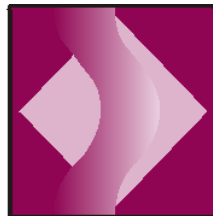


**Re-imagining women's security: A comparative study of
South Africa, Northern Ireland and Lebanon**

South African Audit

Ingrid Palmary

Centre for the Study of Violence and Reconciliation



CSVR
CENTRE FOR THE
STUDY OF VIOLENCE
AND RECONCILIATION

March 2006

Summary

This report provides an overview of the status of the human security of women in South Africa. It is specifically focused on the political transition of the early 1990s. The issue of human security is discussed within the framework of the Constitution of 1996 as the central document emerging out of the negotiations. However, as there are several documents that came out of these negotiations, other key documents (in particular the Interim Constitution of 1993) are mentioned where it is appropriate. The Constitution, as a key output of the negotiations, resulted in a range of new legislation in line with newly protected rights and increasing democratisation of government and associated institutions. It also resulted in budget shifts to incorporate new needs driven by democratic principles and the creation of new institutions to safeguard democratic rights and principles. These ‘outworkings’ of the peace process are the focus of the first section of this audit. The key areas covered include:

- constitutional issues and the key provisions in the Constitution that could impact of women’s security, the changes in governance that were brought about by the Constitution, as well as the transitional arrangements that were in place to allow for transition from a militarised and centralised State to a democratic one;
- the significant regional commitments to which South Africa is a signatory and the relationships with the rest of Africa – particularly given South Africa’s history of conflict in the region.
- the way that the socio-economic status of women has been dealt with;
- the way that cultural issues were dealt with;
- arrangements for reconciliation and victims of violence;
- decommissioning and demobilisation;
- democratisation of the security and policing services;
- judicial transformation; and
- the arrangements in place for political prisoners.

The second section deals with changes in these areas since the transition in 1994 and how this has impacted on the status of women in South African society. It therefore,

incorporates basic statistical information to provide a brief overview of changes in women's lives that have resulted from the political transition. The indicators presented in this section are limited to the key areas of policy and institutional change identified in Section One in order to make some qualitative assessment as to the extent to which the 'outworkings' from the constitution may be impacting on the human security of women in South Africa. In addition, some new challenges to women's security have been included, such as the spread of HIV/AIDS, because of the way that it has shifted policy concerns and had potentially devastating effects on the security of women.

Central to this section is the recognition that women in South Africa are an extremely diverse group and the differences between women of different racial and class background may be greater than the differences between men and women within these groups. Therefore, although this audit deals with the general category of 'women', where possible, distinctions have been made between women of different racial classifications, as well as urban and rural women because of the ways that our history of racial inequality and staggered migration has affected women differently.

Contents

<i>Contents</i>	4
<i>DEVELOPMENTS SINCE THE PEACE PROCESS</i>	6
1. Constitutional Issues	6
2. Governance issues	8
Transitional arrangements.....	10
3. External Relationships	12
4. Rights, Safeguards and Equality	13
5. Economic and social issues	16
Employment Equity Act	16
The poverty relief fund	17
Social grants	18
Education	20
Housing	22
Land restitution and redistribution	23
HIV/AIDs in South Africa	25
Contraception and termination of pregnancy	28
6. Cultural Issues	29
Customary law, marriage and inheritance	29
7. Reconciliation and Victims of Political Violence	32
Victims of gender based violence	34
8. Decommissioning, Demobilisation, Demilitarisation	35
Background to decommissioning / demobilisation	35
Integration of the armed forces	38
Democratising the military.....	39
Demilitarisation of society	40
9. Security, Military and Policing	41
The South African Police Services.....	41
Private security	43
10. Justice Issues	44

The Judiciary	44
11. Political prisoners	45
Refugees and migration	46
SECTION 2: INDICATORS	48
1. Public and political participation	48
Changes in political representation	48
2. Security	49
Women in the police	49
The judiciary	49
Women in the armed forces	50
3. Economic and social background.....	51
Employment	51
Social grants	54
Education	55
Housing	56
Access to reproductive rights	56
Violence	57
Refugees and migration	65
4. Sources	66
Acts of parliament	66
Charters and conventions	67
References	68

DEVELOPMENTS SINCE THE PEACE PROCESS

1. Constitutional Issues

Key aspects of the constitution (see www.gov.za) have implications for the rights of women, these are:

Section 9: Freedom from unfair discrimination on the basis of sex and gender and the right to equality

Section 12: Freedom and security of the person, which includes the right to be free from all forms of violence, either from public or private sources, and the right to bodily and psychological integrity, which includes the right to make decisions concerning reproduction

Section 15: Freedom of religion, belief and opinion, which recognises that certain religious or customary practices may be recognised but they must be consistent with the Constitution

Section 16: Freedom of expression does not extend to advocacy of hatred that is based on gender

Section 25: The right to property

Section 26: The right to adequate housing

Section 27: The right to access health care services, including reproductive health care, sufficient food and water, and social security

Section 29: The right to basic education, including adult basic education

Section 30: The right to language and culture of choice, as long as it is consistent with the Bill of Rights

Section 31: The right of cultural, religious and linguistic communities to enjoy their culture, use their language and practice their religion, and to form, join and maintain associations, as long as they are consistent with the Bill of Rights

Section 34: The right of access to courts

- The National Women's Coalition was formed in 1992. It was instrumental in drawing up the Women's Charter for Effective Equality which aimed to

ensure that women's issues were included in the drawing up of the constitution during the transition to democracy. The 12 articles of this charter are:

Equality: In principle and through the establishment of institutions and legislation for its protection and promotion.

Law and the administration of justice: This article emphasises women's equal treatment within the justice system, before the law and equal representation in the judiciary. It does not specifically mention traditional courts or other structures related to customary law.

Economy: Significant aspects include tax benefits for single, female headed households, group benefits for women in the informal sector, health and safety for commercial sex workers, an expanded definition of work to include all work performed by women and a recognition of domestic labour as contributing to national wealth.

Education and training: This right exists regardless of childcare responsibilities, pregnancy, sexual orientation and rural-urban location. It emphasises protection from sexual harassment and gender based violence at educational institutions, the provision of crèches at educational institutions and special access to funds for education for women and girls. It also notes that gender stereotyping in curricula should be eliminated.

Development infrastructure and the environment: Access to land and security of tenure, safe water and other basic services, adequate housing and protection of the natural resources to the benefit of women.

Social services: The need for social services emphasises that they are a right given women's responsibility for maintaining the family and the community.

Political and civic life: Rural women should be part of decision-making structures of traditional authorities and traditional institutions should be re-structured in accordance with this. Support services to facilitate the full participation of women in political decision-making shall be established

Family life and partnerships: All family types should be treated as equal and women should be equal within the family. Women should have equal access to the finances of the household. Women married under customary law shall have the right to inherit from their husbands. Women have the right to determine the nature and frequency of

sexual contact in marriages and intimate relationship. Women shall have adequate, effective and enforceable maintenance or social welfare for their children.

Custom, culture and religion: Shall be subject to the Bill of Rights.

Violence against women: There shall be accessible, affordable shelters for victims of rape, battery and sexual assault and there shall be trained personnel to whom women can report these crimes.

Health: The right to reproductive decisions, adequate nutrition and free family planning

Media: Equal access to and reflection in the media.

2. Governance issues

- Government is divided into national, provincial and local governments, which are distinctive, interdependent and interrelated. The South African Parliament is responsible for creating and amending the countries laws in accordance with the Constitution. It consists of two parts, the National Assembly and the National Council of Provinces (NCOP).
- The National Assembly consists of 400 elected representatives who meet at the Houses of Parliament in Cape Town, to debate issues and create legislation.
- At national level the ANC has a target of 30% of women in key decision-making positions, which is endorsed by the UN economic and social council and was reiterated at the Beijing Platform for Action as part of the millennium goals.
- The National Council of Provinces consists of 54 permanent members and 36 special delegates representing the nine provinces. The NCOP represents provincial interests in the national sphere of government.
- The executive arm of national government is headed up by the Cabinet, which consists of the President, the Deputy President and various Ministers appointed by the President from the National Assembly.
- Chapter 3 of the Constitution binds all spheres of government to a culture of cooperation, mutual assistance, support, consultation and co-ordination for the

good of the country and requires national legislation to be established to this effect.

- In 2004 the Intergovernmental Relations Framework Bill was drafted to establish an institutional framework to facilitate relations between the three tiers of government and to coordinate service delivery. It requires the establishment of a range of intergovernmental forums including:

The president's coordinating council: Receives feedback from and consults with provincial and local government on any issue of national interest.

National intergovernmental forum: May be established by any minister and is a consultative forum which will report to the president's forum.

Provincial intergovernmental forum: To be established by the premier of a province to promote and facilitate intergovernmental relations between provinces and local government in the province. It both comments on matters from, and reports to, the president's coordinating council.

Municipal intergovernmental forums: Must be established to facilitate relations between district municipalities as a forum for discussion and consultation between local municipalities and district municipalities. Part of their mandate is to meet at least once a year with service providers and others involved in service delivery and planning.

- The Organised Local Government Act of 1997 identifies the South African Local Government Association (SALGA) and the nine provincial local government associations as representatives of organised local government. SALGA was mandated by the constitution to assist in the transformation of local government.
- One of their key activities has been assisting the demarcation board with the drawing up of new municipal boundaries in a way that ensures more equitable distribution of resources within and across municipal boundaries. They are primarily tasked to represent local government interests.
- SALGA established a gender working group in 1996 to ensure a greater focus on women's and gender issues in local government. It has since been changed to the Gender and HIV working group.

Transitional arrangements

Schedule 6 of the South African constitution of 1996 dealt with transitional arrangements as follows:

- At national level it stated that office bearers and members of the national assembly continued as such and were treated as elected representatives until 30 April 1999.
- All law in effect before the enactment of the Constitution continued to be in effect subject to amendment or inconsistency with the Constitution. It continued to be administered by the authorities responsible for its administration prior to the new Constitution. However any references to homelands had to be taken as references to the Republic of South Africa.
- Previous provincial senators became members or office bearers of the provincial legislature and were treated as elected until 30 April 1999. Executive council members of provinces were treated similarly.
- Provincial Constitutions must comply with the national constitution
- Every court, including courts of traditional leaders, existing when the new Constitution took effect, continued to function and to exercise jurisdiction in terms of the legislation applicable to them, and anyone holding office as a judicial officer continued to hold office in terms of the legislation applicable to that office, subject to any amendment or repeal of that legislation and consistency with the new Constitution.
- During the negotiations a Volkstaat council was established to consider the viability of creating a Volkstaat, that is, an independent Afrikaner homeland. The establishment of the Council was included in the Interim Constitution of 1993. It consisted of 20 members who were tasked with investigating boundaries, powers, functions, legislative, executive and other structures of such a Volkstaat, as well as its suggested Constitutional relationship with government at national and provincial level.

- The interim constitution also recognised traditional leadership and created for the establishment of a provincial and national council of traditional leadership. This was also included in the 1996 Constitution.
- The Interim Constitution created for the possibility of the President changing the flag and the national anthem and recognised 11 official languages.
- The 1993 Constitution also created for one South African citizenship, effectively repealing citizenship of the 'independent' homelands.
- All the provisions relating to amnesty contained in the Interim Constitution (under the heading "National Unity and Reconciliation") were deemed to be part of the 1996 Constitution. This was created for through the Promotion of National Unity and Reconciliation Act, 1995 (See section 7 for more on the TRC).
- The Local Government Transition Act was promulgated in 1993. This provided the interim measures for the transformation of local government. In particular it created negotiating forums for debating the restructuring of local government and the development of transitional local governments. This was in line with the purpose of decentralizing government and ensuring more equitable distribution of essential services, which are provided at municipal level such as water and electricity. In 2000 the Municipal Structures Act bound local government to developmental local government based on upliftment of the poor and universal access to basic services.
- Changes to parliamentary working hours to accommodate the children and domestic responsibilities of woman parliamentarians and a crèche for children of parliamentarians have also been implemented in line with the Bill of Rights. In addition, all language used in parliamentary debate and legislation must now be non-sexist.

3. *External Relationships*

South Africa is party to 26 Human Rights Conventions and has signed and ratified the following key documents:

- Convention on the Elimination of All Forms of Discrimination against Women (<http://www.un.org/womenwatch/daw/cedaw/>)
- Convention on the Rights of the Child (www.unicef.org/crc)
- Adopted the Beijing Platform of Action (http://www.unesco.org/education/information/nfsunesco/pdf/BEIJIN_E.PDF)

In 1998 South Africa hosted the SADC regional conference on violence against women resulting in a declaration on priority areas for intervention and an accountability framework to facilitate the process of monitoring delivery and holding government departments accountable (Tadesse, 2002).

The first new partnership for African Development (NEPAD) Gender Forum was held in April 2003 in Libreville Gabon (www.nepad.org). This was a consultation group of civil society. Key areas of deliberation and recommendation were:

- Access to credit, training and markets for women
- Understanding the African Renaissance and NEPAD
- Social issues relating to negative cultural practices and behaviours
- Education and women's access to centres of excellence
- Media and African women making African news
- Women and new technologies of information and communication
- Good governance
- Women in agriculture
- Gender mainstreaming in the framework of the African Union
- Women and Health: HIV and AIDS, tuberculosis and malaria
- Political conflicts and peace divided: the DRC case

The primary critique levelled against NEPAD by gender activists is that although it makes somewhat vague expressions of gender equity it makes no provision for attaining it in the objectives or goals of the document (Longwe, 2002). For example, paragraph 68 provides an intervention strategy for closing gender gaps in school enrolment. But under the education strategies (dealt with in paragraph 120-125) this intervention strategy is absent and there are neither objectives nor activities with which to implement the strategy.

4. Rights, Safeguards and Equality

Chapter 9 of the constitution provides for the creation of state institutions that support constitutional democracy. They are:

The Public Protector: Has the power to investigate conduct in any sphere of government that is alleged or suspected to be improper. Reports by the public protector must be publicly available.

The Human Rights Commission: Is required to promote respect for human rights and a culture of human rights; promote the protection, development and attainment of human rights; and monitor and assess the observance of human rights in the Republic. They can investigate human rights abuses, attempt to secure redress for such abuses and carry out research and education.

The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities: Functions to promote respect for the rights of cultural, religious and linguistic communities; to promote and develop peace, friendship, humanity, tolerance and national unity among cultural, religious and linguistic communities, on the basis of equality, non-discrimination and free association; and to recommend the establishment or recognition, in accordance with national legislation, of a cultural (or other, for example linguistic) council to represent a specific community in South Africa. It will fulfil these functions through monitoring, lobbying, reporting to and advising government.

Commission for Gender Equality (CGE): The composition, powers and functions of the CGE are set out in the constitution. It is an independent advisory, consultative and research body, which is directly accountable to parliament. Their activities include gender contacts for the media, women'snet (a networking support programme to enable South African women to find people, issues, resources and tools for social activism - see www.women'snet.org.za) and training for community radio and women's organisations on gender sensitivity. They are required to monitor, investigate, research, educate, lobby, advise and report on issues concerning gender equality.

Auditor General: Must report on accounts, financial statements and financial management of national, provincial and local government

Electoral commission: Manages elections of national, provincial and municipal legislative bodies in accordance with national legislation; ensure that those elections are free and fair; and declare the results of those elections within a period that must be prescribed by national legislation and that is as short as reasonably possible.

Independent authority to regulate broadcasting: The constitution requires that national legislation be drafted to create for an independent broadcasting regulator. This was done through the creation of the Independent Communications Authority Act of South Africa (Act 13 of 2000).

In addition to the CGE, the 'national gender machinery' was established following the Beijing Platform of Action and consists of:

Parliamentary Committee on the Quality of Life and Status of Women: Aims to make parliament more gender sensitive. It also works as a mechanism to monitor and implement checks and balances to legislature such that issues of gender justice are not ignored or left out. Also aims to identify and address the obstacles to women's full participation in law-making processes

The Office of the Status of Women: based in the Office of the Presidency and working with provincial and local government. Provincial departments each have a gender focal person and there is a gender coordinating committee. They are responsible for the implementation of the National Gender Policy Framework and the Provincial Gender Equality Implementation Strategy. They are responsible for integrating gender into government functioning.

- The Promotion Equality and Prevention of Unfair Discrimination Act of 2000 stemmed from Chapter 9 of the Constitution, which deals with the right to equality. It prohibits unfair discrimination and provides for the establishment of equality courts and for training of equality court Presiding Officers, Clerks of Court and Registrars. Significantly the onus is reversed where discrimination is alleged, that is, the onus is on the accused to prove their innocence.
- By the end of 2004, over 70 cases had been lodged with the equality courts and only 7 finalised. Cases dealt with and finalised thus far include:
 - A complaint that a nightclub refused a person entry because of his race
 - An assault by a white female learner, the learner's boyfriend and the learner's mother on a black African learner.
 - Racial tension in the workplace including racist emails.
- One of the first cases to deal with issues of gender equality to come before the equality courts which remains unsettled is the case of Wilhemien Charles who is joined by Doctors for life, a group of health professionals opposed to abortion. She is suing Health Minister Dr. Manto Tshabalala Msimang for being forced to perform abortion as part of her theatre work claiming it goes against her religion, conscience and beliefs. She was initially told to take the matter to the labour courts but has decided to bring her action to the equality Court, in conjunction with Doctors for Life, against the Gauteng health department, Kopanong Hospital, Gauteng health MEC Gwen Ramokgopa, and the Minister of Health Manto Tshabalala-Msimang (see below on contraception and termination of pregnancy).

5. *Economic and social issues*

Social and economic rights are enshrined in the constitution as indicated in section 1. Since 1994 there have been a number of legislative, policy and budget changes that attempt to bring about the realisation of these rights.

Employment Equity Act

- The Employment Equity Act created in 1998 recognised that apartheid created inequalities in employment, occupation and income. The Act prohibits unfair discrimination and creates for affirmative action to redress discrimination against designated groups.
- It also establishes a commission for employment equity, as well as systems for regulation such as labour inspectors. The aim of the commission includes advising the minister, conducting research and highlighting good practice. It also outlines protected employee rights and creates for a labour court to deal with disputes.
- The Act states that no person may unfairly discriminate either directly or indirectly against any employee in any employment policy or practice on one or more grounds including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, language, culture and birth. Affirmative action or preferring a person on the basis of the inherent job requirements is not unfair discrimination. The Act also prohibits medical testing including HIV testing or psychological testing unless the latter test has been shown to be scientifically valid and reliable and can be applied effectively to all employees.
- Designated employers (criteria are set out in the act according to the turnover and sector of the employer) are required to develop an employment equity plan highlighting areas of under representation and their affirmative action strategy. Reports are to be submitted to the Director General.

- Monitoring takes place by trade unions and by labour inspectors. The latter can issue compliance orders. The Director General can conduct a review of compliance. The Act also sets out a scale of fines for non-compliance which range from R500 000 to R900 000 depending on the number of previous non-compliance offences.
- The Commission for Conciliation, Mediation and Arbitration (CCMA) deals with disputes regarding the fairness of dismissal (see www.ccma.org.za). This is dealt with specifically in the Labour Relations Act of 1995. The burden of proof in this regard lies with the employer who must establish that the dismissal was fair.

The poverty relief fund

- In 1997, The Department of Finance introduced a poverty relief fund, which, after the 1998 Job Summit, became known as the Special Allocation for Poverty Relief, Infrastructure Investment and Job Summit Projects.
- Between 1997/1998 and 2003/2004, R7081 million (approximately GBP 649 million) was allocated to national departments who bid for the funds.
- The criteria for the allocation of these funds included having a positive impact on households in which single women are the breadwinners and prioritising the rural poor.
- The departments awarded funds have included the Department of Water Affairs and Forestry (given 27% of total allocated funds), the Department of Public Works (24% of total allocation) and the Department of Environmental Affairs and Tourism (allocated 12% of total allocation). Small percentages of the funds (less than 3% each) were given to the Departments of Labour, Health and Agriculture respectively.
- The major problem facing the poverty relief fund has been massive under spending by national departments, which has occurred every year since 1997 (for information on amount spent per project see Paranze 2003, Budget Brief 129. www.idasa.org).
- Of the three kinds of poverty relief projects allocated funds (special public works, income generation and other) the majority of the spending has occurred

in the public works area. This is significant as within this category quota's for employment are set with 60% of jobs reserved for women, 90% for the local community and 29% for youth between the ages of 19 and 25 years old.

- In relation to the status of women, serious under-spending in programmes such as food production, adult education and literacy, maternal and child health, rental housing programmes and tourism development are most concerning.
- In 2000 a monitoring mechanism was introduced to address under spending, however, poor record keeping by departments has meant that the impact of these funds for women has been difficult to establish.
- From the information available it would seem that projects implemented by the Departments of Public Works and Sport and Recreation resulted in the greatest employment opportunities for women (46% and 45% of jobs going to women respectively). This falls substantially below the 60% quota. Given the massive under spending of funds, no new funds were allocated beyond the 2003/2004 financial year.

Social grants

- The four main social grants available to South Africans are the Old Age Pension, the Childcare Grant, the Disability Grant and the War Veterans Grant.
- Since 1994, social grants have been extended to 3.5 million beneficiaries.
- As of the 2006 Budget allocations the old age pension is R820 per month and is paid to women and men older than 60 and 65 years respectively. The child support grant is R190 per month and is paid to children younger than 7 years of age. The foster care grant of R590 is intended for orphaned children. Severely disabled adults and children qualify for the disability grant and the care dependency grants, which are each R180 respectively. The war veteran's grant is paid monthly to war veterans over the age of 60 years. This grant is currently R718 per month (Manuel, 2006).
- Given the indicators (see Section Two), which indicate that women perform almost all childcare work, the negligible amount for money available for this hinders their security. This is compounded by the negligible state allocations

to early childcare/learning centres and childcare. This is likely to increase women's dependence on men who face lower levels of poverty and unemployment.

- The Child Support Grant (CSG) has replaced the State Maintenance Grant (SMG), and it reaches a larger number of poor children because they are covered irrespective of the marital status of their parents or caregivers. This grant aims to cover 3 million children compared to the 200 000 covered by the SMG. However, this cover only exists until the child's 6th year and thus the broadening of the social net has been at the expense of women with children over the age of 6 years.
- The narrow targeting of all grants is perhaps the primary criticism facing the State welfare system. It is ironic that the cut off period of the CSG corresponds to the end of free primary health care and the start of children's schooling – probably the most costly stage of childhood when parents must buy school uniforms, pay fees, etc.
- Similarly, children living in formal housing in urban areas qualify for the child support grant if the caregiver has an annual income less than R9600 compared to rural caregivers who need to earn less than R13200 to qualify. This rural urban distinction does not exist for recipients of the Old Age Pension, the Disability Grant and the War Veterans Grant.
- Given that women in South Africa bear the primary burden of childcare but are least able to afford it, the Maintenance Act (1998) has been a welcome development. Some of the maintenance courts are located in the family courts although some are independent.
- In 2004, the Commission on Gender Equality did an evaluation of the implementation of the Maintenance Act after receiving a number of complaints about the non-execution of maintenance orders. The evaluation was based on court files, key informant interviews and a survey of both respondents and claimants. One court per province was evaluated with a selection of both rural and urban courts. Criticisms lodged against the courts include lack of privacy and complex and time consuming procedures. Poor record keeping by the courts and lost documentation makes research very difficult (Commission on gender Equality, 2004).

- The Lund Committee was set up to determine the affordability of the State Maintenance Grant which, under apartheid, was available to women who had applied to a maintenance court for maintenance from the child's father but been unable to secure it, had been widowed or deserted or in certain other circumstances. Although open to all women, in practice most black women lacked access to the State Maintenance Grant and few 'Independent homelands' administered the Grant. The report of the Lund Committee, which was released in 1996, found that problems lay not with policy changes but with implementation including a lack of interpreters, little assistance with procedures, high caseloads, limited computerised systems and facilities for telephone enquiries, as well as inconsistency in determining payments. It also identified the need for a formula to establish the amount of maintenance payments, given the wide variations in payments. The commission found that maintenance officers tended to rely on 'what they thought was fair' in determining maintenance payments and had no formal guidelines or training. There was a great deal of variation in what maintenance officers took into account when making a decision. In addition, the lack of computers meant that some money went missing or was not paid in time because it had to be manually recorded.

Education

Education is a basic right enshrined in the Constitution. It states that everyone has the right:

- to a basic education, including adult basic education; and
- to further education, which the State, through reasonable measures, must make progressively available and accessible.

In addition, everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the State must consider all reasonable educational alternatives, including single medium institutions, taking into account :

- equity;
 - practicability; and
 - the need to redress the results of past racially discriminatory laws and practices.
- South Africa is also a signatory to the Convention on the Rights of the Child, which states that primary education should be available free to all.
 - Until 1990, all government schools were ‘racially’ segregated according to the four ‘racial’ categories established under apartheid.
 - In 1990 Minister of (White) Education, Piet Clase, raised the possibility that ‘white’ schools could legally admit children of other race groups. In order to do this, white parents of pupils had to vote. They were required to achieve an 80% poll with a 72% majority. They could vote on one of three models of integration A, B or C. Model A allowed white schools to close as state schools and re-open as private schools. Model B allowed such schools to remain state schools but to have an open admissions policy and Model C allowed them to convert to semi-state and semi-private schools. With all models, the school had to have a 51% white population, the (white) cultural ‘ethos and the character’ of the school had to remain unchanged and the financing of the black pupil was entirely the responsibility of the pupils parents.
 - In 1992 all ‘white’ schools were unilaterally converted to model C schools. The adoption, and associated semi-privatisation, of this model placed increasing responsibility for school funding on parents – a move which, along with restrictive admissions policies, language requirements and religious policies, made these schools more expensive and limited integration in many cases.
 - Unconditional formal desegregation took place in 1993 although there were some ‘non-white’ pupils already in model C schools as a result of the above changes (Vally and Dalamba, 1999).

Housing

- The constitution states that all people have the right to adequate housing and the State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right. It also states that children have the right to shelter.
- The state provides a subsidy, housing credit (if the beneficiary can afford to access it) and relies on personal resources of the beneficiary such as labour or savings to provide housing.
- The amount given to beneficiaries varies according to their income. For those earning R0-R1500 the subsidy they will receive is R23100 and they are expected to contribute R2479. This can be paid in cash or 'in kind' (most commonly by contributing to building the house).
- The focus of the programme is on those earning under R3500 per month. This has been severely criticised as many earning over this amount are undeniably poor and the bulk of housing has gone to those living with less than R1500 per month.
- A major criticism of the housing provided is that it is often poorly located away from urban centres and transport links; thereby minimising the opportunities people have for accessing employment and services. Thus recent policy changes have emphasised the creation of mixed income areas and improved housing quality (Charlton, 2004).
- The 'women for housing' initiative is run under the National Urban Reconstruction and Housing Agency (NURCHA).
- One of the primary difficulties facing women is that if they have benefited from a housing subsidy as a spouse of the male recipient, they are never allowed to qualify for a housing subsidy again. However, the house is most commonly recorded under the name of the male partner. Should the union break up, the woman has no legal right to the house or to a new subsidy.
- This was corroborated in research by Idasa, which found that housing was most likely to be registered in the name of the male partner (Idasa, 1998) making women dependant on male partners for their housing needs.

- The National Department of Housing has typically seen its role with regard to women in abusive relationships as providing long-term housing for women rather than immediate, emergency housing (Charlton, 2004).
- The lack of State funded shelters for women who are victims of domestic violence means that the current housing programme does not address one of the the most pressing crises facing women.
- A recent landmark case was the Grootboom case. Irene Grootboom lived in an informal settlement of Wallacedene without water, sanitation, electricity or adequate shelter, which was dangerously close to a main thoroughfare and is partially waterlogged. She and 900 other members of the community had placed their names on a waiting list for low cost housing but as time wore on they moved onto adjacent private land. After being evicted from this land they moved to the Wallacedene Stadium. With legal assistance, they notified the municipality of the situation and requested alternative accommodation. When this did not materialise they launched an application to the Cape High Court on the constitutional principles listed above. Their application was rejected on the first claim as the court found the governments housing scheme to be reasonable but accepted the second claim that children have the right to adequate shelter. The government appealed to the Constitutional Court which upheld the ruling and further affirmed that “the current housing programme fell short of the State obligation to provide relief to people in desperate need”. It said that a reasonable part of the national housing budget should be devoted to providing such relief. If this was not done, the State’s housing programme could not be considered reasonable for the purposes of section 26(2) of the Constitution. Adequate housing was not defined but the court did state that it includes land, services and a dwelling.
- The debate about the meaning of this judgement for women living in abusive relationships has been ongoing as many have suggested that living in a violent relationship would qualify someone as being in desperate need of housing (Pillay, Manjoo and Paulus, 2002).

Land restitution and redistribution

The constitution states:

- No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.
- The State must take reasonable legislative and other measures, within its available resources, to foster conditions, which enable citizens to gain access to land on an equitable basis.
- A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.
- A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.
- In 1994 the Restitution of Land Rights Act was passed to provide for the restitution of rights in land in respect of which persons or communities were dispossessed under or for the purpose of furthering the objects of any racially based discriminatory law. It also establishes a Commission on Restitution of Land Rights and a Land Claims Court. An order of this court has the same force as an order of the Supreme Court.
- Under the Act, individuals or communities may lodge a complaint with the Commission who will advise other interested parties that a complaint has been lodged. The commissioner then has the powers to investigate the claim. In the case of competing claims for the land, the commission may appoint a mediator. If the claim cannot be settled in this manner, it may be forwarded to the Land Claims Court. On successful lodging of a claim, the land may either be restored to the previous owner or the individual / community may be compensated or alternative State owned land provided by the Minister. This is also determined by the purpose that the land has been used for since the individual or community was dispossessed.
- As a history of colonial rule, South Africa has inherited a dual land rights system whereby land owned by black communities under systems of traditional leadership was held in trust by the State in contrast to white

landowners having individual property rights. The process of transferring ownership to communities is being discussed either on the basis of collective or individual land rights.

HIV/AIDs in South Africa

- In South Africa the right to access health care has been made more complex by the spread of HIV. Thus, there have been significant changes in response to the disease including policy development and budget allocations. Women are more likely to be infected with HIV but are also more likely to bear the burden of caring for sick family and community members.
- In November 2003 Cabinet announced a 'Plan for Comprehensive HIV and AIDS Care Management and Treatment for South Africa' (Hicky, 2004). In terms of this plan, national funds are transferred from the national treasury to Provincial Departments of Health. In the past year the funds allocated have increased by 134% indicating the extent to which it has been prioritised on the government agenda. The departments targeted by the Plan are the Department of Health, Social Development and Education with limited funding to the departments of Public Service Administration and Science and Technology.
- In 2002/2003, R1439 billion was set aside for implementation of the Plan, a 7% increase from 2001/2, largely as a result of the first allocation for ARV provision. A large portion of this R1439 billion goes to the Chief Directorate for HIV/AIDS and TB who also administers conditional grants for programmes including voluntary counselling and testing (20%), prevention of mother to child transmission (30%), strengthening of provincial management, establishment of regional training centres (4%), post exposure prophylaxis for rape survivors (2%), home based care (15%), step-down care (24%) and sex worker programmes, such as condom distribution and HIV education.
- What was new in the 2004/5 budget was the substantial allocation for ARV rollout programmes.
- In terms of the most recent budget allocations, the newly created chief director for the HIV/AIDS cluster in the Department of Social Development will focus on Home Based Care.

- In 2001, six home based care programmes were operating compared to 400 in 2003 which reflects, to some extent, the progression of the disease. It also includes a coordinated programme for orphans and vulnerable children and women and youth, which is education and public awareness based.
- The funding of community-based care projects is from conditional grants. The Department of Education administers the life skills conditional grant. This area increased the least in the past financial year (by only 6% compared to 88% increases in the Department of Social Welfare). Again this is likely to be a result of the progression of the disease as historically the bulk of HIV/AIDS funding has been spent on education.
- Funding made available from 2004 for the rollout of ARV treatment of R300 million will allow for an additional 5476 persons to begin treatment each month this will continue over the next three financial years. This suggests that over the next few years funding for ARV treatment will increase rapidly whilst non-ARV funding will plateau. The operational plan sets a minimum of one service point for ARVs in each health district. For the 2003/4 financial year the funding allocated for ARVs would allow for 49614 people to go onto ARV treatment which reflects approximately 7% of all stage 4 Aids patients (this is based on a R6000 unit cost which is an optimistic estimate of the cost) (Hicky, 2004).
- In terms of addressing the needs of vulnerable groups, government has a National Integrated Plan for Children and Youth infected and Affected by HIV/AIDS. This is government's key strategy for managing the spread and impact of the disease and is largely education based.
- A significant gap in terms of addressing the needs of women has been the lack of attention to home based care programmes. Home based care of those infected with and affected by HIV/AIDS has been a burden born by women. The development of home based care is the responsibility of the Department of Health and the Department of Social Development. In 2000/2001 R13 million of the total R450 million was allocated to home and community-based care (HCBC). In 2001 the Department stated that the primary focus remained on prevention with low priority given to HCBC programmes.

- Although this focus on education may have changed with the antiretroviral programme, HCBC still is not prioritised. In the 2001 financial year the intention in the National Integrated Plan was to create 40 HCBC programmes. The HCBC policy document indicated, based on population-based surveys, that in order to care for those infected and affected, 200 HCBC teams needed to be established by March 2001.
- The initial aim was to pilot HCBC projects in 3 sites in each province. However, given the expanded need, the initial R1.5 million allocated to each province (except for Gauteng and the Western Cape which received R500 000 less) had to cover an additional 17 sites. A costing exercise by the Departments of Health and Social Development indicated they would need to spend R120 – 125 million in the current financial year to operationalise these plans. This assumes a R500 stipend for those doing the caring and excludes, for example, the costs of food parcels, and school fees for those affected / infected. The stipend offered is extremely low and assumes that HCBC is largely a voluntary activity (in contrast to education campaigns, for example). This is problematic given that the burden of care for those suffering with AIDS related illness is born almost entirely by communities with little financial support for those doing the caring from government.
- The poverty reduction strategy identified HIV/AIDS as one of its priorities for the first time in 2001/2002 among other factors such as food security, unemployment and underemployment, income generating opportunities for rural women, and lack of access to credit in poor communities. This does not seem to match the lack of funding for HCBC programmes.
- Perhaps the most significant criticism levelled against the state response to HIV/AIDS has been the lack of access to antiretroviral treatment. In his 2003 budget speech, Minister Manuel announced that 12 billion would be made available over the next three years for HIV/AIDS including the rollout of anti-retroviral drugs. The Department of Health was ordered to develop an operational plan to accomplish this. Although the intention of the operational plan was to extend care and treatment to 50,000 people by March 2004, by October 2004, fewer than 15,000 people had received treatment. This resulted in a court case brought by the treatment Action Campaign against the Minister

of Home Affairs. This case was taken to the constitutional court after the Pretoria High Court ruled in favour of the TAC. The Constitutional court also ruled in favour of the TAC and ordered the Department of Health to roll out Nevirapine as part of a mother-to-child transmission prevention program.

- Under the NIP conditional grants flow to the provinces via national government. In 2001/2002, significant portions of these health allocations remained unspent. The national government attributed this to a lack of capacity in the provinces whilst the provinces blamed late advertising of grants by the National government and complex bidding processes. In addition, there have been tensions between the Departments of Health and Welfare who are responsible for HCBC and they have failed to align and coordinate their strategic plans. For example, the child support grant is only available for children under 7 and has not accounted for child headed households, which are increasing as a result of the AIDS epidemic. This leaves these families particularly vulnerable (Adams and Claasens, 2001).

Contraception and termination of pregnancy

- As mentioned earlier, section 12 of the Constitution gives women the right to access health care services, including reproductive health care.
- For many South African women, particularly in rural areas, access to contraception remains difficult. Wood (undated), in research in the Northern Province, found that it was difficult for young women to access contraception in particular because nurses often refused them services or scolded them for their sexual activity. She found that teenagers had been provided with ‘virtually no useful information’ regarding menstruation, contraception or pregnancy when attending clinics. The most common form of contraception, Wood (undated) found, was Nuristerate because of the inconvenience of oral contraceptives and a general fear of condoms (such as they may get lost inside). Although teenagers reported many side effects, most notably menstrual irregularity, changes in contraception were only provided where pathology was identified. Teenagers complained that nurses asked questions about their sexual activities and generally harassed them. Some had been denied contraception if they did not report to their nearest clinic, had not been

first to a GP or did not have parental permission. Most nurses saw dissuading teenagers from sex as part of their role. They acknowledged that this sometimes prevented further contraception seeking.

- The Choice of Termination of Pregnancy Act was implemented in 1996 and has faced a great deal of controversy and protest from ‘pro-life’ groups. It provides for the termination of pregnancy up to and including 12 weeks gestation in all cases, in some cases between 12 and 20 weeks and in very limited cases after 20 weeks.
- The Act has come under severe criticism from a number of groups including Doctors for Life and Christians for Truth who claim it is a denial of the right to life.
- Again access to these services varies greatly across the country (See section 2 for more).

6. *Cultural Issues*

Customary law, marriage and inheritance

In terms of the Constitution everyone has the right to use their own language and to participate in the cultural life of their choice, but no one exercising these rights may do so in a manner inconsistent with any provision of the Bill of Rights.

- Similarly, persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community
 - a. to enjoy their culture, practise their religion and use their language; and
 - b. to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.
- These rights may not be exercised in a manner inconsistent with any provision of the Bill of Rights.

- In 2002 the Commission for the Promotion and Protection of the Rights of Cultural, Linguistic and Religious Groups was established by an Act of Parliament.
- In addition, traditional leadership institutions are protected in the Constitution, which states that:
 1. The institution, status and role of traditional leadership, according to customary law, are recognised, subject to the Constitution.
 2. A traditional authority that observes a system of customary law may function subject to any applicable legislation and customs, which includes amendments to, or repeal of, that legislation or those customs.
 3. The courts must apply customary law when that law is applicable, subject to the Constitution and any legislation that specifically deals with customary law.
- During CODESA the primary challenge against the equality clauses applying to women of their communities was brought by the traditional leaders who claimed it disregarded their tradition. That the practices of traditional leadership are subject to the Bill of Rights was seen as a major accomplishment for women involved in the negotiations.
- Under apartheid, section 11(3) of the Black Administration Act of 1927 resulted in African women married under African customary law being perpetual minors. This was in contrast to civil and Eurocentric faith-based marriages, which allowed for the equal status of parties to a marriage (where previous legislation identified the husband as the head of the household) and regulates community of property.
- In October 2004 three landmark cases were heard which challenged the rule of male primogeniture as it applies in the African customary law of succession as well as the Black Administration Act of 1927. In the first case (*Bhe and others v The magistrate, Khayelitsha and Others*), Bhe claimed that the customary law rule of male primogeniture, as well as provisions of the Black Administration Act and the Intestate Succession Act, unfairly discriminated against her two minor daughters because they prevented the children from

inheriting the estate of their late father. In the second (*Shibi v Sithole and Other*), Shibi also challenged the customary law of male primogeniture which prevented her from inheriting the estate of her deceased brother. The third case was brought in the public interest as a class action on behalf of all women and children prevented from inheriting by reason of the impugned provisions and the rule of male primogeniture. They were considered to discriminate unfairly against women and illegitimate children.

- In giving his verdict Judge Ngcobo stressed that the primary purpose of the rule is to determine a person to take over responsibility of the deceased family and that it includes the obligation to maintain and support the minor children and other dependants. He also stressed that the person given this responsibility does not inherit the property but holds it on behalf of all family members. He stated that courts have an obligation under the Constitution to develop indigenous law so as to bring it in line with the Bill of Rights.
- Currently the South African Law Commission is debating legislation that deals more specifically with the judicial function of traditional leaders. This includes the regulation of the cases heard and the representation of women on the traditional council.
- In 2003 the Traditional Leadership and Governance Framework Act was passed. Most notably it requires that women make up at least 30% of those on the traditional councils. In terms of recent research (Palmary, 2004; Goodenough, 2001) this will require significant changes to the current operation of traditional councils.
- One of the controversies has been around the practice of virginity testing¹, which has, at times, had the support of the Department of Health because some claim it reduces pre-marital sex and pregnancy and the spread of HIV. There is little evidence for this and the rural women's movement has strongly opposed the practice.

¹ This typically involves a physical examination of the girls to ensure that the hymen is intact. It is accompanied by a number of celebrations and in some cases a mark is made on the girls if they have passed.

7. *Reconciliation and Victims of Political Violence*

- The Promotion of National Unity and Reconciliation Act of 1995 was established to provide a complete picture of gross violations of human rights that took place between 1 March 1960 until 5 December 1993 (later extended to 10 May 1994). To this end it allowed for the creation for the Truth and Reconciliation Commission. The functions of the TRC were:
 1. Facilitate, initiate and coordinate inquiries into gross violations of human rights, the nature, causes and extent of these violations, the identity of those involved in the violations, whether such violations were part of deliberate planning on the part of the State and to determine accountability for these violations.
 2. Gathering information and receiving evidence from victims of violations;
 3. Promoting and granting amnesty in respect of acts associated with political objectives;
 4. Determining what articles have been destroyed in order to conceal violations;
 5. Preparing a comprehensive report of these activities and findings; and
 6. Making recommendations to the president regarding necessary policy or reparations
- These functions were carried out by three committees: The committee on human rights violations, the committee on amnesty, the committee on rehabilitation and reparation in conjunction with the investigating unit.
- Amnesty was a condition of negotiation process given the high levels of violence during this period and the political power balance during negotiations. Amnesty was to be granted provided that the person applying was deemed to have made a full disclosure.
- The issue of reparations has been contested and has arguably been neglected in both the negotiations and later legislation being mentioned only in the Interim Constitution in 1993 and later in the Promotion of National Unity and Reconciliation Act of 1995. They are mentioned in broad terms and legal

responsibility is not spelled out. The inclusion of reparations in the TRC Act was a result of civil society lobbying.

- Although the amnesty committee - established to deal with amnesties - had the power to grant amnesty, the RRC could only make recommendations to be implemented through legislation.
- Victim groups, such as the Khulumani Victim Support Group (www.khulumani.net), were formed prior to the TRC and when the legislation was being debated. They primarily wanted to keep the TRC victim-centred. Their role has been to assist survivors of human rights abuses, for example distributing wheelchairs, and to lobby government particularly for the dispersement of reparations.
- Survivor groups such as the Khulumani group have also sought other forms of reparations including a lawsuit in the United States against businesses that aided and abetted the apartheid regime. President Mbeki and Justice Minister Penuel Maduna have publicly denounced this action.
- Drawing on international experience the RRC identified the components of reparations as: redress, restitution, rehabilitation, restoration of dignity and reassurance of non-recurrence. Symbolic reparations could be individual such as issuing of death certificates or exhumation of bodies, or community-based such as the renaming of streets and facilities and erecting memorials and holding such events such as a day of remembrance. Community rehabilitation would include national demilitarisation, resettlement of displaced communities, treatment centres, etc. Institutional reform was also deemed central in order to ensure that human rights abuses did not recur.
- The TRC proposed a so-called long-term reparations scheme in its final report. It proposed that some 22000 survivors should each roughly receive “17,000-24,000 (roughly US\$2,750-US\$3,950) each over a six-year period, i.e. R477,400,000 million (US\$ 78 million) per year. This would have meant paying out approximately R2,864,400,000 (roughly US\$460 million) over a six-year period. These payouts were, in turn according to the TRC, to be complemented by the other symbolic, reparative and rehabilitative measures mentioned above.

- In April 15, 2003 (over seven years since the TRC began and over 4 years after the government received the TRC's first set of recommendations on reparations), South African President, Thabo Mbeki, announced that victims of apartheid who testified before the TRC would receive a once-off final reparations grant of R30,000 (US\$4,900). A total of US\$80 million would be paid to 19000 victims, substantially less than the US\$460 million recommended by the TRC, and fundamentally different in structure to a quasi-pension scheme approach spread over 6 years. Payments have begun, although many victims remain embittered by the entire process and particularly the low amount and its slow delivery.

Victims of gender based violence

In spite of a decline in political violence since the transition, violence against women is considered to be particularly high in South Africa.

- Significant changes since 1994 include the passing of the Domestic Violence Act in 1998.
- This replaced the 1993 Prevention of Family Violence Act which made it possible for women to obtain an interdict in cases of violence, but which lacked a legal definition of domestic violence and of who qualified for an interdict (Mathews and Abrahams, 2001).
- In 1995 a Human Rights Watch report indicated that although South Africa had progressive domestic violence legislation it was largely ineffective because women lacked knowledge of it and because the judicial system subjected women to secondary victimisation (Matthews and Abrahams, 2001).
- Sexual offences courts were first established in the Western Cape in 1993 as a result of pressure from women's groups that had found the judicial system to be insensitive to sexual and gender based crimes.
- The purpose of the courts was to prevent secondary trauma of victims, increase reporting rates and aid prosecution of perpetrators. Some of these courts serve women and children whilst others only serve children. In a review of their functioning between 2000 and 2001 the Children's Budget Unit found that several of the courts suffered from a shortage of staff, an inappropriate

layout and design, inadequate support services, lack of interpreters and a lack of training of the staff.

- The Department of Social Development has initiated a victim empowerment programme. The purpose of the programme is to “facilitate the establishment and integration of inter-departmental / inter-sectoral programmes and policies for the support, protection and empowerment of victims of crime and violence with special focus on women and children and to ensure that the implementation of such programmes and policies is, monitored and evaluated at all levels of government, in close collaboration with Civil Society” (DSD, 2005). A victim empowerment policy has been adopted as have the establishment of ‘one-stop’ centres which provide integrated services (such as police, counselling, health) to victims of crime and violence. Women’s dialogues have been conducted in order to ensure that these services meet the needs of women.

8. *Decommissioning, Demobilisation, Demilitarisation*

Background to decommissioning / demobilisation

- During the transition, the creation and/or activation of political and constitutional mechanisms designed to ensure the accountability of the present armed forces to the civilian authorities and the political process was central.
- The SADF had become synonymous with repression, particularly in the 1980s. However, this did not end with the transition to democracy and in the 1990s and 2000s, internationally-recognised independent monitoring groups such as Human Rights Watch (HRW) continued to report on alleged abuses committed by the South African military. For example, Amnesty International asserted in their 2001 survey that "there were reports of torture, ill-treatment and unjustified use of lethal force by the security forces, including military units based in KwaZulu-Natal province, primarily in the context of crime investigation and the search for illegal weapons" (Amnesty International, 2001, p. 220).
- South Africa became increasingly militarised throughout the apartheid era. By the mid-1970s, South Africa "had a powerful and significant arms industry",

and by 1979 over 14% of state expenditure was allocated to defence. In 1982-83 expenditure had risen to almost R3 billion, and by the mid-1980s almost 20% of the government's total annual budget was devoted to defence (Saunders, 1983; Frankel, 2000). Despite a prolonged period of militarisation in other countries in the Southern African region, the SADF's military was still regarded as more powerful than the combined forces of all its neighbouring states (Heitman, 1985). Funding for the South African military was largely from the United States, Britain, France and West Germany. This included nuclear and biological weaponry.

- Since the transition, the defence budget has been cut dramatically from 3.2 to 1.3% of GDP between 1991 and 1999.
- By 1984, over 2000 private sector firms were involved in the arms industry, and employed over 120,000 people. Moving from a position of almost complete dependency on arms imports during the 1950s and early 1960s, "by the end of the 1980s, the arms industry had reached a relatively high level of self-sufficiency and could meet most of the equipment requirements of the SADF" (Batchelor, 1998, p.100).
- Military strategy during Botha's Prime Ministership made use of low intensity conflict theory making use of surrogate armed forces in neighbouring countries (such as RENAMO and UNITA), as well as supporting vigilante groups and others including Inkatha within the country to effectively destabilise security. This made the process of securing peace particularly difficult.
- The SADF had a broader strategy of regional destabilisation. This included pre-emptive strikes against the South West African People's Organisation (SWAPO) in Namibia and Angola, actions against the African National Congress (ANC) in exile in countries such as Mozambique, Swaziland and Lesotho, and military support for rebel groups such as RENAMO and UNITA.
- Immediately after 1994, the SADF was integrated with MK, APLA and the TVBC forces. They were involved in the elections of 1994 and 1999 in regulating the voting process.
- The SADF's regional conflicts were not given a substantial attention in the TRC, which became more focussed largely on internal violations.

- Militarisation at the ideological level manifested itself across a range of areas; school cadet systems, youth preparedness programmes, the promotion of war toys and games, the compulsory registration of 16-year-old white boys for conscription and the progressive extension of compulsory military service for white male youths to two years plus annual camps. Equally, South Africa's black communities became more militarised with the formation of Self Defence Units (typically associated with the ANC) and Self Protection Units (typically associated with the IFP)
- Many analysts saw the military as being distant from the TRC and antagonistic towards it. Of 7115 amnesty applications, only 267 were the SAP and the SADF.
- MK / SADF negotiations took place parallel to political negotiations.
- The first SADF submission to the TRC was so insubstantial that the TRC asked for a second one. The hostility in the submission was clear stating that the SADF was politically neutral whilst the commission was highly political and biased against the SADF.
- The 1990s saw rising levels of violence, which was deemed to be a result of third force activities largely by Inkatha and right wing paramilitary groups. The TRC had little success in uncovering the members behind the violence of the 1990s.
- The TRC made a series of specific recommendations relating to its investigations into the SADF's Chemical and Biological Warfare programme (also known as Project Coast), and required that a Judicial Commission of Inquiry should be established to investigate, among other things, whether the weapons were still in existence. (Stott 2002).
- The TRC also recommended that all aspects of the Chemical and Biological Weapons programme still in existence be dismantled, all activities be discontinued, and the manufacture and research of substances intended for use in crowd control be ceased (TRC, 1998, Volume 5, Chapter 8, Paragraphs 63 - 67)

Integration of the armed forces

- Integration was numerically unequal with former SADF members making up the majority of new South African National Defence Force (SANDF) members.
- The integration of the various armed formations initially led to an increase in SANDF force numbers, which peaked at 102 600 in 1995/96. This was below projected expectations of 138 000, mainly because thousands of non-statutory force members whose names were on the Certified Personnel Register (CPR) failed to turn up at the Assembly Areas (Shelton, Monyue, Pullinger, Simmonds and Williams, 2001). Thousands began to take voluntary demobilisation. By April 2000, force numbers stood at 82 258, and by March 2001 these had decreased further to 78 823 members. Large numbers left the defence force between 1994 and 2000 which was under increasing demands to rationalise and downsize the military.
- Integration started badly, with high levels of discontent amongst from both the SADF and other forces many of whom resisted integration. In September 1994, 2 500 combatants walked out of Wallmansthal, a temporary transit post in the integration process and 265 did not return. This was followed by a violent protest in Durban at the beginning of 1995, by 200 MK² soldiers. MK cadres also marched on Parliament and the ANC offices in Cape Town, to protest against their exclusion from the integration process. Many former combatants were never incorporated into the SANDF.
- The process of demobilisation occurred after the process of integration. It was driven by the Demobilisation Act (1996), which allowed for the creation of a Demobilisation Committee that dealt with applications for demobilisation. Demobilisation took place either by application of the member or because the member did not meet the requirements for integration.
- Studies show that many of those demobilised continue to be unemployed (see Shelton, Monyue, Pullinger, Simmonds and Williams, 2001).
- Integration was criticised for being one sided with the Joint Military Coordinating Committee (responsible for integration) deciding that the

² Mkhonto weSizwe was the armed wing of the African National Congress. Integration included several other armed forces as well such as APLA and the former 'Independent Homeland' armies

statutory forces (SADF and TVBC state forces) had the necessary training and qualifications for automatic integration but that the non-statutory forces (MK and APLA) would have to undergo selection and training (Liebenberg and Roefs, 2001) This gave the impression that MK and APLA were in fact joining the SADF. By far the majority of demobilised soldiers were from MK (50% of those demobilised).

- Following the integration in 1995 a process of demobilization took place, which effectively amounted to the voluntary release of former non-statutory members who no longer wished to serve although being constitutionally part of the SANDF.
- Demobilisation was an option for those excluded from the SANDF because of age, health or education levels; those refusing integration into the SANDF and those dissatisfied with the rank or salary they were being offered in the SANDF. Those demobilised were given a once off gratuity, two weeks of counselling on personal / career issues and an opportunity to join the service corps for eighteen months training on life-skills and adult literacy. By the end of February 1997, 3770 former MK and APLA soldiers had been demobilised. Gratuities ranged between R12734 and R40657. The process is largely considered to be flawed. For example, Cock (1992) found that the majority of demobilised soldiers were unemployed living in poverty and suffering psychological and mental health problems. The demobilisation process cost R69 million compared to the original estimate of R250 million. The costs of integration per soldier were on average R10 000 higher than the highest amount paid to any demobilised soldier.

Democratising the military

- The Interim Constitution provided for the civilian control over the military. It created the Department of Defence consisting of SANDF and the Secretariat of defence.
- The final 1996 Constitution stated that the security services of the Republic consist of a single defense force, a single police service and any intelligence

services established in terms of the Constitution. It also states that the defense force is the only lawful military force in the Republic.

- In addition, to give effect to the principles of transparency and accountability, multi-party parliamentary committees must have oversight of all security services in a manner determined by national legislation or the rules and orders of Parliament.
- The Military Veterans Affairs Act was passed in 1999 and aimed to provide for national standards regarding military veterans and their dependants, including their entitlements. It allows for the creation of an advisory board for Military Veterans Affairs and an office for Military Veterans Affairs. Their functions include conducting a survey of State controlled or privately administered schemes or programmes dealing with the affairs of military veterans, collecting information on their entitlements, keeping a database of people qualifying as military veterans and any entitlements, disparities and inequalities between the entitlements of military veterans.
- The process of integration has been criticised for almost entirely excluding a focus on women (this is discussed in Section Two). However, little detailed information exists regarding the role of women in the demilitarisation process. It is clear that women supported militarization in several ways including active participation in the armed forces, acting as support and ideological support for the conflict (Cock, 1992). However, women were not identified as a specific target group in the integration process.
- The SANDF continues to play a role in peacekeeping efforts in the region including the DRC, Burundi, and Lesotho since 1994.

Demilitarisation of society

- South African townships had a number of community based self-defence groups at the time of political transition. These were a result of inadequate policing in townships during apartheid and a lack of faith in the justice system. There were also systems for dispute resolution and courts that were outside of the formal justice system. For example, SDUs were formed by the ANC in 1991 to perform defence functions. Although these structures generally had

the support of community members and were seen as necessary there were numerous clashes between SDU (and SPU) groups.

- Post 1994 attempts were made to reduce violence by self-defence units including a cease-fire between the SDU and the SPU of Thokoza. The ANC called for SDUs to cease their activities. The government of national unity during the transition period introduced an arms amnesty to encourage the voluntary surrendering of arms by the SDU members.
- There were moves to integrate the SDUs into the policing services of the region. This was met with resistance by the police forces largely because these groups were seen to be criminal groups. The young age of SDU members was also raised as a concern to their integration.
- In 1995 attempts were made for disarmament of the general public including self-defence units.
- Attempts at demilitarisation of the broader society have also included the restriction of small arms and has resulted in the Firearms control Act of 2000. There is a popular perception that small arms circulating during the South African conflict are currently involved in crime. Several amnesties have been offered to try to limit the number of illegal small arms in circulation in an effort to curb rates of violent crime.
- Significantly, the new firearms control act requires that any person who has been convicted of domestic violence or physical or sexual assault be denied the competency certificate required for firearm licensing.

9. Security, Military and Policing

The South African Police Services

- The Constitution provided for political responsibility for policing at national and provincial level, the establishment of national and provincial commissioners and the establishment of a civilian secretariat.
- The SAPS Act was promulgated in 1995 in order, in part, to bring the former SAP in line with the provisions of the Constitution. Most notably this Act is premised on the duty of the police to “uphold and safeguard the fundamental

rights of every person as guaranteed in chapter 3 of the Constitution”, creating cooperation (as opposed to the history of conflict) between the police service and the community and developing a victim centred approach to policing that shows a “respect for victims of crime and an understanding of their needs”. This reflected a significant shift towards a human rights approach to policing and a move away from a highly militarised police force. The most significant changes in this legislation is:

- The establishment of community police forums and boards. The purpose of the community police forums are:
 - a) establishing and maintaining a partnership between the community and the Service;
 - b) promoting communication between the Service and the community;
 - c) promoting co-operation between the Service and the community in fulfilling the needs of the community regarding policing;
 - d) improving the rendering of police services to the community at national, provincial and local levels;
 - e) improving transparency in the service and accountability of the Service to the community; and
 - f) promoting joint problem solving by the Service and the community.
- Representatives of the Community Police Forum sit on Community police Boards at a local and provincial level
- The creation of the Independent Complaints Directorate (ICD). The ICD operates independently from the Service at provincial and national level. It is an offence to interfere with a member or the executive director of the ICD. The key functions of the IDC are to:
 - a) upon receipt of a complaint, investigate any misconduct or offence allegedly committed by any member, and may, where appropriate, refer such investigation to the Commissioner concerned
 - b) upon receipt of a complaint, investigate any death in police custody or as a result of police action; and

- c) investigate any matter referred to the directorate by the Minister or member of the Executive Council.
- The SAPS Act of 1995 also allowed for the creation of Metropolitan Police Services of which there are now 6 nationwide. The functions of these services are traffic enforcement, by-law enforcement and crime prevention. The bulk of the work of these services thus far has been traffic enforcement as they often involved the transformation of former traffic police services into metropolitan police services.

Private security

- South Africa's private security industry grew in part because of the police withdrawal from certain areas in the 1970s to concentrate on maintaining political control.
- Because of the South African government's involvement in conflicts in other parts of Africa and the movement of people who fought in the bush wars in Rhodesia and other States to South Africa, a number of people with low intensity conflict and counterinsurgency experience live in South Africa and many owners of private security companies have this background. The private security industry today, however, includes a large number of people who fought both for and against the apartheid government.
- It is not surprising, therefore, that allegations of private security involvement in third force activities as well as criminal activities have emerged over the years³. Charges of illegal practices including murder and assault have recently tarnished the image of the security industry. One source of concern is that private security guards are issued with firearms provided they have 5 hours of firearm training (Irish, 1999).
- In addition, former MK and SADF members who withdrew from the armed forces after 1994 have been recruited into the private security industry as well as into mercenary groups operating on the continent.

³ Third force activities tend to refer to violence that took place during the 1990s which was intended to undermine the negotiated settlement. Both the Steyn Commission report in 1992 and the Goldstone

- The primary difference between private security and police is that private security guards are employed almost entirely to police property crimes with most being in the armed response sector. Therefore, although they supplement police activities they are unlikely to impact on the crimes facing women. This operates alongside a general feeling that ‘social fabric crimes’ (the terms used by the SAPS) which include rape and domestic violence are “less policable” (SAPS annual report, 2004)

10. Justice Issues

The Judiciary

- According to the transitional arrangements of the Interim Constitution every court of law existing immediately before the commencement of the Constitution was deemed to have been constituted in terms of the Constitution or the laws in force continued to function as such in accordance with the laws applicable to it until changed by a competent authority.
- According to the 1996 constitution, the courts are
 - a. the Constitutional Court;
 - b. the Supreme Court of Appeal;
 - c. the High Courts, including any high court of appeal that may be established by an Act of Parliament to hear appeals from High Courts;
 - d. the Magistrates' Courts; and
 - e. any other court established or recognised in terms of an Act of Parliament, including any court of a status similar to either the High Courts or the Magistrates' Courts.
- The courts are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice. There

Commission report in 1994 into third force activities mentioned the involvement of private security companies although detailed information has not been uncovered (see Irish, 1999).

is a single national prosecuting authority in the Republic, structured in terms of an Act of Parliament, and consisting of:

- a. a National Director of Public Prosecutions, who is the head of the prosecuting authority, and is appointed by the President, as head of the national executive; and
 - b. Directors of Public Prosecutions and prosecutors as determined by an Act of Parliament.
- The prosecuting authority has the power to institute criminal proceedings on behalf of the state, and to carry out any necessary functions incidental to instituting criminal proceedings.

11. Political prisoners

- In 1989 the ANC reiterated that among its conditions for negotiations with the apartheid government was the unconditional release of political prisoners.
- By 1987 only 27 prisoners had been released on condition of renouncing violence. However in 1989, 7 long serving political prisoners were released unconditionally.
- With the unbanning of banned movements in 1990, those serving sentences for being part of banned movements were released including 343 Robben Island prisoners.
- The number of political prisoners remained contested throughout the negotiations in part because of the difficulty in separating political offences from criminal ones, especially given that they had all been categorised as criminal by the apartheid government. In 1990 the following criteria for defining political prisoners were agreed on:
 - whether the motive was political or private
 - the context in which an offence was committed especially if part of a political uprising or disturbance

- the nature of the political objective
- the legal and actual nature of the offence (rape could never be regarded as a political offence although there is evidence that some accused of rape were released)
- the object of the offence (committed against the state or private property)
- the relationship between the offence and the political objective being pursued
- whether the offence was committed in the execution of an order or with the approval of the organisation concerned
- This led to the promulgation of the Indemnity Act, which gave the President the power to grant indemnity or partial indemnity from prosecution. By 1991 4805 people had been granted indemnity although the actual release of prisoners progressed far more slowly. The Indemnity Act was later repealed with the passing of the 1995 Promotion of National Reconciliation Act.
- The situation of prisoners having to apply for indemnity was controversial as some political prisoners felt that amounted to admitting guilt.

Refugees and migration

- In 1991 UNHCR opened its office in Pretoria to assist with the return of South African exiles. This acted as a precursor to more comprehensive legislation on refugees and asylum seekers.
- In 1998, the Refugees Act was passed although it was only implemented in 2000⁴. Since then South Africa has seen an increase in the number of asylum seekers and refugees from other African countries, predominantly the Democratic Republic of Congo, Zimbabwe, Somalia and Ethiopia (Landau et

⁴ The Refugees Act and the Immigration Act both replace the Aliens Control Act which governed migration during apartheid and primarily focused on restricting the internal migration of black South Africans.

al, 2005). The Act makes South Africa one of only two African countries (along with Egypt) that allows self-settles refugees as opposed to camps.

- The opening of South Africa's borders to asylum seekers (as well as labour migrants in new sectors) has been accompanied by increasing xenophobic sentiment and, in some cases attacks on foreigners (Harris, 2002).
- Although the Act was welcomed as a progressive piece of legislation, the asylum system has been plagued with reports of human rights abuses against asylum seekers, bureaucratic inefficiency (resulting in a backlog of approximately 115 000 cases) and a failure to meet international standards.
- Several significant court cases have been brought against the Department of Home Affairs.
- South Africa's refugee profile resembles that of wealthier countries where, in contrast to other parts of Africa, women form the minority of asylum seekers (approximately 13%). The exception to this is Zimbabweans where women form the majority of asylum seekers. This is likely to be because of the expense of travelling to and living in South Africa for women from conflict zones that do not share a border with South Africa.

SECTION 2: INDICATORS

1. *Public and political participation*

Changes in political representation

- In 1997, just under ¼ (102) of the 425 members of the nine provincial legislatures were women.
- Key positions held by women include the Speaker of the Northern Cape and the Deputy Speakers of Gauteng, Northern Province and Western Cape. After the first 1995 local government elections, just less than 1/5 of local government councillors were women.
- Women also held 14% of all executive committee positions. This fell far short of the target for that year which was 50%.
- In 2003 there were significant changes to the legislature, provincial and national government. Women held 119 out of 400 seats in the National Assembly (29.8% up from 3% in the 1994 elections). In the Council of provinces 125 out of 434 seats were held by women (29%), the speaker and the deputy speaker of the national assembly were both women and the chairperson of the National Council Of Provinces was a woman, 9 out of 29 ministers are women (31%) and 8 out of 15 Deputy Ministers are women (53%).
- 1995 saw the Women's Budget Initiative, which attempted to assist government in realigning budgets in non-sexist ways. The focus was on education, housing, work and welfare as well as taxation and public sector employment as cross cutting themes. Each subsequent year the women's budget initiative made recommendations to government regarding equitable budget allocations to meet the needs of women. In 2004 the Commission on Gender Equality furthered this process with research and interventions to assist local municipalities to incorporate a gender analysis into community development projects and to allocate resources accordingly.

2. Security

Women in the police

- Changes to the South African Police services have been central to transformation of the country broadly. In the year 2002/2003, women made up 23.4% of the total commissioned officers in the SAPS and 13.8% of the non-commissioned officers. Although they form a minority of the permanent members, women make up 67.2% of the civilian members (SAPS Annual report, 2004).
- A key development in South Africa since 1994 (although it was certainly in operation before then) has been the growth of the private security industry. Since 1970 the industry has grown at an average annual rate of 30%. At the beginning of 1999 there were 350 000 registered private security guards of which 147 000 were active in the private security industry.
- There are also 60 000 estimated 'in-house' security guards who are not registered as security guards. This means that in 1999 there are approximately 2 security guards for every employee of the South African Police Services and approximately four private security guards for every uniformed member of the SAPS engaged in visible police work meaning the public are more likely to come into contact with private security than with police.
- The value of the industry has grown considerably in recent years. In 1990 it was estimated that the industry was worth 1.19 billion Rand. By 1997 this was billion and in 1998/1999 it was estimated at 11 billion Rand. This excludes 'in-house' security and vehicle security. Of this industry, 39% is armed response services, 23% is vehicle security and 15% is electronic security (Irish, 1999).
- The percentage of women in the private security industry is not available although anecdotal evidence suggests that it is a male dominated occupation.

The judiciary

The judiciary has seen some changes since 1994 in the representation of women.

- In the Supreme Court of appeal 1 out of 19 judges are women (2%), in the Constitutional Court, 2 out of 11 judges are women (18%).
- In the high court, 21 out of 169 judges are women (12%) only one of these women is a Deputy Judge President (0.5%). 24 out of 55 registrars are women (43.6%) and 5 (9.0%) are senior registrars.
- 1 out of 3 Chief registrars are women (33%)
- 467 out of 1779 magistrates are women (26%); 4 out of 20 chief magistrates are women (26%); 40 out of 247 regional magistrates are women (16%); 28 out of 153 senior magistrates are women (18%) and there are no women among the Special Grade Chief Magistrates.

Women in the armed forces

- By the early 1990s, the SADF consisted of 75 479 full-time members, 21 695 civilians and a part-time component of 526 702 citizen-force personnel, as well as 76 476 commandos (primarily the white reserve force) organised into 200 units (Stott, 2002). In addition, the four "independent" homelands of Transkei, Venda, Bophuthatswana and Ciskei (the TVBC states) also had small defence forces, nominally independent, yet effectively under SADF control.
- In 1992, women made up 15% of the permanent force of the SADF and 20% of MK cadres (Cock, 1992). Within the SADF, in 1992 only 2 women had reached the position of brigadier. There were no women generals and only 10 women colonels. In the ANC there was only one woman in a formally acknowledged leadership position in MK.
- In both armies, women were excluded from combat roles and a rigid sexual division of labour was maintained although gender equality was an explicit goal for MK whereas for the SADF, the role of women was seen as supplementary. MK trained both men and women and at the time of the ANC's unbanning approximately 20% of cadres were women. Women received the same training and were deployed in a wide range of activities with the exception of combat (Cock, 1992).

3. Economic and social background

Employment

- According to the strict definition of unemployment⁵, 29.3% of black African women in South Africa were unemployed in 2001. However, according to the expanded definition, this is 57.8% (up from 25.1% according to *expanded* definition in 1996). For white women this is 3.7% and 6.6% respectively.
- In 1996, women were most likely to be employed in ‘elementary occupations’ (37.3%) followed by clerks (13.4%) and professionals (13.3%) than in any other occupation. If this is divided according to race group, however, we see that 52.1% of black women are employed in elementary occupations, 37.6% of coloured women and 25.0% of white women. Only 2.1% of black women, 10% of Asian women and 0.8% of white women work as plant and machine operators and assemblers indicating ongoing job stereotyping especially among white and Asian communities.
- In 2001, although the number of black women working in elementary occupations decreased slightly (to 47.7%) they also decreased in professional occupations and management / senior official positions (only 4.3% were professionals in 2001) indicating a general decline in employment levels rather than move into new spheres of work. The occupations that saw the largest increases in the employment of black African women were in assistant professional and technical positions (from 3.9% to 11.4%). For white women, the number of women who were legislators, managers and senior officials increased the most (from 7.1% to 10.3%) the greatest increase of all race groups. This indicates that white women have been able to move into more skilled and better-paid work more easily than women of other race groups.
- If one considers the sector in which women work, black African women are most likely to be employed by private households although this is declining

⁵ As defined by statistics South Africa

(from 34.7% in 1996 to 27.9% in 2001). This sector would incorporate the large numbers of black African women employed as domestic workers. However, the sector in which their employment is increasing the most is community, social and personal services (from 21.3% in 1996 to 24.4% in 2001). This overlaps with the employment of white women who, in 1996, were most likely to be employed in community, social and personal services (31.7%) followed by financial, insurance, real estate and business services in 1996 (21.4%). This showed little change in 2001. This is one of the explanations for the severe inequalities between the incomes of black and white women as the latter sector is likely to pay significantly higher than the community, social and personal services sector.

- However, job stereotyping in the South African economy clearly extends beyond the formal sector. A recent study found that South African women aged 10 years and above spend on average 216 minutes per day on unpaid housework, care work and community work compared to 83 minutes for men. (Budlender, 1998). In addition, only 0.3% of not economically active men identified themselves as full time homemakers. Indian/Asian women were most likely to identify themselves as full time homemakers in 2001 (28.9% of those not economically active) followed by white women (17.8% of those not working). It would seem, therefore, that women in race groups with higher socio-economic status were most likely to become homemakers. Similarly women were more likely to be in part-time work than men (13.7% of women compared to 8.2% of men). White women were the race group most likely to be employed part-time at 14.8%, which is consistent with the high numbers of women who identified themselves as homemakers.
- Increasing unemployment and a growing income gap have clearly been some of the central challenges facing the democratic government since 1994. Research by Idasa showed that the average household income dropped from R51000 to R45000 between 1995 and 2000 (Prenzee, 2003). May (1998) found that 60% of female-headed households lived in poverty compared to 31% of male-headed households. In addition, for poor households, only 40% of their household income comes from wages compared to 72% for non-poor households suggesting that the income they have is relatively unstable. In

1996, 39.9% of women earned less than R800 compared to 28.0% of men. Again if one considers the racial difference in this statistic we see that 67.6% of black women earn less than R1000 per month whilst only 12.6% of white women earned less than R1000 per month. Approximately half of white women (50.2%) earned between R1500 and R4500. In 2001, black women had in fact become poorer with 74.9% of black women earning less than R1600. In the same year, 33% of white women earned between R3201 and R6400 compared with 8.8% of black women.

- What is clear from the above is that although all groups of women face greater economic instability and poorer wages than men this is strongly racialised. In particular, black African women have borne the brunt of increasing unemployment in the past decade. The information above indicates that gender inequality for black and white women varies in its form. Black African women face major structural obstacles to their employment, however, white and Asian women are most likely to be economically dependent because of their homemaking roles and responsibilities in spite of their higher levels of education. Ongoing job stereotyping continues to be a problem for all women although this is most marked for women with higher incomes indicating a strongly gendered ideology with regards to women's work. This suggests that simply addressing the structural inequalities women face in the workplace is unlikely to be enough, as there exists a complementary ideology that reinforces women as homemakers and suited to feminised professions. It is worth noting that in relation to a number of key indicators, the socio-economic situation of white women far exceeds that of black men. This is an important analytic variable for this research, as it would seem that white women particularly have benefited from changes since 1996 far more than black women.
- For rural women in particular, access to land has been a central concern. The National Land Committee, a national network of ten affiliated NGOs concerned with land issues, has established a gender task team to ensure that women are equally able to benefit from the land redistribution process. However, there is little information available about the extent to which women have benefited from the land reform process in practice.

Social grants

- Women constitute more than 70% of social grant beneficiaries. According to Adams (undated), some inequities continue exist in qualifying for grants as well as based on their marital status and geographical location.
- Women make up 74% of old age pension beneficiaries, 17% of war veteran beneficiaries, 44% of disabled beneficiaries, 91% of foster care beneficiaries 99% of beneficiaries receiving more than one grant, 93% of care dependency beneficiaries and 99% of child support grant beneficiaries. This indicates the extent to which the burden of care and financial support in the community rests with women who earn very little. The War Veterans Pension, the Disability Grant and the Old Age pension depend on marital status where a married woman with a combined income of R23 064 per year qualifies but a single woman with an income less than R12 504 per year qualifies.
- Since 1994 only twice have the grant increases outstripped the rate of inflation. In 2001, pensioners received less in real terms than in 1994 than they had in 1993. The real increase in the child support grant in the 2001/2002 budget year was only R4 per month, whilst the foster care grant saw a real decrease of around R2 per month. The war veterans' grant saw a decrease of 0.2%.
- Equitable distribution of welfare across provinces has been a concern and a great deal of emphasis has been put on this. However, the Northern Cape still receives the lowest percentage welfare share (8.8%) with a significant decrease in the percentage child support grant it receives (from 9% to 2%) in the 2001/2002 year. The provinces receiving the highest percentage of the childcare grant are KwaZulu Natal (24% in 2001 and 22% in 1997), the Eastern Cape (20% in 1997 and 14% in 2001) and the Northern Province (11% in 1997 and 16% in 2001).
- The Commission on gender Equality (2004) found that 98% of claimants for maintenance grants are female of which 81% are Black African. Of the complainants 38% were unemployed but wanting to work and 27% were unemployed but not wanting to work. In contrast 81% of respondents were employed in the formal sector and 9% in the informal sector. Approximately

two thirds of the files did not contain information about the income of the respondent. On average complainants waited 3-4 months for the first order to be made after claiming for maintenance. This was especially the case in the rural parts of the country. On average each child received R272 per month and 83% of cases provided no other provision over and above this amount. The median expenditure of complainants per child was R980. According to the survey of claimants, the median income was R320. In most cases there was little proof provided that the respondent actually incurred the expenses that they claimed to have. 18% of respondents defaulted on payments (and 15% did so on a number of occasions). In two thirds of these there was no record of an arrears order being made against the respondent. In no cases was there a record of suspended jail sentences or periodic imprisonment for defaulting on maintenance payments. In 44% of cases the amount was consensually decided.

- Those in more rural provinces were significantly more likely to indicate that the magistrate decided on the amount they would receive. The main complaints of claimants included travelling long and expensive journeys to the court, unhelpful staff and lack of information and advice on the function of the maintenance act (Commission on Gender Equality, 2004).

Education

- In 1996, 25.5% of black African women had no schooling compared to 1.1% of white women. Only 11% of black African women had completed grade 12 compared to 30.5% of white women. By 2001 15.8% of black women had completed their secondary school education compared to 41.4% of white women. Although educational levels are improving for all women the differences between women of different race groups remains marked. Similar increases in education level were seen in the coloured and Indian/Asian groups.
- In 2001, 93.1% of male children and 93.8% of female children who were 9 years old were in school. Percentages of boys and girls in school remain comparable until age 16 where girls are less likely to still be in school. By 18 years old (typically the year of matriculation) 68.1% of female children are in school compared to 73.4% of male children.

- The number of women who complete a tertiary education has also been increasing although for black women there was a 2.3% increase between 1996 and 2001 whilst for white women this increase was 9.7%. Thus increasing educational opportunities appear to be assisting white women a great deal more than black African women (Statistics South Africa, 2001).

Housing

- In 1997 about 2.2 million households were without adequate housing (Pillay et al, 2002). Five years after introducing the housing programme, 745 717 houses had been built and 1 million by 2000. By 2003, 1.4 million houses had been built (Charlton, 2004). This is the largest number of houses delivered in a shorter period than any country in the world (Rust, cited in Charlton, 2004). In spite of this, the housing shortage is dire and there remain about 2.7 million households in need of housing and about 5.9 million qualifying for housing subsidies (Pillay et al, 2002).
- In 2003 the National Department of Housing indicated that 50.5% of subsidies approved have gone to female-headed households.

Access to reproductive rights

- In a national survey of 292 termination of pregnancy services, the Reproductive Health Research Unit at the Chris Hani-Baragwanath hospital found that the number of terminations had increased, although access to TOP services varied across the country.
- In the first three months after the Act was passed, 60% of all terminations took place in Gauteng despite only 19.4% of women in reproductive years living in that province. One year later, only 1/3 (32%) of the hospitals and clinics designated to provide the service actually offered it.
- Most concerning is that 27% of these were in the private sector which makes it prohibitively expensive for most women.
- Of the 31 312 legal abortions carried out in 1997, almost all took place in tertiary institutions in urban areas. In the major rural areas of the Karoo, the

Drakensburg, most of the Northern Province and northern and central KwaZulu-Natal no services were available.

- Although since the introduction of the Act there has been a decrease in the number of illegal abortions, this research found that a significant number are still taking place, which can, at least in part, be attributed to the lack of access to legal services and stigma attached with abortion (Department of Health, 2000).

Violence

Gender based violence

- South Africa is clearly an extremely violent society. In 2002 the leading cause of non-natural death between the age of 15 and 54 was homicide, with firearms being the leading means of death followed by sharp objects. However, for women the leading cause of death is transport accidents (Matzopolus and Seedat, 2002).
- SAPS statistics for 2003/2004 indicate that there were 52733 reported rapes in South Africa. This has increased from 44751 in 1994/5 although this could well reflect increased reporting as the police services have gained credibility in South Africa (CIAS, 2003/2004).
- As domestic violence is not classified as a separate crime it is unclear how many reported incidences of domestic violence there were from police statistics. They are contained in the documented crime categories, common assault, assault (GBH), rape, attempted murder, murder and indecent assault.
- In spite of these difficulties in measuring violence against women there have been several attempts to measure prevalence. In 2000 MRC research found that 1 in 4 women in South Africa have experienced physical violence by an intimate partner (Mathews et al 2001).
- A review of mortuary data in 1999 showed that 41% of female homicides were a result of intimate femicide and the perpetrator was most likely to be a cohabiting partner, boyfriend or husband. (Matthews, 2004). In 15.3% of cases, the woman had been sexually assaulted. Thus in South Africa 8.8 per 100 000 women will be killed by an intimate partner or 4 per day. This research built on early research by the CSVV and has been extensively been

used in lobbying, most notably in reducing the sentences for women who have killed their abusive partners.

- In follow-up cases from mortuary data it was found that 20.6% of perpetrators of intimate femicide had a legally registered firearm that had not been taken away following charges of domestic violence. In 39.8% of cases the perpetrator was acquitted. The most common reason cited for this was lack of evidence. This is lower than the average conviction rate for female homicide (Mathews, 2004). Similarly, the perpetrators of intimate femicide got significantly lower sentences, on average, than those that perpetrated female homicide (10.7 years as opposed to 12.4 years). However, conviction was more likely if the victim was white and the perpetrators were blue-collar workers as well as if there had been a history of intimate partner violence (Mathews, 2004). If the victim was white, the sentence was also significantly longer indicating ongoing racial inequalities in the justice system.
- Legal defences for battered women who kill their abusive spouses have been a central lobby recently. This culminated in the high profile release by presidential pardon of Anita Ferrera in 2004.
- An Interpol study in 1994 showed that SA has the highest reported levels of rape in the world. However, Nicro in 1993 suggested that only 1 in every 20 cases of rape is reported to the police (cited in Artz, 1998). In 1997, rape crisis reported that in 53% of all rape cases, women know their attackers, which may be one of the contributing factors to low levels of reporting (ibid). Jewkes (1999) found that rape of women between 18 and 49 years was 1300 per 100 000.
- In research by CietAfrica in 2000 which drew on household surveys and school based surveys in Southern Johannesburg, it was found that by age 18, 20% of female youths and 13 % of male youths had experienced sexual abuse. Similarly, approximately 16% of women in this area were victims of rape each year. Only 13% of those interviewed had reported to a centre for assistance as a victim of sexual violence in the past 11 months. However, among women who had been raped, about 80% had sought some form of assistance.
- In a survey of 2060 men in the South of Johannesburg CietAfrica (2000) found that one in three men believed they could be violent towards women

and one in five reported having had sex with a woman without her consent. 6% stated that jackrolling⁶ was a game or that they liked it. Twenty percent of the men reported that women caused sexual violence; 40% of men said that it was OK for a man to punish his wife if she argued with him; one in ten indicated that she should be slapped in this situation. When asked about women they knew who had been raped, 7% of the men stated that the women they knew had enjoyed sexual violence and 16% stated that the woman had asked for it.

- In a house to house survey with women in the same region, the CietAfrica (2000) research found that 4% of the women said that forcing sex with ones girlfriend / wife was not sexual violence and 2% said that forcing sex with a stranger was not sexual violence. 59% said that a sexually violent man was a more powerful man and 9% said that they were drawn to a sexually violent man. Although in all cases women stated that they believed they had a right to avoid sexual violence, 60% said that they would accept it if they did not have enough money and 47% said that they would allow their children to be abused if they did not have enough money.
- In an annual youth survey between 1998 and 2000 (CietAfrica, 2000), it was found that one in three schoolgirls experienced sexual harassment at school of which only 36% had reported the event. As with the adult men, the 7% of male youth indicated that women they knew who had been raped had enjoyed it and 24% said they thought she had asked for it. By the age of 18 one out of every four male students had forced sex without their consent. Approximately 27% of the female youth reported that forcing sex with someone you know is never sexual violence.
- Conviction rates for sexual violence are notoriously low. Through an analysis of CIAS systems it was found that for every 394 women raped, 272 will go to the police station and only 17 will be registered as ‘cases’ of which five get referred to the court by police and one perpetrator gets convicted. A rapist therefore has about a one in 400 chance of getting convicted for his crime. There have recently been numerous allegations of corruption within the police

⁶ A common word for gang rape

and 13% of those dissatisfied with the outcome of their case identified a 'lost docket' as the reason.

- Again, the services for sexual assault victims vary greatly across areas with rural areas being significantly under-serviced. Referrals for counselling were the least likely service to be offered by service providers (Christofides, 2003).
- In an evaluation of the 1998 Domestic Violence Act (based on a review of court records) in the Western Cape the Medical Research Council found in 2001 that there had been a 37.6% increase in applications for court orders. In 81% of cases women reported both physical and psychological abuse. These were often mixed with economic dependence and abuse. The qualitative component of the research found that although reporting had increased, many women still experienced the police to be ineffective. The evaluation found that following the implementation of the 1998 Act, the number of male complainants increased from 1998 to 1993 (they still represented less than 10% of cases in both courts included in this study). This is likely to be a result of the gender neutral language employed in the 1998 Act compared to the 1993 Act. Another significant change after 1999 was that women increasingly laid complaints against relatives other than intimate male partners. Almost ¼ of women from Paarl and 1/5 from Belleville reported being threatened with a weapon such as a gun or a knife. Women experience the forms for a protection order to be complicated and unclear. In addition between 30 and 35% of cases ended with being struck off the court roll leaving only 54.6% and 40.3% finalised in each site. Few women had used support services and, in particular, they did not view counselling as useful. In the MRC evaluation women were most likely to cite a lack of shelter as the reason why they did not leave their partner. None of the women interviewed had ever made use of a shelter (Mathews et al, 2001). Many women also found the police unhelpful. Although police often informed women of their right to obtain an interdict, they seldom informed them of their right to lay criminal charges.
- In 2000, the Gender Advocacy Project conducted research into the budgeting for the Domestic Violence Act and found that insufficient resources had been made available for its adequate implementation (Mathews, 2001).

- Some groups clearly lack assistance more than others. Farm workers are a notoriously exploited group with few services and little job security. Often the man is employed with a tacit agreement that his female partner will also be available for work (this was the case in 605 of cases in a recent Western Cape study). In this same study, 52.4% of women stated that their housing was directly linked to their husband's employment. In 48.6% of cases, if the male partner died, the family would have to leave the farm.
- Artz (2003, 2001) also found that magistrates inconsistently applied the Act, especially with regard to the nature of the protection orders that were granted. In particular, after hours applications and applications for emergency monetary relief were seldom granted. A lack of assistance for filling in the applications, or assistance finding alternative shelter, has also been a major complaint of women.
- Human Rights Watch, in 2001, indicated extremely high levels of sexual violence and rape of female farm workers and saw the justice system as inadequate citing poor response times by police as a particular area of concern. The one service that regularly visits farm workers are the mobile clinics and they are, therefore, key in identifying and intervening in domestic violence. This kind of research highlights the relationship between domestic violence and material dependency. An additional problem in addressing the needs of farming women is that farmers often deny researchers and service provider's access to their farms. According to the Human Rights Watch Research (2001), work on farms was strongly gendered and women were paid less than men when they did do the same work. In addition, apartheid based racial differences still remained with the permanent farm workers being predominantly 'coloured' and the seasonal and temporary workers being 'black African' the former living in houses and the latter living in hostels. Permanent workers also have access to crèches for children, which allow women to work more easily. Payment of farm workers is often far below the requirements of the Labour Relations Act.
- Similarly, in research by the Institute for Criminology on domestic violence among rural women, it was found that over 90% of the women were unemployed in the formal sector and an estimated 80% were victims of

domestic violence. This level of economic dependence is likely to keep women in abusive relationships. In the focus groups they conducted only 16% had a matric qualification and literacy levels varied between 40% and 85% in the focus groups they conducted (Artz et al, 1998) This research also found that rape and child abuse were the most difficult act of violence for women to talk about or report and that they were least likely to be reported. Women in this research lacked access to magistrates' courts (which was only open one day a week), clinics and police stations. Police were criticised for not responding to calls for assistance. This research indicated that in this rural community there was not a single women's organisation or support structure that addressed the special needs of these women (Artz et al, 1998).

- Much has been made of the relationship between domestic violence and HIV infection in South Africa. In spite of this there has been relatively little research to consider what this relationship may be. Keel and Vale (1997) discussed the possible relationship between high levels of sexual violence in the family and increasing HIV infections among women. They claimed that domestic violence was linked with HIV infection in South African research as a result of women in violent relationships being coerced into sex, having limited opportunity to negotiate for safer sexual practices and having a higher risk of violence as a result of disclosing their HIV status to their partners. Approaches to HIV risk reduction (such as the ABC approach adopted by the South African government) focus on sex as individual choice and do not acknowledge a nexus of power, gender inequality and HIV infection which limit women's ability to make choices about their sexual practices (Jacobs, 2003).
- The Medical Research Council recently did a study to determine the relationship between levels of intimate partner violence and HIV infection among women attending antenatal clinics in Soweto, Johannesburg. They found very high levels of intimate partner violence - 50.4% reported physical abuse, 20.1% sexual abuse and 13.7% financial abuse. Intimate partner violence, forced first sexual intercourse and child sexual assault were associated with greater HIV risk behaviours by women. After adjusting for demographics and risk behaviours, high levels of intimate partner violence and

high levels of male control in the woman's relationship were significantly associated with HIV positive status although no isolated type of intimate partner violence on its own showed these increased odds. Child sexual assault, forced first intercourse and adult sexual assault by non-partners were not associated with increased HIV seropositivity. This suggests that violence and power inequalities in relationships are associated with increased rates of HIV infection although this relationship is far from simple. Worryingly, 21.1% of women in this research reported having engaged in transactional sex (Dunckel et al, 2003).

- As a result of increasing concerns about sexual violence and HIV infection, the South African Law Commission (SALC) researched the possible criminalisation of deliberate and negligent behaviour that infects others with HIV and the possibility of legislation for compulsory testing of offenders. In *Venter v Nel*, three women who claimed that a man had sexual intercourse with them without informing them he was HIV positive successfully brought a case against the defendant. This was not a criminal case but one criminal case has been brought for attempted murder where a man failed to inform two women he slept with that he had HIV. However the charges were withdrawn. The SALC decided against the implementation of specific legislation criminalizing negligent and deliberate infection. They stated that although existing common law would allow for prosecutions evidentiary problems would arise. Although most stakeholders agree that criminal law does have role to play in protecting HIV negative people from infection, there has been little agreement on how to proceed in this matter. The SALC decided against creating a special offence under which people could be prosecuted. This has particular relevance to consensual sex as according to the Criminal Law Amendment Act 105 of 1997 where a person convicted of rape knowing that he has AIDS or HIV is liable to an obligatory life sentence. This applies regardless of whether the virus is actually transmitted (SALC paper 58). This was welcomed by Lawyers for Human Rights who were cautious of this kind of precedent being set because of the possibility of pregnant women being held criminally liable of passing HIV onto their newborn babies. As women, and rural women in particular, are one group this proposed legislation was intended to assist this would further marginalize these groups.

- In 2001, there were documented reports of a myth that having sex with a virgin will cure AIDS. This was linked with a number of cases where children were sexually assaulted.
- There have been a number of cases where women accused of practising 'witchcraft' has been attacked. In the most recent case a woman in the Limpopo province accused of witchcraft had her house torched by other community members. In another case, in 2005, two sisters accused of witchcraft were murdered in KwaZulu Natal.

Women and political violence

- Given that women were involved in the armed conflict, as described in previous sections, there is very little information on the nature of the violence they perpetrated. Indeed, the special women's hearings, although mentioning the need to investigate women as perpetrators were primarily centred on women as victims. Of the 7,128 applications for amnesty received by the Commission, only fifty-six (or one per cent) were known to come from women (TRC report, 2003).
- Women's involvement in the armed conflict was both direct and indirect although little statistical data exists. Many women participated in the struggle at least as much as men through the boycotts, protests etc. White women supported the SANDF through the Southern Cross Fund and operation ride safe.
- Although statistics on rape and sexual harassment in armed forces are limited, qualitative evidence suggests it was widespread. Similarly, anecdotal evidence of widespread violence in ANC camps has been recorded although there has been little systematic study of this phenomenon (see Goldblatt and Meintjies, 1998).
- The women's hearings at the Truth and Reconciliation Commission had focused on human rights abuses of women. However, the TRC saw very few testimonies on sexual and gender based crimes of the 8000 statements; only 300 dealt with sexual assault and of these only 80 relate to sexual assault of women. Of these 80, 17 deal with rape (Goldblatt and Meintjies, 1997).

- Although almost as many women as men testified at the TRC, women largely told of the activities of their male partners. This is significant given the extent to which women were equally victims of the massacres of the 1990s, in particular.

Refugees and migration

- Between 2001 and 2004 the number of asylum seekers in South Africa has increased from 23 465 to 142 907. Of the 32 565 new asylum applications lodged in 2004, 5789 were from Zimbabwe, 4 622 from the DRC, 3893 from Somalia and 2795 from Ethiopia.
- Only 13% of asylum applicants in South Africa are from women. Although gender guidelines for asylum determination have been drawn up, they were developed within the NGO sector and there is little evidence that they are being used by Refugee Status Determination Officers.
- In spite of increases in the number of asylum applications, there is evidence that many potential asylum seekers have been denied access to the asylum system either because they are turned away at border posts or because backlogs and lack of access to the refugee reception office prevent them from gaining the necessary documents to prevent deportation (Landau et al, 2005).

4. Sources

Acts of parliament

_____ (1927). Black Administration Act 38 of 1927. Pretoria: Government Gazette.

_____ (1992). Indemnity Act 124 of 1992. Pretoria: Government Gazette.

_____ (1993). The Interim Constitution Act 200 of 1993. Pretoria: Government Gazette.

_____ (1993). Local Government Transition Act 209 of 1993. Pretoria: Government Gazette.

_____ (1994). Restitution of Land Rights Act 22 of 1994. Pretoria: Government Gazette.

_____ (1995). Labour Relations Act 66 of 1995. Pretoria: Government Gazette.

_____ (1995). South African Police Service Act 68 of 1995. Pretoria: Government Gazette.

_____ (1995). Promotion of National Unity and Reconciliation Amendment Act 87 of 1995. Pretoria: Government Gazette.

_____ (1996). The Constitution of the Republic of South Africa. Pretoria: Government Gazette.

_____ (1996). Demobilisation Act 99 of 1996. Pretoria: Government Gazette.

_____ (1996). Choice on Termination of Pregnancy Act 92 of 1996. Pretoria: Government Gazette.

_____ (1997). Organised Local Government Act 52 of 1997. Pretoria: Government Gazette.

_____ (1998). Employment Equity Act 55 of 1998. Pretoria: Government Gazette.

_____ (1998). Local Government: Municipal Structures Act 117 of 1998. Pretoria: Government Gazette.

_____ (1998). Domestic Violence Act 116 of 1998. Pretoria: Government Gazette.

_____ (1998). Maintenance Act 99 of 1998. Pretoria: Government Gazette.

_____ (1998). Refugees Act 130 of 1998. Government Gazette.

_____ (1999). Military Veteran's Affairs Act 17 of 1999. Pretoria: Government Gazette.

_____ (2000). Firearms Control Act 60 of 2000. Pretoria: Government Gazette.

_____ (2000). Independent Communications Authority of South Africa Act 13 of 2000. Pretoria: Government Gazette.

_____ (2003). Traditional Leadership and Governance Framework Act 41 of 2003. Pretoria: Government Gazette.

_____ (2004). Intergovernmental Relations Framework Draft Bill (Gazette 26970, Notice 2484). Pretoria: Government Gazette.

Charters and conventions

_____ (1954). Women's charter for effective equality. Adopted at the Founding Conference of the Federation of South African Women Johannesburg, 17 April 1954.

_____ (1979). Convention on the elimination of all forms of discrimination against women (CEDAW). Adopted by the UN General Assembly in 1979.

_____ (1995). Fourth world conference on women Beijing declaration. Adopted by the UN General Assembly in 1995.

_____ (1990). Convention on the rights of the child. Adopted by UN General Assembly in 1989.

_____ (2001). New partnership for Africa's development. Adopted by the Organisation of African Unity in 2001.

References

Artz, L. (1998). Access to justice for rural women: Special focus on violence against women. Cape Town: Black Sash.

Artz, L. (2001). Policing the Domestic Violence Act: Teething troubles or system failure? Agenda, 47: 4-13.

Artz, L. (2003). Magistrates and the Domestic Violence Act: Issues of interpretation. Cape Town: Institute of Criminology.

Adams, J. and Claasens, M. (2001). The role of poverty relief and home based care within the national integrated plan for HIV/AIDS. Budget Briefs no. 78. Pretoria: Idasa.

Adams, J. (undated) Women and social security: How far are we? Budget Brief no. 75. Pretoria: Idasa.

Anderson, N. Mhatre, S. Naidoo, S. Mayet, N. Mqotsi, N. Penderis, M. Onishi, J. Myburg, M. and Merhi, S. (2000). Beyond victims and villains: The culture of sexual violence in Southern Johannesburg. Johannesburg: CietAfrica.

Budlender, D. (1998). Women and men in South Africa. Pretoria: Central Statistics.

Batchelor, P. (1998). South Africa's Arms Industry: Prospects for Conversion, In From Defence to Development: Redirecting Military Resources in South Africa, Cape Town: David Philip.

Charlton, S. 2003. 'The integrated delivery of housing: A local government perspective from Durban' Harrison, P, Huchzermeyer and Mayekiso, M. (eds.) Confronting Fragmentation – Housing and Urban Development in a Democratising Society. Cape Town: University of Cape Town Press.

Christofides, N. Webster, N. Jewkes, R. Penn-Kekana, L. Martin, L. Abrahams, N. and Kim, J. (2003). The state of sexual assault services: Findings from a Situation analysis of services in South Africa. Johannesburg: The gender based violence and health initiative.

Cock, J. (1992). Women, the Military and Militarisation: Some questions raised by the South African case. Seminar no. 7. Johannesburg: Centre for the Study of Violence and Reconciliation.

Commission on Gender Equality. (2004). Implementation of the Maintenance Act in the Magistrates' courts. Johannesburg: Commission on Gender Equality.

Crime Information and Analysis Centre. (2003/2004). Crime in the RSA for the period April to March 1993/1994 to 2003/2004. Pretoria: CIAS.

Department of Health. (2000). An evaluation of the implementation of the Choice on Termination of Pregnancy Act. Report prepared for the Department of Health by the Reproductive Health Research Unit and the Medical Research Council.

Department of Social Development. (2005). Fact sheet: Victims empowerment programme (VEP) March, 2005. Pretoria: Department of Social Development.

Dunckel, K. Jewkes, R. Brown, H. McIntyre, J. Grey, G. Harlow, S. (2003). Gender based violence and HIV infection among pregnant women in Soweto. A technical report to the Australian Agency for International Development.

Frankel, P. (2000). Soldiers in a Storm: The Armed Forces in South Africa's Democratic Transition. Boulder, Colorado: Westview Press.

Gender Advocacy Project (2000). Making the Act Work: A Research Study into the Budget Allocations for the Implementation of the Domestic Violence Act, Cape Town: Gender Advocacy Project.

Goldblatt, B. and Meintjies, S. (1998) South African women demand the truth. In Turshen, M. and Twagiramariya, C. (eds.) What women do in wartime: gender and conflict in Africa. London: Zed Books, pp. 27-61.

Goodenough, C. (2002). Traditional leaders: A KwaZulu Natal Study. Durban: Independent Projects Trust.

Heitman, H. (1985). South African War Machine. Greenwich: Bison Books.

Hickey, A. (2004). New allocations for ARV treatment: An analysis of the 2004/2005 national budget from an HIV/AIDS perspective. Occasional Papers. Pretoria: Idasa. Idasa 4

Human Rights Watch. (2001). Scared at school: Sexual violence against girls in South African schools. New York: Human Rights Watch.

Irish, J. (1999). Policing for profit: the future of South Africa's private security industry. Monograph 39, Pretoria: Institute for Security Studies.

Jacobs, T. (2003). Domestic violence and HIV/AIDS: An area for urgent intervention. Cape Town: Institute of Criminology.

Jewkes, R. Penn-Kekana, L. Levin, J. Ratsaka, M. and Schrieber, M. (1999). "He must give me money, he mustn't beat me" Violence against women in three South African provinces. Pretoria: CERSA (Women's Health) Medical Research Council.

Keen J & Vale C (1997). An investigation into the effectiveness of the interdicts granted in terms of the Prevention of Family Violence Act (133) 1993. Western Cape: NICRO.

Landau, L. Polzer, T. Singh, G. Ramjathan-Keogh, K. Ramokhele, E. and Bhamjee, A. (2005). Crossing borders, accessing rights and detention: Asylum and refugee protection in South Africa. Johannesburg: Forced Migration Studies Programme and Human Rights Commission.

Libenberg, I. and Roefs, M. (2001). Demobilisation and its aftermath II. Economic Reinsertion of South Africa's Demobilised Military Personnel. Monograph 61. Pretoria: Institute for Security Studies.

Longwe, S. (2002). Assessment of the gender orientation of NEPAD. Presentation at the African Scholars' Forum Meeting, Nairobi Kenya. 26-28 April 2002.

Lund committee. (1996). Report on the Lund Committee on child and family support. Pretoria: [available online: <http://www.gov.za>].

Manuel, T. (2006). Budget Speech 2006. Pretoria: [available online: <http://www.gov.za>].

Matthews, S. and Abrahams, N. (2001). Combining stories and numbers: an analysis of the impact of the Domestic Violence Act (no. 116 of 1998) on women. Pretoria: Gender Advocacy Project and medical Research Council.

Matzopolus, R. and Seedat, M. (2002). A profile of fatal injuries in South Africa: Fourth annual report of the national injury mortality surveillance system. Johannesburg: Crime Violence and Injury Lead programme, Medical Research Council.

Matthews, S. Abrahams, N. Martin, L. Vetten, L. Van Der Merwe, L. and Jewkes, R. (2004). Every six hours a woman is killed by her intimate partner: A national study of

female homicide in South Africa. MRC Policy Brief no. 5. Cape Town: Medical Research Council.

May et al. (1998). Poverty and Inequality in South Africa. Report prepared for the Office of the Executive Deputy President and the Inter-Ministerial Committee for Poverty and Inequality: Summary Report.

Nowrojee B. and Manby, B. (1995). South Africa: State response to domestic violence and rape. New York: Human Rights Watch.

Palmary, I. (2004) Traditional leaders in the eThekweni metropolitan region: their role in crime prevention and safety promotion. Johannesburg: Centre for the Study of Violence and Reconciliation. [Available online: <www.csvr.org.za>].

Parenzee, P. and Smythe, D. (2003). Domestic violence and development: looking at the farming context. Cape Town: Institute for Criminology.

Parenzee, P. (2003). A gendered look at poverty relief funds. Budget Briefs: Idasa.

Pillay, K. Manjoo, R. and Paulus, E. (2002). The Grootboom case and women's housing rights. Budget Briefs no. 111.

Saunders, C. (1983). Historical Dictionary of South Africa. London: The Scarecrow Press, 1983.

Shelton, G. Monyue, D. Pullinger, A. Simmonds, M. and Williams, R. (2001). Demobilisation and its aftermath I: A profile of South Africa's Demobilised Military Personnel. Monograph 59. Pretoria: Institute for Security Studies.

South African Law Commission. (1995). SALC working paper 58. Pretoria: SALC

South African Police Services (2005). Annual report for the South African Police Service 2004/2005. Pretoria: SAPS.

Statistics South Africa. (2001). Primary tables South Africa: Census '96 and 2001 compared. Pretoria: Statistics South Africa.

Stott, N. (2002). From the SADF to the SANDF: Safeguarding South Africa for a better life for all? Johannesburg: CSV

Tadesse, Z. (2002). In search of gender justice: Lessons from the past and unravelling the 'new' in NEPAD. Presentation at the African Scholars' Forum Meeting, Nairobi Kenya. 26-28 April 2002.

Truth and Reconciliation Commission. (2003). Truth and Reconciliation Commission of South Africa report. [available online: www.gov.za].

Vally, S. and Dalamba, Y. (1999). Racism, 'racial integration' and desegregation in South African schools: A report on a study by the Human Rights Commission. Johannesburg: South African Human Rights Commission.

Wood, K. Maepa, J. and Jewkes, R. (undated). Adolescent sex and contraceptive experiences: perspectives of teenagers and clinic nurses in the Northern Province. Pretoria: Medical Research Council.