



THE PRESIDENCY

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**SOUTH AFRICA'S REPORT TO THE AU SECRETARIAT ON THE
IMPLEMENTATION OF THE AU HEADS OF STATES' SOLEMN
DECLARATION ON GENDER EQUALITY IN AFRICA**

JUNE 2006

1.0 INTRODUCTION

The African Union (AU) Solemn Declaration on Gender Equality in Africa was adopted by the Heads of State of the AU in July 2004. Operative paragraph 12 of the Declaration commits the Heads of State to report annually on progress made in gender mainstreaming and to support and champion all issues raised in the Declaration, both at the national and regional levels.

This is South Africa's second report. It updates the information already submitted on the nature of the institutional mechanisms for women's empowerment and gender equality in place in South Africa, as well as the progress made with regard to the specific provisions of the Declaration.

Part 1: Institutional Mechanisms and Policy Framework for Gender Equality

1.1 Constitutional and Legislative Basis for Gender Equality

South Africa has made significant strides in promoting and protecting the rights of women. The Constitution, Act 108 of 1996, which was passed at the dawn of the South African democracy, is widely acclaimed as one of the most progressive and inclusive of all time. The constitution asserts, in its founding provisions, that the democratic state is founded on values of human dignity, achievement of equality and advancement of human rights and freedom, non-racism and non-sexism. The Equality Clause of the constitution states that everybody is equal before the law and has the right to equal protection and benefit of the law. (s9 (1)). It includes provision for positive measures or affirmative action, stating that "legislative and other measures" may be taken to "protect or advance" people who have been disadvantaged (s9 (2)). The Constitution also protects against unfair discrimination (direct or indirect) on one or more grounds, including race; gender; sex; pregnancy; marital status; ethnic or social origin; colour; sexual orientation; age; disability; religion; conscience; belief; culture; language and birth (s9 (3)).

The human rights of women have also been advanced through the enactment of laws and development of policies that seek to deepen women's empowerment and advancement. South Africa has in place a comprehensive and forward looking legislative framework to ensure the promotion of equality and non-discrimination and to ensure that women's concerns are integrated into all areas of work.

The ratification of sub-regional, regional and international agreements are some of the many steps that the South African government has taken to promote women's rights in the country. Achievements on empowerment and emancipation

of women are reflected in the country's broad public awareness about the rights of women, as well as better representation of women in key positions of management, increased access to employment opportunities through affirmative action and preferential procurement strategies, economic empowerment, increased access to services, and measures to combat abuse and violence.

1.2 The South African National Policy Framework for Women's Empowerment and Gender Equality

The South African National Policy Framework for Women's Empowerment and Gender Equality outlines the national vision of a "society in which women and men are able to realize their full potential and to participate as equal partners in creating a just and prosperous society for all". According to the policy framework the responsibility for gender mainstreaming is that of all government officials as well as all within the Executive, including The President.

In His State of the Nation Address (February 2003), President Mbeki stated that "...within government, we will continue to insist on implementation of the National Framework for Women's Empowerment and Gender Equality. Concretely, we will soon introduce a system through which gender representation targets and content of programmes become part of the core performance criteria of every government institution and manager."¹

1.3 The National Gender Machinery

South Africa has established a comprehensive National Gender Machinery, which comprises structures within government and civil society that promote gender equality. Whilst many countries use the term gender machinery to refer to a national ministry responsible for women/gender affairs, in South Africa the term **national gender machinery** refers to "an integrated package" of structures located at various levels of state, civil society and within the statutory bodies².

The South African Gender Machinery comprises the Executive i.e. the Office on the Status of Women (OSW) and Gender Focal Points (GFP) in National Departments, the Commission on Gender Equality (CGE) as well as the Joint Parliamentary Committee on the Improvement of the Quality of Life and Status of Women, both of which receives State budgetary allocations.

The facilitative components of the Gender Machinery include:

¹ State of the Nation Address, South Africa, delivered by The President, Mr. Thabo Mbeki, February 2003.

² The point to note is that the function of gender mainstreaming in South Africa is that of all government, civil society and NGO bodies. The components of the gender machinery are facilitators of the gender programme, and primarily all have coordination and monitoring roles.

- The Executive, i.e. the National OSW, provincial OSWs and GFPs in national departments
- The CGE, a Statutory Body
- The Joint Parliamentary Committee on the Improvement of the Quality of Life and Status of Women

In addition to the facilitative structures, the South African Government considers gender mainstreaming the responsibility of all Cabinet Ministers, public sector officials and government agencies, whilst all human rights institutions established under the South African Bill of Rights, Section 9, have the responsibility to promote women's rights. This includes the Human Rights Commission as well as all Portfolio Committees within the Legislative.

The Gender Machinery also includes civil society organizations and Non-Governmental Organizations. The National Gender Machinery therefore has a critical role to play in facilitating the process of women's empowerment and gender equality in the country.

Figure 1 below, is an illustrative diagram depicting the National Gender Machinery followed by Table 1, a descriptive overview of the national gender machinery with special focus on its components, i.e. the executive branch and the legislature.

Figure 1: National Gender Machinery Facilitating Bodies

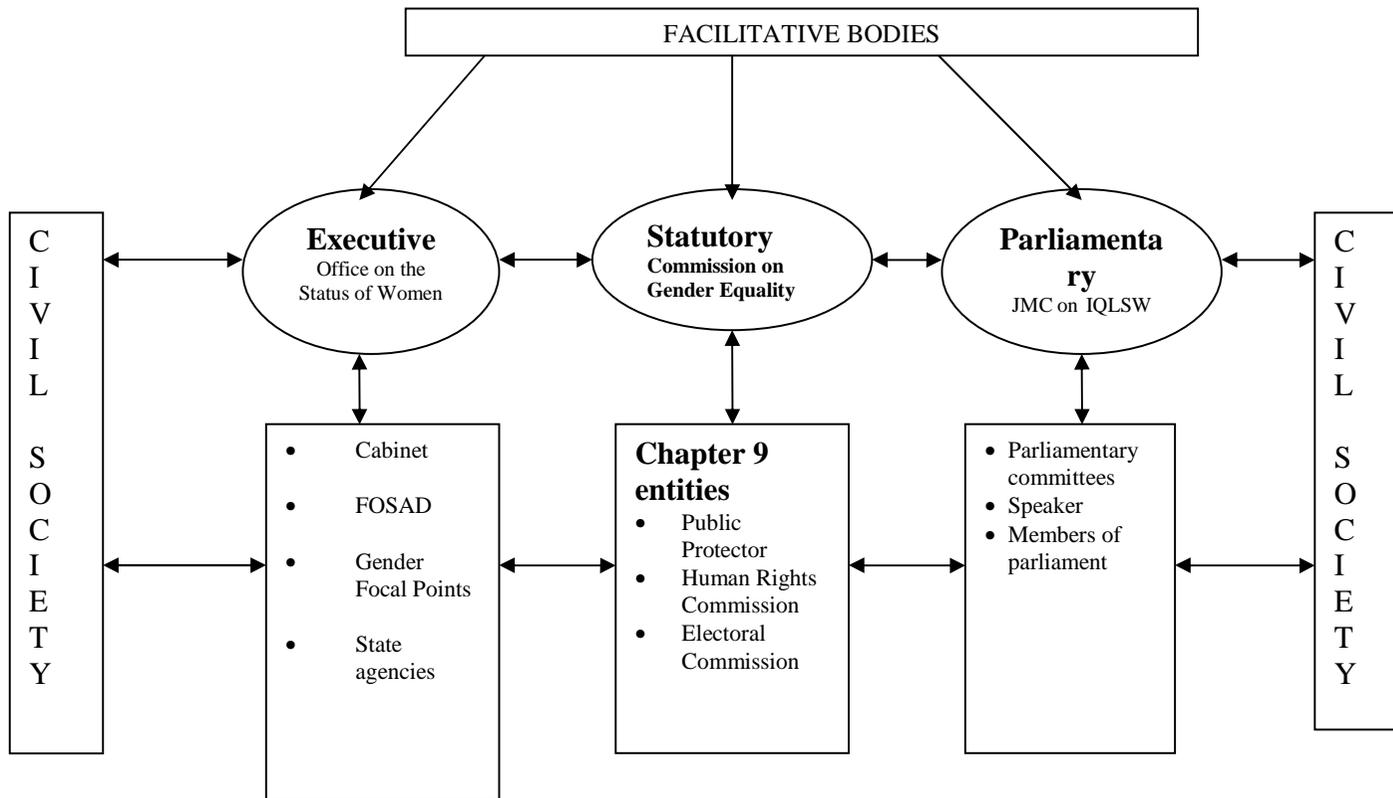


Table1: FACILITATIVE BODIES ON MAINSTREAMING GENDER

Executive	Legislative	Statutory Bodies	Civil Society
<p>The Office on the Status of Women</p> <p>The national Office on the Status of Women, located in The Presidency, plays a vital role as the principal coordinating structure for the National Machinery on gender equality. It has been constructed as the nerve centre for developing and maintaining a national gender programme. It is responsible for developing national action plans or frameworks for mainstreaming gender within government structures, to advance women's empowerment and gender equality; as well as to monitor the implementation and progress in this regard. As part of its mandate, the Office also plays a pivotal role in liaison with civil society organisations to advance the national gender programme.</p>	<p>Joint Monitoring Committee</p> <p>The Committee's principal responsibility is to monitor progress in the advancement of the status and improvement of the quality of life for South African women. The committee also monitors and assesses whether government policy implements national and international commitments with respect to the Constitution of South Africa, National Gender Equality Framework, CEDAW, Beijing and Dakar Platforms for Action. It also monitors gender mainstreaming in government policies and programmes, including the national budget and fiscal framework.</p>	<p>The Commission on Gender Equality (CGE)</p> <p>The CGE, established in 1997, is an integral part of the National Gender Machinery. It is an independent, statutory, advisory, and research body. The key functions includes monitoring and evaluating of policies and practices of government, the private sector and other organizations to ensure that they promote and protect gender equality; review existing and upcoming legislation from a gender perspective; provide public education; investigate inequality and complaints on gender related issues; monitor and report on compliance with international conventions.</p>	<p>NGOs</p> <p>Within Civil Society³ gender coordination remains a challenge as there is no umbrella body co-ordinating women's or gender-issue focused organizations at the national level. Currently there are almost sixty (60) NGOs participating in the National Gender Machinery meetings. The strongest and most organized sector amongst NGO's attending the gender machinery meetings are those working in the area of gender based violence. However, even these NGOs do not have a coordination point.</p>

³ Civil society organisations that attend national gender machinery meetings comprises national NGOs, Community based organisations, Faith Based organisations, Trade Unions and Women's groups of political parties.

Executive	Legislative	Statutory Bodies	Civil Society
<p>Gender Focal Points (GFP) At an operational level, the main responsibility for ensuring the effective implementation of the National Gender Policy rests with individual government departments at national level, through the establishment of GFP or Gender Units. The key function of GFP, as identified in the National Policy Framework document, is to assist in the formulation and implementation of effective action plans to promote women's empowerment and gender equality in all policies, programmes and projects by national departments.</p>			

Part 2: Implementation of the Solemn Declaration on Gender Equality in Africa

2.1 Article 1: Accelerated implementation of gender specific economic, social and legal measures aimed at combating the HIV and AIDS pandemic and effective implementation of both the Abuja and Maputo Declarations on Malaria, HIV and AIDS, Tuberculosis and Other Related Infectious Disease.

2.1.1 Legislative Measures since 2004

South Africa has enacted new legislation that strongly impact women's lives. The National Health Act, 2004 (no. 61 of 2004) entrenches principles for promotion and the upliftment of women in South Africa. It provides landmark positions in international health legislation in general and in particular in legislation that affects the position of women. Furthermore it relates directly to areas such as the right to dignity, integrity, and rights to privacy including rights of women and children to health care.

The above legislation built on the provisions of the Comprehensive HIV and AIDS Prevention, Care, Management and Treatment Plan for South Africa, adopted in November 2003, as well as the HIV, AIDS and STD Strategic Plan for South Africa adopted early in 2000 as part of a comprehensive and holistic response to HIV and AIDS.

The Comprehensive HIV and AIDS prevention, care, management and treatment plan approved for implementation in 2003 combines prevention, support care and treatment for HIV and AIDS associated conditions. The size of the programme is evident from its financing which has increased from R342 million in 1994 to a projected R3.6 billion in the 2005/6 financial year.

This programme has a strong prevention focus which has resulted in users of the public health system having increased access to care in general, better access to treatment of opportunistic infections, better quality of care and more comprehensive care for HIV and AIDS in particular. More than 131 216 persons with HIV and AIDS including women and children, and persons with TB are reported to have benefited from nutrition interventions. Greater access to food and good nutrition have been encouraged and provided through food parcels and as an adjunct nutritional supplements and multivitamins have been given. Inter-sectoral cooperation ensuring food security, social grants, safe water and sanitation have been important components of the programme. The above provisions ameliorate the care burden which inadvertently rests on women in most communities.

2.1.2 Elements of the Comprehensive Treatment Plan include the following:

- Life Skills programme – Government has implemented various programmes, including life skills training and building partnership with a wide range of organizations including faith-based, business, government, labour, media, traditional healers, the disabled and women's organizations.
- Post exposure prophylaxis – A particularly important initiative for women was the introduction of a policy providing post exposure prophylaxis against HIV infections for women who are victims and survivors of rape and violence has been implemented. The post exposure prophylaxis enables adolescent girls, children, women and any other victim of sexual assault to be immediately placed on therapy to prevent HIV infections.
- Prevention of Mother to Child transmission – The programme on the Prevention of Mother to Child Transmission of HIV and AIDS infection (PMTCT) is an important programme for both the mother and infant. There is now an estimated 2500 service points in comparison to 18 points in 2001 where PMTCT services are available.
- Femidoms (Female condoms) – The South African programme has expanded to ensure that women are truly empowered. Other important initiatives include the introduction and distribution of female condoms. The South African Bureau of Standards play an important role in quality control and thus giving assurance to users on the quality of the condoms in use. Meanwhile Government has commissioned research on microbicides that will go a long way to providing options for the prevention of HIV and AIDS by women.
- Partnership Programmes – There are numerous partnerships around HIV and AIDS which involve numerous stakeholders and role players. Notably the partnerships that work most closely with women and gender related aspects of HIV and AIDS are Women in Partnership against AIDS (WIPAA) and Men in Partnership against AIDS (MIPAA).

2.1.3 TB

In 1995 a revised national TB Control Programme was established based on the Directly Observed Treatment Short Course (DOTS) Strategy. The SA Millennium Development Goals – Country Report indicates that while improvement rates have not reached the national target of 85% cure rate, cure rates in health districts using the DOTS approach fare better than those not using the approach. The main problems remain high rates of treatment interruptions and transfers

(internal migration). The problem of TB is exacerbated by the development of multi-drug resistance.

Sex disaggregated data was not readily available for the purposes of this report; however it can be said that TB remains one of the leading causes of death of females. There are numerous challenges related to TB infections and women, such as that relating to the relatively low tendency among women to seek out health care services. Given the co-infection of TB and HIV, it is necessary to conduct gender-based analysis of TB to assess the degree to which women are affected by the disease differently.

In addition the current regimen and treatment programmes, which require lengthy hospitalization periods, place heavy time demands on women.

2.1.4 Malaria

Although sex disaggregated data was not readily available for the purpose of this report, the available data indicates overall progress in the control of malaria infection. As a result of the malaria control programme the number of malaria cases dropped from 64 622 in 2000 to 15 619 in 2002 and to 13 232 in 2004. Malaria deaths in 2001 were 74% less than in 2000. From 2001 to 2004 there has been a sustained decrease in the number of nationally reported malaria cases and deaths, largely as a result of the number of interventions such as combination drug therapy, the re-introduction of DDT as an effective insecticide, as well as the collaborative malaria control efforts with neighbouring countries. The national target for malaria case fatality is to maintain a rate of below 0.5%, which has become a strategic target for the health sector in South Africa for the period 2004 -2009.

2.1.4 Adolescent Health

A specific campaign addressing young women has been put in place. The campaign includes messaging to encourage the promotion of healthy lifestyles. Messages relate to, among other issues, healthy sexual lifestyles through popular television programming, community radio, school curricula, billboards and posters. In addition, extensive life skills programmes have been developed. Adolescent health programmes of the government sector have worked in close partnership with non governmental sectors to reach as many adolescents as possible.

Health information uptake in these groups is high. Ninety five (95%) of adolescents know about HIV and AIDS and how infection is acquired. The South African Demographic and Health Survey of 2002 indicate that 46.1% young women between the ages 15-24 years use a condom during sexual intercourse.

2.2 Article 2: Ensure the full and effective participation and representation of women in peace process including the prevention, resolution, management of conflicts and post-conflict reconstruction in Africa

2.2.1 Women representation in peace processes

During the past twelve years of democracy South Africa has focused on establishing itself as a peaceful and democratic state where women and men are all secure and involved at all levels of decision-making, including national security and the promotion of regional and global peace.

Since the attainment of freedom and democracy in 1994, South Africa itself has not experienced a situation of armed conflict. Measures in the area of armed conflict have focused on addressing the legacy of the violent *apartheid* state, particularly in the ethos of the defence force and on facilitating peace in the African region. Guided by the Constitution and applicable international norms, South Africa has implemented policy and administrative measures to ensure that gender is mainstreamed and to promote women's participation in decision-making structures relating to conflict resolution and peace building.

The operations of the Defence Force, including the treatment of women in armed conflict, observance of other human rights and involving women in peace-keeping operations and related decision-making in the continent, are informed by the Constitution and the *Defence White Paper*. Amongst other things, the *Defence White Paper* commits the SANDF to adhere to international law on armed conflict and to all international treaties to which South Africa is party.

South Africa has realised that the exclusion of women from political decision-making is a significant obstacle to the realisation of sustainable peace. The country has also realised the need for and has committed itself to mainstreaming gender in conflict resolution. Measures aimed at mainstreaming gender and involving South African women in decision-making relating to conflict resolution are also informed by a need to respond effectively to violence against women.

With regard to South Africa's approach to women and armed conflict the *White Paper on National Defence for the Republic of South Africa of 1996* which essentially states that the South African National Defence Force (SANDF) is an instrument for conflict resolution.

One of the key strategic objectives that are dealt with in the *White Paper* is the achievement of equality, particularly with regard to the representation of black people and women in all areas and levels of the SANDF.

On their part, the women of South Africa have seized the opportunities that exist and have taken an active role as political, business and civil society leaders to

contribute towards the resolution of conflicts and for the full attainment of socio-economic development within the country and the continent.

South Africa believes that the full implementation of the United Nations Security Council Resolution 1325 requires the resolve of member states in forming partnerships with civil society and communities to promote women's rights and participation in peace processes.⁴ An active solidarity movement has developed whereby SA women in addition to engaging in their struggles are also reaching out to provide space for women in conflict and post-conflict areas to express their own concerns and hopes to plan for the future. For example, South Africa recently hosted a group of women from Burundi and the Democratic Republic of Congo (DRC) to share experiences with South African women. South Africa has also been involved in dialogue of the women in the Great Lakes Region and sent delegates to these gatherings. Another example is the concerted efforts to consider gender balance when nominating teams that should assist with the reconstruction of the DRC. As part of this process, women were included as team members to assist with the integration into the armed forces in the DRC to constitute an integrated Defence Force for the Republic of Congo.

South Africa also fully associates itself with the statement of the Human Security Network that draws attention to the need for more work to be done in this area, particularly the representation of women at levels of decision-making including as military observers, civilian police, peacekeepers, human rights and humanitarian personnel in UN field operations and special representatives of the Secretary General.⁵

Strong partnerships between government and South African women's initiatives in peace-building and conflict resolutions processes are evident in the following initiatives:

- South Africa has, through the Spousal Office and the Office on the Status of Women, both in the Presidency, and the Department of Defence, spearheaded programmes that seek to assist women from conflict-ridden countries in Africa to contribute to the culture of peace on the continent and beyond. This goal is achieved through facilitating dialogue among these women with the South African Women in Dialogue (SAWID). The SAWID first met in 2003 with women from the DRC and in 2004 with women from Burundi. The SAWID was initiated by the Spousal Office in the Presidency together with NGOs working in the area. The main objective was to establish a common agenda for women's development, with a particular emphasis on finding peaceful means to conflict resolution.

⁴ South African Statement: Commemoration of the UN Security Council Resolution 1325 of 2000 on Women, Peace and Security, 28 October 2004

⁵ Statement of the Human Security Network of which South Africa is an observer

- South Africa encourages further development of peace in the SADC region through the African Women Peace Table Seminar. The purpose of the Peace Table is to explore how women serving in the Security Sector of the SADC region can contribute to the furtherance of the AU/NEPAD Peace and Security Agenda.

In the African context, South Africa has realised that the exclusion of women from political and economic decision-making is a significant obstacle to the realisation of sustainable peace.

2.2.2 Appointment of Women as Special Envoys and Special Representatives of the AU

Over the last twelve years, South Africa has deployed a number of women to participate at operational levels in the UN and the African Union (AU)-sponsored Peacekeeping Missions as members of the SANDF. Examples include the inclusion of women as team members to assist with the integration into the armed forces in the DRC to constitute an integrated Defence Force for the Republic of Congo.

Measures that have been implemented with regard to strengthening the role of women and ensuring their involvement in decision-making relating to peace-keeping, preventive diplomacy and related activities. In addition, a number of senior women, including the Minister of Foreign Affairs, and the President's adviser, are involved in peace-keeping and preventive diplomacy related to decision-making in the continent and other areas on a regular basis.

South Africa was at the forefront of the campaign to ensure that women are equitably represented in the International Criminal Court (ICC). The country was also amongst the most vocal advocates of including gender violence in the list of war crimes. The government of South Africa also nominated and successfully supported the candidacy of a woman judge, Judge Navanethem Pillay, who has since contributed meaningfully to the ICC's jurisprudence on violence against women.

2.3 Article 3: Campaign for systematic prohibition of the recruitment of child soldiers and abuse of girl children

2.3.1 National Action Plan on the Implementation of the Convention on the Rights of the Child

South Africa acceded to the Convention on the Rights of the Child (CRC) in 1995. The first few years of democracy in South Africa saw the implementation of an elaborate inter-sectoral programme on the advancement of the rights of the child. This included the development and implementation of an inter-sectoral National Plan of Action (NPA) on the Implementation of the Rights of the Child (NPA) and the establishment of the Office on the Rights of the Child (ORC), in the Presidency, to coordinate and monitor the implementation of the NPA.

2.4 Article 4: Measures against gender based violence as well as the problem of trafficking in women and girls

The South African Government is committed to ensuring a life free from violence for all, especially women and children. This is in compliance with the constitutional provisions on equality, human dignity, privacy and freedom and security of the person. The commitment is also informed by the country's obligations in terms of the BPA, CEDAW, the Vienna Declaration on Human Rights, the SADC Addendum on Prevention of Violence against Women and Children; as well as other related human rights norms.

At an operational level, Government has endeavoured to implement an integrated, multi-sectoral approach which prioritizes prevention through addressing causal and influencing factors; encouraging reporting and ensuring that the justice system processes relevant cases effectively; providing victim support and responsive justice processes; and ensuring that offenders are rehabilitated to avoid recidivism. This is in recognition of the multi-causal and multi-dimensional nature of violence against women.

Measures aimed at ending violence against women further take into account the relationship between poverty and crime, including violence against women, and endeavour to incorporate development initiatives and related poverty eradication measures in the integrated response to violence against women.

2.4.1 Integrated measures to prevent and eliminate violence against women

The development of an integrated response to violence against women has gone through various stages and is still being improved on a day to day basis. Measures that have significantly contributed to the crystallization of an integrated response to violence against women have included the following:

- Broad Policy Framework: National Crime Prevention Strategy(NCPS) and Justice Crime Prevention Strategy(JCPS), Prevention and Eradication of Violence Against Women Addendum to the SADC Declaration on Gender and Development
- Law Reform: General, Rape, Domestic Violence, Child Abuse, Other
- Administrative Measures
- Institutional Mechanisms
- Victim Empowerment
- Integrated Planning
- Education and training of Service Providers
- Customer Service and sanctions
- Shelters
- Public Education and Awareness
- Alternative Dispute Resolution

The key measures that have been implemented under each of the above are briefly discussed in the following:

a) National Crime Prevention Strategy (NCPS)

The NCPS was established in 1996 as a strategy to address the fragmented approach of crime prevention by the Criminal Justice System Departments. The NCPS provided a co-ordinated and integrated approach to the administration of Justice. The NCPS placed violence against women and children amongst the national priority crimes. It further integrated the response to violence against women in its four pillars, namely: (1) Transformation of the Criminal Justice processes, including the victim empowerment programme; (2) Reducing Crime through Environment Design; (3) Public values and Education; and (3) Trans-National Organised Crime and Border Control and Ports of Entry, including trafficking of women and children.

b) Justice Crime Prevention Strategy (JCPS)

The JCPS was established in 1999 as an improvement on and with a view to broadening the focus of the National Crime Prevention Strategy to also cover issues beyond the criminal justice system. The main objective of the JCPS is to focus government efforts and resources jointly in addressing the incidents of crime, public disorder, inefficiencies in the justice system and all those aspects of society that have the most negative effects on development.

The JCPS cluster identified several additional strategic interventions over and above the NCPS Pillars. Its areas of focus are the following:

- Social Crime Prevention
- Prosecution led and intelligence driven prosecution;

- More effective border control
- Alternative containment mechanisms and reduction of awaiting trial prison population
- Human Resource Development
- Quality Service Delivery
- Private-public partnership.

The JPS framework incorporates measures that seek to achieve an integrated response to violence against women. The following diagram summarises the JPS integrated approach to violence against women.



The above diagram demonstrates that the refined integrated approach to violence against women covers all spheres of life that impact on violence against women. This includes environmental redesign, poverty alleviation and moral regeneration. At the level of role players, the model recognises that actors in all areas in society need to be mobilised to play a role in the prevention and eradication of violence against women, including the Girl Child.

c) Anti-Rape Strategy

South Africa is in the process of finalising an Anti-rape strategy. A product of the JPS integrated response to violence against women, the Anti-rape strategy is being developed by an Interdepartmental Management Team covering Social Development, South African Police Services, Justice (Mainly Prosecutorial

services), Health, Education, Correctional Services, Treasury, and Communications. In addition, Anti-Rape Guidelines have been developed for the South African Police Services.

d) Law reform in response to violence against Women

In pursuit of the constitutional imperatives on violence against women, the SADC Addendum on Violence Against Women and Children, the Beijing Platform for Action and relevant international human rights norms, South Africa has implemented a comprehensive law reform programme. The law reform programme has also sought to strengthen the integrated response to violence against women. As is the case with the rest of the integrated response, law reform measures have given priority to sexual offences and domestic violence. Considerable attention has also been given to crimes such as trafficking in women and children and child pornography. The specific areas that have been targeted by the law have included bail, sentencing, victim empowerment and integrated responses.

Specific laws that have been passed or changed in the last five years include the following:-

- ***Domestic Violence Act, No 116 of 1998:*** This Act sought to strengthen protection against domestic violence by improving on matters that were initially covered in the Prevention of *Family Violence Act of 1993*. The new provisions include broadening the domestic relationships and the forms of violence that are covered. With regard to the forms of violence, this includes emotional, economic, threatened violence and stalking. The main strength of the new law lies in protection orders against perpetrators and the possibility of imprisonment of recidivist offenders.
- ***Criminal Procedure Second Amendment Act No 75 of 1995:*** This Act deals, amongst other things, with Bail Guidelines that cover violence against women.
- ***Criminal Procedure Second Amendment Act No 85 of 1997:*** This Act tightens bail provisions relating to serious crimes, including violence against women.
- ***Criminal Law Amendment Act No 105 of 1997:*** This Act deals with, amongst other things, the imposition of minimum sentences in serious offences, including rape.
- ***Sexual Offences Bill, 2003:*** The Bill provides comprehensive law reform provisions on rape and related sexual offences. This includes the definition of rape, considerations to be made in sentencing and provisions relating to combating child abuse. The Bill broadens the definition of rape to cover other forms of sexual violence that are experienced as rape by the victim

or survivor, provides a definition of rape that transcends anal and vaginal penetration and expands the concept of coercive circumstances beyond physical harm

- ***Film and Publications Act No 65 of 1996:*** The Act provides for the establishment of a Film and Publications Review Board whose role includes combating child pornography.

e) Law Reform Targeting Social Economic and Cultural Life

As part of the integrated response to violence against women, South Africa has also paid attention to law reform beyond the criminal justice system. This has covered issues such as workplace laws maintenance, recognition of customary marriages, administrative justice, access to information and civil law. Key measures that have been implemented in the last twelve years are:

- Sexual Harassment in the Workplace
- Civil Justice
- The Promotion of Equality and Prevention of Unfair Discrimination Act, No4 of 2000.
- Promotion of Administrative Justice Act No 3 of 2000
- Promotion of Access to Information Act No 2 of 2000
- Recognition of Customary Marriages Act No 120 of 1998

f) Institutional Mechanisms

Measures aimed at addressing violence against women have also sought to strengthen the institutional mechanisms for coordinating violence against women measures and for enforcing the rights of victims or survivors. The successful prosecution of sexual offence matters is a national priority of the Criminal Justice System. Some of the key institutional mechanisms that have been created over the last few years include the following:

- **Specialised Sexual Offences Courts:** As a result of their specialised focus, these courts have an average conviction of 62% as opposed to 42% in cases dealt with at ordinary regional courts. More established sexual offences courts have reached an average of between 75% and 85%. In November 2003, a comparative analysis regarding the cycle time of sexual offence cases in dedicated Sexual Offences Courts, that case turnaround had dramatically decreased from 285 days to 142 days from first appearance to finalization of the case.
- **Thuthuzela Care Centres:** These are 24 hour one-stop service centres where victims have access to all services that include police, counselling, doctors, court preparation and a prosecutor. The main objectives for these

centres are to eliminate secondary victimisation, reduce case cycle time, and to increase convictions.

- Domestic Violence Courts: There are dedicated courts for handling domestic violence cases in each and every Magistrates Court
- Family Courts: Established to strengthen co-ordination of legal and social services on family disputes, also cover domestic violence, maintenance, divorce-ancillary relief and welfare of children.
- Child Protection and Sexual Offences Units: Specialised capacity for the SAPS to investigate sexual offences cases is located in the Family Violence, Child Protection and Sexual Offences Units (FCS). The SAPS continued to establish specialised investigative units to deal with rape and sexual offences. By December 2004, 41 **Family Violence, Child Protection and Sexual Offences Units** (FCS) and 20 Child Protection Units had been established.
- Administrative Co-ordinating mechanisms: Various co-ordinating mechanisms have been set up to support integrated planning, implementation and monitoring. Representation in these structures includes the Police, Health Practitioners, Probation Officers/Social Workers, Prosecutors, Court Managers and in some instances, Judicial Officers and representatives of the private legal profession.

g) Administrative Guidelines

To support the implementation of laws, South Africa has developed a number of administrative guidelines. The process of developing such guidelines and their content is informed by and seek to reinforce an integrated response to violence against women, including the girl child. Instruments worth noting in this regard include:

- *National policy Guidelines for Handling Victims/Survivors of sexual Offences*(*Sexual Offences Guidelines, 1997*)
- *Gender Policy Guidelines and or Policy Statements of the various participating Departments e.g. Justice and Health*
- *Domestic Violence Guidelines*

h) Victim Empowerment

South Africa has implemented various measures that are aimed at placing the victim or survivor at the centre of the justice system and social responses to violence against women. A key measure in this regard is the Service Charter for Victims of Crime (*Victims Charter*).

i) Female Genital Mutilation (FGM)

In response to CEDAW and related international human rights norms, South Africa passed legislation that prohibits Female Genital Mutilation. Promotion of Equality and Prevention of Unfair Discrimination Act (2000) prohibits female genital mutilation and declares it a form of discrimination on the grounds of gender.

j) Public Education and Awareness Raising Campaigns

The South African Government through its integrated structures has dedicated many resources towards public education and awareness raising. The Sixteen Days Campaign on No Violence Against Women and Children, which was launched on *International Day of No Violence Against Women* in 1999 is a partnership venture between government and civil society that focuses on extensive awareness raising on violence against women. The campaign has succeeded in placing violence against women firmly on the national agenda. It has managed to bring on board the media, sporting sector, men's groups and other non-traditional supporters of the quest to end violence against women and children. This campaign has been extended to a 365 day campaign in 2006.

k) Eliminate trafficking in women

South Africa is committed to combating trafficking in women. Measures aimed at combating violence against women have included **bilateral and multilateral co-operation agreements**, particularly those that focus on organised cross-border crime. The South African government has ratified the key instruments on trafficking in women and children. These include:

- The UN Convention Against Trans-national Crime;
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and children;
- Optional Protocol to the Convention on the Rights of the Children; and
- The Protocol Against the Smuggling of Migrants by land, sea or air, supplementing the UN Convention Against Trans-National Crimes

Government action on trafficking in compliance with the Beijing Platform for Action, CEDAW and the above international instruments included: the strengthening of international ties for cross-border collaboration; getting extensive information about the problem for the purposes of a comprehensive law and administrative review; and harnessing available legal and administrative avenues to respond to this global problem, in the interim.

The government has accordingly initiated a comprehensive study on trafficking which deals with forms, patterns and influencing factors and is to inform law

reform measures aimed at achieving a holistic and integrated response to trafficking in women and children.

2.5 Article 5: Promote the gender parity principle at national and local levels

In 2005, South Africa, as a member of SADC participated in the review of the target of 30% representation of women in political and decision-making positions, to align with the AU parity position adopted for the Commission of the African Union. In 2006, the South African Cabinet adopted a target of 50% representation of women at all levels of decision making in all spheres of government. The representation of women in political and decision-making positions in South Africa, in many areas, exceeds the initial 30% quota of SADC and is on track towards achieving the 50% target of the AU. This is illustrated clearly in the following examples:

2.5.1 Women in Political and Decision-Making Positions

	Cabinet Ministers	Deputy Ministers	Women MPs in National Assembly	Women MPs in National Council of Provinces	Women Premiers in Provinces	Women MPs in Provincial Legislatures	Women MECs in Provinces
Number of women	12	9	128	20	4	139	29
Number of Men	16	12	264	34	5	277	61
Total Number	28	21	392	54	9	416	90
Percentage of women	42.8%	42.85%	32.65%	37.04%	44.44%	33.4%	32.2%

In 2005, South Africa appointed its first female Deputy President. Therefore, overall, there is a 43.33% representation of women in the Cabinet. There are three (3) women appointed as Office-Bearers of the National Assembly, namely the Speaker, the Deputy Speaker and the House Chairperson of the National Assembly. They constitute 37.5% of Office Bearers in the National Assembly. The Deputy Chairperson and the Chairperson of Committees for the National Council of Provinces (NCOP) are women. They constitute 33.33% of the Office Bearers in the NCOP.

Twenty-nine⁶ (28.15%) women are appointed as Ambassadors, High Commissioners and Consul-Generals in 2006.

⁶ Figures obtained from the Department of Foreign Affairs, February 2005.

2.5.2 Women at Local Government Level

In 2003 women comprised 28% Councillors at the Local Government Level. Following the **2006** Local Government Elections, **women comprise 40% of all elected Councillors.**

2.5.3 Women in Public/Civil Service at National and Provincial Level

The Senior Management Service (SMS) of the South African Public Service comprises managers at salary level 13 (equivalent to Director) to salary level 16 (equivalent to Director-General). According to the White Paper on the Transformation of the Public Service (WPTPS, 1995), during the period 1995 to 1999, at least 30% of new recruits to the middle and senior management echelons were expected to be women.

Representation of women in SMS in 1995	Representation of women in SMS in March 2005	Representation of women in SMS in 2006 (overall)	Representation of women in SMS in May 2006 ⁷ in SMS at national level	Representation of women in SMS in May 2006 ⁸ in SMS at provincial level
8%	29%	30%	28.6%	26%

Overall, in May 2006, the SMS had 6727 members, of which 2017 were women (i.e. 30%)⁹. The Cabinet decision adopted in 2006 sets the new target at 50% gender representation at all levels of the SMS by March 2009. The trend indicates that the representation of women increased from 8% in 1995 to 30% in May 2006.

In addition, Cabinet has approved the development of a longer-term strategy for women's empowerment and gender equality in the Public Service, which is called the "Gender and Governance plan of action". This gender mainstreaming strategy for the Public Service will create an enabling environment for women's participation in development and for the equal participation of women in decision-making at all levels.

⁷ Public Service Commission: Fifth Annual State of the Public Service Report, May 2006.

⁸ Public Service Commission: Fifth Annual State of the Public Service Report, May 2006.

⁹ Department of Public Service and Administration: Budget Vote Speech 2006, delivered by Minister Geraldine Fraser-Moleketi, Minister of Public Service and Administration.

2.5.4 Women in the Judiciary¹⁰

Changing the racial and gender profile of the South African Judiciary constitutes a significant milestone achieved with regard to the transformation of the judicial system.

Number of Female Judges before 1994	Number of female Judges in 2006
2 women	32 out of a total of 208 Judges
	15.38%

A significant achievement has been the establishment of the South African Chapter of the International Association of Women's Judges (IAWJ), in 2004, which will place women's issues on the agenda of transformation of the judiciary. The focus of the IAWJ is to provide a forum for women judges to network amongst themselves, share experiences, provide support to each other and explore avenues for organizing themselves into an entity that would enable their voices to be heard in decision-making processes within the judiciary. South Africa can boast the appointment of one of its women judges to the International Criminal Court, Judge Navi Pillay.

No of Women in all Magistrate Positions in 2006	No of Women in ordinary Magistrate Positions in 2006	No of Women in Senior Magistrate Positions in 2006	No of Women in Regional Magistrate Positions in 2006	No of Women in Chief Magistrate Positions in 2006	No of Women as Regional Court Presidents in 2006
491 out of a total of 1653	460 out of a total of 1365	29 out of a total of 128	71 out of a total of 296	7 out of a total of 24	4 out of a total of 9
30%	33.69%	22.65%	23.98%	29%	44.44%

These figures indicate the strides made towards achieving a gender balance in the Judiciary.

2.5.5 Women in Executive Management and on Boards of Directors in South Africa

The South African Women in Corporate Leadership Census 2006 commissioned by the Businesswomen's Association is South Africa's third exhaustive analysis of women on boards of directors and in executive management of public companies in South Africa.

¹⁰ Information provided by the Department of Justice and Constitutional Development, Gender Desk in 2005.

The study found that:

- Overall women constitute 4.4% of Chairpersons of Boards in South Africa
- 2% of Chief Executive Officers in the private sector are women
- While women make up 41% of the working population in South Africa, they comprise only 16.8% of all executive management positions in the private sector.
- Women are significantly underrepresented in top corporate leadership positions. Women constitute only 11.5% of all directors in corporate South Africa.
- State Owned Enterprises (SOEs) fare better than companies listed on the JSE. Altogether, three-quarters (76.5%) of SOEs have 25% or more of their director positions occupied by women.
- 10.6% of the JSE-listed companies have 25% or more women holding director positions.
- 23.5% of all Board Chairpersons of SOEs are women, while only 3.4% of all JSE-listed companies have women as Chairpersons of their Boards.

2.6 Article 6: Promotion and protection of all human rights for women and girls including the right to development

Human rights, including women's human rights, are at the core of South Africa's Constitution and post *apartheid* democracy. The human rights framework is informed by the Beijing Platform for Action and international human rights norms that are binding on South Africa. This includes the provisions of CEDAW and the Vienna Declaration and Programme of Action. These instruments provide an important framework for the advancement of women and girls, through in particular, the mainstreaming of gender equality goals into government priorities such as poverty eradication, job creation, restructuring the economy and democratising the state.

South Africa views gender equality as central to the equal enjoyment of all rights and freedoms by all women and men. South Africa's' approach to human rights is informed by the understanding that human rights are universal and indivisible and that promoting, protecting and advancing all human rights for all the country's people is the only guarantee for a better life for all South Africans.

2.6.1 Promote and protect the human rights of women through the full implementation of all human rights instruments

The South African government is party to a number of human rights instruments. In particular, South Africa ratified CEDAW in 1996, without any reservations and proceeded to integrate its provisions in South African law, policies and programmes. South Africa has also signed and ratified the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa in 2004.

Flowing from the Constitution and in compliance with CEDAW and other international human rights instruments that promote non-discrimination and equality, South Africa has introduced a number of laws that provide a framework for eliminating discrimination on the ground of gender and other grounds or combination thereof while facilitating the implementation of positive measures to address existing systemic imbalances. The following pieces of legislation constitute South Africa's key measures with regard to ensuring non discrimination on the ground of gender or sex and facilitating the implementation of positive measures:

- **Legislation on Equality and Non-discrimination**

The Constitution provides that "*national legislation must be enacted to prevent and prohibit unfair discrimination*" (section 9(4)). To give effect to this provision and the positive measures provision referred to earlier (s9(2)), national legislation has been enacted to deal with the eradication of discrimination and the promotion of equality through positive measures in a holistic manner. The key pieces of legislation in this regard, are the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000) and the Employment Equity Act, 1998 (no55 of 1998). The Employment Equity Act, which focuses on equal enjoyment of human rights at work, is discussed in detail in the section dealing with Women and the Economy in this report.

- **The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000)**

The *Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000)* provides a comprehensive legal framework for the prevention and prohibition of discrimination, redress for discrimination, progressive eradication of discrimination and the promotion of equality. The Act also makes provision for enforcement mechanisms. The central feature of these mechanisms is the specialist Equality Courts which are based at the Magistrates Courts and High Courts.

- **Citizenship and Nationality**

South Africa changed its citizenship laws to eliminate gender discrimination. Today women and men have equal rights in respect of acquisition and transmission of citizenship. Undue barriers to the acquisition of citizenship by spouses have also been removed through law reform. The Constitutional Court also played a key role on this matter.

Other measures implemented by the government to ensure the protection and promotion of human rights of women are:

- **National Action Plan on Human Rights (NAP)**

The South African government, in partnership with the South African Human Rights Commission, the Commission for Gender Equality and NGOs, embarked on a programme to develop a National Action Plan on the Protection and Promotion of Human Rights (NAP) as recommended by the World Conference on Human Rights. This programme involved conducting research on the human rights situation in South Africa and preparing a National Action Plan which provides a framework, informed by the Constitution and international human rights instruments, to direct the protection, promotion and equal enjoyment by all of human rights. The advancement of women and the achievement of gender equality feature centrally in the NAP.

- **Strengthening National Institutions**

Measures are implemented on an ongoing basis to strengthen the independent state-funded constitutional institutions, statutory bodies and administrative mechanisms that have been created since the onset of democracy, to support democracy. These institutions monitor the protection and promotion of human rights, including the human rights of women, in compliance with the Constitution and South Africa's international human rights obligations. The institutions work together to monitor and promote various aspects of human rights. The key institutions in this regard are:

- Commission on Gender Equality (CGE);
- South African Human Rights Commission (SAHRC);
- Public Protector;
- Commission for the Promotion and Protection of Rights Cultural, Religions and Linguistic Communities;
- Commission for Employment Equity (CEE); and the
- Commission for Conciliation Mediation and Arbitration (CCMA).

2.6.2 Human Rights Education

The South African government, in partnership with National Institutions and NGOs, has sought to forge an integrated human rights education programme. The rudiments of this programme began during the development of the NAP. A National Consultative Forum on Human Rights (NCFHR) was established after the launching of the NAP to co-ordinate its implementation, including the integrated response to human rights education. The National Consultative Forum on Human Rights and has since been working on a comprehensive human rights education programme. In the interim, Government Departments have their own human rights education programmes which cover women's human rights

The National Consultative Forum also receives regular reports on progress achieved with regard to the protection and promotion of human rights. National Institutions, Government Departments and various civil society structures also have elaborate ongoing human rights education programmes, with the SAHRC taking the lead. The key programmes and projects on the advancement of the human rights of women in this regard have included:

- Radio programme and workshops on customary marriage law by the Department of Justice;
- Civil society programmes seeking to popularise CEDAW and related human rights instruments;
- National Human Rights Awards by the SAHRC, CGE and the Independent Electoral Commission (IEC);
- Ongoing human rights and legal literacy education that involves pamphlets, posters, radio, television and newspapers.

2.6.3 Achieve Legal Literacy: Constitutional and democracy education

Since the onset of democracy, Government has spent millions of rands on educating the public on the Constitution, with emphasis on the Bill of Rights, provisions relating to the electoral system and other key aspects of democracy. This has included the preparation of a pocket-sized version of the Constitution with summaries and a cartoon version of the Constitution.

The Constitution has been translated into a number of the Official Languages. These have been distributed widely in the pocket-sized version in addition to the official gazetted version. All updated versions of the Constitution, including the pocket sized booklet, are updated regularly to reflect constitutional amendments.

2.6.4 Dissemination of International Instruments

Government embarked on a conscious and sustained effort that sought to disseminate and popularise the SADC Declaration on Gender and Development and its Addendum on the Prevention and Eradication of Violence against Women and Children, since the commencement of the Campaign on 16 Days of Activism on No Violence against Women and Children in 1998. These documents were made available in the form of pamphlets, posters, newspaper supplements and the internet.

International instruments such as CEDAW, the African Charter on Human and People's rights, the Universal Declaration of Human Rights, CERD and the CRC, have been disseminated to all public officials who have attended training on the Promotion of Equality and Prevention of Unfair Discrimination Act.

The training of Gender Focal Points in Government also incorporates the dissemination of CEDAW, BPA, Copenhagen Declaration and related international human rights instruments and a discussion on the interrelatedness of these instruments with regard to the achievement of the human rights of women.

The Constitution and other domestic policy instruments have, whenever possible, been distributed to the public. The provisions of international instruments such as CEDAW have been disseminated whenever possible. An example in this regard is the dissemination of summaries of CEDAW and related instruments during the *Ingxoxo Zamakhosikazi* (Women's conversation process) in 2004 and the Women's Parliament processes in the same year. NGOs disseminate CEDAW and other human rights instruments on an ongoing basis.

2.6.5 Campaigns to Popularise New Laws and Policies

Laws and policies are translated into official indigenous languages that are predominantly spoken in the provinces. Information is publicised and disseminated in easily understandable formats. Braille versions of the key policy instruments with an impact on gender equality, have been developed and disseminated. Examples include the Constitution and the *National Gender Policy Framework*.

Summaries of certain laws have been made and in respect of labour and employment law, employers are required to display these where they are readily accessible to all employees. This is the case with regard to the *Employment Equity Act*.

Some of the laws and policy instruments have been subjected to extensive sustained elaborate campaigns involving various media. This has been the case with regard to: Legislation dealing with the rights of domestic workers; The Maintenance Act; Recognition of Customary Marriages Act; Employment Equity Act; Promotion of Equality and Prevention of Unfair Discrimination Act; Promotion

of Administrative Justice Act; Promotion of Access to Information Act; and *Batho Pele*: White Paper on Transformation of Public service Delivery.

2.7 Article 7: Promote the implementation of legislation to guarantee women's land, property and inheritance rights, including their rights to housing

2.7.1 Access to Land and Housing

The South African government has integrated gender considerations in its restitution, tenure reform and land redistribution policy instruments which have been implemented to alleviate asset poverty, amongst other objectives, since 1994. Restitution of land rights involves restoring ownership of land or compensating victims of forced removal. Tenure reform is to enable individuals and communities to gain legal tenure of land and land redistribution involves distributing land to individuals or communities for agricultural production and settlement primarily to address imbalances of the past.

The South African *White Paper on Land Reform* specifically states that all laws that continue to discriminate against women need to be removed. Further, the White Paper provides for the removal of all legislative restrictions on women's access to land use; compels Government to implement procedures that promote women's participation in decision-making; and emphasises that the purpose of land reform is to bring about equitable opportunities for both women and men. It further states that priority must be given to women. In this regard a sectoral Land Reform Gender Policy¹¹ has been developed. Its aim is to create an enabling environment for women to access, own, control, use and manage land, as well as access credit for productive use of land.

A total of 155,003 households benefited from the Land Redistribution and Tenure Reform Programmes, of which 12.7% beneficiaries were female-headed households, during the period 1994 to March 2003¹². This was an increase from 1,016 households recorded at the beginning of the programme in 1994, of which only 1.2% of beneficiaries were female-headed households. This is due to the fact that land restitution primarily restores land ownership to previous owners who were dispossessed by *apartheid*. In the majority of instances such owners are men. The Government's efforts to address gender imbalances are mainly targeted at land reform as this presents more meaningful opportunities for such.

The housing programme of the government is one of the few interventions that place a physical asset directly in the hands of households living in conditions of poverty. The government, through the House Building and Subsidy Programme,

¹¹ Currently a draft document produced by the Department of Land Affairs.

¹² Department of Land Affairs. 2003. Land Reform Statistics: 1994-March 2003 Statistical Report compiled by the Department's Monitoring and Evaluation Directorate. Pretoria, South Africa

provides subsidies to people with incomes up to R3, 500 per month and to the aged, disabled and indigent¹³. The initial housing programmes have dealt largely with the poorest households (those earning less than R1, 500 per month).

Between 1994 and 2003, 1,985,545 subsidies were approved for an expenditure of R22.22 billion. With respect to improving gender equality in housing ownership, 49% of all subsidies approved were granted to women¹⁴.

In an attempt to address the needs of the poor for housing and shelter, the following programmes have been put in place: subsidy for persons with disabilities, Consolidation subsidy, Individual subsidies, Institutional subsidies, Project linked subsidies, Rural housing loan fund, Relocation assistance, and People's housing project.

2.7.2 Laws and administrative practices to ensure women's equal rights and access to land and housing

The key national legislation that facilitates the access to land and housing are the following:

Constitution of the Republic of South Africa, Act 108 of 1996	Widely acclaimed as one of the world's most progressive Constitutions, asserts in its founding provisions that the democratic state is founded on values of human dignity, achievement of equality and advancement of human rights and freedom, non-racism and non-sexism.
Reconstruction and Development Programme	It is an integrated, coherent socio-economic policy framework. It seeks to mobilise all our people and country's resources toward the final eradication of <i>apartheid</i> and the building of a democratic, non-racial and non-sexist future.
The Restitution of Land Rights Act of 1994	States that priority should be given to people with the most pressing needs. Restitution may disadvantage women as the Act aims to restore Land rights to those who had rights before who are mostly men.
The Housing Act 107 of 1997	The Act focused on repealing all <i>apartheid</i> -based legislation and prescribing general principles for housing development and administration.

¹³ Impact of government programmes on public works and infrastructure using administrative data sets: Based on papers 6.2 of the Ten Year Review Research Programme, Human Sciences Research Council, June 2003

¹⁴ Government of South Africa. 2003. Towards a Ten-Year Review. South Africa.

The Rental Housing Act 50	The Housing Act puts emphasis on tenure and ownership, as there was a need for a co-ordinated policy. It was promulgated to introduce the option of rental housing.

2.7.3 Women’s access to property and inheritance

An example in this regard is a ground-breaking decision of the Constitutional Court, in April 1994, involving a trilogy of cases on customary law of succession. The decision has fundamentally changed customary law of succession in a manner that gives effect to the provisions of CEDAW, particularly article 2 and 16 thereof. The effect of this decision is that women now have the same rights to inherit as men and that the principle of male primogeniture has been abolished.¹⁵

2.8 Article 8: Measures to ensure the education of girls and literacy of women, especially in the rural areas, to achieve the goal of “Education for All”

Educational reform has been a central part of South Africa’s reconstruction and development project. It has been driven by two imperatives:

- (a) The government had to overcome the devastation of *apartheid*, and provide a system of education that builds democracy, human dignity, equality and social justice;
- (b) A system of lifelong learning had to be established to enable South Africans to respond to the enormous economic challenges of the 21st century.

The South African Government regards social services such as education, health, water and sanitation, and electrification as critical to the improvement of the human capital of the Nation”.¹⁶ To this end, expenditure on education remains the largest single budgetary item in South Africa. South Africa’s Plan of Action on Improving Access to Free and Quality Education for All (2003) is an important illustration of government’s pro-poor policy focus. Since 1994, Government emphasis has been on the poorest 40%. Government’s commitment is towards a school system that is inclusive and representative of South African society and quality enhancement across the entire spectrum of that system.

Prior to 1994 the schooling system was effectively an instrument of oppression. Much progress has been made since 1994 in redressing the inequalities of the

¹⁵ The *Bhe* decision makes special provision for inheritance in polygamous marriages.
¹⁶ Towards A Ten-Year Review – Synthesis Report on Implementation of Government Programmes: Discussion Document. 2003. Policy Co-ordination and Advisory Services, The Presidency. South Africa. Page 19

past, and eliminating barriers to access to basic and further education. Progress in education is ahead of the Millennium Development Goals, and importantly, the male to female enrolment ratio is greater than one, indicating that slightly **more** girls are enrolled in schools than boys.

2.8.1 Equal access to education

The South African Constitution (1996) guarantees the right of **all** to a basic education. The National Education Policy Act no. 27 of 1996 provides for the achievement of equitable educational opportunities, the redress of past inequalities and the advancement of the status of women. The South African Schools Act 84 of 1996 (SASA), which aims to promote access, quality and democratic governance, makes schooling compulsory for all learners aged 7 to 15 years. The Further Education and Training Act no 98 of 1998 provides the basis for developing a nationally co-ordinated further education and training system aimed at ensuring representation and equal access to further education at the workplace by persons who have been marginalized in the past including women, the disabled and the disadvantaged.

With regard to education of persons with disability the South African Government's Education White Paper 6: Special Needs Education, encourages, wherever possible, the inclusion of learners with special needs in public mainstream schools

South Africa's Ten Year Review Report notes a decline in the learner-to-facility ratio from 43.1 in 1996 to 38.1 in 2001.

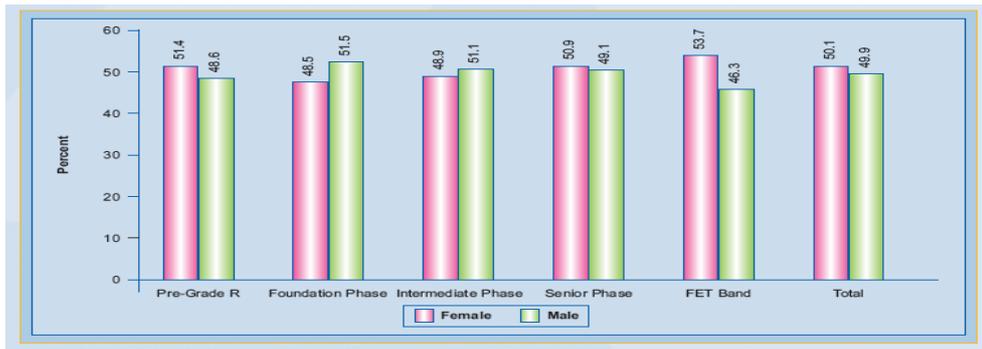
In 2002 the education system had just under 12 million learners (total population of 45 million) enrolled in schools.¹⁷ At almost 95% participation overall in Grades 1 to 12, South Africa has one of the highest enrolment rates in sub-Saharan Africa, which ranges from Botswana showing a net primary enrolment rate of 81% to Niger with a net primary enrolment of 25%.

Access and participation particularly of appropriately aged learners has improved dramatically from the situation in the late 1980s when the political situation gave rise to unrest and school disruptions on a massive scale. Participation rates for primary and secondary education increased in the years just before the first democratic elections and peaked in 1994 at the time of the first democratic elections, after which primary (Grades 1 to 7) education stabilised and throughput improved (making the Gross Enrolment Rate tend towards 100%) while secondary education (Grades 8 to 12) participation has shown a more sustained increase of almost 20 percentage points since the early 1990s.

¹⁷ *Education Statistics in South Africa at a glance in 2002* (Department of Education, Pretoria, December 2004).

South Africa is justifiably proud of its participation rate. As many girls as boys participate in schooling overall, although there are gender disparities at primary level with more boys than girls enrolled. These, however, are reversed in the secondary level of education with more girls than boys enrolled.

Figure 2: Percentage distribution of learners in ordinary schools, by phase and gender, in 2002



2.8.2 Literacy among women

The South African Government, through the Multi Plan Implementation Strategy for Adult Education and Training, has set targets to reduce the illiteracy rate by half in 2005. The focus of Adult Basic Education and Training (ABET) centers and the South African National Literacy Initiative (SANLI) programmes is on rural areas, and especially on women living in rural communities.

Overall, the Ten Year Review report on Government programmes indicates a significant increase in the literacy rate in South Africa from 83% in 1996 to 89% in 2001 for the general population, while for the 15 to 24 year olds; the literacy rate has increased from 95% in 1996 to 98% in 2004. The literacy levels for female and male youths in this age group are similar, and may be related to the equal probability of enrolment of females and males in the school system.

2.8 Article Nine: Ratify and Implementation of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa

South Africa signed and ratified the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa in July 2004.

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