴² Additional policy objectives are found in the SAPS Strategic Framework and cascade down to provincial strategies.

Department of Health

See the comments under domestic violence.

Department of Social Development

See the comments under domestic violence and the Victim Empowerment Programme.

This scores a '2' as there is a co-ordinated policy framework, as well as departmental policies.

LAW

1

The South African Law Commission has reviewed the substantive and procedural law of rape and sexual assault and the Bill is currently before Parliament.

The Domestic Violence Act clearly states that marital rape is a criminal act of 'rape'. Additional reforms have been effected to the law relating to bail and to sentencing in the Criminal Procedure Act. These make it more difficult to obtain bail in various cases of rape, and impose a minimum sentence for the same categories of rape.

This scores a '1' as the law reform process is incomplete.

DEVELOPMENT OF A PLAN

1

The Anti-Rape Strategic Framework provides a broad plan, but government is still developing detailed plans in all government departments in terms of an integrated inter-departmental approach that focusses on prevention, response and support (Advisory Group Meeting, May 2004).

Department of Justice

No general plan exists for dealing with sexual violence and rape. However separate plans can be found in different business units. The integrated justice system (which consists of a number of government departments) set as a priority in 2003, increasing the efficiency of the courts, especially regarding the handling of sexual assault matters (National Medium Term Expenditure Estimates, 2003, Vote 24, 537). The plans for this include the development of a Management Information System for Courts. The needs of vulnerable groups remain a focus in this Plan, including strengthening measures relating to sexual offences (at 537). These include the continual establishment of dedicated Specialised Sexual Offences Court (at 537).

Safety and Security

The South African Police Service underwent a strategic planning process after January 2000 in which the reduction of crime against women and children was identified as a key strategic priority. The implementation of this is integrated across the operational activities of the SAPS

⁴² Estimates of National Expenditure Vote 23 Safety and Security

(administration, crime prevention, operation and response services, detective services and crime intelligence and protection services) rather than in a single programme (Estimates of National Expenditure 2003, Vote 23, 479-480). The 2000-2003 Strategic Plan looks first to combating crime in 'hot spots' where crime is disproportionately high, and thereafter to building capacity and implementing programmes. This approach is augmented by comprehensive national strategies to address, inter alia, crimes against women and children (at 480-1). Safety and Security has a plan in place for addressing the national anti-rape strategy.

Department of Health

The Department of Health (Maternal, Child and Women's Health) is currently reviewing its policy in relation to the treatment of survivors of rape and other sexual offences, and the detection of sexual violence generally. This is in terms of a plan for addressing gender based violence.

Department of Social Development

This Department has a plan in place for the Victim Empowerment Programme.

This scores a '1'. Although several plans are in place, others are in the process of development.

TARGETS

2

Targets are in place for the plans that exist. In addition the integrated justice system (which consists of a number of government departments) set as a priority in 2003, increasing the efficiency of the courts, especially regarding the handling of sexual assault matters (National Medium Term Expenditure Estimates: Vote 24, 537).

Department of Justice

The Gender Policy sets general targets, together with time frames, eg. on the review of the law of sexual offences. No more detailed indicators have been set.

In the National Prosecution Authority (Sexual Offences and Community Affairs Unit), targets were set for specialised sexual offences courts to increase conviction rates, to reduce the time between arrest and finalisation of a case and to reduce secondary victimisation (ibid, 537).

Safety and Security

The Medium Term Expenditure Framework identifies priorities and puts in place identified outputs and indicators. Although none of these relate specifically to crimes of violence against women, the integrated approach means that the idea of improved policing includes the idea of improved policing for women. Specific programmes, such as the strengthening of units to deal with sexual abuse are mentioned, together with indicators for improving the detection rate and the disposal rate. In addition, South African Police Service has developed a National Plan for addressing rape which has targets in place (Interview, Commissioner, Social Crime Prevention).

The Department of Safety and Security

Indicators and targets have been established within the Victim Empowerment Programme.

As targets seem to be in place for all current plans, this scores a '2'. Although further plans and targets are being developed, we have not scored a '1' as many plans are already in place and the need for targets well established.

INSTITUTIONAL MECHANISMS

1

South Africa has recognised that violence against women is a cross-cutting issue and that several government departments have different responsibilities for addressing gender based violence. Institutional mechanisms have been identified for the implementation of various policy commitments and laws. Not all of these are fully in place.

Co-ordination

On specific issues, inter-departmental teams and programmes have been formed. For example, an inter-departmental team, under the auspices of the Department of Justice, drew up the Guidelines for Handling Sexual Offenders (Department of Justice, *Five Years of Law Reform* para 8). More recently the South African Police Services, together with the Department of Education and the Department of Social Development, have developed integrated programmes to address rape and domestic violence (Interview, Commissioner, Social Crime Prevention, SAPS). And inter-departmental management team co-ordinated by the NPA (SOCA) is also in place.

Part of the co-ordinated response is the establishment of Thuthuzela Care Centres providing a single point of services to survivors of sexual offences.

Department of Justice

See the comments under 'Domestic violence'.

Specialised Sexual Offences Courts are being set up to deal with rape and sexual assault cases involving women and children. Two pilot courts established in 1993 and 1994 have been evaluated and a national roll-out is in process. About 29 specialised sexual offences courts exist across the country and more are anticipated.

The National Director of Public Prosecutions has established a specialised directorate, the Sexual Offences and Community Affairs Unit, responsible for cases of violence against women and children.

Department of Safety and Security

The Department of Safety and Security has established special investigative units – 48 Family Violence, Child Protection and Sexual Offences units have been established with 744 detectives (Estimates of National Expenditure, 2003, 575). Additional units are still being rolled out.

Department of Health

Within the Department of Health, the issue of gender-based violence is recognised as an aspect of Maternal, Child and Women's Health and falls under the national Maternal, Child and Women's Health Directorate. Women access health services in relation to gender based violence in local clinics.

Although institutional mechanisms have, in all instances been identified, they are not yet all in place. This scores a '1'.

BUDGET

1

Overall, it is difficult to assess exactly how many financial resources have been allocated to sexual offences as the budget of, for example the Department of Justice, is not sufficiently disaggregated by programme or gender (Parenzee, 2004:23). However, it seems as if there are not enough resources to meet the targeted plans.

Department of Justice

Allocations to Court services and the National Prosecuting Authority have increased each year. The fact that Sexual Offences Courts and Family Courts are now being resourced signifies a greater budgetary allocation to these. Overall, personnel costs constitute the highest portion of the budget (52% on average) (Estimates of National Expenditure, 2003, 539).

Allocations and expenditure for the delivery of Sexual Offences Courts and Family Courts are said to be inadequate (IDASA, 2001, Parmezee, 2004).

Donor funds.

A lot of programme money (such as training and awareness creation) is raised through donor funds. For example, funds were raised to develop specialised training manuals for prosecutors on domestic violence and sexual offences (for the Sexual Offences and Community Affairs Division of the NPA).

Department of Safety and Security

Budgetary considerations have affected the ability of South African Police Services to implement plans fully. There are not always sufficient trained officers or vehicles, for example.

Department of Social Development

Budgetary allocations have constrained the ability to deliver fully on all programmes.

This scores a '1'. Although money is available to address gender based violence, it is reported to be insufficient to fulfil the policies and plans (Advisory Group, August 2003; Interview, Commissioner Social Crime Prevention).

HUMAN RESOURCES

1

Human resources issues apply to personnel in the SA Police Services, the National Prosecution Authority, the courts and health workers. This involves three government departments. A key issue with human resources in the area of sexual violence is appropriate training to enable staff to address the needs of survivors appropriately. In general Guidelines have been developed, and some training has occurred. More training and capacity-building is required. A second issue relates to adequate staff. Here staff shortages, especially of trained staff, still occur across departments.

Department of Justice

The Department of Justice has engaged in several initiatives to improve the capacity of various role-players in the criminal justice system. These include the development of 'National Policy Guidelines for Victims of Sexual Offences'. These guidelines, drawn up with members of five other government departments and NGOs are used to educate 'police officers, health workers, welfare workers and state prosecutors in dealing with the victims of sexual offences from the moment they enter the criminal justice system as victims, to the time that the Department of Correctional services has to consider parole for offenders' (National Policy Guidelines, para 8). They aim to combat secondary victimisation and to make the criminal justice system more user-friendly to victims of sexual offences. They have recently been developed and updated in the preparation of the 'Integrated Training Manual'.

Justice College, responsible for training magistrates and prosecutors, provides 'Social Context and Diversity Training' has components which address gender and violence (Department of Justice, UNAID and BAC, Press release 5 August 2002).

A study of the specialised Sexual Offences Courts in the Western Cape in 2001 found that staff shortages were experienced and that training for personnel tasked with implementing the courts was still needed (Idasa, 2001). Funding has now been raised to develop specialised training manuals for prosecutors on domestic violence and sexual offences (for the Sexual Offences and Community Affairs Division of the NPA) (Media Release UNAID 5 August 2003). Training of prosecutors also occurs on an ongoing basis using donor funds (www.doj.gov.za 'Administration of Justice').

Department of Health

Some training of health workers has occurred. Norms and Standards for dealing with victims of sexual offences have been introduced within the Primary Health Care package for South Africa. However the Department of Health has identified the need for more comprehensive guidelines and training.

Department of Social Development

Social workers under the Department of Social Development provide counselling in the Sexual Offences Courts. Problems of staff shortages have been experienced (Sadan, Dikweni and Cassiem,).

The Department of Social Development also developed Procedural Guidelines to Social Welfare Agencies and Appropriate NGOs in Assisting Victims of Rape and Sexual Offences. These form part of the National Policy Guidelines for Victims of Sexual Offences.

This scores a '1' because of the need for ongoing capacity building and staffing.

RESEARCH

1

The Justice Gender Policy commits itself to ensuring that research takes place into the causes of the high rape statistics. The CEDAW Committee had also recommended that research take place into the causes and the determination of solutions. However, very little research has been conducted under the auspices of Department of Justice, other than the extensive legal research by the South African Law Reform Commission leading to recommendations for law reform (Project 107).

Statistics SA compiled statistics (from government and non-government sources) on rape in South Africa (Stats SA, 2000). No independent research took place and there is not government research on the incidence of rape/sexual violence.

The Crime Information Analysis Unit of SAPS, together with the HSRC, has carried out research on the relationship of alcohol and drugs to serious crime, including rape, the withdrawal of cases, the profile of offenders etc. (Crime Information Analysis Centre, 2001).

The National Anti-Rape Strategy does give rise to a research agenda, which is in place, and there area also plans to consolidate research by government and NGOs into a single data base (Interview, Commissioner, Social Crime Prevention, SAPS).

While some research has been undertaken by government, and there are plans for a more comprehensive approach across departments and with NGOs, this is still in the process of development.⁴³ This scores a '1'.

⁴³At the May 2004 Advisory Group meeting, we were advised that a comprehensive research plan was in place and being implemented. We have not been able to locate this document, despite requests.

INVOLVEMENT OF CIVIL SOCIETY

2

Civil society has been involved in many aspects of the development of policy, law reform and implementation strategies.

Policy

There was some involvement in and consultation on the development of Justice Vision 2000 and the National Gender Policy in the Department of Justice.

Law Reform

Members of civil society have also been involved in the South African Law Reform Commission's Committee that drafted the new laws relating to rape and sexual assault and through making submissions that inform the reforms.

Professional development and training

The development of Guidelines for Handling Sexual Offences included five government departments and NGO representatives from the National network on Violence Against Women. Training of state personnel has been conducted in partnership with civil society organisation, eg. the Social Context and Diversity Training provided at Justice College was conducted by a University Research Programme.

Funding and support

In 2003, the Department of Justice announced its intention to expand its contribution to funding and support of NGOs working on gender-based violence, eg. in assisting in implementing legislation (Deputy Minister speech, March 2003).

Public education and campaigns

Government and civil society work together on public campaigns. For example, government and civil society collaborate in the annual 16 days of activism against gender-based violence. In 2002, this included a pledge and a fund-raising campaign.

Public hearings

The Parliamentary joint monitoring committee on the improvement of the quality of life and the status of women has held public hearings on violence against women and the problems with current laws.

Evaluation

The deputy minister requested the involvement of civil society in developing monitoring mechanisms to assess the impact of public information and education campaigns in 2003 (Deputy Minister speech, March 2003).

The involvement of civil society in the area of gender-based violence has been extensive. This scores a '2'.

INFORMATION AND DISSEMINATION

1

See the comments in relation to domestic violence.

There are various information initiatives. For example, the Gender Unit of the Department of Justice is involved in developing a Charter for Victims (informing people about their rights) and the Sexual Offences and Community Affairs Unit of the National Prosecuting Authority developed an information brochure for survivors of sexual violence.

However, there remains a problems with accessing information about policies and strategies from government and information campaigns could still be better co-ordinated and targeted (Advisory Panel, August 2003). This scores a '1'.

MONITORING AND EVALUATION

1

Monitoring

Government maintains basic statistical records and monitors reports to the South African Police Service, prosecutions and convictions. For example, records of reported cases of rape. Docket analysis by South African Police Service provides further details of rapes (such as whether victim and offender know each other, role of drugs and alcohol) (Crime Information Analysis Centre, 2001). The Department of Justice also monitors the prosecution and conviction rate in courts, especially the specialised offences courts (currently showing an increase from 50% in 1997/8 to an average of about 67% in 2003) (B Pithey, senior state prosecutor. <http://www.abc.net.au/pm/s782918.htm>).

Evaluation

Evaluations of government performance and progress occur, but these still need to be more integrated into planning (Interview, Commissioner, Social Crime Prevention).

Examples of evaluation include the evaluation by the Sexual Offences and Community Affairs Unit of the SA Police Services of its public awareness campaign. The deputy minister in the Department of Justice has announced an intention to develop monitoring mechanisms to assess the impact of public information and education campaigns in 2003 (Speech, March 2003).

Although all departments are engaging in monitoring and some evaluation, a comprehensive monitoring and evaluation system is still being co-ordinated and developed. This scores a '1'.

SEXUAL HARASSMENT

INTRODUCTION

Sexual harassment is a problem in the workplace, in schools and in public places.

Harassment in schools has been a particular problem. A Gauteng study in 1998 found that one in every three schoolgirls had experienced sexual violence at school, although only 36% had reported the incident to anyone (CIETafrica, 1999). A Human Rights Watch report published in March 2001 found that

On a daily basis in schools across the nation, South African girls of every race and economic class encounter sexual violence and harassment at school that impedes their realisation of their right to education (Human Rights Watch, 2001).

While privilege did not protect a learner from harassment, poverty rendered a learner more vulnerable.

Sexual harassment in the workplace falls under the Department of Labour (the Employment Equity Directorate and the Commission for Conciliation, Mediation and Arbitration) and the Department of Justice (the Labour Court), general complaints of sexual harassment fall within the Equality Courts under the Department of Justice and the specific problem of sexual harassment in schools falls to the Department of Education.

International Standards

Generally the international frameworks relating to violence against women apply to sexual harassment.

The Declaration on Violence Against Women requires states to develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women should also be provided with access to justice and to just and effective remedies.

States should also inform women of their rights (Declaration, Article 4(d)) and engage in research to develop a better understanding of the root causes of all forms of violence against women in order to design programmes and take measures towards eliminating those forms of violence (para 4(f)).

RATIFICATION

X

Not applicable

REPORTING

1

South Africa is required to report on this as part the Beijing reporting process. As South Africa is behind on its reporting, this scores a '1'.

POLICY

1

The Constitution guarantees freedom and security of the person (including protection) from violence from public and private sources) and freedom from sex and gender discrimination (which includes harassment). This relates to harassment in very general terms.

Department of Labour

The Employment Equity Act was passed as a result of government policy. The Code of Good Practice on the Handling of Sexual Harassment Cases provides policy guidelines to employees on how to address the issue.

Department of Education

There are general policy commitments to reducing sexual violence in schools (Department of Education, 2002-2004 Strategic Plan). While policy generally outlaws sexual harassment, there is no comprehensive national policy on the prevention and eradication of sexual harassment in schools.⁴⁴ There are draft national policy guidelines for dealing with the handling of sexual harassment in schools, but not for its prevention or eradication. A national policy guideline for schools and FET colleges is currently being prepared by the Gender Focal Point of the Department of Education (Email, Gender Focal Point, Department of Education).

Department of Justice

The Promotion of Equality and Prevention of Unfair Discrimination Act was passed in terms the provision of the Constitution that outlawed gender discrimination in general.

This scores a '1' as there are policy gaps, especially in relation to sexual harassment in schools where there is still no comprehensive national policy to address the problem holistically (prevention, response and support).

LAW

2

Laws passed to protect women against violence in the workplace include the Employment Equity Act 55 of 1998, which provides that harassment of an employee is a form of unfair discrimination. This is accompanied by the Code of Good Practice on the Handling of Sexual Harassment issued in terms of the Labour Relations Act.

Protection against sexual harassment generally is also provided under the Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000.

The Employment of Educators Act 53 of 1998, amended in 2000, explicitly makes sexual harassment a form of serious misconduct (s 17): "An educator shall be dismissed from employment if found guilty of engaging in a sexual relationship with a learner, with or without the consent of such a learner". Sexual harassment also constitutes misconduct by learners under the South African Schools Act 84 of 1996). No Code or Guidelines similar to the Employment Code has been developed.

The legal framework is comprehensive and scores a '2'.

⁴⁴ We were advised at the May 2004 Advisory Group that there might now be a comprehensive national policy. We have had no success in confirming finding this or in obtaining telephonic or email responses from members of the Department.

DEVELOPMENT OF A PLAN

1

Department of Education

There are various initiatives to address the problem of sexual violence in schools, which are set out in the Submission of the Department of Education to the Task Group on Sexual Violence in Schools, 11 March 2002, and in the 2002-2004 Strategic Plan. However, no detailed and comprehensive national plan or set of plans seems to exist.

Department of Justice

The Department of Justice has developed a Plan for the roll-out of Equality Courts that are able to hear cases of sexual harassment (that do not involve an employer/employee relationship) in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000.

In the absence of a detailed national plan to address the problem of sexual harassment in schools, this scores a '1'.

TARGETS

1

Department of Education

No targets have been set for reducing sexual harassment as no detailed national policy and plan exist. However, there are general targets on general issues relating to safety in schools.

Department of Justice

We are not aware of any targets for establishing Equality Court for enhancing their capacity to address sexual harassment.

The absence of detailed targets for addressing sexual harassment in schools scores a '1'.

INSTITUTIONAL MECHANISMS

1

The institutional mechanisms for addressing the problem of sexual harassment are in place or are being rolled out over time.

Department of Labour

Sexual harassment complaints fall within the Commission for Conciliation, Mediation and Arbitration. These have been established under the Department of Labour.

Department of Education

The handling of complaints takes place within the schools (primarily under the Life Skills Educators) and the relevant District Office of the Department of Education. The National Department and the South African Council of Educators also play a role where required in setting policy and in monitoring incidents and enforcing disciplinary measures. (Interview, Gender Focal Point, Department of Education).

Department of Justice

The handling of sexual harassment complaints falls within the Labour Courts and the Equality Courts. The latter are in the process of being established.

Institutional mechanisms scores '1' as not all are in place. For example, not all schools have equipped Life Skills Educators and there are only a limited number of Equality Courts in operation.

BUDGET

1

Department of Labour

There is a budget for the operation of the Commission for Conciliation, Mediation and Arbitration

Department of Education

In the absence of a fully elaborated policy and plan, there cannot be a fully elaborated budget. In addition, resources limit the provision of fully capacitated Life Skills Educators in all schools.

Department of Justice

Resource constraints have limited the roll-out of Equality Courts. Donor funding has been used for training programmes for presiding officers and clerks and for information dissemination.

This scores a '1' in the absence of a full elaborated and costed policy and plan on sexual harassment in schools and in view of the fact that budgetary constraints have meant that not all the personnel and institutional mechanisms that have been identified to address the problem of sexual harassment are in place.

HUMAN RESOURCES

1

Department of Labour

Commissioners who hear cases in the Commission for Conciliation, mediation and Arbitration have received training on sexual harassment.

Department of Education

Life Skills educators are equipped to deal with sexual harassment, but not all schools have functioning Life Skills Educators, either due to staffing issues on redeployment, inadequate training or lack of support for people in the position (Advisory Group Meeting, August 2003). The Department has developed school-based modules on 'Managing Sexual harassment and Gender based violence', one for educators and another for learners. These are available nationally. A Training and Information Manual has been developed as part of the Tirisano programme.

Department of Justice

A large number of Equality Court presiding officers have been trained in general terms about the Equality Act.

Problems of staff shortages and capacity in addressing sexual harassment score a '1'.

RESEARCH

1

Department of Labour

We are not aware of any research into sexual harassment issues or cases.

Department of Education

In 1996, the Gender Equity Task Team was commissioned by the Department to analyse the education system from a gender perspective. It found the problem of sexual violence in schools to be 'severe and systemic' (Wolpe, 219). However, it noted that there was

insufficient data about the prevalence of violence in schools or who the perpetrators were. No further research seems to have been conducted by government. However, an international human rights NGO has produced a research report on the issue (Human Rights Watch, 2001).

As some policy has been developed, this would entail policy based research.

Department of Justice

No research on sexual harassment cases, although the Courts have just been established. However a website has been established by the Department that should capture the incidence of cases.

While there has been some research, the absence of an ongoing research programme scores a '1'.

INVOLVEMENT OF CIVIL SOCIETY

2

Department of Labour

The drafting of the Sexual Harassment Code was an open process in which civil society was able to play a role, and the process drew on research by NGOs. Participation was also possible in NEDLAC.

The Department of Labour has a civil society fund which provides money for Civil society organisations to engage in training etc.

Department of Education

Parents can be involved in policy-setting in schools through school governing bodies. NGOs have been involved in developing some materials etc.

Department of Justice

The drafting the Act was an open and consultative process. Civil society (universities and NGOS) participated in the training of presiding officers of Equality Courts.

There is space for civil society involvement in all areas of relevant activity. The absence of activity in some areas is not necessarily due to a reluctance by government, but a dearth of NGOs. As it is government openness that being measured here, this scores a '2'.

INFORMATION AND DISSEMINATION

1

Department of Labour

The Code is available on the Government website. We are not aware of any more popular form of dissemination.

Department of Education

Pamphlets and brochures have been developed for dissemination in schools, although they are not yet in all schools. The Department has also established a website for girls at school.

Department of Justice

A website has been set up on the Department's website that will disseminate information about the Courts. Some publicity has occurred in newspaper inserts, but this has not been specific to sexual harassment.

This scores a '1' as wider dissemination and targetting of the relevant information seems necessary.

MONITORING AND EVALUATION

1

Monitoring

Very basic monitoring of sexual harassment takes place in terms of complaints and cases brought to the CCMA or courts.

Department of Labour

The cases in the CCMA are recorded.

Department of Education

The Department of Education is beginning to monitor incidents of sexual harassment and violence in schools on a monthly basis, and is setting up a system to do this. However, this only covers complaints and disciplinary cases.

Department of Justice

The Department records all cases in the Labour Courts, and will maintain a record of cases in the Equality Courts.

Evaluation

There is no systematic evaluation of mechanisms that address sexual harassment. An ILO evaluation was conducted into the CCMA and Labour Courts, but this was not specific to sexual harassment.

We are not aware of any evaluation taking place in the Department of Education.

This scores a '1' as monitoring and evaluation systems are still not fully established and comprehensive.

TRAFFICKING

INTRODUCTION

In a recent report on trafficking, the UN Special Rapporteur on Violence Against Women noted that trafficking in women flourishes in many less developed countries because of the vulnerabilities arising from women's lack of access to resources, poverty and gender discrimination. Citing globalisation and deepening inequality as key contributing factors, she cautions against the dire human rights consequences for women (E/CN.4/1997/47/Add.).

Little research has been available on trafficking of women within and between African countries. However, recent research on trafficking in the Southern African region by Molo Songololo (2000), and by the International Organisation on Migration (2003) has begun to expose the scope and diversity of trafficking in the region. Importantly, the research found that trafficking is more pervasive than previously thought and that South Africa is the main destination country. Trafficking involves international crime syndicates, including Chinese Triad groups (Thailand, China) and Russian organised crime (E Europe) as well as local trafficking across borders by local syndicates. Refugees are centrally involved in local trafficking. Women and children are especially vulnerable to the recruitment tactics of the traffickers because civil unrest and economic deprivation in the region leaves them with few opportunities at home (IOM, 2003).

In its first country report to CEDAW, South Africa admitted to having no explicit laws addressing cross-border trafficking. In its concluding comments on the report, the Committee remarked that insufficient attention was being paid to this and requested that the legal situation and the situation of trafficked women be addressed and reported on in South Africa's next report (Report, paras 125 and 126).

International Standards

The Trafficking Protocol, developed to supplement the UN Convention Against Transnational Organised Crime, requires states to adopt legislative and other measures to establish criminal offences relating to trafficking (as defined in art 5(1)). Laws are also required to assist and protect victims of trafficking, their repatriation and for prevention measures (articles 6-13).

In its General Recommendation no. 19 on violence, CEDAW calls upon states parties to report on the preventive, punitive and rehabilitative measures taken to address trafficking (para 14, 25 (g) and (h)). In addition, Beijing +5 calls for strengthened legislation to address this (para 70 (a) and (c)), as well as a 'comprehensive anti-trafficking strategy' consisting of, inter alia, legislative measures, prevention campaigns, information exchange, assistance and protection for, and reintegration of the victims and prosecution of all offenders involved (para 70(b)). This should be managed by a 'national co-ordinating mechanism, for example, a national rapporteur or an inter-agency body, with the participation of civil society ... to report on data, root causes, factors and trends in violence against women, in particular trafficking (para 70 (d)).

In general, trafficking should not be seen merely as a problem of crime control, but as a human rights issue. Women who are trafficked should not be treated as criminals, but a human rights approach should be adopted in dealing with trafficked girls and women.

RATIFICATION

2

The main convention dealing with trafficking in people is the UN's Convention on Transnational Organised Crime adopted by the UN General Assembly in December 2000. The Convention is supported by two protocols, including the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children. South Africa has ratified the Convention and both Protocols.

This scores a '2' as the Convention has been ratified.

REPORTING

X

Not applicable as no reporting mechanisms established.

POLICY

1

Department of Justice

The 1999 *Gender Policy Statement* of the Department of Justice includes a policy commitment 'to create a legal environment to eliminate all forms of trafficking in women and children'. This will

- 'ensure that all women and girl children enjoy the right to freedom and security of the person regardless of economic or occupational status;
- contribute towards the promotion of national health by minimising the spread of HIV and other STDs;
- help to eradicate the exploitation and abuse of, and discrimination against, women involved in prostitution or sex work, and thus enable SA to comply with article 6 of CEDAW;
- Enable us, as a department, to comply with our obligations in terms of the implementation of the Beijing Platform For Action' (Department of Justice, May 1999).

This is a policy commitment, rather than policy adopted by the cabinet. However, the deputy minister placed the issue on the agenda of the South African Law Reform Commission, and supported the law reform process, and, of course, the Convention has been signed.

There seem to be no detailed trafficking policies in other departments. At present, policing of trafficking currently occurs under outdated laws (which do not include trafficking as a crime). The Department of Home Affairs, the South African Police Services and the National Prosecution Authority thus treat people who are trafficked as 'illegal immigrants' and deport them. This even applies to children. There is no procedure to refer them to the Department of Social Development. All role-players are awaiting the SALRC process to assist in the development of appropriate policies on trafficking (Interview, South African Law Reform Commission).

The Department of Labour's draft White Paper on a National Child Labour Action Programme for South Africa addresses the issue of trafficking of children and recommends several actions to be taken by various government departments (Section 4(3), recommendation 42-47). However, this is not a formal policy document

There is not yet a policy that directly addresses trafficking. However, there are broad policy commitments and an enabling policy framework (in the Constitution). A process of policy

development has commenced through the South African Law Reform Commission's work. Hence this score '1'.

LAW

1

There is some legislative protection against trafficking in South Africa. This includes the *Sexual Offences Act*, laws dealing with aliens control and refugees and child care legislation. However, South Africa has no legislation specifically dealing with trafficking in people. This was acknowledged in South Africa's first country report to CEDAW (SA Report, article 6). The South African Law Reform Commission is currently looking at this as part of its review of the *Sexual Offences Act*. It devoted a chapter to Trafficking in its Issue Paper on 'Sexual Offences: Adult Prostitution' (SALRC, 2002). This highlights the gaps in our law, especially in relation to the investigation and prosecution of offences relating to trafficking and to assisting and protecting victims of such trafficking (SALRC, 2002, para 9.60). The SALRC notes that it is especially in the latter area that South Africa seriously lags behind international standards and duties imposed by human rights instruments. A second law reform process has started, with the SALRC currently working on a comprehensive Issue Paper on Trafficking.

Trafficking in children is further developed and will be dealt with in the Sexual Offences Bill (Department of Justice) and the Children's Bill (DSD), neither of which have been passed by Parliament.

The South African Law Reform Commission recommends the formulation of specialised legislation to address trafficking for prostitution and other purposes (domestic, manual or industrial labour, as well as marriage or other intimate relationships) (SALRC, 2002, para 9.62).

The incomplete legal framework scores a '1'.

DEVELOPMENT OF A PLAN

0

There are currently no plans in any of the relevant departments. The National Child Labour Action Programme addresses issues of trafficking of children and sets out issues for various government department to take up, however, this does not amount to a plan. The NPA is also seeking to co-ordinate the development of plans (Advisory Groups Meeting, May 2004). Once a comprehensive report emanates from the SALRC, and detailed policies decided upon, then detailed plans can be made.

Although there been some activity, no plans have been developed. Hence this scores a '0'.

TARGETS

0

As the plans are still being developed, no targets have been set.

INSTITUTIONAL MECHANISMS

1

The law reform process is occurring within the SALRC, in conjunction with the Department of Social Development (children) and the Department of Justice (children and adults). Other role-players, including the Department of Home Affairs, the National Prosecution Authority and South African Police Service will be drawn into this process. Policing of trafficking falls

within the South African Police Services Desk on 'Trafficking in Human Beings', although its work is limited by the legal framework.

In general appropriate mechanisms can only be fully identified once new policies and laws, as well as a plan, are in place.

This scores a '1' in so far as some policing mechanisms are in place and a mechanism is in place for the law reform process.

BUDGET

1

Appropriate budgetary allocation can only be scored on the completion of the policy and law reform process. However, as there has been some budgetary allocation to existing policy development and law reform processes, this scores a '1'.

HUMAN RESOURCES

1

There are personnel within the South African Law Commission on the Sexual Offences Project and representatives of the various government role-players participate within this. However, a detailed assessment of human resources cannot be made in the absence of detailed policies and programmes.

As there are some human resources devoted to policy development and law reform, this scores a '1'.

RESEARCH

1

The South African Law Commission has engaged in research around a legislative framework, and is currently working on more a comprehensive and inclusive (of government role-players) research project on 'Trafficking'.

The Department of Social Development is also considering the issue in relation to the Children's Bill, and the Department of Labour has done some research in relation to the National Child Labour Action Programme.

The OSW has conducted some research and has identified the need for more research on the issue of trafficking in South Africa (OSW, Advisory Group, August 2003).

This scores a '1' as some research being undertaken for the law reform process, however more is required in order to understand all aspects of trafficking.

INVOLVEMENT OF CIVIL SOCIETY

2

Civil society is involved in the law reform process on sexual offences (sex work). The SALRC called for comment on its July 2002 Discussion Paper and will do the same with its proposed discussion paper on trafficking. NGOS are fully recognised role-players within the law reform process. However, this substance of the process has barely started so there has been little participation thus far.

This scores a '2' as government is open to civil society participation in the relevant processes.

INFORMATION AND DISSEMINATION

1

The initial SALRC Issue and Discussion paper on Sexual Offences were available for public comment, but this did not relate directly to trafficking. The draft White Paper on a National Child Labour Action Programme is also available for comment. There is no more extensive information dissemination yet. Hence this scores a '1'.

MONITORING AND EVALUATION

0

No specific monitoring and evaluation exists in the absence of a detailed plan. Hence this scores a '0'.

AFRICAN CHARTER ON THE RIGHTS OF THE CHILD art XXVII

INTRODUCTION

South Africa faces a huge problem of the sexual abuse of children. However, this section of the report looks specifically at sexual exploitation, especially child prostitution and the use of children in pornography.

International Standards.

This section assesses progress in relation only to article 27 of the African Charter on the Rights and Welfare of the Child. This refers to the protection of the child against sexual exploitation and sexual abuse, especially in regard to prostitution and pornography. It requires the state to take measures to prevent sexual exploitation.

RATIFICATION

2

South Africa ratified the African Charter on the Rights and Welfare of the Child on the 7th January 2000

REPORTING

0

South Africa has not reported under the African Charter on the Rights and Welfare of the Child yet. The first report was due early in 2002.

Late reporting scores a '0'.

POLICY

1

South Africa has extensive policy commitments to the protection of children at a universal level. The South African Constitution includes the rights of every child to be protected from maltreatment, neglect, abuse or degradation (section 28). However, there do not seem to be more detailed policy frameworks. In addition, South Africa has signed though not ratified the UN Convention on the Rights of the Child's Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, which came into force on 18 January 2002.

Prostitution

New policies are reflected in the new Bills discussed in the previous section. However, there is no detailed policy on the prevention and eradication of child prostitution.

Pornography

There seems to be no policy that targets children in pornography.

The National Child Labour Action Programme recommends that a National Policy Framework be drawn up under the lead of the Department of Social development once the Various Bills relating to Children and Sexual Offences are passed by Parliament (Recommendation 30). Various policy and other recommendations were also included in the Final Report of the Parliamentary Task Group on Sexual Abuse of Children (June 2002).

This scores a '1' in the absence of the development of detailed policy frameworks.

LAW

1

Child Prostitution

Child prostitution is currently prohibited under the Sexual Offences Act (23 of 1957) and the Child Care Act (74 of 1983). Both Acts have been under review by the South African Law Commission and changes have been recommended to improve the legislative framework and enable the state to address the problem of child prostitution more effectively. These reforms are currently in Parliament and have not yet been passed.

Pornography

This is regulated in the Films and Publications Act, 56 of 1996 and the new Sexual Offences Bill that is still to pass through Parliament. The Department of Home Affairs has spoken about strengthening the Films and Publications Act (eg. in relation to possession) but this has yet to occur (Department of Labour, 2003, Para 4.1). The South African Law Reform Commission Report on the Child Care Act addresses pornography on the Internet, these amendments have yet to be passed.

The incomplete law reform process scores a '1'.

DEVELOPMENT OF A PLAN

1

South Africa launched a National Programme of Action (NPA) in 1996, designed to coordinate all efforts relating to children, developed by government departments, Non Governmental Organisations (NGOs) and other structures within the framework of the CRC, South Africa's domestic policy, for example the Reconstruction and Development Programme. The NPA outlines how the country progressively plans to realise children's rights in health, education nutrition and other areas. The NPA's framework which deals with policy plans was approved by cabinet in April 1996.

However, more recently the White Paper on a National Child Labour Action Programme addresses the issues under review more comprehensively. It provides a series of recommendations to a variety of government departments. The Final Report of the Parliamentary Task Group on the sexual abuse of Children also makes several planning recommendations. These have yet to be developed into comprehensive plans by those departments.

Prostitution

There are no detailed plans that address child prostitution comprehensively. However this forms part of brief of the Family Violence, Child Protection and Sexual Offences Unit. Plans here differ at provincial, local and area level (Interview, member of the National Family Violence, Child Protection and Sexual Offences Unit). The Final Report of the Parliamentary Task Force also reports on the ongoing work of other government departments.

The Criminal Law Amendment (Sexual Offences) Bill, 2003 seeks to address child prostitution in an interdepartmental manner and an interdepartmental A Steering Committee has been formed to take forward implementation, once the Bill is passed (email, Corlia Kok, 20 May 2004).

Pornography

There are no detailed plans to address the problem of child pornography, although South African Police Service has been involved in a project to improve the legal framework for addressing pornography. The Final Report of the Parliamentary Task Force also reports on the ongoing work of other government departments.

Some plans are in place, although not comprehensive. The National Child Labour Action Programme and Parliamentary Task Forces Final Report identify issues for further planning. Planning can be said to be in process, hence this scores a '1'.

TARGETS

0

We have not been able to identify any targets in plans that are specific to the problem of child prostitution or child pornography. This scores a '0'.

INSTITUTIONAL MECHANISMS

1

The relevant departments are the Departments of Safety and Security (the South African Police Services or SAPS) and the Department of Social Development.

In SAPS, there is a desk on 'Trafficking of Human Beings' and there are 45 Family Violence, Child Protection and Sexual Offences Units that address child prostitution and child pornography as part of their general brief. These are being rolled out and more are expected.

There is co-operation between SAPS and the Department of Social Development on issues of child prostitution, but the options are hindered by the legal framework (Interview, National Family Violence, Child Protection and Social Offences Unit).

Although some mechanisms are in place, they are also still in the process of being identified and rolled out. Hence this scores a '1'.

BUDGET

1

It is very difficult to assess government spending on children due to the failure of most government department to identify children as a distinct homogenous group. However, the fact that Units are still being rolled out and that they are known to be over-stretched indicates a shortage of resources for addressing these issues. There are also resources for the various policy development and planning exercises.

This scores a '1'.

HUMAN RESOURCES

1

The same comments apply here as apply to 'Domestic Violence' and 'Rape'. Human resources are limited by numbers and capacity, although training of personnel is being scaled up (Interview, Member of National Family Violence, Child Protection and Social Offences Unit).

This scores a '1'.

RESEARCH

1

Research has been conducted for the purposes of law reform in relation to both prostitution and to pornography. It was also conducted for the development of the draft White paper on the National Child Labour Action Programme. However, there is not yet a comprehensive research programme to address these issues.

This scores a '1'.

INVOLVEMENT OF CIVIL SOCIETY

2

Government has worked with civil society in all law reform initiatives.

The South African Police Services have generally responded to requests for information from civil society organisations and have been open to research NGOs who wish to conduct research on issues relating to child pornography and prostitution. However, SAPS seems to have been reactive rather than proactive.

The National Children's Rights Committee (NCRC) is formed as the main alliance representing NGOs and Community-Based Organizations (CBOs) dealing with children.

In 2002, a Parliamentary Task Group on Sexual Abuse of Children held hearings and received written and oral submissions by civil society organisations. The Final Report includes all of these (Task Group, 12 June 2002).

There seems to be an open and consultative relationship with civil society in the policy development and law reform processes. This scores a '2'.

INFORMATION AND DISSEMINATION

1

The South African Police Services (the Family Violence, Child Protection and Sexual Offences Unit) is involved in a lot of information dissemination through responding to request from schools and community groups. However, there is no proactive programme of information dissemination (interview, the Family Violence, Child Protection and Sexual Offences Unit). Other documents such as the National Child Labour Action Plan and the Final Report of the Parliamentary Task Group have been disseminated.

Information dissemination is patchy and reactive. There is little evidence of positive dissemination of information about the situation and rights of children in relation to these issues. This scores a '1'.

MONITORING AND EVALUATION

1

Monitoring

Monitoring occurs in the South African Police Services (SAPS) through the collection of crime statistics etc. and in the submission of quarterly reports to the National Family Violence, Child Protection and Sexual Offences Unit.

The draft White Paper on a National Child Labour Action Programme calls for comprehensive monitoring arrangements (Recommendation 34).

Evaluation

The SAPS has internal systems of evaluation that apply to these areas. Independent evaluation takes place through the work of NGOs. The SAPS is open to such research and allows it to take place, but it does not necessarily form part of a systematic programme of evaluation.

As a comprehensive monitoring and evaluation system is still being developed, this scores a '1'.

HEALTH

INTRODUCTION

In this section we consider the South African government's progress in women's health, with particular reference to five areas:

- Sexually transmitted infections (STIs)
- HIV/AIDS
- Maternal Mortality
- Contraception
- The Abuja Declaration on HIV/AIDS

When the ANC came to power in 1994, it brought to government a commitment to transform the health system to meet the needs of all South Africans (ANC, 1994b para 2.12). Since 1994, changes to the funding, structuring and delivery of health services have seen the health system begin to transform from one characterised by racial segregation and discrimination to a more equitable system based on primary health care. In the 1997 White Paper on the Transformation of the Health System women were identified as a priority group, with an emphasis on women's empowerment, socio-economic status, equality and autonomy. (ANC, 1994a, 57). Within the overall transformation of the health system, maternal, child and women's health was recognised as a priority by the government (White Paper on the Transformation of the Health Systems in South Africa, chapter 8) and an integral part of primary health-care. The White Paper provided that the Department of Health would ensure the allocation of adequate resources to provide comprehensive and integrated Maternal, Child and Women's health services (with women accessing a 'one-stop shop' of services) (para 8.1.1(b)). A key component in this was the recognition of women's reproductive rights. In addition, the White Paper emphasised the accessibility of health services to 'the rural and the urban poor and farm workers' (para 8.1).

This approach was entrenched in the 1996 South African Constitution which saw a guarantee of women's reproductive freedom and access to health-care services, including reproductive healthcare (section 27). It was also reflected in the provision of free maternal and child health-care from 1994.

The scores in this section on women's health demonstrate that the ongoing transformation of the health system has involved positive policy choices for women's health. Policy and legal frameworks are generally good in areas that relate directly to women's health (such as STIs and contraception), but tend to lack full integration of gender issues where the issue falls outside the understood parameters of maternal and women's health (eg. HIV and AIDS).

In line with problems across the health system, implementation of policies and programmes has taken time and has been uneven across the country. Much of this has been due to the major restructuring of national and provincial departments and at local level occasioned by the fundamental policy shifts from 1994. The inherited inequities of the apartheid system and the ongoing challenges of transformation meant that policy development and implementation needed to focus on institutional transformation and the re-allocation of resources to deliver effective services, as well as more substantive issues such as women's health. In this context it has become increasingly clear that transformation can be a time-consuming process and that significant challenges of human and financial resources, as well as capacity, still need to be met for full and effective policy development and implementation.

International standards

International standards for the attainment of the highest standards of women health were set in the International Conference on Population and Development (ICPD) held in Cairo in 1994. In measuring progress, we use the commitments and standards of the ICPD Programme for Action and those established five years later at the 1999 review. We also refer to the Beijing Platform for Action (BFA) and the additional recommendations of Beijing +5. In relation to HIV and AIDS, we also consider The Abuja Declaration on HIV/AIDS and women.

International frameworks require that human rights are central to women's health (BPA Declaration 17, Platform 92, 97; ICPD Principle 4) and that sexual and reproductive health (in which all four areas under evaluation in this section fall), must be addressed within a comprehensive national strategy (BPA 60(d), 106 (e,i,j), ICPD Principle 1, Principle 8.64, 7.6; CEDAW preamble, 1, 12.1). Policies ... should be developed in consultation with 'NGOs, women's groups and other civil society institutions for sexual and reproductive health'.

International frameworks also require that budgetary allocations be increased for primary health care, and that the sexual and reproductive health of poor women and girls be protected from budgetary reductions (BPA 58(d); 100(a); 111(a); ICPD 3.8, 7.21, 8.4, 13.7, 16.9). To improve financial sustainability, services such as family-planning and maternal health should be integrated (BPA 110 (b); ICPD).

All health-care workers should receive expanded training on family planning and sexual and reproductive health (ICPD 7.23(d)), while family planning and other sexual and reproductive health care providers should be trained in prevention, detection and treatment of STIs, including HIV, the promotion of responsible sexual behaviour, condom use, the importance of choice and informed consent (BPA 95, 106(f,g), 107 (e,g), 108 (k,l); ICPD 7.12, 7.23(c,d), 7.31, 7.32, 8.31, 13.8(a)).

Information dissemination should include gender sensitive public education campaigns in support of sexual and reproductive health (family planning, safe motherhood, violence and abuse, male responsibility, gender equality, STIs and HIV and AIDS responsible sexual behaviour etc.) (BPA 83(i), 107(m), 232(f); ICPD 11.16, 11.17, 11.23.).

International frameworks require an integrated and inter-sectoral approach to implementation and monitoring (BPA 110(e), 111 (c); ICPD 3.7, 16.11). In addition, goals and time-table must be set for monitoring and evaluating programmes based on gender-impact assessments, using qualitative and quantitative data disaggregated by sex, age and other demographic and socio-economic variables (BPA 110(d), ICPD 4.8, 12.4, 12.7).

NOTE:

As health services are delivered at provincial and district levels in South Africa, with the national department setting policy standards, we have scored the efficacy of these levels of government in this section.

SEXUALLY TRANSMITTED INFECTIONS (STIs)

In South Africa, it is estimated that 11 million STI cases occur annually (Department of Health: HIV/AIDS/STD Strategic Plan for South Africa 2000-2005). Although this report separates STIs and HIV, the epidemiological and biological evidence that STIs are co-factors in the transmission of HIV means that controlling STIs has become a high priority for South Africa (HIV/AIDS/STD Strategic Plan for South Africa). It is one of the main strategies for HIV control of the national Department of Health and largely falls under the AIDS directorate of that Department (HIV/AIDS/STD Strategic Plan for South Africa).

STI policy development and implementation has been both participatory and relatively effective since 1990. It has also been characterised by strong national and international linkages and effective use of government and non-government expertise. In general the development and implementation of STI management policies has 'clearly benefited from the opportunities and mobilisation of experts and funds generated during the transition to democracy' (Schneider, Lush and Ogden, 2003, 26). However, a number of constraints have also operated to retard implementation, these included changing expertise at policy development, management and implementation levels (loss of institutional memory), changing actors in the public sector and amongst NGOs and the impact of the intense politicisation of AIDS on the National AIDS Directorate (three directors in two years) (Schneider, Lush and Ogden, 2003, 26-7).

RATIFICATION X

NOT APPLICABLE

REPORTING X

NOT APPLICABLE

POLICY 2

A National Strategy for the control and management of STIs was introduced by the Department of Health in the latter 1990s. This was done in collaboration with a broad spectrum of stakeholders and based on the World Health Organisation's recommended approach to STIs referred to as 'syndromic management' (Schneider, Lush and Ogden, 2003). This resulted in amending the National STI Treatment Guidelines to include:

- Safer sex education,
- Condom promotion,
- Partner notification and treatment.

In addition, the 2000-2005 HIV/AIDS/STD Strategic Plan emphasises access to STI services for women, together with youth and migrant workers. This has become a priority within the AIDS Plan.

The policy promotes access to and enhanced quality of STI services through the primary health care system. As reproductive health care generally has also been integrated within the primary health care system, simultaneous integration of STI and reproductive health services has occurred (eg. the promotion of syphilis screening in pregnancy).

The comprehensive and gendered nature of the policy, as well as its compliance with international standards, scores a '2'.

LAW

0

We found no relevant laws. We are required to score this so it is a '0'.

DEVELOPMENT OF A PLAN

1

STIs fall under the AIDS Directorate in the National Department of Health. Planning occurs at national, provincial and local levels. Each level develops implementation plans arising from the National Strategy for STIs (HIV/AIDS Directorate, email).

Although planning has occurred, this has been uneven across the country, and planning has often been 'in practice' rather than 'on paper' (H Schneider, comment on draft).

The uneven and thus incomplete process of planning at provincial level means that this scores a '1'.

TARGETS

1

The Annual Report of the Department of Health identifies the improvement of the management and control of STIs as a five-year goal in the AIDS strategic plan – the key objective for 2001/2 was to expand effective treatment of STIs. No more detailed targets have been set at national level (HIV/AIDS Directorate, email). Although some provinces have developed more detailed targets for implementation, others have not.

The incomplete process of setting target at provincial levels scores a '1'.

INSTITUTIONAL MECHANISMS

2

STI prevention and treatment falls under the AIDS Directorate at national level. The government funded STI Reference Centre at the SA Institute of Medical Research provides support for the implementation of the STI strategy (including training and the development of guidelines) (Schneider, Lush and Ogden, 2003, 23).

Provincial co-ordinators are directly responsible to the national directorate. The district level is more involved in implementation. The overall goal of the National STI Initiative established in September 1997 was to strengthen district level capacity to implement an effective STI control programmes (Sonko et al). This is ongoing.

In so far as STI services have designated institutional 'homes' that are in place, this scores a '2'.

BUDGET

2

Budgetary allocations for STIs occur at national, provincial and district levels. These have been good as the prevention, detection and control of STIs has been a national priority under the AIDS Strategic Plan. In addition, the government has been able to access substantial donor funds to support planning, co-ordination and training at national level.

The public health system has been able to provide free STI treatment as part of the primary health care package.

There has been substantial allocation of moneys here, given its priority as part of AIDS prevention. This scores a '2'.

HUMAN RESOURCES

1

The Department of Health has developed and distributed resource materials for health workers and provided training on the syndromic management of STIs. According to the Department, by 2002, at least 80% of public health sector clinics had health workers trained in syndromic management and the quality of treatment had been independently assessed and found to be more effective than that in the private sector (Department of Health, Annual Report, 2002).

On the other hand, many people still access private rather than public clinics, fearing problems of stigma, confidentiality and negative health worker attitudes in public health clinics (Department of Health, Annual Report, 2002). Staff turnover and the loss of trained staff remains a problem (HIV/AIDS Directorate, email).

Despite progress in training, ongoing problems of staffing and capacity mean that this scores '1'.

RESEARCH

2

Given the high priority given to STIs, the Department of Health has commissioned research into several aspects of STIs since 1994. For example, it has commissioned reviews of the quality of care in both public and private sectors.

More recently, it has commissioned the following research

- the Centre for Diseases Control conducted research into the introduction of a Rapid Syphilis Diagnostic test into ante-natal care and possibly other primary health care services in the Eastern Cape.
- Research was conducted into improving sexually transmitted disease case management through staff training and the introduction of syndromic pockets (HIV/AIDS Directorate, email).

The extensive use of research in developing and implementing policy means that this scores a '2'.

INVOLVEMENT OF CIVIL SOCIETY

2

There are several NGOs working on aspects of women's health by providing the following services:

- Research and policy development;
- information, counselling and communication services;
- lobbying and advocacy for reform and better services;
- building institutional and individual capacity;
- research and policy development (Adar and Stevens, 2000).

There has been considerable involvement of civil society – at least in respect of research and policy institutions - in this area of women's health. For example, the National Strategy for the control and management of STIs was introduced in collaboration with a broad spectrum of stakeholders, including academic and research institutions, NGOs and private initiatives (Sonko et al). Several NGOs and research institutions are involved in improving the quality of care and evaluating programmes as part of the STI initiative (Sonko et al). There is less involvement of women's organisations, however as women have not organised around the issue.

The extensive use of civil society in policy development and implementation scores a '2'. The lack of involvement of women's organisations does not reduce this, as women have not organised around this issue.

INFORMATION AND DISSEMINATION

2

Mass media campaigns approved by the Department of Health in the field of HIV prevention for 2001-3 have the promotion of effective treatment of STIs as one of three key themes (Department of Health, Annual Report, 2002). STI services are being profiled more highly within the Department mass communication strategy with messages that highlight quality of care, no charge and confidentiality (Annual Report, 2002). Four STI posters, brochures in four languages are available in all health facilities and NGOs. In addition National STI week takes place in the second week of February (HIV/AIDS Directorate, email).

Government funded NGOs, such as loveLife and the Khomanani Awareness campaigns have also disseminated information and educational material on STIs (no evaluations of these campaigns are available).

The priority given to STIs has meant that there has been extensive information dissemination. This scores a '2'. However, it is important to note that this does not take into account the impact of the campaigns. While there has been some criticism of these, no evaluation has been done.

MONITORING AND EVALUATION

2

Monitoring

The Department of Health monitors the incidence of STIs by collecting information on STIs, such as number of STIs treated, number of male urethral discharge, number of contact slips issued and number of partners treated (HIV/AIDS Directorate, email).

The government funded STI Reference Centre at the SA Institute of Medical Research has also provided epidemiological surveillance of STIs (Schneider, Lush and Ogden, 2003: 23).

In addition, syphilis prevalence rates have been measured amongst pregnant women in public health facilities for five years, showing a decline from 11,2% in 1997 to 2,8% in 2001.

Evaluation

Most facilities have a suggestions/complaints box for feedback. DICSА is used as an evaluation tool (HIV/AIDS Directorate, email).

Evaluation of services has taken place, eg. under the STI Initiative of the Department of Health, the Health System Trust (an NGO) and the Reproductive Health Research Unit (a university research institution).

There has been quite extensive planned monitoring and evaluation of STIs, hence the '2'.

HIV/AIDS – the ICPD

INTRODUCTION

By the end of 2001, the Department of Health's 'National HIV and syphilis sero-prevalence survey of women attending public antenatal clinics in South Africa, 2001' (Department of Health, 2002) estimated that about 4.74 million or 1 in 9 South Africans were HIV-positive. In 2001, more women (56 per cent) than men were living with HIV and AIDS (Department of Health 2002). This manifests itself in HIV-prevalence peaking not only in younger age cohorts for women (Department of Health, 2002), but also at a higher rate. The roots of women's vulnerability to HIV and AIDS are complex. While physiology affects women's greater risk of HIV infection (Plummer, Simonsen, Cameron et al, 1991) this is compounded by women's lower socio-economic status (Rao Gupta and Weiss, 1998; Collins and Rau, 2000) and discriminatory cultural practices. At the core is women's lack of autonomy and bodily integrity in sexual relationships (Klugman, 2000; Barnett and Blaikie, 1992; Wood and Jewkes 1998) embedded in cultural norms relating to gender (MacFadden, 1995; Bujra 2000; Leclerc-Madlala 2001; Rungunga et al 2001; Kelk Mager 1999, 185), and often enforced by violence (CIETafrica, 2000; R Jewkes et al, 1999; loveLife, 2000). Thus women's vulnerability to being infected and affected by HIV and AIDS is inextricably linked to gender inequality at all levels. At the same time, HIV and AIDS is perhaps the single greatest threat to gender equality today.

We are asked to measure HIV and AIDS in two sections under 'Health': Firstly, in relation to the ICPD, and secondly, in relation to the Abuja Declaration. To avoid too much overlap, the Advisory Panel suggested we divide these sections as follows:⁴⁵

- In this section under the ICPD we measure government activities in relation to prevention, treatment, care and support that broadly fall within the health system (these are broadly the issues raised in the ICPD, although we occasionally cross-refer to the Abuja Declaration here);
- In the section dealing with the Abuja Declaration, we take a more holistic approach. Following the Declaration, we consider whether government has adopted a co-ordinated approach to integrate gender within all programmes across government to address women's vulnerability, including the socio-economic inequality and traditional gender roles that underpin women's vulnerability to HIV and AIDS (these are broadly the issues raised in the Abuja Declaration, although we occasionally cross-refer to the ICPD here).

In assessing progress in respect of the ICPD, we measure several issues. The presence of multiple issues here has made this a difficult area to measure, as the scores tend to be the 'common denominator' of a range of different services etc. Overall, we have found that the AIDS Policy of the Department of Health is not fully gendered, although there is attention to the concerns of women. In the past, some key issues for women have been the centre of political controversy (such as the prevention of mother-to-child transmission and the provision of anti-retroviral drugs in the public sector). Some writers have characterised these controversies as reflecting the 'politics of denial' rather than the 'politics of recognition'. This has meant that opposing points of view have been discredited rather than understood (Schneider and Fassin 2002; Fassin and Schneider, 2003). At the time of writing, however, policy commitments and plans are in place and programmatic work is in process.

The main issue for women is the lack of public and policy recognition of the gendered nature of the epidemic. This results in public silences about the socio-cultural underpinnings of

⁴⁵ Advisory Group Meeting, October 2004.

women's vulnerability and cascades down into programmatic problems. However, the picture is not a static one as the human rights framework of AIDS policy has also allowed some significant interventions to take place for women.

Finally, as with other areas of health, there are significant problems in the implementation of policies and plans that link into wider problems experienced in the ongoing transformation of the health system.

International Standards – the ICPD

The standards we have extracted from the ICPD (and occasionally the Abuja Declaration) on health are as follows:

- Government, at highest level, should commit to taking urgent action to prevent HIV transmission, improving care and taking steps to mitigate the impact of the epidemic (ICPD+5 para 94).
- HIV and AIDS health-services for women should be located within the primary health-care system and should be integrated into reproductive and sexual health services (BPA 108 (m); ICPD 7.5, 7.30).
- **Prevention services should include:**
 - education and counselling for safer sex (including messages that address women's equality in relationships and their individual autonomy) (ICPD+5 para 95; BPA 108 (f), (h), ICPD 8.29 (a), 8.31, 8.32).
 - provision of condoms,
 - research into women-controlled prevention and strengthened efforts to develop affordable women' controlled methods of preventing HIV and other STIs, such as vaginal microbicides (BPA 108 (m); ICPD 7.33, 8.29, 8.31, 8.33, ICPD+5 para 95).
 - access to post-exposure prophylaxis for survivors of sexual abuse; and
 - access to treatment, including drugs, to reduce HIV transmission to children (BPA 109 (m), ICPD 7.33, 8.31, 8.35, ICPD+5 para 95).

In addition, the state should support policy and action-oriented research on HIV and other STIs that address women's needs and situations, including strategies that empower women to protect themselves from infection, on human sexuality, and male and female risk-taking attitudes and practices.

- **Treatment** should include action to make necessary drugs accessible (Abuja, para 31).
- Activities to address the gendered impact of HIV and AIDS should include assistance to women who are home-base care-givers and action against gendered stigma and discrimination. Policy should address the socio-economic, health and developmental consequences of HIV and AIDS ..., particularly on women, that include the provision of economic resources, facilities and counselling for those infected with HIV and AIDS and for their families, principal care-givers and survivors, particularly children and older persons (BPA 98.1; 108 (d,e,f,g); ICPD 5.11; 8.30; 8.34). In addition, the state should support policy and action-oriented research on methods of care of women, involving women in all such research (BPA 108 (o), (p), ICPD 7.38, 12.13).

The state should involve communities, women's groups and women, especially those infected with HIV and AIDS ..., in all decision-making relating to development, implementation, monitoring and evaluation of programmes and policies (BPA 108(m), ICPD 8.7).

RATIFICATION X

NOT APPLICABLE

REPORTING X

NOT APPLICABLE

POLICY⁴⁶ 1

The primary source of policy on HIV and AIDS relevant to the ICPD is the Department of Health's HIV/AIDS/STD Strategic Plan for South Africa (Department of Health, 2000). This established a broad policy outline for the period 2000-2005 and was 'designed to guide the country's response to the whole of the epidemic'.

The Plan recognises the 'vulnerable position of women in society' and states that it 'shall be addressed to ensure that they do not suffer discrimination, nor remain unable to take effective measures to prevent infection' (para 4). However, gender is not fully integrated into the Plan. Rather women are mostly treated as a set of vulnerable groups (mothers, survivors of violence, sex workers) that require special measures. An example of the failure to mainstream women within the Plan can be seen in the section on 'Human Rights'. This section calls for open discussion and a protective legal and policy environment, but does not mention women's rights, except in relation to 'special groups' such as sex workers and victims of sexual assault (Goal 15). Moreover, there is no immediate evidence of a gendered approach in the policy goals for treatment, care and support, or in relation to education about safe sex behaviour or youth.

The Plan encourages the 'women's sector' to develop its own policies. This seems to reinforce the marginalisation of women, rather than acknowledging the need to integrate or mainstream gender (the differing interests and needs of women and men) into all aspects of policy.

This results in policy gaps and silences. For example, it is not obvious from the Plan that an understanding of human rights includes women's sexual rights or equality or bodily integrity in negotiating safe sex –or that young girls will be prioritised in a particular way in policies relating to youth. Issues such as socio-cultural practices that impact on women's vulnerability are not addressed.

The absence of an explicitly gendered policy is also reflected in the absence of gendered political leadership. There is insufficient evidence that the highest level of government is articulating a public political commitment to addressing the specific vulnerabilities and issues that HIV and AIDS raise for women.

On particular issues mentioned in the ICPD, the National AIDS Plan and various updates provide the following information:

- the policy does provide for HIV and AIDS health services to be located within the primary health-care system, although not necessarily within reproductive health-care
- Policies on prevention include:

⁴⁶ CALS has scored '1' here based on the standard required by UNECA, namely, that policies are meant to be 'fully gendered' to score '2'. This is still subject to ratification by the Advisory Panel as at 2 March 2005.

- the promotion of safe sex practices (although not gendered);
- the promotion of improved health-seeking behaviour (although not gendered);
- improving access to male and female condoms; and
- reducing mother to child transmission by improving access to voluntary counselling and testing (VCT), family planning, developing clinical guidelines for reducing transmission at child-birth and rolling out a package of service including anti-retroviral therapy to HIV positive pregnant women.
- The Plan committed to investigate options for appropriate post-exposure services for victims of sexual abuse. During 2002, the government adopted a policy on the provision of treatment (drugs) and services for this (Statement of Cabinet on HIV/AIDS 17 April 2002).
- In 2003 Government committed itself to the provision anti-retroviral therapy in the public sector and an implementation plan has been developed.
- The AIDS Plan addressed the need to deal with care-givers and the Government committed to assisting families affected by the AIDS epidemic and to improving the system of home-based and community-based care. The Department of Social Development (DSD) has identified the mitigation of the social and economic effects of HIV and AIDS on vulnerable groups as a priority area and has developed policy on this. However, there appears to be no gender analysis in this policy. The overall emphasis is on children (Department of Social Development Strategic Plan 2002/3 – 2004/5).
- The Department of Social Development is also responsible for the provision of economic resources – these are mainly targeted at women as care-givers (child support grant) and an old people (pension). Policy does permit disability grants to be accessed by people living with AIDS although the process is difficult.
- The Plan also addresses the need to deal with stigma and discrimination – although not specifically in relation to women.

More detailed policy guidelines have also been developed on a range of issues, including 'Feeding of infants of HIV positive mothers' and 'Prevention of mother to child transmission and management of HIV positive pregnant women' (Department of Health, *HIV/AIDS Policy Guideline* series, 2000).

Although gender is not mainstreamed into the AIDS policy, the fact that it adopts a human rights approach means that there is space to engender specific plans and programmes. In addition, the Gender Focal Point in the Department of Health has developed draft Gender Policy Guidelines (2001) to support the Department in integrating gender into its AIDS Policy (Gender Focal Point, Department of Health, Advisory Group Meeting, August 2003).

UNECA requires a fully gendered approach for a score of '2'.⁴⁷ Although South Africa has an extensive policy on HIV and AIDS, it has been criticised for not being 'fully gendered'. Hence this scores '1'.

LAW

2

The enactment of law is not applicable to most of the issues under considerations in this section. Most require policies, plans and implementation strategies rather than legislation. The one relevant issue is the question of the gendered impact of HIV and AIDS, especially around discrimination and stigma. Here legislation is necessary. The National Health Bill B-32 of 2003 regulates important aspects of health-worker-client relationships, including questions of

⁴⁷ Confirmed at meeting of researchers in Addis Ababa in November 2004.

access to information and confidentiality. These are important to reducing the stigma and discrimination associated with HIV and AIDS in the health system. The Bill has been passed by Parliament, but is awaiting signature and promulgation. In addition, the Employment Equity Act of 1997 outlaws discrimination on the basis of HIV status in the workplace. The Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000, does not include HIV status as a listed ground, but make provision for it possible to be recognised as an additional ground of discrimination.

As we expect it only to be a matter of time before the Health Act is signed and promulgated, this scores a '2'.

DEVELOPMENT OF A PLAN⁴⁸

1

Planning for the implementation of policy takes place at a national and provincial level. The Strategic Plan provides a planning framework, however more detailed planning is required, especially at provincial and local levels. The Strategic Plan 2000-2005 noted that there was a lack of provincial policies, guidelines and management protocols for comprehensive care and counselling in 1997 (at 9).

As there are no broadly gendered policies, a key question is whether plans on each respective issue take gender into account. Here the fact that the government has adopted a human rights approach has been advantageous, although has not necessarily guaranteed engendered plans. The main problem with planning appears to be that it is an uneven process at provincial and local level, with incomplete or inadequate planning in some provinces and municipalities. We set out some examples below.

Primary health-care.

It is reported that while progress has been made in some provinces in formulating policies to integrate HIV/STI activities into primary health-care, this has taken place in the context of massive administrative restructuring and is not uniform across the country (Adar and Stevens). Integration of gender is ongoing, for example in terms of HIV and AIDS and gender-based violence or in terms of developing a strategy to involve men in reproductive health.

Prevention:

- Promotion of safe sex practices

In 2002, the emphasis on prevention messages shifted from awareness to lifestyle change (cabinet statement, May 2002). Together with partners such as loveLife, this programme focuses on youth prevention and includes focussed education for young women to resist peer and other pressures and take control of their bodies (GCIS 'Update on cabinet statement of 5 May 2002, 9 October 2002).

- Improve access to male and female condoms.

Government has planned to increase numbers of male and female condoms. However, the absence of gendered plans means that it is not necessarily increasing access, even if more condoms are being distributed (Advisory Group Meeting, August 2003).

⁴⁸ CALS has scored '1' here based on the standard required by UNECA, namely, that policies are meant to be 'fully gendered' to score '2'. This is still subject to ratification by the Advisory Panel as at 2 March 2005.

- Reduce mother-to-child transmission by improving access to VCT, family planning, developing clinical guidelines for reducing transmission at child-birth and provide anti-retroviral therapy.

Plans for limited pilot programmes have been substantially extended in the past eighteen months, with plans for more universal rollout in several provinces. However, there have been delays in other provinces.

- Post-exposure services for victims of sexual abuse.

The development of national guidelines and policies was slow, and there was debate about which directorate this should fall under. The AIDS Directorate has proceeded to roll out PEP, but planning and implementation has been uneven across provinces.

Treatment:

The government's treatment policy focuses on support through positive living, effective, prompt treatment of opportunistic infections and care for those living with HIV and AIDS (Department of Health, Annual Report, 2002). A national plan for the provision of anti-retroviral drugs has been developed. In addition, guidelines have been developed on the use of these drugs in 2001/2 for the private sector. Guidelines for nutrition have also been developed (Department of Health, Annual Report).

Impact:

The 2002/3 – 2004/5 Strategic Plan of the Department of Social Development sets out a plan for implementing its priority area of 'mitigating the social and economic impacts of HIV/AIDS on vulnerable groups'. These address issues such as community and home based care programmes as well as information programmes for women. However, this plan is not developed with a conscious gender lens. In its implementation, however, attention is given to the fact that it is predominantly women who are home-based care givers (Gender Focal Point, Department of Social development). Plans also include social grants for care-givers, children and older persons.

UNECA requires a fully gendered approach for a score of '2'.⁴⁹ Although South Africa has an extensive policy on HIV and AIDS, it has been criticised for not being 'fully gendered'. Hence this scores '1'.

TARGETS⁵⁰

1

The White Paper provides for the establishment of goals and targets at national, district and community levels.⁵¹ The National AIDS Plan set objectives in four performance areas:

- prevention⁵²
- treatment, care and support
- legal and human rights
- research, monitoring and surveillance.

⁴⁹ Confirmed at meeting of researchers in Addis Ababa in November 2004.

⁵⁰ CALS has scored '1' here based on the standard required by UNECA, namely, that policies are meant to be 'fully gendered' to score '2'. This is still subject to ratification by the Advisory Panel as at 2 March 2005.

⁵¹ Para 8.3

⁵² Note that international standards require that SA reduce HIV infection by 25% by 2005, and halt by 2015 and begun to reverse the spread of HIV/AIDS. By 2005 young women and men aged 15-24 should have access to the information and skills required to reduce their vulnerability to HIV infection.

Each performance area sets more detailed targets and identifies the basic strategies for meeting these, as well as the lead agencies responsible. At this level the targets are not gendered.

The Health Goals, Objectives and Indicators 2001-5 appear to operate at a more detailed level, but are not necessarily more gendered.

In addition, the Department of Social Development Strategic Plan sets out a number of outputs and performance indicators for its work on mitigating the socio-economic impacts of HIV and AIDS. At this level, the targets do not appear to be gendered.

Again the score depends on the approach taken to scoring by UNECA in respect of the gender component of plans.

UNECA requires a fully gendered approach for a score of '2'.⁵³ Although targets appear to be in place, and flow from the National AIDS Plan, there is insufficient evidence that they are fully gendered. Given the importance of gendered targets to planning and delivery, this scores a '1'.

INSTITUTIONAL MECHANISMS

1

A national directorate on HIV and AIDS is in place in the National Department of Health. All provincial departments have directorates on HIV/AIDS that report to the national department. In the 2000-2005 Strategic Plan, it was suggested that Interdepartmental Provincial Committees be set up, as well as District level HIV/AIDS Committees (para 7.1(b)). These would also address non-health issues such as transport and poverty alleviation.

As part of the primary health-care system, effective delivery of HIV and AIDS health services depends upon the ability to increase resources and build capacity at provincial and district levels. It is here that many of the difficulties have been experienced (2000-2005 Strategic Plan, 9-10). In 1997, the SA National HIV/AIDS/STD Review noted that major restructuring had affected provincial departments and that some district structures had not been established. In addition, there are still ongoing processes to integrate gender issues, such as gender-based violence and HIV and AIDS, into primary health care institutions.

Within the Department of Social Development, programmes to mitigate the socio-economic impact of HIV and AIDS are carried out by a directorate 'HIV/AIDS' within the chief directorate 'Development Implementation Support'.

The National Integrated Plan is located in the Departments of Health, Education and Social Development and structures exist down to district level.

The fact that not all structures exist at provincial and local/district level, or that they are inadequately equipped, scores a '1'.

BUDGET

2

Overall the budget for HIV and AIDS has increased over past years, and is set to increase further. Much of this money will go directly to provinces where and when they need it. The Medium Term Expenditure Framework anticipates increases over the medium term for

⁵³ Confirmed at meeting of researchers in Addis Ababa in November 2004.

preventing mother-to-child transmission and community/home-based care, which should directly benefit women.

Addressing provincial equity in allocation should improve health-care for women in poorer provinces, government has begun to do this (Director-General, Review, 2002).

In addition:

- 98 million has been given to prevention programmes that include a gender component (although it is not clear how this gets allocated)
- the government has committed to making further funds available for the roll-out of Prevention of Mother to Child Transmission (GCIS Update, 9 October 2002).
- the government is providing funding for training, drugs and HIV testing of survivors of sexual assault (GCIS Update, 9 October 2002).
- The Department of Social Development's budget for Home- and community based care is also set to increase from 5 million in 2001 to 138 million in 2004/5

Problems of underspending, where they occur, relate to issues of capacity, rather than budget. Substantial underspending was reported in some provinces during 2003 (Simelela, *The Star* 1 June 2004)

The continuing increase in budgetary allocation, especially in areas that affect women, scores a '2'. It should be noted, however, that, given problems such as human resources and institutional mechanisms expressed elsewhere in this section, these increased allocations will not necessarily reach their target of women.

HUMAN RESOURCES

1

The 2000-2005 Strategic Plan states that 'it is vital to the success of this Strategic Plan that adequate human resources are available to ensure delivery', with the constraint being capacity rather than funding (para 7.1(b)). This continues to be a core problem in the ability of government to address HIV and AIDS and its gendered implications.

HIV and AIDS services have not yet been fully integrated into reproductive health services. For example, '[r]isk assessment for exposure to STIs/HIV infection and reproductive health screening of contraceptive clients are not carried out routinely' (National Contraceptive Guidelines, 14). Reasons for this include a lack of information, skills and management/supervision (National Contraceptive Guidelines, 14).

In general, health care workers are not fully equipped to deal with gender and HIV and AIDS and staff turnover, burnout and negative attitudes remain a huge problem in providing an effective service.

The Strategic Plan of the Department of Social Development notes the severe capacity constraints of the Department in implementing its HIV and AIDS programmes (at 19). Enhancing departmental capacity is a priority of the Medium Term Expenditure Framework. The Department is also training community health care workers to try and meet capacity problems.

Problems of capacity mean that this scores a '1'.

RESEARCH

1

The 2000-2005 Strategic Plan supports policy research, as well as research into vaccines, MTCT, PEP and traditional medicines (Priority Area 3, Goals 10-12). Extensive research has been carried out in the area of HIV and AIDS, including clinical trials on microbicides, research on the use of the female condom, research into stigma and discrimination based on HIV and AIDS (including gender).

The Strategic Plan of the Department of Social Development makes provision for research on the social impacts of HIV and AIDS and targets one major report per year (Department of Social Development Strategic Plan 2002/3 – 2004/5, 24).

However, there remains room for government to plan and conduct further research into understanding the gendered dimensions of the epidemic and ways of addressing the gendered challenges of prevention, treatment and care. This scores a '1'.

INVOLVEMENT OF CIVIL SOCIETY

2

There has been some involvement of women and women's organisations on issues relating to women's health and home-based care. However, there has not been extensive involvement of women's organisations in HIV and AIDS issues. Part of the reason for this stems from the fact that women's organisations themselves have not taken up HIV/AIDS as a core issue. On the other hand, the human rights approach of AIDS organisations has also excluded women.

This has begun to change. For example, in the field of gender based violence, women's organisations are taking up the issue of AIDS in relation survivors of sexual assault. This has largely resulted in engagement with the Department of Justice rather than Health. However, women's rights and health organisations have worked with government on a range of issues relating to policy and implementation.

The government funded about 120 Non Government Organisations during 2001/2 to the extent of R30 million (Annual Report 2002), but we have been unable to determine how much of this went to funding for gender issues/women's organisations.

Government has mobilised community women in 'Women in Partnership Against Aids', especially around their interests and needs as care-givers.

In general, the relationship between government and civil society in the AIDS sector has been contradictory. It has been good in very many instances, but very conflictual in others (such as treatment). In relation to gender and HIV/AIDS, there are many examples of positive relationships at national level and in most provinces. There have also been rare examples of conflictual relationships, such as the controversy over the provision of post exposure prophylaxis in Mpumalanga.

However, even where there have been conflictual relationships, South Africa's democracy permits civil society to use the Constitution to challenge government action. For example, the Treatment Action Campaign was able to take the government to court on the prevention of mother-to-child-transmission issue. Similarly, there were court proceedings about events in Mpumalanga.

As a result of the above, the relationships between government and civil society must score a '2'.

INFORMATION DISSEMINATION

1

In the past, information on HIV and AIDS was not at all sensitive to gender. This has begun to change, but much more needs to be done.

Health messages

It has been noted that health promotion messages that promote gender equity, and women individual rights are limited:

In the context of endemic sexual violence against women, the Department of Health needs to disseminate affirming messages which state that the human rights of include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence (Adar and Stevens).

Although government has adopted a rights framework for women's health, this has not been translated into this aspect of implementation.

The 2000-2005 Strategic Plan noted that 'health promotion materials were not always available in the vernacular and were not client sensitive or user friendly' (para 2.2).

Life Skills

The Life Skills programme in Schools is a major initiative for prevention. It operates in primary and secondary schools, and is part of the formal school curriculum. The 2002 Annual Report states that it 'contains material on gender and is designed to encourage relationships of equality and mutual respect'. However, the implementation of this in schools has been uneven.

Work has begun on a new national education programmes on legal and human rights of people living with HIV and AIDS. It is not clear what the gender content of this is (GCIS Cabinet Statement on the Fourth Anniversary of 'partnership against Aids', 9 October 2002).

Training Manuals and resources

The AIDS Directorate has developed a Workshop Guide for Gender Trainers on the links between gender inequalities and HIV and AIDS and issues of sexual violence (Department of Health).

The Department of Health collaborated on the development of a resource book for journalists on HIV and AIDS. This has a section on gender.

Public education campaigns

During August 2001, the Department of Health awarded two tenders for mass media campaigns, the production and distribution of small media and media advocacy.

Further campaigns have been approved for 2001-3 to focus on messages to youth, although these are not clear as to gender content (Department of Health, Annual Report, 2002).

Edutainment

Government has partly supported *Soul City*, a multi-media campaign with a educational TV series as a centre-piece. This has sought to be gender-sensitive

AIDS helpline

An AIDS helpline run under contract to government by an NGO (Life line) provides information and counselling to about 25 000 callers a month.

In general there is a lot of activity on information and dissemination, some of which have a positive gender content. However, this is not always the case. In addition, the targets groups of information are expanding to include women over 35, but this is still developing. Information dissemination is not accessing all women by language and location. Although the coverage is constantly improving, this scores a '1'.

MONITORING AND EVALUATION

1

Government monitors the prevalence of HIV and provides a gendered breakdown of this information. It has not yet monitored the infection rate. There is a recognition that this does not meet the surveillance needs of government and ways of improving the system are being considered. Behavioural surveillance is also to be implemented (Department of Health, 'The South African Government Response to the HIV/AIDS Epidemic. Controversies and Priorities', para 4.3).

The 2000-2005 Strategic Plan established indicators for tracking the country's response to the epidemic. These include levels of abuse of women. The Plan also commits itself to monitoring and the development of tools for this. However, capacity is still being built for effective monitoring (para 8.1(d); 8.3(d)). The Director-General of Health commented as follows in 2002:

Tracking progress – given the complexity of the delivery system, the complexity of the disease burden and the variety of strategies employed – is a major challenge in health. It has not been simple to agree on key indicators and to establish appropriate monitoring systems that span local, provincial and national activities (Review of the Director-General Annual Report, 2002).

The development of effective and gendered monitoring systems and systematic evaluation is still in progress.

Individual monitoring/evaluation of programmes has occurred. For example, the Prevention of Mother to Child Transmission programme was evaluated by the Health Systems Trust, an NGO on contract to the Department of Health (Annual Report 2002). Another example, would be the assessment of media campaigns by the Department of Health at the end of 2001. This estimated that 78% of the population has been reached by radio, 60% through television and 30% through newspapers. No source of this research is provided and no gender breakdown is provided (Annual Report, 2002).

The fact that monitoring and evaluation systems are still in the process of being developed and implemented scores a '1'.

MATERNAL MORTALITY

INTRODUCTION

Maternal mortality is associated with women's ability to access affordable maternity services, receive quality ante-natal care and give birth safely. South Africa generally has high levels of utilisation of ante-natal care (ANC) and of giving birth within an institution. According to the South African Demographic and Health Survey (SADHS), 95.1% of women attend ANC at least once in their pregnancy and 83.7% of women give birth in an institution (Department of Health, 1999 *South African Demographic and Health Survey 1998 Preliminary Report*). However, these national figures hide deeper inequalities, with over 40% of very poor women in the rural Eastern Cape giving birth at home (Penn-Kekana and Blaauw, 2002). Part of the reason for this is poverty and affordability of transport.

We do not have totally reliable data on the maternal mortality rate (MMR) in South Africa. The official rate is 150 deaths per 100 000 births calculated by the SADHS. This figure is not a good one in the context of the relatively high number of women who attend ANC and who deliver in a medical facility (Penn-Kekana and Blaauw, iv). However, the actual figure is probably higher. The Confidential Enquiry Report on Maternal Deaths from 1999-2001 recorded a total of 2777 maternal deaths. Using this data it recalculates that the national MMR is between 175-200 deaths per 100 000. Although the CERMD recognises that this may be an underestimate as there is under-reporting in some provinces, it estimates range of 54 per 100 000 in the W Cape and 289 per 100 000 in the North West. These increases are explained by the increasing impact of HIV AND AIDS on maternity services. Non-pregnancy related sepsis (mainly AIDS) caused 31.4% of deaths, although this is probably under-reported as the HIV status was unknown in 63.6% of deaths.

Since 1994, there has been strong political support for the improvement of maternal mortality, and important policy and programme developments for reducing maternal deaths. However, implementation remains a major stumbling block with maternal deaths remaining high, many of which have avoidable causes and known and affordable solutions (Second Report on Confidential Enquiries into Maternal Deaths in South Africa; Penn-Kekana and Blaauw, 32-33).

International Standards

Strengthen and increase investments in infrastructure and transportation to ensure access to necessary services to reduce maternal mortality ...at each level of the health system, with particular attention to maternal and emergency obstetric care, especially to benefit poor rural and urban areas (BPA 106 (e,i,y), 110 (a), ICPD 13.14(a), 13.15).

Recognise unsafe abortion as a major health concern and frame policies and programmes based on a commitment to women's health (BPA 106 (j,k); ICPD 8.25).

Implement special programmes to meet the nutritional needs of women of child-bearing age and aim to reduce iron deficiency anaemia of girls and women by one third of the 1990 levels by the year 2000 and eventually prevent it (BPA 106(w), ICPD 8.24, CEDAW 12.2).

Develop monitoring mechanisms to assess progress in reducing maternal mortality and morbidity (ICPD 8.22).

RATIFICATION X

NOT APPLICABLE

REPORTING X

NOT APPLICABLE

POLICY⁵⁴ 1

Maternal death was made a notifiable condition in 1997. In the same year a National Committee for Confidential Enquiries into Maternal Deaths (NCCEMD) was appointed to advise the Department of Health of addressing this problem. The NCCEMD was asked to study the problem of maternal deaths and then make recommendations to decrease maternal mortality. These recommendations, now made in one comprehensive and two interim reports, form the basis of government policy in addressing maternal mortality although there is no single comprehensive policy document.

The policy has been criticised for not having a women's rights approach (Penn-Kekana and Blaauw) that locates maternal mortality within a broad and fully gendered socio-economic understanding of women's position in society. Rather the policy focusses in on the immediate and preventable causes of maternal death in the health setting.

UNECA requires a fully gendered approach for a score of '2'.⁵⁵ Hence this scores '1'.

LAW 2

The Choice on Termination of Pregnancy Act was passed in 1996 giving women legal access to safe termination of pregnancy (TOP).

DEVELOPMENT OF A PLAN 1

The Reports on Confidential Enquiries into Maternal Deaths in South Africa each set out a series of recommendations that form the basis of plans for reducing maternal deaths. These have been key to provincial and district planning. Some provinces have developed plans to implement these recommendations, other have not. However, the process of planning has been assisted by a summit convened by the National Department for all levels of government and civil society (Budget Speech Minister of Health to the National Assembly, 13 May 2003).

In addition, the Maternal, Child and Women's Health Directorate in the National department has developed the following:

- National Maternal Healthcare Guidelines (Department of Health, 2001);
- Saving Mothers: Policy and Management Guidelines for Common Causes of Maternal Deaths (Department of Health 2001);

⁵⁴ CALS has scored '1' here based on the standard required by UNECA, namely, that policies are meant to be 'fully gendered' to score '2'. This is still subject to ratification by the Advisory Panel as at 2 March 2005.

⁵⁵ Confirmed at meeting of researchers in Addis Ababa in November 2004.

- A national strategic plan for the improvement of termination of pregnancy services (in conjunction with IPAS) (Xaba 2002).

Despite detailed plans at national level, the absence of plans in some provinces for implementing the recommendations of the abovementioned reports scores a '1'.

TARGETS

2

The following five-year objectives appear in the 2002 Annual Report in relation to 'improving women's health status':

- reduce maternal mortality from 150/100 000 live births to 100/100 000 live births (including deaths due to AIDS)
- reduce mortality due to unsafe abortions

These targets were adjusted because of AIDS (upwards from 75/100 000 to 100/100 000) (Department of Health, Annual Report, 2002).

More detailed targets are set by the NCCEMD in respect of each of their recommendations.

The setting of detailed targets at national level scores a '2'.

INSTITUTIONAL MECHANISMS

1

The National Committee on Confidential Enquiries into Maternal Health was appointed by the Department of Health to advise it on ways to improve women's health. Overall policy responsibility lies with the Maternal, Child and Women's Health Directorate in the Department of Health which co-ordinates and facilitates the re-organisation of maternal health services and develops standardised case management protocols for the care of women and children (White Paper, para 8.1.1(a)). This filters down to similar units at provincial level to oversee planning, implementation, supervision, monitoring and evaluation of integrated Maternal, Child and Women's health services. District health teams will perform similar functions at district level, although these are not all in place.

The provision of accessible public clinics and functioning hospitals that can carry out comprehensive emergency obstetric care (such as caesarian sections) across the country is fundamental to government's ability to reduce maternal deaths. This is still in the process of being achieved, with a Clinic Building Programme being implemented.

Although South Africa exceeds the WHO and UNFPA recommended measure for facilities available for every 500 000 of the population in universal terms, the shortage of facilities in some rural areas means that it does not meet the WHO/UNFPA objective that no woman should be more than an hour away from a facility providing essential obstetric care (Penn-Kekana and Blaauw, 13).

In addition, there are still insufficient designated facilities for abortions (Minister of Health, Budget Speech, 13 May 2003, 21) and, according to the Department of Health Annual Report 2000-2001, many rural areas are effectively without an abortion service (at 33).

This scores a '1' because not all facilities and services are in place.

BUDGET

1

Budgetary allocations are difficult to assess as national allocations filter down to provincial and local levels. The medium term expenditure estimate for Maternal, Child and Women's Health remained static from 2001-2004 (Estimates of National Expenditure, 2001, 310).

Some shortage of resources is also suggested by the fact that only about 50% of designated TOP facilities are currently functioning (Adar and Stevens).

This scores a '1' as there appear to be insufficient resources for all services and facilities.

HUMAN RESOURCES

1

The Guidelines for Maternal Care 2000 (National Department of Health) cover the management of conditions that commonly arise in maternal deaths. These have been developed and distributed to provinces (Annual Report, 2002). Training has been conducted on the guidelines and on data collection.

There is a capacity problem with trained staff in the health sector generally (reflected for example in the fact that only 50% of designated facilities are functioning). Of the 885 obstetricians and gynaecologists registered in South Africa, the vast majority is in private practice and there is an uneven provincial spread in the public sector. The provision of trained midwives is also a problem. Measures have been developed to address this. For example, nursing training now requires all professional nurses to do six months midwifery, thus enabling them to be classified as midwives. Advanced midwifery courses are available.

In general, the staffing and building of capacity at provincial and district levels is an ongoing process. Provincial and urban/rural differences have resulted in uneven development within and across provinces. Moreover, the integration of services remains an issue.

The Confidential Enquiry looks at avoidable factors, missed opportunities and substandard care that played a role in maternal deaths. In over half the deaths reported from 1999-2001 'there were health care worker related avoidable factors in the management of the event that leads to the women's death. This was most significant at the primary level where in just under three quarters of cases there were avoidable factors in cases managed at some point in their care'. (Executive Summary of Confidential Report, 5). In addition, a number of studies have shown women patients to be verbally and physically abused by health workers (Penn-Kekana and Blaauw, 33).

This scores a '1' given staffing, capacity and attitude problems.

RESEARCH

2

The government has established a National Committee on Confidential Enquiries into Maternal Deaths. Ongoing research has been conducted into the magnitude of the problem of maternal deaths, the pattern of disease causing such deaths, the avoidable factors, missed opportunities and substandard care related to these deaths. Recommendations have been made into ways of decreasing maternal deaths.⁵⁶

⁵⁶ See various reports of the National Committee on Confidential Enquiries into Maternal Deaths.

This research has identified a range of causes of maternal death relating to the patient, the community, the health system and the practice of individual health workers.

This ongoing programme of research scores a '2'.

INVOLVEMENT OF CIVIL SOCIETY

2

Civil society has been involved in the NCCEMD and in research projects for the Department of Health. There is a strong working relationship between Academia and research NGOs and government in this area.

Within civil society, women's organisations have focussed on the issue of abortion. NGOs involved in advocacy have found government to be receptive. In addition, NGOs have been involved in strengthening services.

Extensive involvement of civil society scores '2'.

INFORMATION DISSEMINATION

1

The Report of the NCCEMD suggested that termination of pregnancy services and family planning services should be widely advertised to the public.

Government has been involved in several initiatives including National Pregnancy week in February. Guidelines have been developed and distributed on the five big killers of pregnant women.

However, as with many other areas, information dissemination could still improve in terms of reach (language, location, age etc). This scores a '1'.

MONITORING AND EVALUATION

1

Monitoring

The government (through the National Committee on Confidential Enquiries into Maternal Deaths) has put in place and sought to improve the reporting mechanisms for maternal deaths. A key objective for 2001/2 was to strengthen the programme to monitor maternal deaths (Department of Health, Annual Report, 2002). A standard maternity case record has been distributed and training workshops on the use of this have been held in five provinces. However, the system is not fully in place.

Evaluation

The Department of Health has commissioned research by the Reproductive Health Research Unit (Wits University) into the impact of the new Termination of Pregnancy law on unsafe abortions.

Ongoing evaluation also occurs through the reports of the NCCEMD. The Department of Health also commissioned a study on evaluating the quality of care in maternal health services to act as a baseline for evaluating implementation of the NCCEMD reports. Government is also collaborating on a research project to evaluate the impact of staff leaving the reproductive health services (Interview, Penn-Kekana).

As a monitoring and evaluation system is not fully in place, this scores a '1'.

CONTRACEPTION

INTRODUCTION

Family planning policy and services have historically been connected to racist policy goals. The apartheid government pursued demographic goals in its family planning policy with a racist population control policy underpinning the provision of contraception to black South Africans (national Contraceptive Guidelines, 6). Even after an 'ideological shift' which saw (at least in theory) the improvement of women's health through adequate birth spacing as the objective of contraception from the 1980s, there was 'no real improvement in the quality of care as the delivery of family planning was firmly institutionalised within a demographic framework' (at 6).

Despite this history of 'population control', South Africans hold positive views about the need for family planning and there is a high percentage of contraceptive use in South Africa in relation to the rest of sub-Saharan Africa. The 1998 South African Demographic and Health Survey found that three-quarters of women of reproductive age had used a contraceptive, while nearly two-thirds (62%) currently used some form of contraceptive. The injectable contraceptive was the most common method. There were considerable age, race and socio-economic differences in access to and type of contraception used (SA Demographic and health Survey summarised in National Contraception Guidelines, 9-11).

One of the core objectives of the new democratic government in its bid to transform the health system was to recognise that 'contraceptive, maternal, child adolescent and women's health are integral components of sexual and reproductive health-care' (National Contraceptive Guidelines, 1).

International standards

The ICPD requires states to provide universal access to a full range of safe and reliable family planning methods as part of comprehensive sexual and reproductive health care (BPA 106 (e.I), ICPD, 7.2, 7.4, 7.6, 7.14(a), 7.16; Cedaw 12.1). Family planning programmes should be linked to broader reproductive programmes (ICPD 7.6, 7.16, 8.8). Policies and programmes should be developed for unmet needs for quality family planning information and services. However, governments should not impose incentive schemes or demographic goals on family planning services in forms of quotas or targets for the recruitment of clients. Coercion has no part in family planning services (ICPD principle 8, 6.4, 6.25, 7.12, 7.16, 7.22).

Plans for services should include:

- Plans to improve the quality of care through:
 - Ensuring accurate information and access to the widest possible range of safe and effective family planning methods;
 - Ensuring a sufficient and continuous supply of high-quality contraceptives and follow-up care;
 - Providing information on STIs and HIV and AIDS and make condoms available;
 - Including facilities for the diagnosis and treatment of common STIs and other reproductive tract infections;
 - Provide post-abortion counselling, education and family planning information to help avoid repeat abortions;
 - Providing counselling on breastfeeding and longer intervals between births; and

- Providing referral for additional reproductive health services (BPA 97, 106(h,k,u,r), 108 (m), ICPD 7.6, 7.23 (a,b,c,f,h), 7.30, 7.32, 7.33, 7.41, 8.17, 8.18, 8.25, 8.31, 8.35).

International targets require universal access to a full range of safe and reliable family planning methods which are not against the law, as part of comprehensive sexual and reproductive health care in all cases by 2015 (BPA 106 (e,I), ICPD, 7.2, 7.4, 7.6, 7.14(a), 7.16; Cedaw 12). and the removal of all major remaining barriers to family planning use by the year 2005, including unnecessary legal, medical, clinical and regulatory barriers to information and methods (ICPD 7.19, 7.20).

NGOs should be involved in monitoring public and private family planning (ICPD 7.18) and Family planning services should be evaluated utilising user perspectives and qualitative and quantitative measure, including client surveys (ICPD 7.23(g)).

REPORTING

X

NOT APPLICABLE

RATIFICATION

X

NOT APPLICABLE

POLICY

2

The Constitution recognises that the right to security of the person includes the right to making decisions concerning reproduction. Women also have the right of access to reproductive health-care (sections 12 and 27). This frames government policy on contraception.

The Health Sector Strategic Framework 1999-2004 included reducing teenage pregnancy and improving women's health as core health priorities.

In 2002, the government launched its National Contraceptive Policy Guidelines after a two year consultation process. This policy moves away from a 'population control' approach to increase women's access to quality health services and to emphasise choice. The Guidelines set out three policy objectives:

- to remove barriers that restrict access to contraceptive services;
- to increase public knowledge of client's rights, contraceptive methods and services; and
- to provide high quality contraceptive services.

The policy also recognises that contraception services should be integrated these within reproductive health-care services within in the overall primary health care system.

This comprehensive policy scores a '2'.

LAW

1

The National Contraceptive Guidelines call for the review and revision of all legislation to allow the full implementation of the Guidelines (at 14-15). It also identifies some of the law

that require amendment. Several laws have been amended such as the Sterilisation Act, some legislation (such as the Childcare Act) still needs to be addressed. The Childcare Act requires revision 'pertaining to the age at which minors can receive medical treatment in order to meet their health and social needs, without assistance from their parents/guardian. The Guidelines suggest review of the situation of children under 14.

The incomplete law reform process scores a '1'.

DEVELOPMENT OF A PLAN

1

The provision of contraception should be part of a broader package of health-care and this is envisaged in the National Contraceptive Guidelines. However, in practice, there remains a challenge to develop the infrastructure of contraceptive services as part of expanded services (Adar and Stevens).

The National Contraceptive Guidelines identify the strategies needed to meet the policy objectives of removing barriers, increasing knowledge and providing high quality services (at 20-23). It provides a general plan at national level that still has to be developed further for implementation in the provinces. More detailed plans have been finalised at national level and in some provinces, but not all (Schneider, email).

The uneven development of plans at provincial level scores a '1'.

TARGETS

1

Targets are in the process of being finalised (Schneider, email). This scores a '1'.

INSTITUTIONAL MECHANISMS

1

The Maternal, Child and Women's Health and Nutrition cluster at national level is responsible for policymaking and the production of training and education materials. The provincial Maternal, Child and Women's Health directorates manage contraceptive services in the provinces. National policy guides these directorates, which oversee delivery that takes place through the district health system. 'Contraceptive service delivery points range from those at community level, mobile units, clinics and community health centres to district hospitals, referral/tertiary hospitals and academic centres' (National Contraceptive Guidelines, 12).

While there is clarity as to the mechanisms for delivery, and contraceptive services are widely available in the public health service, they still need to be made available in all health institutions and a regular supply ensured (Adar and Stevens). In particular, there are problems with access to sterilisation services, IUD provision, adolescent services (National Contraceptive Guidelines, 12). Thus in practice, there remains a challenge to develop the infrastructure of contraceptive services as part of expanded services (Adar and Stevens). This is tied into the overall process of transformation of public health sector.

The ongoing development of the infrastructure of contraceptive services scores a '1'.

BUDGET

2

There is a general budget for Maternal, Child and Women's Health, but it is difficult to obtain a breakdown of expenditure. The high usage of contraception within South Africa suggests that there is an adequate budget for this. However, the development of further plans will require further budgeting. In the meanwhile, this scores a '2'.

HUMAN RESOURCES

1

Some guidelines have been developed (The Guidelines for Maternal Care in South Africa, 2000, address the need to counsel women on their future contraceptive needs) and some training has been carried out in respect of contraception.

However, the National Contraceptive Guidelines noted staff shortages, high turnover and an inadequate work performance by many contraceptive service providers, and the need for comprehensive reproductive health-care training, guidelines and regular up-dating (National Contraceptive Guidelines, 12-13). Other commentators have noted the fact that there are 'insufficient resources' across the country, and

[i]t is evident that health workers are feeling challenged and stretched and as a result may be resistant to having to provide more services. Improved management and training could assist in motivating health workers (Adar and Stevens, 2002).

In addition, 'the relationship between clients and service providers needs urgent attention to enable clients to feel that they are choosing the contraceptive that suits them best, as opposed to the health provider' (Adar and Stevens, 2002; National Contraceptive Guidelines, 13). Patient choice needs to be prioritised and sensitivity in dealing with your people.

The NCG Guidelines demonstrate that the government is aware of these problems of human resource capacity and that they are being addressed over time. This scores a '1'.

INVOLVEMENT OF CIVIL SOCIETY

2

The two-year process of developing contraceptive guidelines was consultative, involving stake-holders in the government and in civil society. In addition, research units and academic institutions have been involved in policy and implementation research.

The Guidelines envisage the partnerships with other government sectors, the private sector and NGOS in improving the quality of care (at 22).

At this stage in the process, there has been a history of positive involvement of civil society, at least in so far as research and policy expertise is concerned. While there is little evidence of involvement with NGOs, this has not been an issue on which NGOs have organised. Where there has been additional involvement with youth groups etc, it has been tied in to AIDS work (eg. Government funded loveLife programme).

Positive involvement of civil society scores a '2'.

RESEARCH

2

The development of the National Contraception Guidelines involved comprehensive research into the use of contraception and the effective translation of policy into practice. These Guidelines reveal how research has been used to inform the government of the problems in access and quality of care. At this stage of the policy development and implementation process, the use of research has been completely appropriate. This scores a '2'.

INFORMATION DISSEMINATION

1

The 2002 Annual Report states that '[a] popular version of the policy guidelines [on contraception] has been developed to inform communities of the public health sector's approach to contraception' (Department of Health).

The National Contraception Guidelines identify the need for 'appropriate IEC messages, material and programmes about contraception for multimedia dissemination' (at 21). It also sets out strategies and criteria for doing this. There has been some progress on this. There have been some complications, especially in having to align contraceptive messages with AIDS prevention messages, but plans are being finalised (Penn-Kekana, interview).

The ongoing development and distribution of information messages scores a '1'.

MONITORING AND EVALUATION

1

The National Contraception Guidelines make provision for strengthening the monitoring and evaluating of contraceptive services

Monitoring

Training is taking place at district level to assist health workers in capturing information for the purpose of monitoring and evaluation (Department of Health, Annual Report).

Evaluation

The National Contraceptive Guidelines call for periodic evaluation of contraceptive services, although it is too early to evaluate at this stage.

The ongoing development of an effective monitoring system scores a '1'.

HIV/AIDS – THE ABUJA DECLARATION

INTRODUCTION

The Abuja Declaration is the primary regional African response to the AIDS pandemic on the continent. It clearly recognises the particular vulnerability of women and girls, and makes a series of commitments to addressing HIV and AIDS. We set out the key issues below. In interpreting these, we also rely on the 'Kampala Declaration on Gender and HIV-AIDS', a response to international standards by women in the East African region.

International standards

The Abuja Declaration :

- Recognises the particular vulnerability of women, especially the impact of 'economic and social inequalities and traditionally accepted gender roles that leave them in a subordinate position to men' (para 7).
- Commits government to political leadership and commitment at the highest level and to mainstreaming by ensuring a gender perspective in all national policy-making and programme implementation relating to HIV and AIDS (para 24).
- Calls for the establishment of an overall co-ordinating body to ensure that there is a co-ordinated multi-sectoral response with a gender perspective in all national policy-making and programme implementation (para 24). In other word, this body is tasked with ensuring that gender mainstreaming occurs.
- Calls for securing adequate human and financial resources at national and international levels (para 18).
- Calls for the broad mobilisation of society..., including women's organisations .. to sensitise people to the threat of HIV/AIDS .. and to protect those not yet infected, particularly women...through appropriate and effective prevention programmes (para 23).

Assessment

The Abuja Declaration expects more of governments than the ICPD, especially in the area of social and economic inequalities and women's particular vulnerability in this respect. In particular, it anticipates the positive integration of gender across all government activities on HIV and AIDS. In this section, therefore, we are scoring the extent to which gender is mainstreamed into all policies and programmes on HIV and AIDS, and the extent to which government ensures that this is done through the development of policies, plans and indicators.

In general, we have found this approach to be lacking in South Africa. In addition, there are few focussed activities addressing women's social and economic vulnerability to HIV and AIDS and their traditional roles. Mostly, attention to women takes place within the Department of Health.

RATIFICATION

X

NOT APPLICABLE

REPORTING

X

NOT APPLICABLE

POLICY

0

There is no gender mainstreaming approach to HIV and AIDS. For example, the identification of women as a vulnerable group in the National AIDS Plan does not constitute gender mainstreaming. In addition, there are no specifically gendered policies on discriminatory social practices and gender roles and their linkages to women's vulnerability to HIV and AIDS.

The Kampala Declaration⁵⁷ identifies the absence of gender sensitive and responsive HIV and AIDS policies, as well as cultural barriers as significant problems for women in Africa.

The absence of any co-ordinated policy framework or gender mainstreaming policy approach to HIV and AIDS in South Africa scores a '0'.

LAW

2

Law is not necessary to develop a gender mainstreaming approach, although it might be the product of that approach in some sectors. Law is generally not applicable to this score. In so far as we have to score it, the score should be '2' as all laws relating to HIV and AIDS appear to account for women (see the information on 'Law' in the section on 'HIV/AIDS – the ICPD').

PLAN

0

There is no evidence of a plan to mainstream gender within all government policies and programmes on HIV and AIDS either centrally or in all government departments. This may be occurring on a more *ad hoc* basis in particular departments, such as the Department of Health.

However, the absence of a comprehensive strategy or plan scores a '0'.

TARGETS

0

In the absence of a plan, there can be no targets. This scores a '0'.

⁵⁷ Kampala Declaration on Gender and HIV/AIDS, November 2001.

INSTITUTIONAL MECHANISMS

1

The overall co-ordinating mechanism of HIV and AIDS in government is the National AIDS Directorate. This is in place, although without a director at present.

There are Gender Focal Points in most (but not all) government departments, which have a gender mainstreaming role.

The advisory body, as envisaged in the Abuja Declaration, is the South African National AIDS Council (SANAC), a body that advises government on policy, advocates for involvement of all sectors in implementation, monitors the implementation of the Strategic HIV/AIDS/STD Plan in all sectors, creates and strengthens partnerships, mobilises resources and recommends research. 'Women' is one of the 17 sectors represented on the Council, but it is not identified as a specific theme for the task teams. Provincial Councils have been formed, as well as some local/metropolitan councils

This scores a '1'. Although most institutions are in place, some national departments, most noticeably the Department of Labour, do not have Gender Focal Points to assist in mainstreaming.

BUDGET

0

Overall the budget for HIV and AIDS has increased over past years, and is set to increase further. However, this section tests whether there are resources for the important tasks identified in the Abuja Declaration, such as gender mainstreaming or addressing the negative impact of social practices. There is no evidence of such resources, hence this scores '0'.

HUMAN RESOURCES

1

The absence of gender mainstreaming points to a problem with the number and capacity of personnel to integrate gender into plans and programmes. Some personnel are in place, but often with limited capacity.

SANAC seems to have little capacity to 'ensuring gender mainstreaming' in its advisory role. It has been criticised for being ineffective, and it has recently been streamlined and restructured, with its own secretariat. It has also been criticised for remaining silent in the past on important women-related issues, such as provision of anti-retrovirals for mother-to-child transmission. The Women's sector representative on the South African National Aids Council commented that the gender portfolio of SANAC 'is not yet clear considering the current pace of SANAC, where operational plans have not been accepted' (email communication, 23 May). SANAC seems to have done little in relation to gender.

Hence this scores a '1'.

RESEARCH

1

There is much research on HIV and AIDS, some of it relates to gender, however we have not been able to identify research relevant to the issue of mainstreaming gender. Hence this scores '1' for some research.

INVOLVEMENT OF CIVIL SOCIETY

1

The Abuja Declaration calls upon the government to mobilise women's organisations. Government mobilises civil society in a number of ways. Firstly, through the SA National AIDS Council. SANAC is envisaged as a central player in the expansion of a cross-sectoral programme that takes civil society into account. We have not been able to establish any activity by SANAC on mobilising civil society.

Secondly, the Department of Social Development has been responsible for building partnerships with civil society, and initiated the partnership with women against AIDS. The Department of Social Development was involved in spearheading a two year partnership against HIV and AIDS in 1999-2001. 'Women in partnership against Aids' encouraged the mobilisation and organisation of women at all levels of society to combat the spread of AIDS in South Africa. This entailed an awareness train 'On the Right Tracks' and series of provincial workshops to raise awareness of AIDS and of government programmes to address AIDS.

There has been some activity, but the absence of effective civil society involvement, especially in SANAC, scores a '1'.

INFORMATION AND DISSEMINATION

0

In the absence of policies, plans and resources; there is little dissemination of information on the broad range of gender issues relating to HIV and AIDS. This scores '0'.

MONITORING AND EVALUATION

0

In the absence of an effective gender mainstreaming policy and plan, there can be no monitoring and evaluation. This scores a '0'.

EDUCATION

Policy on Girl School Dropouts

INTRODUCTION

In many African countries there are high dropout rates of girl learners. Several factors account for this: the unequal burden of caring that girls take on in society, which is exacerbated by the effects of the HIV/AIDS epidemic, structural adjustment and the sex-differentiated nature of the labour market. For the continent, monitoring this trend is extremely important as it affects women's ability to be productive in the labour market.

In South Africa, studies show that girls drop out at a far *lower* rate than boys (see the Gender Status Index),⁵⁸ although there is an anomaly in that Coloured girls drop out at a faster rate than boys (Schindler, 1996). Some reasons that have been offered for this counter-trend in South Africa are that: the only relatively high status jobs available (particularly for African women) require matric and further training; families may invest in girls because women are often sole breadwinners; and the perception that educated girls can command a higher *lobola* price. Of the girls who do drop out, pregnancy is by far the most frequent reason, even though official Department of Education policy is that pregnant learners and teenage mothers should not be denied access to school.

AGDI Scoreboard

This indicator measures whether or not a country has specific policies to address the issue of girl school drop outs. It further measures whether there are policies in place to provide girl drop-outs with professional training and whether these policies are being implemented.

The fact that this is not a significant problem for South African women means that there has not been a lot of activity here. However, we are required to score this index, and have thus done so in relation to government activities relating to pregnant learners on the assumption that this is one of the main causes of girls dropping out of school.

RATIFICATION X

NOT APPLICABLE

REPORTING X

NOT APPLICABLE

LAW 2

The South African Schools Act, 84 of 1995, stipulates that a learner who falls pregnant may not be excluded from school and also requires School Governing Bodies to adopt codes of conduct to establish a 'disciplined, purposeful learning environment'.

⁵⁸ Chapter two, page 24 of this report.

Full legal protection of pregnant learners scores a '2'.

POLICY

2

The Department of Education is committed to ensuring that pregnant learners are not denied an education. It also supports Adult Basic Education Training so that dropouts are not permanently disadvantaged. Broad policy protects pregnant learners.

Score is 2 because there the policy environment protects pregnant learners to address one of major reasons for girl dropouts.

DEVELOPMENT OF A PLAN

1

Good laws do not ensure that pregnant learners are protected. Implementation is particularly important. The Department has a draft policy on addressing the problem of pregnant learners,⁵⁹ and departmental guidelines seek to provide standards for dealing with pregnant learners after abuse of the law was identified.⁶⁰

Score '1' for aspects of a plan to address the issue of pregnant learners.

TARGETS

0

We have not been able to identify any targets linked to a plan for addressing the issue of pregnant learners. Score '0'.

INSTITUTIONAL MECHANISM

2

The issue of pregnant learners is addressed by school governing bodies and school staff. Score '2' as institutional mechanisms are in place

BUDGET

0

We have not been able to establish what budget is available for addressing this issue. Score '0'.

HUMAN RESOURCES

1

Human resources, in the form of educators are available; but often there are problems with attitudes as school management may force some pregnant learners to leave school.⁶¹ This scores a '1'.

⁵⁹ Gender Focal Point, Department of Education, information obtained 2004.

⁶⁰ Reported in *Business Day* 18 May 1998.

⁶¹ http://www.news24.com/news24/South_Africa. 14/11/2004

RESEARCH

1

We have not been able to find any research that specifically investigates the reasons why girls drop out of school. However, there is research on teenage pregnancy and on gender equity issues in schools more generally. Hence this scores '1'.

INVOLVEMENT OF CIVIL SOCIETY

2

Parents and learners are involved in issues relating to school management and, for example, drawing up codes of conduct. Score '2' for civil society involvement.

INFORMATION AND DISSEMINATION

2

There are programmes to educate learners in terms of sex responsibilities and teenage pregnancies. The Gender Equity Directorate has developed educational materials in these areas.

Score is 2 because there is wide dissemination of information.

MONITORING AND EVALUATION

1

There is ongoing annual monitoring of matric exit and pass rates by the Department of Education. There is also monitoring of teenage learners by the Department of Education (collects statistics of cases reported to it) and the Department of Health (teenage pregnancy rates).

However, we are not aware of any research that evaluates the issue and government responses.

Score is '1' because there is ongoing monitoring, but no evaluation of pregnancy and dropout rates.

Education on human/ women's rights

INTRODUCTION

South Africa has a strong rights-based constitution and since 1994 the government has been committed to entrenching a culture of human rights. Schools are one important avenue for the promotion of rights, both in terms of curricula as well as promoting an environment in which girls can feel valued and empowered.

AGDI Scoreboard

The starting point in the scoreboard is that policies should be put into place to ensure that human rights, including women's rights, are integrated into educational strategies and monitoring schemes. This indicator measures whether or not the Ministry of Education has a policy on the integration of human rights including women's rights in education and to what extent the policy is being implemented.

International standards

1. Implementation of CEDAW and education about this convention: See women's rights section.
2. Beijing Platform for Action Strategic objective 1.3 "Achieve legal literacy"
 - 2.1. Actions to be taken

'Promote education on the human and legal rights of women in school curricula at all levels of education and undertake public campaigns, including in the most widely used languages of the country, on the equality of women and men in public and private life, including their rights within the family and relevant human rights instruments under national and international law'.

RATIFICATION X

NOT APPLICABLE

REPORTING X

NOT APPLICABLE

LAW 2

The Constitution of South Africa, Act 108 of 1996, is founded on values of human dignity, the achievement of equality and the advancement of human rights and freedoms for all.

Every child has the right:

- To be protected from maltreatment, neglect, abuse or degradation
- Not to be required to perform work or services that are inappropriate for a person of that child's age or place at risk the child's well being, education, physical or mental health or spiritual, moral or social development

No person may unfairly discriminate directly or indirectly against anyone on the grounds of race,

gender, sex, pregnancy, marital status, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth

Everyone has inherent dignity and the right to have their dignity respected and protected

In addition, s 29 of the Bill of Rights guarantees the right to basic education and training.

The South African Schools Act, 1996 states that:

"No person may administer corporal punishment at a school to a learner. Any person who contravenes subsection 1 is guilty of an offence and liable for conviction of a sentence, which could be imposed for assault."

Relevant legislation on human rights

Women's human rights are protected under the *Promotion of Equality and Prevention of Unfair Discrimination Act*, 4 of 2000.

The National Education Policy Act 27 of 1996 (NEPA) endorses the Constitutional provision in particular as it outlines the powers and duties of the national and provincial ministries of education to ensure that they are structured and operates along democratic principles.

NEPA, section 3(n), stipulates that in the control and discipline of learners, advancement and protection of the fundamental rights guaranteed in the Bill of Rights in the South African Constitution should be upheld.

NEPA, Section 4c provides for the achievement of equitable education opportunities, the redress of past inequalities and the advancement of the status of women.

South African Schools Act 84 of 1996 (SASA), Preamble ensures that schools are run in democratic ways to uphold and promote a culture based on human rights. Included is the undertaking to combat racism, sexism and all other forms of unfair discrimination and intolerance.

SASA, chapter 4, on principles and values: lists the rights of learners as, amongst others, democracy, non-discrimination and equality, privacy, respect and dignity, the freedom and security of a person. These are in line with the Constitution.

SASA, page 2B - 18, in its guidelines for schools on the development of the Code of Conduct stipulates that this should affirm the democratic values of human dignity, equality and freedom that are enshrined in the Constitution.

Score is '2' because no further legislative measures are required.

POLICY

1

The Revised National Curriculum Statement (RNCS) has a learning area in the General Education and Training (GET) band for schools from the Reception class to Grade 9, that is, the Foundation phase (Grade R - 3), Intermediate phase (Grade 4 - 6) and Senior Phase (Grade 7 - 9). This statement seeks to infuse human rights into the curriculum to ensure that all learners learn and practice them from an early age. The underlying principles and values of the RNCS of all 8 Learning Areas Statements underpin the Learning Programs. It is not clear to what extent this curriculum is gendered.

The Department of Education takes a "Values in education" approach to policy. The Manifesto on Values, Education and Democracy launched June 2001 provides a practical framework for instilling

and reinforcing the culture of communication and participation [that is] a critical step in nurturing a sense of the democratic values of the Constitution in young South Africans' (Department of Education, 2001, Manifesto on Values, education and Democracy). The Manifesto outlines sixteen strategies for instilling democratic values, including 'infusing the classroom with the culture of human rights' 'ensuring equal access to education' and 'freeing the potential of girls as well as boys'.

However there is a lack of specificity about women's human rights in all ten fundamental values. Social justice and equity is interpreted exclusively in class and race terms. Although the 'equality' value is explicitly derived from the constitutional clause on equality it does not mention gender equality. The non-sexism value does not mention equality within the family as specified by Beijing directive above – it is limited to what happens within the school. There is a thin specification of gender in the value 'respect'; it is buried in a quote from the Convention of the Rights of the Child.

The Manifesto on Values does not address the issue of sexual harassment and sexual violence in schools, which a Human Rights Watch study among others has found to be widespread in South African schools. They found that 'South African girls continue to be raped, sexually abused, sexually harassed, and assaulted at school by male classmates and teachers' (2001, 4). Sexual violence is not just a feature of poorly resourced schools (which would not have sufficient human resources to offer counselling and monitor incidents of violence) but is pervasive in the entire education system (2001, 36). This is an environment in which girls' rights are not entrenched and as such any human rights policy for schools would need to proactively develop strategies for addressing violence.

Although sexual violence and gender equity is addressed in relation to the learning process and "Equity in the Classroom" projects under the Department's Strategic Plan, this does not seem to refer to the teaching of human rights or women's human rights.

Score is '1' because while there is a strong overall human rights policy gender equity is not fully integrated.

DEVELOPMENT OF A PLAN

1

Values in Education Programme of Action June 2002. Five year plan beginning 2002 (start date not specified, assume 2002). Values identified:

- Democracy
- Social justice and equity
- Equality
- Non-racism and non-sexism
- Ubuntu (human dignity)
- An open society
- Accountability (responsibility)
- Rule of law
- Respect
- Reconciliation

However, women's rights seem to have dropped out of the framework. Under the "Vision" section, a box on 'A Culture of Human Rights and Non-racism' has no mention of non-sexism. The two aims specified are:

- All learners have access to teaching and learning and are catered for in the school
- All learners feel valued and welcomed in the classroom, irrespective of racial, class, religious and language backgrounds.

Key projects identified are: establishment of a national network, celebration of values, heritage and creativity, visibility and support for values in the curriculum, support for managers and teachers to integrate values into their practice.

On the other hand, one of the Strategic Projects in the departmental implementation plan for 'Tirisano' (2002-2004 Strategic Plan) identifies as a strategic objective: 'to promote values which include respect for girls and women and recognise the right of girls and women to free choice in sexual relations' (Strategic Plan 2002-2004, Implementation Plan for Tirisano). One of the outcomes relates to changes in behaviour and attitudes towards sexuality.

Score is '1' because while issues of human rights are present in some plans, there is no plan to directly address education on women's human rights.

TARGETS

0

It is difficult to specify broad targets (although it might be possible to target reductions in incidents of violence). The Manifesto cites as an objective that 'every single institution in the country will have a Values Statement and a Values Action Plan and a shared commitment to them'. There are some targets set in the 2002-2004 Strategic Plan, but they do not relate directly to human rights education.

Score is 0 because there are no set targets for women's human rights education.

INSTITUTIONAL MECHANISM

1

Department of Education takes overall responsibility for human rights education. It has established a Race and Values Directorate as well as a Schools Education Directorate. The Gender Focal Point will work with these structures, and play an important role in ensuring the positive inclusion of gender. However, provincial gender units do not exist in all nine provinces. In many provinces, gender is subsumed under 'special programmes' and is part of wider responsibilities.

Score is 1 because there are provinces which do not have gender focal points.

BUDGET

1

There is a budget for human rights education but not for gender equality programmes specifically. No clear budget line for gender programmes could be found in the Medium Term Expenditure Framework. There is a reliance on donor funding. This is minimal and difficult to disaggregate from other forms of funding. Only Kwazulu-Natal, the Northern Cape and Eastern Cape have some funding for gender equality programmes.

Score is 1 because the funding for gender equality programmes is not clearly disaggregated from other budgets.

HUMAN RESOURCES

1

This policy envisages the use of existing resources in the Department of Education and in schools. It therefore seems adequate although it will be necessary to determine whether educators and education officials are taking the specific rights of girl children into account. An important area of need is greater training of educators in gender equality and human rights, particularly women educators who might be the first port of call for girls experiencing abuse.

Score is 1 because while there are sufficient human resources in terms of numbers there is still a need for further training in gender equality and women's human rights.

RESEARCH

1

The Gender Equity Task Team established in 1996 produced a report on gender equity in education. There appears to have been little research on gender since then.

A Study was commissioned from the Wits Education Policy Unit, entitled "Values, Education and Democracy: Interim Research report, 2001" but it does not seem to have included women's rights. The South African Human Rights Committee has conducted research on racism in schools but in general gender discrimination has not been addressed specifically in any study.

Score '1' because of limited research

INVOLVEMENT OF CIVIL SOCIETY

1

The Department of Education held a conference with 'stakeholders' in state and civil society: 'Saamtrek: Values, education and Democracy in the 21st Century'. Plan of action involves consultation and input from schools governing bodies etc. On the Values Initiative the Department has consulted with the South African Human Rights Commission but not the Commission on Gender Equality. No women's organisations were involved.

Score is 1 because involvement of relevant women's organisations by government is limited.

INFORMATION AND DISSEMINATION

1

This programme is in its infancy. Some pamphlets have been produced, although thus far materials are only available in English (Department of Education and SAPS, *Signposts for Safe Schools*, 2002; Department of Education, *Stopping Sexual Harassment at School*).

Information and education does not seem to be reaching educators. The Human Rights Watch study interviewed teachers, school principals, education policy experts and social workers with regard to policies to address sexual violence in schools. 'They uniformly said they were unaware of any standard procedural guidelines provided to schools by the national or provincial education departments on how schools should treat those who are accused of sexual violence or harassment or accommodate victims of sexual violence in their schools.' (Human Rights Watch, 2001, 77). They were unable to obtain any copy of policy guidelines on how to deal with sexual violence in schools from the national department. This research has also failed to find any information, although there a policy guideline that is being developed by the Directorate in Gender Equity.

Score is 1 because information is not effectively reaching all responsible stakeholders.

MONITORING AND EVALUATION

0

Monitoring and evaluation is part of the overall plan of the Department of Education. However, a study commissioned in part by the Department of Education in 1999 found that there is no systematic monitoring of incidents of violence in school by the national and provincial departments of education (Porteous, 1999, 10). This would imply that systems of monitoring gender violence are in their

infancy. Human rights programmes have been monitored although again there does not seem to be specific attention to gender equality. There is monitoring by the department of incidents of sexual abuse within schools but this only covers disciplinary cases that have been brought before the department.

Score is 0 because there is no specific and effective monitoring and evaluation of effectiveness of human rights education programmes in addressing gender equity.

CHAPTER FIVE

ECONOMIC POWER

ILO CONVENTIONS

INTRODUCTION

This section on the conventions of the International Labour Organisation seeks to assess government progress in advancing women within the workplace.

According to Stats SA, women accounted for about 45% of the 'economically active' population in 2003 (i.e. those people between 15 and 65 who are employed or who are unemployed and actively seeking work) (Budlender, 2004). The unemployment rate for women in March 2003 was 48,4%, compared to 35,9% for men. (Stats SA 2003, Table 2.3.2). Thus women accounted for 57% of all unemployed people in March 2003 (Budlender, 2004, 3). However, African women fare worst of all women, with an unemployment rate of 55,5% (compared to 11,1% for white women).

The government department being measured here is the Department of Labour. In general, its policies and programmes have focussed on women in the formal rather than the informal sector. (This is also true of the African Gender and Development Index scores in this section). This has race and class implications as it has been suggested that up to 53% of those employed in the informal sector in March 2003 were African women. As will be seen in this chapter, this is beginning to change as domestic workers have been brought into the labour framework.

The following sections measure progress by governing in respect of -

- Equal pay
- Discrimination
- Maternity rights
- HIV and AIDS.

The standards are those found in the relevant ILO Conventions.

In general, much has been achieved at policy and legislative levels and the institutional mechanisms are in place to enforce and implement these. However, there is little information on what is being done to address the issue of gender in a proactive and systematic way and the Department's reports contain little gender disaggregated information.

CONVENTION 100 – EQUAL PAY

INTRODUCTION

Statistics reveal that women are generally paid less than men in South Africa. The Gender Status Index demonstrates that this is consistent across different forms of work (chapter 2, pages 35-6). In general, the Labour Force Survey of February 2001 found that nearly one fifth of women (19%) earn R200 or less a month (compared to 9% of employed men) and only 14% of women earn more than R4 500,00 compared to 23% of men (Budlender, 2002).

Although laws have been passed that seek to promote equality and protect unfair discrimination, structural inequalities mean that women are still employed in sectors and jobs that are unequally remunerated and that have little occupational mobility. Solving the problem of unequal pay is a complex issue, not least because detailed data on wages is not always reliable (Statistics South Africa and Department of Labour 2000) therefore making it difficult to get an overview of the problem areas and how to resolve them.

International Standards

The ILO Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, No. 100, was adopted by the ILO on the 29 of June 1951. It deals with basic and/or minimum wages, as well as any additional emoluments that arise out of the employee's work, payable in cash or in kind to the employee directly or indirectly by the employer. In addition, it also emphasizes remuneration based on non-discrimination on the grounds of sex.

Article 3 provides for the application of Convention's principles through:

- National laws or regulations,
- Legally established or recognized machinery for wage determination,
- Collective agreements between employers and workers; or
- A combination of these various means.

The Convention also calls for positive measures to promote the objective appraisal of the job on the basis of the work performed.

What we are measuring in South Africa:

As the Convention envisages a combination of negative measures (complaints mechanisms) and positive measures, we assess South Africa in terms of the regulatory mechanism for dealing with unequal pay complaints, as well as the extent to which it proactively addresses the problem of the gender gap in pay, including attention to systemic causes.

In general South Africa has performed very well in terms of developing a regulatory framework, but has still to pay attention to positive measures in relation to the gender wage gap.

RATIFICATION

2

The South African Government ratified⁶² this convention on 3 March 2000.

⁶² Ratification in South Africa follows a process whereby ratification of a convention is proposed to National Economic Development and Labour Council NEDLAC by either organized labour,

Ratification scores '2'.

REPORTING

2

Reporting is regulated by article 22 of the ILO Constitution. This enables the ILO periodically to request reports from states which have ratified ILO conventions.⁶³ This reporting is compulsory reporting and SA has complied (Department of Labour International Desk, interview). At the time of collecting this information, the Department was busy compiling the report due in September 2003. The last report to the ILO was submitted September 2001.

Reporting is up to date and scores '2'.

POLICY

2

The Constitution prohibits unfair discrimination and requires fair labour practices. The Employment Equity Act, which regulates equal pay though negative and positive measures, was passed in 1988. It emphasises race, gender and disability. This was previously accepted in a Government White Paper (government policy paper).

Policy covers positive and negative measures and scores a '2'.

LAW

2

This convention is largely applied through the Employment Equity Act, 55 of 1998 and the Basic Conditions of Employment Act, 75 of 1997.

The Employment Equity Act aims to:

- Promote equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
- Implement affirmative action to redress unemployment disadvantages experienced by designated groups⁶⁴ and ensure their equitable representation in all occupational categories and levels in the workplace

Although the Act does not specifically provide for claims of unequal pay, such claims can be brought under the unfair discrimination sections of the Act.

The Act also provides for progressive measures to reduce income differentials where they are disproportionate. This could be done through:

- Collective bargaining
- Compliance with sectoral determinations (see section 51 of the Basic Conditions of Employment Act)

government, business or the community constituency. Then the labour market chamber in NEDLAC agrees on a process to discuss these conventions. The next stage is the tabling of conventions discussed in NEDLAC in parliament. If parliament agrees to these conventions then they are deposited with the Department of Foreign Affairs and the ILO.

⁶³ Article 22 of the ILO constitution states "each of the members agrees to make an annual report to the international labour office on the measures which it has taken to give effect to the provisions of conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request".

⁶⁴ 'Designated groups' refers to black people, women and people with disabilities.

- Relevant measures contained in skills development legislation.

The Act further says that where there are disproportionate income differentials in the workplace, employers must act to progressively reduce these differentials.

The Act contains a number of measures for monitoring and prosecution in the event that the act is violated. These are stipulated in chapter 5 of the Act:

The Basic Conditions of Employment Act provides for the establishment of Employment Conditions Commission (EEC) which advises the Minister on minimum wages of 'vulnerable' workers, which would include women workers. This advice informs the sectoral determinations and ministerial determinations regarding minimum wages and conditions. Several important wage determinations under the Basic Conditions of Employment Act have addressed the conditions of vulnerable women workers, the most important being contract cleaners and domestic workers (published August 2002).

The legal framework provides for positive and negative measures of addressing unequal pay and scores '2'.

DEVELOPMENT OF A PLAN

1

There are several mechanisms for addressing unequal pay. We looked for evidence of plans in the following:

- Employment Equity Commission (EEC)
- Employment Conditions Commission (ECC)
- The Equity Directorate

The Employment Equity Act requires the Employment Equity Commission (EEC) to investigate norms and benchmarks for proportionate differentials and to advise the minister as to how disproportionate differentials should be reduced. The Annual Reports of the EEC do not suggest that this has yet been done in relation to gender, nor does there seem to be a plan to do so.

The Employment Conditions Commission apparently plans a determination on the female dominated hospitality industry, but this has not yet been done (Budlender, 2004).

We have not been able to establish what plans may exist in the Equity Directorate.

We found some evidence of plans relating to unequal pay, although these were not comprehensive. Hence this scores a '1'.

TARGETS

0

In the absence of detailed plans, we were not able to find targets. This scores a '0'.

INSTITUTIONAL MECHANISMS

1

Mechanisms for claims of unequal pay are in place. Claims of unfair sex/gender discrimination based on unequal pay can be heard by the CCMA and the Labour Court. Both institutions are in place.

Mechanisms are also in place that could develop plans or programmes for addressing the problem of the gender gap in pay. These include the Commission for Employment Equity and the Employment Conditions Commission (which have an advisory and implementing role) and the Employment Equity Directorate (which has a policy/implementing role). However, the Department of Labour does not have a Gender Focal Point in place, whose task would relate to mainstreaming gender into policies and programmes of the Department.

Although most mechanisms are in place, there is no Gender Focal Point in the Department of Labour, hence this scores a '1'.⁶⁵

BUDGET

1

There is a budget for the CCMA and the Labour Courts which deal with complaints of unequal pay and for the Employment Equity Commission and Employment Conditions Commissions. However, we were unable to identify a budget tied to plans and objectives to reduce the gender gap for women. Hence this scores '1'.

HUMAN RESOURCES

1

The CCMA and Labour Courts are staffed, as are the two Commissions and the directorate in the Department. However it is not clear whether there are enough staff, with the requisite capacity to identify and address the more systemic issues that underpin the problem of the gender gap in pay.

This scores '1'.

RESEARCH

1

The Department of Labour in partnership with Statistics South Africa produced a report on "Mean and Minimum Wages in South Africa" in 2000. The publication is one of the responses to the Presidential Job Summits of 1998. The report captures and analyses data on income from household captured in the October Household Survey of 1997, it also compares actual earnings to legislation on minimum wages. It reports on 'Mean hourly wages by industry and gender, thus gender is one of the variables it addresses.

The report by Statistics South Africa, 'Women and Men in South Africa five years on' (Stats SA 2002), presents statistical information on the fact that men earn more than women in general. The report further shows that women still perform most unpaid work.

The Commission on Gender Equality (CGE) commissioned the Community Agency for Social Enquiry (CASE) to examine the issue of equal work for equal pay or work of equal value, which was particularly interested in women who work in the vegetable farm industry.

Some research has been done on the issue (mainly quantitative rather than qualitative), but this does not form part of a comprehensive research programme for identify barriers to equal pay nor for addressing unequal pay, thus scoring a '1'.

⁶⁵ At the Research Meeting in Addis Ababa, October 2004, it was confirmed that the absence of a Gender Focal Point should reduce the score wherever such GFP was required.

INVOLVEMENT OF CIVIL SOCIETY

1

Civil society is represented on the Commission for Employment Equity. But there are no mechanisms for specific inclusion of women's sector. The various law reform processes were open to civil society participation.

This scores a '1' as government is generally open to civil society participation, but more formal mechanisms could be established.

INFORMATION DISSEMINATION

1

The Government disseminates its statistical information on equal pay, and the Commission for Employment equity distributes its reports. We are not aware of any dissemination of information of women's rights in relation to unequal pay. Generally it has been noted that the Department of Labour is not good on reporting its progress on gender equity, and there are virtually no gender disaggregated statistics in its reports (Budlender, 2004).

This is not a comprehensive information dissemination process and scores a '1'.

MONITORING AND EVALUATION

1

The Act envisages systems of monitoring and evaluation of unequal pay by employers and by government

Monitoring

Government monitors pay differentials in the Household surveys. Section 27 of the Employment Equity Act requires designated employers to include information on pay and benefits for workers in each occupation and level of the workforce when they report to the Department of Labour.

Evaluation.

The Act imposes methods of self-evaluation of pay differentials on the Employer. In addition, the government would be responsible for evaluating the impact of the Act on equity in the workplace.

A system of monitoring and evaluation of unequal pay is in place, although it is not clear that the system is used to its fullest ability to monitor the gender gap in pay, and not enough gender disaggregated statistics are published. This scores a '1'.

CONVENTION 111 – DISCRIMINATION

INTRODUCTION

This Convention addresses the question of discrimination, including sex discrimination in the workplace. South Africa has put in place both constitutional and legislative protections against unfair discrimination in the workplace. Despite this, structural inequalities, the sexual division of labour in the home and sexist attitudes mean that discrimination continues.

International Standards

This Convention was adopted by ILO adopted on 4 June 1958 against the background of the declaration of Philadelphia that 'all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity'. The ILO also took into consideration that discrimination constitutes a violation of rights enunciated by the Universal Declaration of Human Rights.

Discrimination has been defined as:

- any distinction, exclusion or preference made on the basis of race, colour sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
- such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies (ILO Convention 111, article 1).

The Convention requires each member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof (article 2).

What we measure:

The Convention requires attention to negative and positive measures to address discrimination. This includes the development of a regulatory framework to address complaints of discrimination, as well as provision for proactive measures to reduce discrimination and eradicate inequality.

RATIFICATION

2

The Convention was ratified on 5 March, 1997 by the government.

This scores a '2'.

REPORTING

1

Reporting is regulated by article 22 of the ILO Constitution. This enables the ILO periodically to request reports from states that have ratified ILO conventions. This is compulsory reporting and SA has still to respond to a request for a report in September 2003. This is now due between June and September 2004. It is currently being compiled. (Interview, International Labour Desk, Department of Labour).

This report appears to be behind schedule and scores '1'.

POLICY

2

Policy standards are set by the Constitution. Section 9 of the Constitution guarantees the right to equality and permits measures to advance and protect persons who have been unfairly discriminated against in the past. Policy standards are also set by the Convention which is regarded as persuasive in South African Law.

Government has committed itself to anti-discriminatory and positive equality measures in the public sector workplace in policy documents, such as the White Paper of the Transformation of the Public Service. The Employment Equity White Paper set out policy for the workplace more broadly. Both include sex/gender as a key area of discrimination to be addressed.

This comprehensive policy framework scores a '2'.

LAW

2

The South African government has in place the following laws that address forms of unfair discrimination. These are:

- The Basic Conditions of Employment Act. No. 75 of 1997.
This is primarily aimed at improving the working conditions of all workers, including unorganized and vulnerable workers.
- The Employment Equity Act. No. 55 of 1998.
Section 6 prohibits unfair discrimination. It states that no person may unfairly discriminate directly or indirectly against an employee, in any employment policy or practice, on one or more grounds, including gender, sex, pregnancy, marital status, and family responsibility.

The Employment Equity Act also contains a number of positive measures to advance equality and equal opportunity in the workplace. The Act emphasizes equitable representation of members from designated groups, one of which is women. Section 20(2) (c) states that where designated groups are underrepresented; employers are required to prepare an employment equity plan that includes numeric targets as opposed to compulsory quotas.

This plan suggests that employers should put forward measures to identify and eliminate employment barriers, including unfair discrimination, which adversely affect people from designated groups. It also requires seeks workplaces to accommodate members of the designated groups and to implement training measures / skills development plans.

- The Skills Development Act, No. 97 of 1998. It sets up a framework to ensure the development of skills and equal access to training.

This comprehensive legislative framework scores a '2'.

DEVELOPMENT OF A PLAN

1

The issue of gender discrimination was included in the Minister's Fifteen Point Programme of Action (1999-2004). It is the duty of the employment equity directorate in the Department of Labour to administer the Employment Equity Act. This includes the promotion of employment equity and the elimination of unfair discrimination. The directorate is also tasked with disseminating codes of good practice and regulations to eliminate discrimination and promote employment equity in the workplace. Although we are aware of several activities, we could not identify a specific plan or specific aspects of a plan relating to gender discrimination.

The Commission on Employment Equity has an advisory role on employment equity and is expected to develop codes of good practices and employment equity plans. It does not seem to have a plan that addresses gender discrimination through codes or model plans.

While there are general indications that planning includes women, there are no specific plans to address discrimination and employment equity in a consciously gendered way. This scores a '1'.

TARGETS

1

The Act requires employers to set their own targets for the removal of discrimination in the workplace. As an employer, government has set targets for the advancement of women in the public sector. The White Paper on the Transformation of the Public Service set a target of 30% women in middle and senior management (above director level) (Batho Pele).

We are not aware of any specific targets for departmental activities in addressing the problem of gender discrimination in the workplace more broadly. This scores a '1'.

INSTITUTIONAL MECHANISMS

1

Institutional mechanisms exist to implement the laws made under the convention. These include :

1. The Commission for Employment Equity, which is in place to advise the Minister of labour on policy matters and to develop codes of good practices and employment equity plans.
2. The employment equity directorate in the Department of Labour whose duty is to:
 - Administer the employment equity act
 - Promote employment equity and eliminate unfair discrimination.
 - Disseminate codes of good practice and regulations to eliminate discrimination and promote employment equity in the workplace.
3. Labour inspectors. They have the authority to enter the workplace and must request and obtain from a designated employer an undertaking to comply with article 36 of the Act within a specific period. Labour inspectors may issue an employer with compliance orders should the employer refuse to give a written undertaking or fail to comply with a written undertaking. – One of their functions is the enforcement and

administration of the Basic Conditions Employment Act, Labour Relations Act, Employment Equity Act, and the Occupational Health and Safety Act.

4. Labour Court, which hears cases in relation to unfair discrimination provided for in the Act. For example the report made by the government of South Africa to the ILO for the period 30 July 1998 to 30 June 1999 gives an example of a case heard in the labour court of an employer who refused to appoint a pregnant applicant due to her being pregnant.
5. Individual employees or trade unions may bring the alleged contravention of the Act to the attention of labour inspectors, a trade union, the employer, the Director General of the Department of Labour or the Employment Equity Commission.
6. The Commission for Conciliation, Mediation and Arbitration (CCMA), for the effective implementation of the legislation this institution has developed codes, guidelines and regulations to assist employers and employees to draft plans, do workplace analyses and report to the Department of Labour's national office.

While many institutional mechanisms are in place, the absence of a Gender Focal Point scores a '1'.⁶⁶

BUDGET

1

Funds are available to meet the outputs of the Minister's Fifteen Point Programme of Action (Interview, Department of Labour official). However, as there is no evidence as to which parts go to addressing gender discrimination and there does not seem to be a budget for proactive measures to address gender discrimination. As we are unable to disaggregate the budget to understand budgets linked to objectives, this scores a '1'.

HUMAN RESOURCES

1

The CCMA has been involved in the training of staff at the Department of Labour and the CCMA to handle inquiries, cases and disputes relating to discrimination and employment equity (Department of Labour, Report to the ILO 1998/9).

During 2001 the Chief Directorate employed 210 staff members and has adopted, through its corporate plan, a human resources plan encompassing training and development and employment equity (affirmative action, elimination of unfair discrimination, managing and valuing diversity and equalizing opportunities) (Department of Labour, Preliminary Annual Report 2001/2).

However the Chief Directorate (labour market policy) operated without a Chief Director in 2001/2002. This post is currently vacant.⁶⁷ Although the Chief Directorate managed to fill seven of its vacant posts, it is still under-resourced. The present staff complement of 18 was stretched to the extreme to meet the statistical and research needs of the Department (Department of Labour, Preliminary Annual Report 2001/2).

This scores a '1'.

⁶⁶ At the Research Meeting in Addis Ababa, October 2004, it was confirmed that the absence of a Gender Focal Point should reduce the score wherever such GFP was required.

⁶⁷ As at the time of compiling this report.

RESEARCH

1

In 1998 a baseline survey on the status of employment equity in South African organisations was published (Department of Labour Annual Report, 1999).

Employment Equity Reports from employers play an important role in making information available as to what is the state of equality in terms of employment. These individual reports are used to compile a summary of national findings on equality in the workplace. They focus on the three equity groups which include gender, race and disability.

Furthermore, it has been pointed out that for the period 2000-2004 there is proposed research on accessing changing fortunes of women in the labour market. This will focus on trends in labour force participation, employment, occupational and sectoral location, and work status. Also the research will seek to identify sectors and occupations where women have made the most inroads and to explore in some detail the determinants of changes in order to draw useful policy recommendations (Interview, official in the Department of Labour).

The fact that comprehensive research seems to be planned, but not yet carried out scores a '1'.

INVOLVEMENT OF CIVIL SOCIETY

1

The Employment Equity Act was developed in a consultative process and was negotiated in the NEDLAC before it was tabled in parliament. These negotiations included representatives from government (various Government Departments), organised labour (COSATU, NACTU and FEDUSA), business (Business South Africa), and the community (different organizations representing women, youth, civics, rural people and disabled people). These organizations further made submissions to the Parliamentary Portfolio Committee on Economic Affairs for deliberation before parliament.

As there is little evidence of participation subsequent to the law being passed, and no specific women's sector representation on the CEE, this scores a '1'.

INFORMATION AND DISSEMINATION

1

The Act was popularized using the following measures:

- Publishing of articles in newspapers to promote compliance with the Act
- Radio presentations
- Media briefings (launch of the Commission for Employment Equity report from 1999 to 2001)
- Distribution of the CEE annual report and summary to stakeholders
- Addressed a SETA forum workshop, and 250 stakeholders on the findings of the 2001 employment equity data analysis in Port Elizabeth
- Participation in the Transport Sector HIV/AIDS conference in East London on 28-30 November 2001
- Presentation on the Employment Equity Act to five conferences, eight Government departments and 16 private sector employers (Department of Labour, Annual Report).

While there has clearly been information dissemination, it is not clear that this has targeted women and the issue of discrimination in the workplace. This scores a '1'.

MONITORING AND EVALUATION

1

The Employment Equity Directorate – monitors the implementation of employment equity at the workplace through the collection and analysis of employment equity reports from employers. Employers are required to prepare and submit employment equity plans, which will achieve reasonable progress towards employment equity in that workplace. The requirement of the equity plan is set out in section 20 of the Act.

The CCMA has developed systems, procedures and information technology to ensure that employers can submit reports with the least amount of bureaucratic inconvenience and that the reports can be effectively analyzed and feedback given.

Although monitoring and evaluation systems are in place, their capacity to address gender is not clear, and there is insufficient gender disaggregated information available. This scores a '1'.

CONVENTION 183 – MATERNITY RIGHTS

INTRODUCTION

There have been substantial improvements to maternity and parental rights in the workplace, especially with regard to the inclusion of domestic workers and seasonal workers into the Unemployment Insurance Fund and with maternity leave payment for women. Shadrack Mkhonto the Unemployment Insurance Commissioner reported that there has been an increase in benefits paid out to women on maternity in the previous year (Media Statement, 28 August 2003).

Despite the legal improvement, women's reproductive role continues to be a source of discrimination in the workplace in South Africa.

International Standards

This Convention seeks to promote equality for all women in the workplace and the health and safety of the mother and child. This means responsibility for government and society to protect these mothers and children taking into account their situation in the workplace. It addressed the issues of maternity leave, pay and benefits, job security and non-discrimination.

- It requires that maternity leave be given to women workers. The length of maternity leave should be 14 weeks, including a period of six weeks compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers. It also includes women from the informal sector.
- It further says that the leave shall be provided before or after the maternity leave period in the case of illness, complications for risk of complications arising out of pregnancy or childbirth.
- It sets provision for job protection and non-discrimination for pregnant and nursing women.
- It provides for provision of pay and benefits:
 - Benefits should be provided through the compulsory social insurance funds or public funds or in a way that will be determined by national laws and practices
 - Employers should not be individually liable for the direct cost of such monetary benefits, without the employer's agreement
 - These benefits should be provided in accordance with national laws to women who are absent from work
 - These cash benefits should be provided at levels, which ensure that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living

What we measure:

In this area we look at the extent to which the requisite policies and laws are in place, and then at the extent to which they are effectively implemented.

RATIFICATION

1

The Convention was tabled in Parliament, however it has not yet been ratified. This scores a '1' (interview, International Labour Desk, Department of Labour)

REPORTING

0

As the Convention has not been ratified, no reporting has occurred. This scores a '0'.

POLICY

2

Policy standards are first set by the Constitution which guarantees equality and prohibits discrimination on the basis of sex, gender and pregnancy. It is secondly, set by the Convention itself which is regarded as influential in the interpretation of South African Law. More detailed policy was determined by the various White Papers and policy commitments that informed the enactment of the laws discussed in the next section.

The Occupational Health and Safety Act set policy recommendations on provision of a healthy working environment, for women.

It is policy in the Department of Health to offer free health-care to pregnant women and in the primary health care sector generally.

This comprehensive policy framework scores a '2'.

LAW

1

The Basic Conditions of Employment Act, 1997, prohibits an employer from permitting a pregnant female employee who is pregnant to work in the period commencing four weeks before her expected date of childbirth and in the eight weeks after her childbirth. It provides for 4 months maternity leave.

Maternity Pay is addressed in the Unemployment Insurance Fund Act. Here the employer and the employee pay 1 percent of the employees' wages into the fund for protection against unemployment, illness, and adoption, maternity and for dependants' benefits. A pregnant woman may claim up to 45% of her salary from the UIF if she qualifies.⁶⁸ The Act was recently amended to broaden the group of women who would qualify for UIF. Most significantly, domestic workers and seasonal workers have been brought within the ambit of the Act. However, 45% falls below the 66% stipulated in the Convention.

The Labour Relations Act prohibits unfair discrimination/dismissal on the grounds of pregnancy and family responsibility among others.

The South African Government in terms of section 87(2) of the Basic Conditions of Employment Act, 1997 and in terms of section 87(1) (b) of the same Act issued a Code of Good Practice on the Protection of Employees during Pregnancy and after the Birth of a Child. The Objective of the code is to provide guidelines for employers and employees

⁶⁸ This amount is determined by the accrual of benefits at the rate of one day's benefit for every completed six days of employment subjected to a maximum accrual of 238 days benefit in the four year period immediately preceding the date of application for benefits (The Unemployment Insurance Act).

concerning the protection of the health of women against potential hazards in their work environment during pregnancy, after birth and while breast-feeding.

Although this legislative framework is comprehensive, it does not provide for sufficient maternity pay 'which ensures that the woman can maintain herself and her child in proper conditions of health and with an adequate standard of living (article 6(2) of the Convention). The framework thus falls short of international standards and scores a '1'.

DEVELOPMENT OF A PLAN

1

For the period 1999-2004 the Minister of Labour set out a fifteen-point programme of action. Point number seven stated that: 'Particular attention will be given to the restructuring of the Unemployment Insurance Fund in order to extend coverage, contain costs and enhance compliance'. The restructuring of the Unemployment Insurance Fund occurred in terms of this. This restructuring is concerned with addressing discrimination and seeks to separate maternity benefits from unemployment benefits.

Legislative and institutional reform occurred in terms of a plan. However we have been unable to access implementation plans for the various laws. Clearly we can deduce from the activities that occurred around, for example the registration of domestic workers, that some plan must have been in place. However, in the absence of clear evidence of implementation plans for the delivery of maternity rights, this scores a '1'.

TARGETS

1

The new UIF Act was part of a move by the Department of Labour to do away with discrimination. According to the UIF Bill, the targets included:

- Non- discrimination (registration of domestic and seasonal workers)
- Employers should disclose employee earnings
- There should be up to date representation of payment
- Reduce and eradicate employer and employee fraud (the development of a data base).

Most of these targets are at seasonal workers and domestic workers which represent the majority of women who have been excluded in the previous years.

Legislative reform occurred in terms of targets that benefited women. However, we have not been able to access plans and thus targets for implementation. Hence this scores a '1'.

INSTITUTIONAL MECHANISMS

1

The CCMA and the Labour Courts enforce the discrimination provisions of the Employment Equity Act.

The UIF is implemented by a range of agencies, including the Department of Labour and the South African Revenue Services (SARS).

The Act also makes a provision for the development of a contributor's database. This system will contain individual contribution records for each contributor. This will eliminate paper-based operations including the blue card. It will also eliminate the potential for fraudulent claims because each claimant can be pre-qualified for benefits, even before he/she reports to the offices of the UIF.

The Act provides for the CCMA to be the institution where disputes arising from decisions made by the UIF Commission will be heard and dealt with. On the other hand the Labour Court is provided to deal with disputes arising from decisions made by the SARS.

While most of the institutional mechanisms are in place, the absence of a Gender Focal Point scores a '1'.

BUDGET

1

The general budget of the Department of Labour is not divided with regards to different units in the department. However these units should produce plans which are normally funded on approval by the Minister. As there is no specific evidence of this, although it is clear that financial resources have been targeted at enforcing and implementing the various acts, this scores a '1'

HUMAN RESOURCES

1

The Department of Labour in 2000 approved policies on performance management system and job evaluation so as to continually assess the skills needs of their employees. This also included issues around training, funding for training and bursary awards. Over the past months the Unemployment Insurance Commission has been working hard at registering domestic workers and their employers and to date they have registered 560 000 domestic workers and 430 000 of their employers. (Media Statement, by Shadrack Mkhonto Unemployment Insurance Commissioner, 28 August 2003).

However, women still experience lengthy delays at UIF offices. This suggested a lowered capacity and scores a '1'.

RESEARCH

2

A lot of research took place between 1999 and 2003 linked to the introduction of Domestic and Seasonal workers into the UIF. This research played a major role in influencing the introduction of this category of workers into the UIF to date.

This scores a '2'.

INVOLVEMENT OF CIVIL SOCIETY

1

During the restructuring of the UIF, the processes included intensive consultation with trade union, community organisations, business representatives and government. This was at the level of NEDLAC negotiations and with regards to submissions and discussions towards the UIF Bill. However, there is no structured engagement with the women's sector. This scores a '1'.

INFORMATION AND DISSEMINATION

1

The Department of Labour has developed a pamphlet summarizing the UIF Act and clarifying to users where they could get assistance. This pamphlet has been produced in different official languages and has been distributed to labour centres in different provinces (Interview,

Department of Labour). There has also been a lot of publicisation of the inclusion of Domestic Workers into the Act. This was done through the use of the visual and audio media.

Information dissemination on the rights of pregnant workers is less visible. Hence this scores a '1'.

MONITORING AND EVALUATION

1

Labour inspectors have the role monitoring compliance by employers. Media reports have pointed to the challenges faced by labour inspectors with regards to the registration of domestic workers and how to monitor whether employers comply. However, the Department has few well qualified inspectors.

The Act has put forward measures to strengthen compliance and enforcement. This is to address the legacy of high levels of employer default. There has been an introduction of tougher penalties and fines on those employers who fail to comply with the requirements and provisions of the law.

Monitoring and evaluation is currently being put in place. This scores a '1'.

ILO POLICY ON HIV/AIDS IN THE WORKPLACE

INTRODUCTION

HIV and AIDS pose a number of challenges for the workplace, including questions of rights of affected employees, access to health-care services, ability to work and impact on markets in general. The stigmatization of, and discrimination against, people living with HIV and AIDS is also an issue of concern. With the introduction of the code of good practice, the government has attempted to set a framework for dealing with these in the workplace.

International Standards

The ILO's code of practice on HIV/AIDS in the workplace was launched in June 2001. The purpose is to provide workers, employers and governments with new global guidelines for addressing HIV/AIDS in the workplace, based on international labour standards. Its objectives are:

- The prevention of HIV/AIDS,
- The management and alleviation of its impact on the world of work,
- The care and support of infected and affected workers, and finally
- The elimination of stigma and discrimination on the basis of real or perceived HIV status.

The Code notes the impact of HIV and AIDS is hardest on vulnerable groups including women and children, thereby increasing existing gender inequalities and exacerbating the problem of child labour. The Code covers key principles such as the recognition of HIV/AIDS as a workplace issue, non-discrimination in employment, gender equality, screening and confidentiality, social dialogue, prevention and care and support, as the basis for addressing the epidemic in the workplace.

RATIFICATION

X

NOT APPLICABLE

REPORTING

X

NOT APPLICABLE

POLICY

2

The Constitution sets standards in respect of fair labour practices and protection against unfair discrimination. While this does not include HIV or AIDS status as grounds for discrimination, the Constitutional Court has suggested, in the case of *Hofmann v SAA*, that these might be grounds for discrimination.

The Technical Assistance Guidelines (TAG) and the Code on HIV/AIDS in the workplace are based on the national and international legal frameworks for eliminating unfair discrimination and the promotion of equality in the workplace.

This scores a '2'.

LAW

2

The South African government in terms of section 54(1) (a) of the Employment Equity Act No. 55 of 1998, and by NEDLAC in terms of section 203 (1) (a) of the Labour Relations Act No. 66 of 1995, published a government notice of the Code of Good Practice: Key aspects of HIV/AIDS and Employment. This notice was issued on the 1st of December 2000.

The code should also be applied in the framework provided by the following laws:

1. According to common law and to section 14 of the Constitution of South Africa Act, No. 108 of 1996, all persons with HIV or AIDS have a right to privacy, including privacy concerning their HIV or AIDS status. Therefore there is no legal duty on an employee to disclose his or her HIV status to their employer or to other employees.
2. The Employment Equity Act, 55 of 1998 stipulates that no person may unfairly discriminate against an employee, or an applicant for employment in any employment policy or practice, on the basis of his or her HIV status in terms of section 6(1). In any legal proceedings in which it is alleged that any employer has discriminated unfairly, the employer must prove that any discrimination or differentiation was fair. Section 7(2) asserts that no employee, or applicant for employment, may be required by their employer to undergo an HIV test in order to ascertain their HIV status. HIV testing by or on behalf of an employer may only take place where the Labour Court has declared such testing to be justifiable.
3. The Basic Conditions of Employment Act, 75 of 1997, affirms that every employer is obliged to ensure that all employees receive certain basic standards of employment, including a minimum number of days sick leave this in section 22(2).
4. In terms of the Labour Relations Act, 66 of 1995, an employee with HIV/AIDS may not be dismissed simply because he or she is HIV positive or has AIDS. However where there are valid reasons related to their capacity to continue working and fair procedures have been followed their services may be terminated in accordance with section 188(1) (a) (i) of this act.
5. The Compensation for Occupational Injuries and Diseases Act, 130 of 1993, asserts that an employee, who is infected with HIV as a result of an occupational exposure to infected blood or bodily fluids, may apply for benefits in terms of section 22(1).
6. Section 8(1) of the Occupational Health and Safety Act, 85 of 1993 states that an employer is required to create, as far as is reasonably practicable, a safe workplace. This includes making sure that the risk of occupational exposure to HIV is minimized.
7. The Mine Health and Safety Act, 29 of 1996 provides that an employer is required to create, as far as is reasonably practicable, a safe workplace this is in terms of section 2(1) and 5(1).
8. In accordance with section 24(2) (e) of the Medical Schemes Act, 131 of 1998, a registered medical aid scheme may not unfairly discriminate directly or indirectly against its members on the basis of their "state of health". Further in terms of section 67(1) (9) regulations may be drafted stipulating that all schemes must offer a minimum level of benefits to their members.

This comprehensive legislative framework scores a '2'.

DEVELOPMENT OF A PLAN

2

The HIV/AIDS Technical assistance guideline document sets out a framework to deal with the epidemic in the workplace. This is in accordance with item 13 of the Code of good practice, which deals with the management of HIV in the workplace. The document is an implementation guideline issued by the Commission for Employment Equity and the Department of Labour. It sets out important elements for an integrated strategy for the effective management of the epidemic in the workplace. These elements are for long and short-term assessment of its impact in the workplace and measures to deal with this impact and reduce it.

This plan includes setting up of an HIV/AIDS policy and programmes. The programmes include:

- Ongoing sustained prevention of the spread of HIV among employees and their communities;
- Management of employees with HIV so that they are able to work productively for as long as possible; and
- Strategies to deal with the direct and indirect costs of HIV/AIDS in the workplace.

The HIV/AIDS technical assistance guidelines further develops these to include Mainstreaming of HIV/AIDS in the workplace and including gender specific responses to the framework. On mainstreaming it argues for a comprehensive response, which includes the integration of HIV/AIDS activities to other workplace, programmes e.g. staff induction; and integrate HIV/AIDS into core functions of the organization.

On gender specific responses the framework states that in both prevention and care programmes there is a need to recognize the gender differences and respond to them through gender specific activities, which will:

- Promote understanding around the ways in which gender stereotypes affect men and women, including discussions on the different ways in which girls and boys are raised.
- Support efforts to promote gender equality in the workplace.
- Promote greater understanding and acceptance of men who have sex with men.
- Introduce programmes to reduce sexual and domestic violence.
- Promote discussions on alternative versions of masculinity.
- Encourage men to take a more active role in providing care for persons living with AIDS.
- Develop prevention programmes, which do not just target men or women but assist with developing communication skills between the sexes.
- Introduce and promote use of the female condom.

The following items are worth noting:

1. Item 11.2.2 (xi) of the Code recommends that workplaces develop strategies to address direct and indirect costs associated with HIV/AIDS in the workplace.

2. Item 15.1 of the Code recommends that every workplace develop an HIV/AIDS policy in order to ensure that employees affected by HIV/AIDS are not unfairly discriminated against in employment policies and practices. These policies should reflect the needs and nature of the organisation in question and should be monitored and reviewed regularly. This policy should include key principles such as confidentiality, non-discrimination and rights and responsibilities.

3. Item 15.2 of the Code recommends that every workplace should develop a workplace HIV/AIDS programme aimed at preventing new infections, providing care and support for employees who are infected, and managing the impact of HIV in the organisation.

The Code recommends establishment of workplace HIV/AIDS programmes suited to the needs and capacity of each workplace (item 15).

TARGETS

2

The Code of good practice on HIV/AIDS in the workplace seeks to address the following issues that arise in workplaces in general:

- Occupational health and safety
- Reduce impact
- Prevention
- Addressing direct and indirect costs
- Develop risks profiles in terms of:
 - i. vulnerability of employees
 - ii. nature and operation of organisation
 - iii. profile of community where employees are drawn
 - iv. assessment of impact of HIV on market

The Department thus sets broad targets to assist in implementation by employers. This scores a '2'.

INSTITUTIONAL MECHANISM

2

Grievances are addressed by the -

- Labour courts, have exclusive jurisdiction in respect of all matters arising from this code for example it has been empowered to deal with HIV/AIDS at the following levels: firstly on whether testing is justifiable
 - The prohibition on unfair discrimination
 - To determine the need for HIV testing in the workplace
 - Issues on purpose of testing
 - Medical facts
 - Employment conditions
 - Social policy
 - Fair distribution of employee benefits
 - Inherent requirements of the job
 - Categories of employees concerned

Secondly the court also takes note of the following, still on testing:

- Attitudes of employees
- Whether the test will be voluntary or compulsory
- Financing of the test
- Employee preparedness for the testing
- Pre-test counselling
- Nature of the proposed test and procedure
- Post-test counselling
- The CCMA with regards to issues of discrimination (Equity Act and Constitution)
- The Commission for Employment Equity
- Workplace committees, this is one of the processes that employees could follow when dealing with grievances in the workplace.

The Employment Equity Directorate has line responsibility for this within the Department.

All the institutional mechanisms are in place. This scores a '2'.

BUDGET

2

Developing the Code was included in the budget of the department. It is not clear how much has been attributed to its dissemination, or for women-specific programmes. The absence of gender-disaggregated information scores a '1'.

HUMAN RESOURCES

1

There appear to have been sufficient resources to develop the code, but it is not clear whether there are resources to monitor it. Score '1'.

RESEARCH

1

Research by the private sector is required. The technical assistance guideline calls for the development of a database of information to enhance planning. This will be necessary for all organisations to collect a range of data about employees and operations such as the number of deaths in service, number of ill-health retirements. In addition, the guidelines set forth a need for using questionnaires for in-depth research. The data generated from these will be used to monitor and evaluate the programmes.

Government is planning research for the period 2000- 2004 on 'Protecting Vulnerable Workers'. This will look at the impact of HIV/AIDS on the workplace and women in particular since they are the one's hard-hit by the epidemic (Interview Department of Labour). This research has not been started and the proposal was not available to us.

Score '1' for planned research.

INVOLVEMENT OF CIVIL SOCIETY

1

The development of the Code was discussed in Nedlac where different stakeholders sit. These include organised labour, employee representatives, and government and community organizations. Furthermore the technical assistance guideline insists on consultation between management and employers in formulating any HIV/AIDS workplace policy.

Score '1' as there has been involvement by civil society, although it is not clear that women's organisations have been included.

INFORMATION AND DISSEMINATION

1

Item 16 of the code argues that the department of labour will have copies available and make them accessible. Employers and employer organizations should include the Code in their orientation, education and training programmes of employees. The same applies for trade unions.

The Department of Labour, as a strategy to get information to the people has developed pamphlets on different legislations summarizing what people need to know in terms of procedures and information about where to get services in different provinces. There is also a

move to start publishing these pamphlets in different languages (Department of Labour Policy Development and Employment Equity Unit, interview).

Score '1' as it is not apparent that women are targetted in information dissemination.

MONITORING AND EVALUATION

0

The code of good practice states that each workplace should frequently monitor and evaluate its programmes on HIV/AIDS (item 15.2).

On occupational health and safety, the code of good practice sets a standard to be followed on monitoring and evaluating. It sets out that the number of incidents involving exposure to HIV/AIDS should be recorded. It also calls for a recording of steps taken in dealing with these incidents, therefore allowing for a situation where it is possible to assess compliance with existing guidelines. Secondly, there will be interviews to determine whether trade unions, employers and employees are aware of health and safety guidelines in respect to HIV/AIDS.

Through research projects, the department is devising means to evaluate and monitor the implementation of these projects. It was pointed out that for the year 2004/5 the policy development section has proposed a research study on the impact of the HIV/AIDS code of good practice on the lives of women in the workplace (Interview).

The quarterly reports from the labour centres also help with regards to this in terms of pointing out the limitations with the legislation and what needs to be done to improve them.

Score '1' as the systems for monitoring and evaluation are not fully yet in place.

ENGENDERING THE NPRS

INTRODUCTION

Poverty and unemployment are two of the largest problems facing post-apartheid South Africa, as they were before 1994. Reducing poverty and unemployment are thus key priorities of Government. Despite this, there has been an increase in both poverty and inequality since 1994. The poorest households remain African rural households, and female-headed households remain poorer than male-headed households. 60% of female-headed households were living in poverty in 1995 compared with 31% of male-headed households. Poverty is linked to unemployment and low-paid employment as well as to gender. The overall rate of unemployment is higher among women than men, and unemployment rate of African women is 41.2%. Inequality has begun to change its character as within-race inequality deepens.

Unlike other African countries, South Africa does not have a single National Poverty Reduction Strategy (NPRS). Rather, it addresses the problem of poverty within a developmental perspective, and within a wider set of developmental strategies and programmes that occur at all levels of government. The centrality of the problem of poverty also means that it is a key criterion by which submissions to the Medium Term Expenditure Framework are measured and by which all government's developmental programmes are judged by cabinet.

This approach is different to National Poverty Reduction Strategies found elsewhere in Africa. In particular, it does not rely on donor funding, has little involvement of international agencies and is far more complex than a single strategy. It is hence not appropriate to score the area of poverty reduction in South Africa in the African Women's Progress Scorecard as it involves the assessment of too much information, namely, whether there has been positive gender integration in a multiplicity of policies, plans, departments and levels of government. We have thus only scored a few indicators.

A brief overview of South Africa's approach:

There is currently no overarching policy on poverty reduction. There are two main co-ordinating strategies for development: the Integrated Sustainable Rural Development Strategy and the Urban Renewal Programme. These seek to co-ordinate all development programmes across the three spheres of government, as well as parastatals to ensure maximum impact. In particular, they seek to ensure that developmental programmes are targeted to meet the twin goals of need and potential, by responding to demand-driven needs reflected in Integrated Development Plans.

There are development programmes that seek to reduce poverty in many government departments. Examples of development programmes to address poverty include the Community-Based Public Works Programme (CBPWP) housed in the Department of Public Works. This has a quota for women of 50%-66% on projects although it has been noted that these do not always have the desired effect of empowerment (Everatt and Zulu, 2001). Other programmes include the Consolidated Municipal Infrastructure Programme based in the Department of Provincial and Local Government; the Working for Water Programme based in the Department of Water and Forestry; and the Skills Development Strategy of the Department of Labour. Beyond this, most government departments have poverty reduction programmes, as do provincial and local governments.

In addition, the Poverty Relief Fund (located in the Treasury) has provided funds for specific poverty relief programmes to government departments. These programmes should be both sustainable, labour intensive and so on. They are expected to target the poorest areas (especially rural areas), assist in building capacity, and impact favourably on households in which single women are the main breadwinners. Public Works Programmes have shown the most promise in terms of reaching poor women. They also demonstrate better spending, provide more employment opportunities and have been more sensitive to the impact of programmes on women (Everatt and Zulu, 2001). It is notable that government has now committed itself to a major investment in the Expanded Public Works Programme.

The Urban Renewal Programme

The Urban Renewal Programme does not mention gender as a priority in its core document, however gender mainstreaming is said to be a priority. One of the considerations of the Programme is 'inclusivity' or 'equity' with an emphasis on all designated groups, of which women is one. However, the way the programme is designed is heavily reliant on existing structures (for community engagement) such as ward committees, IDP (Integrated Development Plan) representative fora etc., and the extent to which they actually include women. In some instances, alternative structures have been set up, and some of these have paid particular attention to women (Email, DPLG, May 2004).

The Monitoring, Evaluation and Reporting systems of the URP are still in their infancy and unable to generate consistent and credible facts (Email, DPLG, May 2004).

The Integrated Sustainable Rural Development Programme

The Integrated Sustainable Rural Development Programme (ISRDP) identifies 'women' and 'youth' as key target groups, both as participants and as beneficiaries. However, the ISRDP does not itself prescribe mechanisms for these objectives to be realised at provincial or local level. This is partly governed by the laws regulating the development of Integrated Development Plans. The IDT, responsible for co-ordinating the ISRDS recognised possible problems of participation in so far as the Fourth IDT Reference Group called for more robust indicators of women's participation, 'other than participation in local government elections'.

The extent to which a gender focus and participation is present will partly be dependent upon the various priorities of provincial and local spheres of government, and how these play themselves out in practice.

RATIFICATION

X

NOT APPLICABLE.

REPORTING

X

NOT APPLICABLE

LAW

X

NOT APPLICABLE

POLICY

1

The Integrated Sustainable Rural Development Programme and the Integrated Sustainable Rural Development Programme are not so much policy as strategy. Neither include a gender analysis, however the ISRDP acknowledges the need to target women as recipients and as participants. The Urban Renewal Programme does not mention gender as a priority in its core document, however gender mainstreaming is said to be a priority.

Score '1' for incomplete attention to gender.

DEVELOPMENT OF A PLAN

1

Both strategy documents envisage multiple plans at provincial and local level. We have not been able to score these. However, as the strategy documents could also be seen as plans, we have also scored this '1'.

TARGETS

1

Women are a stated target of the Integrated Sustainable Rural Development Programme process and benefits. One of the considerations of the Urban Renewal Programme is 'inclusivity' or 'equity' with an emphasis on all designated groups, of which women is one. However, there is little detailed information on how these targets would cascade down in provincial and local plans.

The Urban Renewal Programme does not mention women as a core target although gender mainstreaming is a priority.

Score '1' for some attention to women as targets.

INSTITUTIONAL MECHANISMS

2

Both strategies rely on local government processes. Score '2' as local government is in place.

BUDGET

1

Score '1' as these activities are budgeted, although we have not been able to identify specific spending in respect of women.

HUMAN RESOURCES

1

Both strategies rely to a large extent relies on local government processes, with some additional staff to manage/administer local programmes Score '1' as there is a pervasive capacity problem at local government level.

RESEARCH

0

We have not been able to identify any gendered research on these issues by government. Score '0' for an absence of appropriate research.

INVOLVEMENT OF CIVIL SOCIETY

1

Involvement of women in civil society is envisaged in both programmes. However, the way the programme is designed is heavily reliant on existing structures (for community engagement) such as ward committees, IDP (Integrated Development Plan) representative fora etc., and the extent to which they actually include women. In some instances, alternative structures have been set up, and some of these have paid particular attention to women (Email, DPLG, May 2004).

The Independent Development Trust, responsible for co-ordinating the ISRDS, recognised possible problems of participation in so far as the Fourth IDT Reference Group called for more robust indicators of women's participation, 'other than participation in local government elections'.

Score '1' for some provision for civil society participation by women.

INFORMATION AND DISSEMINATION

X

This would be relevant at provincial and local levels, hence we have not score it.

MONITORING AND EVALUATION

1

The Monitoring, Evaluation and Reporting systems of the Urban Renewal Programme are still in their infancy and unable to generate consistent and credible facts (Email, DPLG, May 2004).

Score '1' as monitoring and evaluation systems are still being established.

ACCESS TO AGRICULTURAL EXTENSION SERVICES

INTRODUCTION

Agriculture is a significant component of most African economies. However, the South African economy is atypical within Africa in that agriculture is declining in importance. Agriculture contributes under 4% to South Africa's Gross Domestic Product (Statistics South Africa, 2000, *Stats in Brief* 57). Almost 54% of the South African population is located in urban areas (Statistics South Africa, 2000, 9). However, agriculture remains crucially important to the rural population. It is estimated that 70% of the rural population are poor or very poor (May, Woolard and Klasen, 2000). Agricultural production therefore is vital to rural people, especially women. It is estimated that agricultural production is the third most important form of livelihood strategy in rural areas, after wage labour and state pensions (May et al, 2000, 234). From this point of view, women farmers' access to a range of benefits and services, including extension services, that will assist them and their families to survive and develop productive capacity is vital.

In South Africa, men dominate commercial farming and women are active in smaller scale farming. Even where women are active in farming, they often do not have the final control. When land becomes commercialised, control is often taken away from women (Advisory Group Meeting, May 2004). However, in numerical terms the majority of those active in farming are women (Advisory Group Meeting, September 2004), although they tend to earn less than men (Gender Status Index, page 37 of this Report).

Activities directed at women in the National Department of Agriculture tend to focus primarily on access to capital and credit, access to markets, access to land and water and the issue of skills development and mentorship and training. Within this package of services, agricultural extension is one important component. However, this measure only captures a proportion of the services available to women, and hence this reveals only a small part of what is being done for women in agriculture in South Africa.

AGDI Scoreboard

Agricultural extension services are often directed primarily at men as beneficiaries. Prevailing gender ideologies shape the sexual division of labour in which women and men carry out different tasks in agriculture. Extension services need to take these differences into account. Among the factors to be considered are the accessibility of meetings and training programmes.

This indicator measures whether or not the specific barriers women face in relation to access to agricultural extension services are measured in a policy document and to what extent proposed measures are being implemented.

RATIFICATION

X

NOT APPLICABLE

REPORTING

X

NOT APPLICABLE

POLICY

1

There is no specific policy on women's access to agricultural extension services, although an overall policy on gender in agriculture is in the process of being developed. The Human Resources Development Strategy aims to develop the skills of employees in agriculture and to encourage workers to participate in learnerships and other training programmes; this strategy emphasises the importance of equality of opportunity. The Discussion Document on Agricultural Policy in South Africa states that 'all programmes will be examined to ensure that women at least have equal access and that programmes are targeted at them (Department of Land and Agriculture, Discussion Document on Agricultural Policy in SA, 1998, 10). Agricultural Development is one of six programmes in the Department of Agriculture. It aims to promote access for historically disadvantaged groups and individuals and includes farmer settlement, agribusiness, institutional and human resource support and agricultural communication. However none of these areas specify women as historically disadvantaged and no policy for outreach to women can be found.

Existing policy objectives on extension are:

1. review nature and demand for extension services and assess current training of extensionists
2. improve linkages between research institutions and field level extensionists
3. investigate more effective ways of delivering extension under varying circumstances (these circumstances are not gender specific; show no understanding of particular problems faced by women farmers)
4. improve farmers' access to knowledge through contact extension, publications, mass media, agricultural shows; ensure these are cost effective and properly co-ordinated (Department of Land and Agriculture, 1998, 10).

There is no evidence of gender mainstreaming in this discussion document. However, under the section on requirements for effective extension management, document notes that

'Significant proportions of small scale farmers, possibly the majority, are women. The vast majority of public extension agents are men. Experience in other countries suggests that, in general, women farmers are less often visited than men farmers. The gender issue will receive special attention in the design and implementation of research and extension programmes' (Department of Land and Agriculture, 1998, 42).

However, there is no mention of women's specific needs in any of the department's literature.

Score is '1' for some policy commitments, but no specific policy on women's access to agricultural extension services.

LAW

X

Not applicable.

DEVELOPMENT OF A PLAN

0

We have not identified any plan that enhances women's access to extension services. The Medium Term Expenditure Framework for Agriculture cites the production of a National Extension Strategy as a departmental target and this strategy was finalised in 2003. Gender is not specifically addressed. A total sum of R7 970 616.82 was allocated for this Strategy.

Score is 0 because there is no specific plan that relates to women.

TARGETS

0

None. Score is 0 because there are no gender specific targets set.

INSTITUTIONAL MECHANISM

0

There is no institutional mechanism to deal with gender, nor is there a Gender Focal point.
Score '0'.

BUDGET

0

The 2003 Medium Term Expenditure Framework for Agriculture allocates R7 970 616.82 for the National Extension Strategy as a departmental target. However gender is not specifically addressed and it is impossible to disaggregate what was set aside of women.

Score is 0 because there is no specific budget visible for women's extension services in agriculture.

HUMAN RESOURCES

1

According to the Discussion Document the number of actual extension officers is sufficient (over 5000 students at tertiary agricultural institutions, 60% of students are white and about 50% are women). A commissioned paper on an appropriate agricultural extension approach (Duvel, 2003) noted the need for further training and capacity building, but does not specifically mention how this might address the needs of women farmers or may be made gender aware.

We have thus found no evidence of the need for gender-aware training of extension agents. Thus although there is an adequate number of women extension agents, there seems to be little attention to the mainstreaming of gender into extension programmes.

Score is 1 because while there are sufficient personnel there does not seem to be any attention to gender mainstreaming.

RESEARCH

0

The Department commissioned a study to look at Extension Officers. This study concluded that there were sufficient Extension Officers, but they were not accessible. We are not aware on any gender dimensions to this study. A study has also been concluded on 'Towards an Appropriate Extension Approach for South Africa'. This does not address the question of women.

Score is 0 because no research that included gender considerations could be identified.

INVOLVEMENT OF CIVIL SOCIETY

1

The Department of Land and Agriculture is undergoing a process to 'mobilise previous female farmer winners into three agricultural related business forums' (email, Senior

Manager: Agri-business Promotion and Industry Relations, Department of Land and Agriculture).

Score '1' for civil society involvement.

INFORMATION AND DISSEMINATION

1

We have found no evidence of information dissemination on agricultural extension that was specifically targeted at women. However, the 'Female Farmer' Competition coordinated by the national department, in collaboration with the nine provincial departments of Agriculture, involves an 'increased promotional campaign and activities to encourage and extend extension support to women in agriculture' (email, Senior Manager: Agri-business Promotion and Industry Relations, Department of Land and Agriculture). The Department of Land and Agriculture also has a website for Emerging Farmers.

Score is '1' because there has been some publicity on women farmers.

MONITORING AND EVALUATION

0

Research was commissioned to evaluate the government's approach to agricultural extension and to make recommendations. However this did not address the issue of women farmers.

Score '0' because there is no evidence of gendered monitoring and evaluation.

ACCESS TO TECHNOLOGY (ICT)

INTRODUCTION

This section covers extent to which government has addressed the issues of women's access to and participation in information and communication technology.

The main government department involved here is the Department of Communications. However, the work of the Presidential National Commission on Information Society and Development is also included as relevant. Although, there is also provincial and local activity on access to technology, such as the development of internet access as part of Integrated Development Plans, we have not been able to assess this.

RATIFICATION X

NOT APPLICABLE

REPORTING X

NOT APPLICABLE

POLICY 1

The National Gender Policy Framework states that women should be actively involved in the definition, design and development of science and technology (OSW, 5).

A Presidential National Commission on Information Society and Development has been established to advise on government policy about developing an information society, as well as the appropriate structures for this. Although the terms of reference do not mention gender, the overall approach is a developmental one that locates an information society within development and economic growth. A report was due January 2004.

A specific policy on women and ICT is not yet in place in the Department of Communications.⁶⁹ However, the Gender Focal Point has set out broad objectives that include:

to institutionalise gender concerns in all activities and programmes of the Department and its operating partners in order to achieve substantive equality for women in the ICT sector.

The GFP also recognises the following framing documents for attaining gender equality in the ICT sector: the Beijing Platform for Action, the National Gender Policy Framework, the ICT Sector Gender Equality Policy Framework Guidelines.⁷⁰

⁶⁹ Interview with Dorcus Makgahlela, head Gender Unit, Department of Communications, 21 June 2004

Score '1' as there is an overall policy commitment to enhancing access to ICT, and framing policy guidelines. However there are no specific, detailed policies related to women's access and participation in ICT.

LAW

1

There are various laws, relating to broadcasting, telecommunications and postal. At most such legislation deals with women as a special target group, together with 'people with disability'.

Score '1' as there is some recognition of women in legislation.

DEVELOPMENT OF A PLAN

1

The Sector Gender Equality Guidelines set out a broad plan and set of objectives for Communications broadly, including some relating to ICT. Most of these guidelines, however, relate to the gender mainstreaming exercise within the department, rather than being a specific plan for improving women's access to, and participation in, ICT.

Plans for specific activities and projects, such as 'Telecentres for Women' and The Technology Girls Programme do seem to be in place.⁷¹ In addition, plans for access to ICT will sometimes form part of an Integrated Development Plan or there it may be included in a plan for the delivery of a Multi-Purpose Development Centre for a particular community by the Department of Public Works.

Score '1' as there are very good overall plans, with some broad objectives for ICT. There are also plans for some smaller projects. However, we have not seen a comprehensive plan for women's access to, and participation within, the ICT sector.

TARGETS

1

There are broad general targets in place in the Sector Gender Equality Guidelines. Procurement and employment policies target women in terms of employment policy and tenders, and as end users of services and products.

It is also anticipated that targets would be developed as the work of the Presidential National Commission is taken forward.

Score '1' as some relevant targets are in place.

INSTITUTIONAL MECHANISM

2

The Presidential National Commission is tasked with identifying the appropriate structures 'to foster co-operation and co-ordination and joint action by national, provincial and local government with a view to building a knowledge based society' (www.pnc.gov.za).

⁷⁰ Department of Communications (undated) *Sector Gender Equality Guidelines*

⁷¹ Department of Communications (undated) *Gender Progress Report 19*.

The Department of Communications has a Gender Focal Point with a clear gender mainstreaming mandate. This links up with the "Social Cluster" on the Department, an inter-departmental mechanism within Department of Communications dealing with economic and social issues and policy in the department.

Score '2' as mechanisms are in place.

BUDGET

1

The work of the Presidential National Commission is resourced, although we have not been able to track expenditure that is specific to women in respect of the work of the PNC or of other departments.

The Departments' Gender Focal Point has a dedicated budget and five dedicated staff members. It is not clear how much money is available for programmes.

Score '1' as some money has been made available, although it is not always clear how much, or that this is targetted at women.

HUMAN RESOURCES

2

The Presidential National Commission has several commissioners, including women.

The Department's Gender Focal Point has a dedicated budget and five dedicated staff members.⁷²

Clearly human resources are available, however, we have no way of assessing the actual capacity of the staff of these programmes

Score '2' as the Gender Focal Point appears to be well-resourced with personnel.

RESEARCH

1

The Presidential National Commission is tasked with carrying out research on the development of an information society. It is not clear whether any of this focuses on gender issues.

There is a budget for research, which is outsourced, for example, women's Net conducted research on "Empowering Broadcast Legislation".⁷³

Score '1' for some relevant research.

INVOLVEMENT OF CIVIL SOCIETY

2

There is a fairly active set of civil society individuals and organisations involved in women and ICT. The Gender Focal Point of the Department of Communications reports interaction

⁷² Interview, Manager, Gender Desk, Department of Communications.

⁷³ Ibid.

with NGOs, mainly at project level. The Department has also hosted several conferences and workshops on Women and ICT,⁷⁴ and has involved civil society in research.

The OSW held a consultation with some of these on 'Gender, Media and ICTs', an initiative that brought together members of government and civil society [date]. The Presidential National Commission is expected to consult widely in developing its work and report.

The ICT Charter emphasises race rather than gender, but which pays some attention to the situation of black women. This was a collaborative effort of civil society and government.

Score '2' for civil society involvement on the work that has been done.

INFORMATION AND DISSEMINATION

1

The Gender Focal Point disseminates information on the departmental website, where it has a dedicated section. It also distributes pamphlets.

Score '1' as there is some information dissemination, but it is not clear that this has a broad reach.

MONITORING AND EVALUATION

1

We are not aware of any monitoring of gender equality in the ICT sector, although the Gender Focal Point has conducted a general review/evaluation in 1999, covering the period 1994-1999.

This scores '1' as some monitoring and evaluation systems has occurred.

⁷⁴ Two day conference in August 1998; ICT Workshop in August 2000,

EQUAL ACCESS TO LAND

INTRODUCTION

There are particular distortions in South African agriculture that stem from the particular nature of apartheid. In 1913 the Natives Land Act segregated African and Europeans. African farmers were able to farm only on the 8% of land designated as reserve land. This had the dual effect of radically undercutting the competitiveness of African farmers and dispossessing most African people of their traditional rights to land. As a consequence, land distribution in South Africa is one of the most unequal in the world. Policies on access to land have aimed to address the racial imbalances in land ownership and control in both rural and urban areas. The two key areas have been resettlement of displaced populations and the provision of housing. There is also an explicit commitment by the ANC government to redress gender imbalances. However, it needs to be recognised that land reform is an extremely difficult process both in economic and political terms, and scoring needs to be sensitive to the particular difficulties government has faced in balancing the demands of its various constituencies.

International standards

The Beijing Platform of Action: Strategic Objective A.2 calls on governments to "revise laws and administrative practices to ensure women's equal rights and access to economic resources". The actions to be taken by governments include:

- (a) Ensure access to free or low cost legal services, including legal literacy, especially designed to reach women living in poverty
- (b) Undertake legislative and administrative reforms to give women full and equal access to economic resources, including the right to inheritance and to ownership of land and other property, credit, natural resources and appropriate technologies
- (c) Consider ratification of Convention No. 169 of the ILO as part of their efforts to promote and protect the rights of indigenous people

CEDAW Article 14 stipulates that rural women receive equal treatment in land and farming reform.

AGDI Scoreboard

The scoreboard measures whether women have access to and control of land or whether there are rules of inheritance or other practices which prevent women from having the same access/control of land and land of the same quality as their male family members.

The indicator measures whether governments have adopted laws and policy documents to ensure women can have equal access to land, and the extent to which the measures proposed are being implemented.

RATIFICATION

X

NOT APPLICABLE

REPORTING

X

NOT APPLICABLE

POLICY

2

Department of Land Affairs (Department of Land and Agriculture) issued a White Paper on South African Land Policy in 1997. This document places emphasis on the removal of legal restrictions on women's access to land, including marriage, inheritance and customary laws, gender equity in land access and effective participation of women in decision-making procedures. The White Paper commits the Department of Land and Agriculture to promoting the use of 'gender sensitive participatory methodologies in project identification and planning' (Department of Land and Agriculture, 1997, White Paper on land Reform, 15). The Department of Land and Agriculture also adopted the 'Land Reform Gender Policy Framework' in 1997, which 'aimed at creating an enabling environment for women to access, own, control, use and manage land; as well as access credit for productive use of the land' (Department of Land and Agriculture, 1997, Land Reform Gender Policy, 2-3). The document also outlined a set of guiding principles in relation to supporting gender equity in land reform.

The White Paper on Land Policy aims to ensure tenure security and to develop the tenure system in accordance with constitutional principles. Formally, women have equal access to land in freehold areas. The situation is more complicated in traditional and communal tenure areas, where women are particularly vulnerable. Where communal land tenure applies, government 'is under obligation to ensure that group based holding systems do not conflict with the basic human rights of members of such systems nor other residents of communal areas'.

Score is 2 because a full and comprehensive policy has been developed.

LAW

1

Several laws apply.

- Land Reform (Labour Tenants) Act of 1996.
- The Communal Property Association Act
- Deeds Registry Act
- Restitution Act of 1998
- Extension of Security of Tenure Act of 1997.
- Communal Land Rights Act – which has still to be signed and promulgated. finalised.

As the discussion on policy below points out, there are areas of inconsistency between the principle of gender equality and the emphasis on communal control that are not resolved in the Bill. At this stage, women's rights to land are not firmly entrenched in legislation, as there are some concerns with some of the laws.

- The Restitution Act does not recognise women's rights in so far as it does not recognise women who held land prior to 1993.
- The Communal Land Rights Act attempts to recognise gender equity, but it has been criticised for giving too much discretionary power to the Minister and too much actual power to the Traditional Leaders. It has been argued that this Act will not secure women's land rights (find references).

Score is 1 because several women and women's organisations argue that the Communal Land Rights Act does not clearly entrench women's rights to land.

DEVELOPMENT OF A PLAN

1

There is no single plan but there are several different programmes. Despite the broad commitments to gender equity, individual programmes do not specifically address in what ways gender equity will be achieved. For example, the Land Reform Pilot Programme which aimed to 'enhance the material, political and social status of women' (TRAC 1998) uses categories of household, family and community without disaggregating in terms of gender (Walker, 1998).

The White Paper does not make concrete proposals for how gender equity is to be realised. No explicit mechanisms are set out. Lack of tenure security is seen to derive from past racial discrimination. The intersection of racial discrimination with gender discrimination in the way in which racially discriminatory laws and practices were applied to black women (for instance in the codification and application of customary law in marriage) is overlooked. Other policies on land reform may also negatively impact on addressing women's access to land. For example, demand-driven, market-based land reform is not an enabling system to address women's lack of economic and social power (Cross and Friedman, 1997).

No plan is yet in place for the implementation of the Communal Land Rights Act.

Score is 1 because there is no concrete plan for implementing gender equity commitments, nor are there yet specific plans in relation to gender equality, for example, in respect of the Communal Land Rights Act.

TARGETS

2

Women are a 'target beneficiary group' of the Land Redistribution Programme. The Land Redistribution for Agricultural Development Policy published in November 2000 aims at transferring 30% of agricultural land from white to black ownership over 15 years (Ministry for Agriculture and Land Affairs, 2000). It states that 30% of this redistributed land should go to women (Ibid, 3).

Score is 2 because there are clear identifiable targets.

INSTITUTIONAL MECHANISM

1

Land Reform Gender Policy and Implementation Sub-directorate was set up in July 1996 to ensure that gender issues were mainstreamed into all land reform projects. It has an envisaged staff component of five people (four professional positions and one administrative position). This focal point is not at the level recommended by the Office on the Status of Women.

Score is 1 because GFP is at junior level.

BUDGET

1

Specific categories of women are able to access subsidies for the acquisition of land. However, women have to contribute an amount of R5 000 which appears to be very high for rural women.

Score is 1 because subsidies cannot be fully accessed by all women who need them.

HUMAN RESOURCES

1

Inadequate. At the moment there is only one person employed at Deputy Director level which is inadequate for the scope and volume of work in this area. There is a lack of capacity and expertise in dealing with gender and land redistribution.

Score is 1 because there are inadequate human resources.

RESEARCH

1

The Sub-directorate on Gender commissioned a study on the opportunities and obstacles in terms of women's access to land. The study was written by Catherine Cross and Donna Hornby and published in 2002.

Score is 1 because there is limited research commissioned directly by government.

INVOLVEMENT OF CIVIL SOCIETY

1

Land reform and redistribution takes place through extensive consultation with communities. Project committees are set up to oversee implementation. A Department of Land and Agriculture study conducted in May 1999 found that women were relatively well-represented on project committees. On an average community committee of twelve members, seven were likely to be women. However the study cautioned that there should be ongoing monitoring of the extent to which women retained this level of representation (Department of Land and Agriculture, 1999). There has been ongoing consultation with rural women about the Communal land Reform Bill.

Score is 1 because women's participation does not seem to have effectively led to empowerment.

INFORMATION AND DISSEMINATION

2

The Sub-directorate on Gender works with the Department of Land Affairs communication section to produce materials specifically aimed at women with regard to land access. These materials are available in many official languages.

Score is 2 because information material is widely available.

MONITORING AND EVALUATION

1

There is a Monitoring and Evaluation Directorate in the Department of Land and Agriculture. The White Paper on Land Reform of 1997 commits the Department of Land and Agriculture to ensuring that the monitoring and evaluation system for the land reform programme provides the information necessary to monitor women's participation (Department of Land and Agriculture, White Paper, 1997, 16). However, this commitment does not seem to be implemented effectively. The Department of Land and Agriculture Annual Report 1998 does not mention gender. By contrast, the 1999 Annual Report has a chapter on gender. The 2001/2 Report again does not mention any progress in terms of gender equality nor are targets with regard to women's access to land listed for the period under review.

An audit of systems conducted by Sub-directorate shows that there is a gap with regard to monitoring and evaluation of gender equity. So far there has focus on representation and numbers rather than quality and effectiveness of implementation programmes (Interview, Gender Focal Point, Department of Land and Agriculture).

Independent research shows that there is evidence of at least one example of examining the reasons for women's exclusion from decision-making on production and identification of land (Odhiambo, 1999). Studies have found that women tend to be excluded from the benefits of land reform projects. Women were poorly represented on all the structures of the Land Reform Pilot programme. The Merino Walk study found that resettlement plan based on 'community's apparent demand for large residential and arable plots, and ample grazing land. When women were finally consulted, it became apparent that women demanded small gardens or small fields on which to grow vegetables' (Weideman, 2003).

The National Land Committee has found that by 1999 only 7 331 of 50 152 beneficiary households were female-headed (NLC, Fact Sheet); in 2000 they estimated that female-headed households represented only 14% of the households to whom land had been transferred under the Redistribution programme (NLC, 2000). However, other data suggests that greater progress has been made. Women accounted for 47% of the 78 758 beneficiaries listed on the national database in June 2000. However, Walker notes that this includes many joint husband/wife listings (Walker, 2001).

The Department of Agriculture Annual Report for 2001/2 describes progress in redistribution, noting that 66% of state-owned agricultural land has been disposed of to beneficiaries (Department of Land and Agriculture, Annual Report, 2001-2). However it does not list the number of women beneficiaries and data is not presented in a way that facilitates disaggregation by gender.

Score is 1 because monitoring and evaluation is not conducted in ways that allow for reliable gender disaggregation of data.

POLITICAL POWER

Political power

This axis measures several overlapping indicators of women's access to political power and participation in decision-making. These are:

- UN 1325 Conflict Resolution
- Beijing PFA and accessible national machinery
- Support for women's traditional power/quotas
- Decision-making positions within parliament/ministries
- Gender Mainstreaming in all departments

NOTE:

In the briefing notes, it is suggested that 'National Machinery' refers to the Office on the Status of Women, and gender mainstreaming to that process across government. In South African, however, National Machinery refers to the Office on the Status of Women, the Gender Focal Points, the Parliamentary committee and the Commission on Gender Equality. Hence overlaps arise out of the South African situation. We have tried to be very specific for each of the different sectors to reduce this overlap.

UN 1325 – WOMEN AND CONFLICT RESOLUTION

INTRODUCTION

The United Nations Security Council adopted Resolution 1325 in 31 October 2000 in order to address:

- The impact of war on women; and
- Women's contributions to conflict resolution and sustainable peace.

South Africa is not a country that has recently emerged from armed conflict in the sense referred to the Resolution. However, in the past few years South Africa has been centrally involved in peace building, peace keeping and post-war reconstruction in the region. We thus consider this Resolution in relation to South Africa's peace-building role in Africa.

The Resolution requires states, *inter alia*, to:

- Ensure the increased representation of women in decision-making at all levels in the prevention and management of conflict;
- Train peace-keeping forces on the protection, rights and particular needs of women;
- Increase support to gender sensitive training efforts by international bodies;
- Ensure a gender perspective in peace agreements.

The Resolution specifically calls for measures to ensure the protection of and respect for women's human rights, particularly as they relate to the constitution, the electoral system, the police and the judiciary, and encourages all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants.

More recently, the Report of the UN Secretary-General on Women, Peace and Security, presented to the Security Council in 2002, recommended stronger measures to integrate women in all steps of peacekeeping, peacemaking and peace-building and urged that all peace agreements fully and explicitly integrate gender perspectives.

Despite South Africa's involvement in regional peace initiatives and some important work by the Deputy Minister of Defence, some of the scores are low on this measure. This is largely because there is little in the way of formal, national policies and plans to implement Resolution 1325 in the work of the Departments of Defence and Foreign Affairs. Regional and other initiatives in which South Africans are involved⁷⁵ do not seem to be fully underpinned by a national set of policies and programmes.

RATIFICATION

X

NOT APPLICABLE

⁷⁵ For a discussion of these, see the Statement to the Security Council by Ms Tilana Grobbelaar, First Secretary of South Africa, on Women, Peace and the Security Council, 29 October 2003. <http://www.southafrica-newyork.net/pm/un/speeches/sc-womenpeacesec.htm>. Accessed November 2004.

REPORTING

X

NOT APPLICABLE

POLICY

0

Although South Africa is centrally involved in peace-building in the region, there are as yet 'no specific legal prescripts and policies on the participation of South African women in peacekeeping and peace support operations'. (Draft report, OSW, National Consultation on women's equal participation in conflict prevention, management and conflict resolution and in post-conflict peace-building in preparation for the 48th session of the UN CSW meeting, 2004, 10). A scan of South African Foreign Affairs and Defence policies and priorities sees the prominence of democracy, good governance and peace as policy objectives, but with no specific mention of women's equal role in this.

The 1998 White Paper on South African Participation in International Peace Missions (developed before the passing of UN Resolution 1325) stated that 'Peace building involves the inculcation of respect for human rights and political pluralism; the accommodation of diversity; building the capacity of state and civil institutions; and promoting economic growth and equity' (Department of Foreign Affairs, 1998, para 4.1). The White Paper makes no specific mention of the kind of issues raised by the Resolution.

The Strategic Plan of the Department of Foreign Affairs for 2003-2005 identifies, inter alia, the following priorities:

- To work towards the realisation of the African Renaissance through the promotion of the objectives of the African Union and Nepad. For 2004 this will include increasing the capacity and effectiveness of the African Commission on human and peoples rights to include the rights of women and children;
- To promote and enhance international peace and security.

The relevant strategic objectives in pursuit of these priorities include:

- Promote the peaceful resolution of conflicts and to encourage post-conflict reconstruction and development;
- Facilitate South Africa's sharing of expertise in conflict resolution, peace and reconciliation;
- Promote the Implementation of Nepad.

Other than the reference to the African Commission, there is no mention of the involvement of women in peace-keeping and post war reconstruction (as raised by UN Resolution 1325) at this level of policy.

In a Report to the Security Council on 'Women, Peace and the Security Council', the First Secretary of South Africa reported on South Africa's involvement in a number of regional and international initiatives, but no national policy or plan.⁷⁶ She further reported that the UNIFEM Report: 'The Independent Expert's Assessment of Women, War and Peace', launched in Cape Town in May 2003, would be tabled in a number of Parliamentary Committees 'to ensure that the gender dimensions of peace and security, including the implementation of human rights treaties ... be incorporated into national structures'.⁷⁷ We have not been able to find evidence of this occurring. She also states that 'our leadership is keenly aware of the centrality of women as peacemakers and facilitators in political processes and peace-building initiatives'.⁷⁸ Again we have found no policy evidence of this.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

An OSW Consultation on these issues in February 2004 concluded that:

Given that South African peace operations are a fairly new undertaking by South Africans, the need to examine, assess and research the experience of South African women in the operations in Burundi and the DRC would be timeous. Further, it is recommended that the recommendations that emerged from the Expert's Meeting should be seriously considered by South African policy formulation to address the participation of women in peacekeeping and peace building initiatives. (2004, para 3.2.2).

The absence of specific national policies, or of a policy development process, scores a '0'.

LAW

1

Section 106 of The Defence Act, stipulates that any member of the Defence Force or employee of the DOD whose verbal or physical conduct denigrates, humiliates or shows hostility or aversion to any other person on the grounds of that person's race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience belief, culture, language or birth, is guilty of an offence and liable on conviction to imprisonment.

In addition, a Department of Defence Instruction on the Prevention and Eradication of all forms of gender-based violence makes specific reference to gender-based violence during periods of armed conflict. This includes all forms of sexual abuse, including sexual harassment and rape.⁷⁹

Score '1' for some relevant legislation.

DEVELOPMENT OF A PLAN

1

We have not been able to identify any plan to implement UN Resolution 1325 in the Departments of defence or Foreign Affairs. However, the deputy minister of Defence has alluded to a Department of Defence programme of involving women in the peace processes in Africa. This includes the African Women's Peace Table, a forum created in 2000 to initiate dialogue among women soldiers and civilian women peace activists will focus the role of women in NEPAD and the AU.⁸⁰

Score '1' as there appears to be a programme in place for relevant activities in the Department of Defence, although we have not been able to isolate a plan with specific outcomes and targets. We nothing in the Department of Foreign Affairs.

TARGETS

0

Score '0' as no plan with targets appears to be in place.

⁷⁹ As discussed in an address by Ms Nozizwe Madlala-Routledge, MP, deputy minister of Defence, at the Department of Defence Women's Day celebration, 7 August 2003

⁸⁰ Defence Budget Vote Speech by the deputy minister of Defence, Ms N Madlala-Routledge, National Council of Provinces, 24 June 2003.

INSTITUTIONAL MECHANISMS**1**

In the absence of a policy and plan, no formal institutional mechanisms have been identified. We would, however, expect some involvement of the Gender Focal Points in the relevant departments, although their focus seems to be on internal equity issues, rather than policy issues.⁸¹

South Africa has participated in, and been responsible for generating, a number of regional initiatives. The African Women's Peace Table was created in 2000 under the guidance of South African deputy minister of Defence, Ms Routledge-Madlala, to initiate dialogue among women soldiers and civilian women peace activists. Annual conferences, with specific themes aimed to achieve this goal, are held in which women of the DOD and broader civil society actively participates.⁸²

Although we have not been able to isolate national institutional mechanisms to implement UN Resolution 1325, there are clearly some relevant institutions in place. Hence this scores '1'.

BUDGET**1**

We have not been able to isolate a budget for UN 1325, nor for the activities described in this section. Some resources must have been made available, however, hence this scores '1'.

HUMAN RESOURCES**1**

The SANDF has been deploying women personnel in their peace processes and post conflict reconstruction programmes. (Defence Department Budget Vote 2003/2004, 13 June 2003; Sheila Meintjes, 24/05/04). The deputy Minister of Defence noted in her 2003 speech on Women's Day that the Gender Focal Point is facing a major challenge of involving women in the strategic business of the Department of Defence. Although gender sensitivity training has been introduced at different levels, in an attempt to eradicate patriarchy in the SANDF, women are still under-represented in the crucial decision-making processes of the DOD. Theoretically, females have the same military career opportunities as men do. They undergo the same training as their male counterparts and can apply for the same posts. Unfortunately, many reservations exist with regard to women engaging in combat situations. Individuals in the Defence Force as well as the general public are responsible for this skewed view.

As a way forward, the DOD has promulgated a policy known as fast tracking. The process of fast tracking is aimed at improving representivity. It enables women to advance in their careers and to facilitate accelerated development to senior levels. In this way, gender representivity and female empowerment is guaranteed.⁸³

The SANDF has recognized the need for its staff members to undergo training in peace support and international coordination. One such course on peace support is the Joint Exercise PEGASUS, which is offered at the higher levels of conflict management. By 1999 it was stated that a large number of military personnel had undergone some form of peacekeeping training (Department of Defence Annual Report 1999/2000). The Department of Defence has a Code of Conduct and an Instruction on the Prevention and Eradication of gender-based violence. Here the Directorate, Social Work, has engaged non-governmental organisations (NGO's) to conduct training programmes on sexual and reproductive rights and gender equity, with the prevention of gender-based violence as one of the

⁸¹ As discussed in an address by Ms Nozizwe Madlala-Routledge, MP, deputy minister of Defence, at the Department of Defence Women's Day celebration, 7 August 2003.

⁸² Ibid.

⁸³ As discussed in an address by Ms Nozizwe Madlala-Routledge, MP, deputy minister of Defence, at the Department of Defence Women's Day celebration, 7 August 2003

main themes.⁸⁴ However, we have not been able to establish whether there is any component to this training that directly deals with UN 1325.

In the 2003 Defence Budget Vote in Parliament in June 2003, the deputy minister of Defence noted that

the Chief Directorate on Equal Opportunities intends to engage the Chief of Joint Operations to challenge him to encourage equal women participation in the peace processes and peacekeeping, and to ensure that training for peacekeeping incorporates issues of gender equity and women's rights. This would be to ensure that there is adherence to the code of conduct, which will enjoin our troops to protect women and girls from rape and other gender-based violence.⁸⁵

Score '1' because of the some participation of women in peace-processes, and some relevant training and capacity – building although there is no evidence that this is part of the formal implementation of UN Resolution 1325, nor that the appropriate training has taken place.

RESEARCH

0

The OSW has been involved in some basic research on UN 1325 for its consultation meeting. However, we have found no evidence of research having taken place on this or related issues in the Departments of Defence and Foreign Affairs. Score '0' for research.

INVOLVEMENT OF CIVIL SOCIETY

2

The African Women's Peace Table was created in 2000 under the guidance of South African deputy minister of Defence, Ms Routledge-Madlala, to initiate dialogue among women soldiers and civilian women peace activists. Annual conferences, with specific themes aimed to achieve this goal, are held in which women of the Department of Defence and broader civil society actively participate.⁸⁶ South African women have been mainly involved in regional initiatives. For example, they have participated in the DRC/SA Women's Peace Dialogue, convened by Mrs Zanele Mbeki, which started during the DRC peace negotiations at Sun City in March 2002. Mrs Mbeki invited women from different political parties, community organizations, religious group and NGO's to be part of the dialogue to share South African women's experience during the struggle, negotiations, and the transitional period; experience on constitution making and the impact that women have made in parliament, their achievements and gains.⁸⁷

At a second meeting in May 2003, in Kinshasa, women generals lead by General Jackie Sedibe and Deputy Minister Nozizwe Madlala-Routledge, together with a parliamentary delegation, representatives from NGO's and business and officials from Mrs Mbeki's office. At the end the women came out with the declaration committing themselves and their countries to peace and calling for the minimum 30% representation of women in all decision making structures, in keeping with the SADC Declaration.⁸⁸

South African women have also been invited to play a role in the Great Lakes Peace dialogue, bringing together women from the region, including the DRC, Burundi, Rwanda and Tanzania. For

⁸⁴ As discussed in an address by Ms Nozizwe Madlala-Routledge, MP, deputy minister of Defence, at the Department of Defence Women's Day celebration, 7 August 2003

⁸⁵ Address of the deputy minister of Defence, Ms NC Madlala-Routledge, in the National Assembly on the occasion of the Defence Budget Vote, 13 June 2003.

⁸⁶ Ibid.

⁸⁷ As discussed in a speech by Deputy Minister of Minerals and Energy (MP), Ms Lulu Xingwana, SAWID National Forum University of Pretoria, 30 June 2004.

⁸⁸ Ibid.

example, South African women parliamentarians met with Burundi women.⁸⁹

The OSW held a small National Consultation on women's equal participation in conflict prevention, management and conflict resolution and in post-conflict peace-building, in preparation for the 48th session of the Commission on the Status of Women. The meeting was held on 4 February 2004 and was attended by twenty-one (21) participants. This was followed by a consultation session on women's equal participation in conflict prevention, management and conflict resolution and in post-conflict peace-building with stakeholders and various components of the National Gender Machinery at a later meeting in February 2004. This was attended by eighty-seven (87) participants drawn from government departments, NGOs, The Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women in Parliament; and the Commission for Gender Equality.

The National Machinery consultative meeting resolved to encourage the Departments of Foreign Affairs, Defence and Home Affairs severally or jointly to host a seminar on the report and highlight the recommendations. This has still to occur.

Score '2' as there is civil society involvement when women in government are discussing the issue and engaged in regional dialogue.

INFORMATION AND DISSEMINATION

0

There has been no relevant information dissemination. Indeed, information on UN Resolution 1325 is difficult to access in South Africa. Score '0'.

MONITORING AND EVALUATION

0

There is no policy or plan to monitor/evaluate the implementation of UN Resolution 1325 and none seems to take place. Score '0'.

⁸⁹ Ibid.

BEIJING PFA EFFECTIVE AND ACCESSIBLE NATIONAL MACHINERY

INTRODUCTION

The participation of women in decision-making processes at the highest level is one of the areas of concern identified by the Platform of Action as requiring attention by governments. It has been recognised that women's full representation and participation in decision-making positions in government, policy-making and political parties could act as a means to leverage the potential to accelerate the transformation of power relations in society. This is an important ingredient to the attainment of gender equality. The establishment of the National Machinery for Gender Equality is in keeping with Strategic Objective H.1 (b) of the Beijing Platform for Action, which states:

Based on a strong political commitment, create a national machinery, where it does not exist, and strengthen, as appropriate, existing national machineries, for the advancement of women at the highest possible level of government; it should have clearly defined mandates and authority; critical elements would be adequate resources and the ability and competence to influence policy and formulate and review legislation; among other thing, it should perform policy analysis, undertake advocacy, communication, coordination and monitoring of implementation.

This indicator measures the legal embeddedness and commitment of governments to establish a strong, effective and accessible national machinery for the advancement of women responsible for gender mainstreaming in all areas and at all levels, and the extent to which the measures proposed to ensure the effectiveness of the machinery is being implemented.

The assessment of the national machinery in South Africa is a complex process as the machinery has been designed to include both a set of institutions within the state (the Office on the Status of Women in government and the Joint Committee on the Quality of Life and Status of Women in parliament) and an independent statutory body (the Commission on Gender Equality). In its broadest formulation it also includes NGOs and women's organisations, although these will not be addressed for the purposes of the AGDI.

The national machinery was designed so that each component would have clearly designated responsibilities, although in practice there have been many overlaps in the work. In design, it was anticipated that the OSW would have primary responsibility for implementation of gender equality policies through gender mainstreaming; the parliamentary committee would be responsible for ensuring legislative representation and government accountability (both to women citizens and the UN in terms of CEDAW and Beijing commitments) and the CGE would be mainly responsible for monitoring, evaluation and upholding the constitutional principle of gender equality in public and private domains.

The OSW was established in 1997 and its role is specifically:

- Developing and implementing a National Policy on Gender based on the draft Women's Empowerment Policy drawn up as part of the Reconstruction and Development Programme
- Supporting government departments and public bodies to mainstream, gender in all policies and programmes and promoting affirmative action within government

- Organising gender training for government departments
- Initiating cross-departmental initiatives
- Monitoring and evaluating government programmes, in part through the development of indicators

The Joint Committee on the Improvement of the Quality of Life and Status of Women was established in 1996 as an ad hoc committee. In 1997 it became a joint standing committee with higher status and more powers, mainly concerned with overseeing the implementation of CEDAW and BPFA. It has interpreted this role widely to include consultations with civil society in relation to key legislation and policy areas (such as domestic violence, customary law, termination of pregnancy and HIV/AIDS). This committee has also been a partner in the internationally groundbreaking work of the Women's Budget Initiative. This initiative seeks to disaggregate and track government spending along gender lines.

The CGE was established in 1996 and is mandated by the South African Constitution as a mechanism for strengthening constitutional democracy. The roles and functions of the Commission are wide-ranging. They include

- Monitoring and evaluating the policies and practices of both government and private sector institutions
- Public education and information
- Making recommendations to government to promote gender equality, including recommending changes to existing legislation and proposing new legislation
- Resolving gender-related disputes through mediation and conciliation or litigation
- Investigating gender inequality.

International standard:

The main international instrument relevant to this axis is the Convention for the Elimination of all Discrimination Against Women (CEDAW). Part II (Articles 7-9) of CEDAW provides for women's equal rights in political and public life and:

- Grants women the right to vote and be elected on a basis of equality with men;
- Ensures women's equal participation in government as officials and policy-makers;
- Ensures women's equal participation in NGOs;
- Ensures women's right to represent their countries internationally;
- Grants women equal nationality rights and equal right with respect to their children's nationality.

The actions to be taken to achieve this have been elaborated in the Beijing Platform of Action in the Strategic Objectives under:

- Women in power and decision-making (G1 & 2)
- Institutional mechanisms for the advancement of women (H1, 2 & 3)
- Institutional Arrangements (National level).

South Africa has ratified CEDAW with no reservations and has committed itself to the implementation of the Beijing Platform of Action through signing it.

RATIFICATION

X

NOT APPLICABLE

REPORTING**2**

Reporting here refers to reporting under the Beijing Platform for Action. As at the end of April 2004, (the end date of this report) this reporting was up to date.

LAW**2**

There is no law governing the national machinery as a whole, but see policy section below. The Commission on Gender Equality Act 39 of 1996 established the CGE in accordance with the Constitution. This law outlines the responsibilities and powers of the CGE. The CGE is a unique structure in that it has wide powers to hold government as well as private organisations accountable in terms of the constitutional commitment to gender equality.

Score is 2 because no further legal measures are required.

POLICY**2**

The Cabinet Memorandum of 1996 (No 3 of 1996, dated 27th June 1996, File No 13/1/1/1) established the Office of the Status of Women in the Presidency. This location is in line with the findings of a vast range of studies which show that for the national machinery to be effective, it must be strategically close to the centre of government power (Goetz, 1998; Goetz, 1995; Razavi and Miller, 1995; Sawyer, 1996). The OSW was set up in January 1997. The powers of the OSW are primarily advisory; the structure does not have the automatic right to be included in policy-making and priority setting.

The National Gender Policy Framework on Gender Equality and Women's Empowerment was finalised by the OSW in 2000. It outlines the principles for government to achieve the mainstreaming of gender equality. Like the CGE document, it is a guiding framework rather than a specific plan of action which sets particular goals and targets. The implementation of the broad principles is left to the different national and provincial government structures and departments. The main objectives of the policy with regard to gender mainstreaming are:

- To establish policies, programme, structures and mechanisms to empower women and to transform gender relations in all aspects of work, at all levels of government as well as within broader society
- To ensure that gender considerations are effectively integrated into all aspects of government policies, activities and programmes
- To establish an institutional framework for the advancement of the status of women as well as the achievement of gender equality

The policy guide "Framework for Transforming Gender Relations in South Africa" was prepared by the CGE in 2000 as a measure to fill the gap created by the absence of a national policy. The framework is based on the need to

- Move towards a popular understanding of gender equality
- Develop an indigenous policy approach to the transformation of gender relations
- Raise awareness of the constitutional roles and responsibilities of the various role players, including men and women in civil society
- Highlight the commitments made by government to various regional and international agreements advancing gender equality
- Illustrate how women and men can plan, develop and implement programmes for the advancement of gender equality

These are to be achieved through two mechanisms. Firstly, the CGE aimed to provide a 'user-friendly tool for policy makers and programme planners in government, public and statutory bodies, private businesses, enterprises and institutions. Secondly, it aimed to 'canvas the views of the identified target [beneficiaries] in the development, implementation and monitoring of public policy' (CGE, 1999). As an analytical document, it is a good resource but has not been used as a basis for action in the achievement of gender equality. In part this is because the framework and the process of laying out baseline indicators was seen by the OSW as its job; as a result the process was not taken very far.

Score is 2 because the policy is comprehensive.

DEVELOPMENT OF A PLAN

1

On this indicator we are required to score 'the extent to which the measures proposed to ensure the effectiveness of the machinery is being implemented'. Although there are draft or completed programmes of action for each of the components of the machinery, there is no overall plan for making the national machinery more effective. There are targets or objectives set with various clusters in consultation with the OSW, but these relate more to the issue of gender mainstreaming. In addition, the different components of the machinery meet every two months where information is shared, the roles of the different sectors are clarified and common campaigns are organised.

Score is 1 because while some measures are in place to ensure effective machinery there is no overall plan.

TARGETS

1

As there is no overall plan, there are no overall targets for the national machinery. A consideration would be whether there is any plan to fully capacitate the machinery, i.e. identification of optimal levels of resourcing of the machinery. We could find no information. If part of targeting here is to be able to measure the overall impact of the national machinery on the progressive eradication of gender inequalities, then it is evident that no targets have been set.

Each of the different components of the machinery has set its own targets within its own planning cycle. The OSW targets are dealt with in relation to the gender mainstreaming index and will be omitted here.

The CGE began a process of developing gender baseline indicators in 1999 (see above on 'Plan') but this process was not completed. However, the CGE has begun to develop a Report Card on government departments which may set some indicators and may lead to the identification of targets.

The JCIQLSW sets annual targets within a programme of action.

Score is 1 because while individual sectors of the machinery have developed targets there is no overall agreed-upon set of targets for measuring the effectiveness of the national machinery.

INSTITUTIONAL MECHANISMS

2

In terms of design, South Africa has the most advanced and complex national machinery, designed to create access and influence at a number of key points within the state (as described in the introduction). There are gender focal points of one form or another in most of the national departments and in some provincial departments. The situation is very unclear with regards to local government but the national machinery as it is articulated does not extend to local government. As the gender mainstreaming institutions are assessed separately they will not be included here.

The Parliamentary structures that are part of the machinery are the Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women and the women's caucus. The Committee has functioned fairly effectively in canvassing public response on key policy issues and in calling government departments and ministers to account, even on contentious issues such as HIV/AIDS. It also supported the fast tracking of legislation related to women in the first parliament. Unfortunately the caucus has been delegated to an interest group and therefore has very little influence in parliament.

The Commission on Gender Equality, with extensive powers, has not functioned effectively because of internal problems. There have been some difficulties in clarifying the relationship and areas of work in relation to the OSW although in 2002/3 there have been more regular meetings between the different institutions in the machinery. This has led to better sharing of information but there still seems to be overlapping areas of work, particularly in the area of monitoring.

A co-ordination mechanism has been put in place to ensure that the different sectors of the machinery work together more efficiently.

Score is 2 because there is a comprehensive set of institutions in place.

BUDGET

1

There is no budget for overall co-ordination of the national machinery.

Budgets are separately allocated to each of the sectors of the machinery. All sectors report insufficient funding for programmes.

OSW: There is a small allocation for the national office. There is no uniformity in budget allocations for the gender focal points. Some departments make budget allocations specifically for gender work while others integrate gender concerns into normal programming and budgeting.

CGE: The government provides minimal funding which basically covers salaries. A large part of programme work is raised from donors.

Score is 1 because budget allocations are insufficient according to all sectors of the machinery.

HUMAN RESOURCES:

1

OSW: The OSW's recommendations have not been followed through in all departments. The trend is to have an individual serving as a gender focal point rather than a unit. Usually GFP staff are also responsible for a range of other tasks within government departments; many are human resource officers responsible for gender equity (among other equity measures) but with little expertise in gender mainstreaming or gender analysis (Interview, OSW).

CGE: The CGE has a fair staff complement but has seen a high turnover in the past six years. Lack of stability in staffing has impacted on effectiveness (interview, CGE).

JCQLSW has an administrative assistant and a part-time researcher.

Score is 1 because there is an insufficient allocation of human resources to allow the machinery to operate optimally.

RESEARCH**1**

There is very weak research capacity in all sectors of the machinery. There is a reliance on consultants whose expertise has been used to conduct research, elaborate policy and assist in strategic planning of the different structures of the machinery. These individuals played an important role in the Technical Committee and National Task Team in the development of the National Policy Framework.

The OSW has employed a full-time researcher and has conducted two Gender Audits. The JCIQLSW has been a partner in the Women's Budget Initiative but the actual research was conducted by independent researchers. It solicits information from researchers outside government in hearings on particular pieces of legislation and on the implementation of government commitments.

The CGE has two full time researchers. It commissions research from time to time e.g. on local government elections, integrated development planning at local government level, equity plans in the private sector. Thus far, the research emerges out of general planning processes but has not been used to set goals and targets. Reports are not well publicised or used as the basis of activism or advocacy.

Score is 1 because while the different sectors access and commission research there is little capacity for independent research.

INVOLVEMENT OF CIVIL SOCIETY**2**

OSW: There is a commitment to involving civil society, and this has recently taken a more structured form, and the range of organisations that are included in consultations has expanded. The OSW was criticised by NGOs at the National Gender Summit for not circulating the National Gender widely in civil society until late in the process. However, a good example of the participation of civil society organisations is the National Conference on Commitments (Feb 1996) which was called to inform organisations of the commitments made by the government to implement the Platform for Action, to stimulate action to ensure the PFA is implemented and to mobilise women from all sectors to take women's advancement forward and to spread the message of Beijing. In addition, the OSW now convenes a meetings of the National Machinery and civil society organisations every two months.

CGE: Civil society organisations participated in making submissions about the constitution, roles and responsibilities of the CGE in the first year of the CGE. There have also been roundtables on issues of national concern, such as elections and violence against women. The CGE was a partner in the National Poverty Hearings in 1998, although it has not followed up on the concerns expressed by women about the increasing feminisation of poverty with a systematic plan of action. It has also held hearings about virginity testing. In the past year it has hosted several meetings with community and women's organisations and is conducting a major consultative process in relation to gender-based violence. The involvement of civil society is not part of a structured process of advocacy although it has an important impact on creating linkages between the CGE and women at the grassroots and in promoting public education.

The JCQLSW has invited civil society participation and access to parliament through convening several hearings on legislative and policy issues attended by a wide range of women's organisations. There may be some urban and organisational bias in these hearings as they are conducted in Cape Town, they depend on information networks to know when hearings will be conducted and the nature of inputs sometimes (but not always) favours the kinds of women's organisations and NGOs that have access to technical/ research expertise.

Score 2. Although consultation is still limited to fairly narrow range of stakeholders, it has increased recently. There is now also a greater tendency to use civil society consultations not only for information disseminating purposes, but also for discussing issues and priorities and for developing accountability for particular programmes.

INFORMATION & DISSEMINATION**1**

All three components of the machinery have produced numerous reports and documents. The OSW and CGE have separately conducted awareness raising campaigns. National Women's Day (August 9) and focused campaigns such as 16 Days of Activism have been used as strategic opportunities to educate and inform the public. CGE commissioners visit women's organisations and have conducted training in gender equality for government and NGOs. Information on the machinery has mainly come from NGOs in the form of simplified versions of the instruments. The OSW produces materials in different official languages; the National gender Policy, for example, was translated into all official languages as well as Braille (interview, OSW). The common form of information dissemination is through conferences and conference reports, although reports appear to be very poorly circulated and are not given media coverage.

The reports and deliberations of the JCIQLSW are easily available on the government website. The CGE has a website but information is not updated and very few reports are placed on the website. The OSW website is still under construction.

Score is 1 because although there is considerable attempt on the part of the different sectors of the machinery to disseminate information this is currently not reaching sufficient numbers of women.

MONITORING AND EVALUATION**1**

All components of the machinery are monitoring and evaluating progress on an individual basis. This is not tied to any overall plans of action and the effectiveness of specific campaigns (such as the 16 Days of Activism Against Violence Against Women) is not evaluated. The monitoring role over government effectiveness has been shared by the OSW, as evidenced by the OSW audits (1998 and 2002), the Commission on Gender Equality (through the Annual Report Card mechanism) and the Parliamentary Committee on the Improvement of the Quality of Life and Status of Women (Report on Government's implementation of CEDAW and the Beijing Platform for Action, November 1998). The CGE's Annual Report Card project has completed the first round of examining government departments' plans for gender equity. A report has been completed but the findings have not yet been publicly launched. The monitoring role of the Parliamentary Committee has also been prominent in government. The two-monthly meetings of the machinery are a mechanism for monitoring overall effectiveness.

However, without baseline indicators and targets, monitoring and evaluation has been somewhat haphazard and unsystematic. However, the OSW has now put in place a process to develop monitoring and is talking to Stats SA about developing a monitoring system. This will entail working with policy co-ordinators across departments and clusters to develop indicators.

Score is 1 because there is no overall plan for monitoring and evaluation and because these do not occur within clear set of plans and targets.

SUPPORT FOR WOMEN'S TRADITIONAL POWER/QUOTA'S

INTRODUCTION

This indicator measures whether or not states have adopted legal measures or policy commitments that support the increase of women's political power, whether by restoring the traditional power bases of women or by adopting a quota system of minimally one-third for women's representation in the country's highest decision-making body (parliament). It also measures the extent to which affirmative actions measures are permitted in the workplace.

In South Africa the quota system has been used effectively to get women into Parliament and the provincial legislatures. This has been crucial in the promotion of women into cabinet and other decision-making structures in the legislatures/parliament. However this is a voluntary quota thus far accepted by only one political party, the African National Congress.

International standard

The Beijing Platform for Action Strategic objective G.1.

Take measures to ensure women's equal access to and full participation in power structures and decision-making.

The SADC Gender Declaration at article H(ii) stipulates a target of 'at least 30% in political and decision-making structures by 2005'.

RATIFICATION

X

NOT APPLICABLE

REPORTING

X

NOT APPLICABLE

LAW

1

The Constitution provides a permissive legal framework for quotas, as does labour legislation (The Employment Equity Act, 55 of 1998).

However quotas in parliament are voluntary. There is no legal compulsion for parties to ensure gender representivity on electoral lists. The Municipal Structures Bill recommends a quota for local government electoral lists but does not require it. At the same time, it is important to note that this is a contested issue in South Africa. Some believe a quota should be mandated through law, others argue that other mechanisms should be used.

Score 1 because some laws are in place for quotas in the workplace and local government.

POLICY**1**

The Constitution provides an enabling policy framework for quotas and labour policy is particularly favourable to affirmative action measures. The government has also taken up the issue of ensuring that the number of women in decision-making position within government departments is increased. Thus there is a policy that specifies a target of 30% women in senior management position in the public service.

Although there is no national policy on quotas in parliament, thus far women's organisations have not demanded a specific policy. The African National Congress, the majority party in all the tiers of government, has adopted a policy of 30% representation of women in all the decision-making structures. This has translated into an increase in the percentage of women in political structures. Research shows that this has had a 'contagion effect': parties who don't have quotas nevertheless have increased the number of women on their lists.

Score is '1' because there is a strong policy environment for the workplace. In relation to quotas for parliament and the executive, there is a very strong commitment by Cabinet to ensuring representivity and a broad enabling environment exists. However formal policy commitments are limited to local government and senior civil servants. In relation to Parliament, no formal policy exists despite the enabling environment. This might be a problem as political will is not sustainable in the long term.⁹⁰

DEVELOPMENT OF A PLAN**0**

We have not been able to identify any formal plan for implementing quotas. Score '0'.⁹¹

TARGETS**1**

Although there are no national targets, the major political party has sustained a high level of women's representation over two national elections and has recommended that a one-third quota be retained for the 2004 elections. It has a 30% target/quota.

Women's organisations have recommended a 50% target by 2005. Although the CGE is part of the 50-50 campaign, this position has not been officially adopted by government.

Score is 1 because although the current government supports quotas (and the ruling party has set one at 30%), there are no defined national targets, and the ANC target falls short of 50%.

INSTITUTIONAL MECHANISM**1**

Institutional mechanisms are in place for promoting and regulating the implementation of affirmative action measures in the workplace. However, in the absence of a formal policy and plan, there are no identified formal mechanisms for implementing affirmative action measures or quotas in politics. Score is thus '1'.

⁹⁰ Note that there was a strong feeling in the Advisory Panel that this should score '2'. However, the AGDI instrument requires a formal policy, so we are bound by the terms of the Instrument.

⁹¹ Note that there was a strong feeling in the Advisory Panel that this should score 'X' as not applicable in the absence of a policy (see previous footnote). However, the AGDI instrument requires a formal policy and plan, so we are bound by the terms of the Instrument.

BUDGET**1**

We have not been able to identify any budget for the implementation of affirmative action measures or quotas. However, to the extent that policies and laws in the employment sphere are being implemented, this suggests some budgetary allocation. Score '1'.

HUMAN RESOURCES**1**

Human resources exist for implementing/enforcing/regulating affirmative action measures in the workplace. However, in the absence of a formal policy and plan, there are no identified human resources for implementing affirmative action measures or quotas in politics. Score '1'.

RESEARCH**2**

Most of the research on quotas and other strategies to ensure the participation of women in decision-making structures preceded the 1994 elections.

An Electoral Task Team was set up by government in 2002. This Team investigated whether the electoral system should be reformed. Government argued strongly for retention of the PR with List system, including on the grounds that it promoted gender equity. However there was little support for a legislated quota.

Score is 2 because there is a wide variety of independent research and where necessary government has sponsored research.

INVOLVEMENT OF CIVIL SOCIETY**2**

There is an NGO-led campaign for 50/50 representation in Parliament. This is targeting the 2004 elections as part of the Global 50/50 by 2005 Campaign. Civil society has also been involved in training women in preparation for political office. Notable among these have been the Education Training Unit, Women's Development Foundation and Gender Advocacy Project (which is also spearheading the 50/50 Project). The Gender Education and Training Network runs a gender and good governance programme targeting councillors and officials and one of the objectives of the programme is to ensure the increased participation of women in local government.

Score is 2 because there major involvement of civil society in support of current government on this issue.

INFORMATION & DISSEMINATION:**2**

Information is disseminated mainly through campaigns leading to elections. It is also publicised widely in speeches made by politicians on public occasions.

Score is 2 because information is readily available and government reiterates commitments at all appropriate public opportunities.

MONITORING AND EVALUATION:**2**

Gender activists and women's organisations keep a keen interest in what government is doing to promote participation of women in politics. The OSW and CGE regularly monitor progress on

representation and CGE monitors political parties. The JCIQLSW monitors progress in government departments. The OSW reports regularly to SADC.

Score is 2 because there is ongoing and effective monitoring against a clear target.

DECISION MAKING POSITIONS WITHIN PARLIAMENT/MINISTRIES

INTRODUCTION

Representation of women in the national parliament

South Africa's first report to CEDAW, submitted in 1997, reported the following number of male and female members in the National Assembly, the National Council of Provinces (NCOP) and in the nine provincial legislatures. The figures for the NCOP include only the permanent seats, as the other seats can be rotated between women and men according to the issue under discussion.

Women and men in the national and provincial legislatures, 1997

	Women	Men	Total
National Assembly	111	289	400
National Council of Provinces	8	46	54
Provincial Legislatures	102	323	425

In mid-2003, the situation was as in the following table in respect of the national parliament. The table excludes four vacant seats in the National Assembly. (Information obtained through Office on the Status of Women.)

Women and men in the national legislature, 2003

	Women	Men	Total
National Assembly	125	271	396
NCOP	20	34	54

Cabinet ministers

South Africa's first CEDAW report of 1997 reported the following numbers of women and men cabinet ministers and deputy ministers for 1994, immediately after the first democratic elections, and for May 1996, after a cabinet reshuffle.

Ministers and deputy ministers, 1994 and 1996

	Women	Men	Total
1994			
Ministers	3	24	27
Deputy ministers	3	9	12
1996			
Ministers	4	21	25
Deputy ministers	8	5	13

In mid-2003, the situation was as follows:

Ministers and deputy ministers, 2003

	Women	Men	Total
Ministers	9	20	29
Deputy Ministers	8	8	16

There are 3 (out of 10) women Speakers of Parliaments/Legislatures and 7 Deputy Speakers. There are 12 (out of 45) women Chairpersons of Committees in Parliament. There are 21 (out of 58) women whips in Parliament.

RATIFICATION X

NOT APPLICABLE

REPORTING X

NOT APPLICABLE

LAW X

NOT APPLICABLE

POLICY 2

There is an overall enabling environment set by the Constitution. There is no national policy in Cabinet although there is policy articulated from the ruling party. The positions are determined by the policy of one-third representation of women in decision-making positions, as well as the choices of the President for the Executive. There is a policy commitment by current government to ensure representation of women in senior civil service positions as well as in elected positions.⁹² In 2003 the President twice appointed women to act as President during his absence.

Score is 2 because there are demonstrable political and policy commitments to increasing women's access to decision-making positions.

DEVELOPMENT OF A PLAN X

There is no articulated plan with and targets. However, there has been an increase in the number of women who are Ministers, Deputy Ministers, Chairpersons of Standing Committee after the 1999 elections. This is an indication of commitment to ensure that women are well represented in decision-making positions.

Score is X because the overall policy of government is being implemented even in the absence of a plan.

TARGETS X

See above.

INSTITUTIONAL MECHANISM X

⁹² 'Batho Pele' – White Paper on the Public Service provides for a 30% target for women in senior management positions.

There is no specific institutional mechanism responsible for implementing the commitment to more women in decision-making positions. This occurs within the Executive (the President) and political parties.

Score 'X' as not applicable.

BUDGET**X**

There is no dedicated budget required. Score 'X' as not applicable.

HUMAN RESOURCES**X**

There is no specific human resource dedicated specifically to supporting women in decision-making positions in parliament. Hence this score is not applicable.

RESEARCH**2**

Research is carried out mainly by external bodies (institutions of higher learning). Political parties have employed their own researchers to provide crucial information but rarely does "gender" feature as an important subject of research. In 1995, the National Parliament commissioned research on what Parliament was doing to address the critical areas of concern in the Beijing Platform for Action. With the support of international donors, it has also commissioned research to ascertain the obstacles facing women in the parliament (European Union Parliamentary Support Programme, 1997; CASE, 1999; MBM Change Agents and Ruby Marks Associates, 1998; Women's Empowerment Unit, 1998). The OSW regularly reports to SADC on this issue and the CGE has commissioned research leading up to the 1999 elections.

Score '2' because of comprehensive research.

INVOLVEMENT OF CIVIL SOCIETY**2**

The main involvement of civil society in this case has been through lobbying and advocacy, and this has been extensive and ongoing. Hence this scores '2'.

INFORMATION & DISSEMINATION**2**

There is no specific campaign to disseminate information on the importance of women's representation. However, the President and Ministers continually reiterate the importance of women's representation in public speeches and campaigns. This high-level support is a form of mainstreaming of gender.

Score 2.

MONITORING AND EVALUATION**2**

There is constant monitoring and evaluation of progress in this field by all sectors of the national machinery.

Score is 2 because there is effective and ongoing monitoring and evaluation.

GENDER MAINSTREAMING:

INTRODUCTION

Strategic objective H.2 of the Beijing Platform of Action states that governments should "integrate gender perspective in legislation, public policies, programmes and projects" and details the actions that they should take to achieve this objective. This objective is further developed in paragraphs 293-300 (Institutional Arrangements: A. National Level) of the Platform. This in effect gives the mandate for mainstreaming gender equality in all the levels of government.

RATIFICATION

X

NOT APPLICABLE

REPORTING

X

NOT APPLICABLE

LAW

X

NOT APPLICABLE

POLICY

2

The National Gender Policy framework was released in 2000 and lays the basis for gender mainstreaming in government.

Score is 2 because a policy has been developed and accepted by Cabinet.

DEVELOPMENT OF A PLAN

1

This responsibility falls within the mandate of the OSW as part of its gender mainstreaming responsibility. A National Gender Action Plan has been developed by the OSW with a ten-year cycle of action. This Plan has to go through various consultative processes as well as a Cabinet review before it can be implemented. At this stage, the absence of a clearly articulated implementation strategy makes it difficult for the implementing bodies. Some provinces are trying to develop implementation plans through a process of participatory policy hearings, conducted to determine the specific condition for implementation in the provinces. There are some concerns among gender activists and analysts that both the National Gender Policy and the National Gender Action Plan have taken so long to be developed and that actual policy implementation work may have been delayed due to the lack of a clear plan of action with high level support (National Gender summit, August 2001, comments during discussion).

The OSW has also met with the Gender Focal Points in the various Clusters to develop plans. However these have not been finalised.

Score is 1 because while a policy has been approved a clear plan of action is still in the process of being developed.

TARGETS

1

There are no clearly identifiable overall targets set by the OSW in relation to gender mainstreaming; these are set within government clusters and are mainstreamed into department plans. The OSW has set targets in relation to human resources and capacity building of gender focal points.

Two areas in which of targets may be set can be identified in the National Gender Policy, although neither the Policy nor the National Gender Action Plan makes any reference to targets. The first relates to the progress in setting up the internal mechanisms within government and in achieving gender balance in employment within the civil service (third objective of gender mainstreaming as outlined in National Gender Policy). The second set of targets relates to the development goals of eradicating gender-based inequalities (first two objectives). With regard to the first type of target, there are implicit goals (but not targets) in some of the requirements/conditions laid by the Policy Framework - for example, that every government department and national and provincial level should have a gender focal point and the GFPs should be at the level of Director and should report to the Director General (Interview, OSW, August 2003). The OSW conducted a National Gender Audit in during 1998/9 which scanned all provinces and government departments. The results were compiled in 2000 and provided an initial assessment of institutional mechanisms, programmes and projects. Some of the key findings are summarised in the assessment of institutional mechanisms below. In 2002 a smaller second audit was conducted to assess levels of progress and early speculation is that there has been a backsliding in the establishment of effective GFPs (Interview, OSW, August 2003; Pethu Serote, personal communication, August 2003). The National Audits are not available for public scrutiny. It is therefore difficult at this point to make a definitive statement on how well goals have been achieved with regard to consolidating the national machinery in government.

There has been no systematic attempt to set targets and assess progress with regard to key development objectives such as eradicating poverty, increasing women's access to public resources and services, etc. There are no indicators defined for assessing progress towards gender equality. There are also no targets set in relation to key policy areas (indeed; key policy areas themselves are not highlighted in the document). The OSW has identified the need to set targets within the Medium Term Strategic Framework Process, however, this has still to occur.

Score is 1 because the process of developing targets is incomplete.

INSTITUTIONAL MECHANISM

1

The institutional mechanism for gender mainstreaming is detailed in the policy guidelines document. The Office of the Status of Women in the Presidency constitutes the pinnacle of the national gender machinery as well as the coordinating structure for gender mainstreaming. The provincial structures are made up of the Provincial OSW and the gender focal points in the provincial government departments.

However, these structures have not been as effective as envisaged in the design of the machinery. A study conducted by the OSW (OSW, 2002, Status of Gender Focal Points in National Departments Audit Report), based on a questionnaire distributed to 36 departments, found that

- Of the twenty five (25) responding departments, twenty four (24) reported that they had GFPs.
- However, only 8% of the responding departments had a GFP *at the level* recommended by the National Policy Framework.

- The majority of the GFPs and their supervisors are below entry point managerial level. This means that they are not in a position to perform the gender mainstreaming functions in their departments.
- There are unclear or no reporting lines in most departments on progress with regard to the gender issues, and gender is addressed on an ad hoc basis.
- Eighty-five (84%) of GFP reported that they performed functions other than their GFP work.

The Report concludes that 'South Africa is not in a position to report on progress with regard to Strategic Objective H of the BPFA eight years after signing the document, and after eight years of Democracy' (OSW, 2002).

As a result, the GFPs are not functioning effectively. They are hamstrung by various problems including lack of authority, poor resources and expertise in gender mainstreaming and uncertainty as to their areas of competence within government departments (Hassim 2002).

Score is 1 because the process of rolling out GFPs in government departments is not complete.

BUDGET

1

The budget allocation varies in accordance with the different departments and their commitment to gender equality. Interviews with GFPs suggest that there is inadequate budgeting for gender-specific work within departments.

Score is 1 because GFPs and OSW do not have sufficient resources for programmes.

HUMAN RESOURCES

1

The human resources are fairly adequate as the national OSW and national departments, as well as provincial OSWs and provincial departments have appointed personnel. However, personnel are often not trained effectively nor do they have capacity to influence policy. At local government level, very few municipalities have gender structures.

Score is 1 because many GFPs are appointed at levels below those recommended by the OSW and because not all GFPs have the required expertise in gender mainstreaming.

RESEARCH

1

The OSW produced two national gender audits, as well as the national policy guidelines. However it does not appear to have independently conducted or commissioned research related to policy priorities with regard to gender mainstreaming. This may be a function of human resource capacity.

Score is 1 because there is little capacity for independent research in the current establishment of the OSW.

INVOLVEMENT OF CIVIL SOCIETY

1

The National OSW has involved civil society organisations in its National Gender Machinery meetings (8th Session took place on 26th – 27th June 2003). There are regular consultations with NGOs and women's organisations although this tends to be based on sharing information. At the National Gender Summit there were concerns expressed by NGOs that consultation was too sporadic and not

tied to establishment of priorities or accountability in terms of how gender issues are addressed by government. This has improved with the regular consultations.

Score is '1'. Although civil society involvement has expanded in the last few year, it still takes place within fairly narrow parameters.

INFORMATION DISSEMINATION

1

Information dissemination is not a strong area. Reports of events are circulated but not as widely as they could be. The audits have not been released for public consumption. The OSW has not yet developed a website, although some documents are available on the government website.

Score is 1 because information dissemination is limited.

MONITORING AND EVALUATION

1

The national policy framework has a section on evaluation. This section has clear indicators to measure progress towards equality and therefore could be very useful when it is implemented. Another way of monitoring progress is the way that the OSW has already used, auditing the different national departments for compliance with the commitments to the Beijing Platform of Action. The OSW is actively seeking to improve its capacity here.

Score is 1 because there process of monitoring and evaluation is still at and early stage.

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