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13 July 2006

Significant Achievements in Promoting Gender Equity in South Africa

1. Introduction

Since the demise of apartheid and the transition to democratic governance, South Africa has made significant strides in promoting gender equity in the political, social and economic spheres of life. This paper will highlight some of the achievements made in this regard. It begins by sketching the legislative and policy framework within which gender inequity must be eradicated. This is then followed by a discussion of the institutional mechanisms put in place to oversee the promotion of gender equity. The paper then briefly highlights some key achievements at a political, social and economic level.

2. Legislative framework

The South African Constitution lays the foundation for the promotion of gender equity. It provides a framework for a democratic system that is both representative and participatory. The Bill of Rights provides the framework for a society based on democratic values, social justice and fundamental human rights. The equality clause in Chapter Two of the Constitution provides the legal framework within which gender equality is enshrined and prohibits the State from discriminating against anyone on, *inter alia*, the grounds of race, gender, sex, pregnancy, marital status, sexual orientation and ethnic or social origin. Chapter Two of the Constitution states that the Bill of Rights may only be limited when "reasonable and justifiable" and must take into account certain factors such as the nature of the right, the importance of the purpose of the limitation and the relation between the limitation and its purpose. Chapter Two acknowledges the possible need to derogate certain rights under states of emergency, but makes provision for non-derogable rights. These include the rights pertaining to equality, human dignity, life, freedom, security of the person and slavery, servitude and forced labour.

The Constitution laid the basis for the repeal of many pieces of discriminatory legislation and for the introduction of progressive, rights-based legislation that takes cognisance of gendered realities. The discourse used in the Constitution also strives to be gender sensitive. Chapter 9 of the Constitution makes provision for state institutions supporting democracy such as the

Public Protector¹, the South African Human Rights Commission², the Commission for Gender Equality³ and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.⁴ The South African Constitution has been internationally hailed as one that is progressive and rights-based.

3. Policy framework

South Africa's National Policy Framework For Women's Empowerment and Gender Equality (henceforth the policy framework) was developed by the Office on the Status of Women in the Presidency. The policy framework outlines South Africa's vision for gender equality and for how it intends to give effect to this. The policy framework is not meant to be prescriptive for various government departments, but sets out overarching principles to be integrated by government sectors in their sectoral policies, practices and programmes. The main purpose of the policy framework is to establish a clear vision and framework to guide the process of developing laws, policies, procedures and practices that will serve to ensure equal rights and opportunities for women and men in all spheres and structures of government as well as in the workplace, the community and the family. The main objectives of the policy framework are to:⁵

- Create an enabling policy environment for translating government commitment to gender equality into a reality.
- Establish policies, programmes, structures and mechanisms to empower women and to transform gender relations in all aspects of work, at all levels of government as well as within the broader society.
- Ensure that gender considerations are effectively integrated into all aspects of government policies, activities and programmes.
- Establish an institutional framework for the advancement of the status of women as well as the achievement of gender equality.
- Advocate for the promotion of new attitudes, values and behaviour and a culture of respect for all human beings.

4. National gender machinery

¹ The Public Protector is responsible for investigating any conduct in State affairs that is alleged or suspected to be improper.

² The Human Rights Commission promotes respect for human rights.

³ The Commission for Gender Equality promotes respect for gender equality and the protection, development and attainment of gender equality.

⁴ The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities promotes respect for the rights of cultural, religious and linguistic communities.

⁵ South Africa's National Policy Framework for Women's Empowerment and Gender Equality, Office on the Status of Women, 2000.

South Africa has established institutional mechanisms in the form of the national gender machinery to oversee the promotion of gender equity in the country. National gender machinery refers to the structures that are put in place by the state to take responsibility for the periodic reviewing of the changing conditions of women's lives and for eradicating the factors that perpetuate women's position of subordination. Its purpose is to 'create a political, economic, legislative and judicial environment that enables women to enjoy, exercise and defend all their economic, social and political rights on an equal basis with men'.⁶ Albertyn defines the role of the gender machinery as being: to develop an overall policy vision, re-orientate existing policies and create new ones, promote the enactment of laws that will benefit women, monitor progress and assist with providing avenues of redress and enforcement.

The South African national gender machinery comprises the Office on the Status of Women located in the executive, the Joint Monitoring Committee on the Improvement of Quality of Life and Status of Women in the legislature, the Commission on Gender Equality established as an independent statutory body and the gender focal points in government departments.⁷

The concept of national gender machinery in South Africa was fought for and developed by the Women's National Coalition, an alliance of women's groups representing diverse interests and political groups, with a commitment to advancing women's rights. In the negotiation phase of the transition to democracy, the coalition embarked on a national charter campaign to hear from women what their demands for a transformed South Africa entailed. By the time it presented the "Women's Charter for Effective Equality" to a convention of women in February 1994, coalition membership had grown to fourteen regional coalitions and ninety affiliate member organisations.⁸ The coalition had a significant impact on designing a gender sensitive dispensation for the post-apartheid context. The increased representation of women, the protection of women's rights in the Bill of Rights, the creation of the gender machinery and the consequent changes to legislation following 1994, can all be attributed to the efforts of the coalition. Feminist activists were instrumental in inserting feminist concerns into the agenda of the coalition and in the early 1990s, leading activists in the anti-apartheid movement strategically promoted feminist issues in the national negotiation process.⁹ The inactivity of the coalition in the post-1994 period can be attributed to the exodus of its leadership to political and public office and the divergent interests of its affiliates.

The question as to the type of institutional mechanisms that should be put in place to promote gender equity was extensively debated in the Women's Coalition. Initial discussions assessed the merits of a Women's Ministry. However, by the time that the first conference on the subject took place in

⁶ Albertyn, 1995.

⁷ South Africa's Report to the African Union on the Implementation of the Solemn Declaration on Gender Equality in South Africa, 2005.

⁸ Meintjies, 1996.

⁹ Seidman, 2003.

December 1992, the debate had shifted to the concept of a package of structures and mechanisms at all levels of government. Despite the consensus on the need for a "package of structures", the debate on the national machinery was not fully developed in terms of the details of the structures, their mandates, powers and functions and the relationship between structures and the constraints, including economic limitations that would shape their nature and scope.¹⁰ There was, however, general consensus that the gender machinery should serve as an interface between government and civil society and that its role should not be confined to that of an advisory or consultative function. Women's groups and feminist activists advocated, through the coalition, that the gender machinery must be capacitated to challenge and amend draft legislation and to propose laws and policies that would serve the interests of women.¹¹

As mentioned previously, the South Africa "package" of institutional mechanisms for promoting gender equity comprises the Office on the Status of Women (OSW) located in the executive, the Joint Monitoring Committee on the Improvement of Quality of Life and Status of Women in the legislature, the Commission on Gender Equality and the gender focal points in government departments. The role of each of these structures is briefly considered.

4.1 The Commission for Gender Equality

The Commission for Gender equality (henceforth CGE) was established in terms of Chapter Nine of the Constitution and the subsequent Commission on Gender Equality Act (1996). The CGE is an independent statutory body. Its mission is to strive for the transformation of society through exposing gender discrimination in laws, policies and practices; advocating changes in sexist attitudes and gender stereotypes; and instilling respect for women's rights as human rights. The CGE reports to Parliament and has the power to take government and civil society bodies to task for non-implementation of activities geared to the promotion of gender equality.¹²

The CGE has been instrumental in addressing gender injustices in many different respects. However, it has been consistently raised that the CGE is severely hamstrung by resource constraints. As per the constitutional provisions, the main functions of the CGE are as follows:

- The CGE must promote respect for gender equality and the protection, development and attainment of gender equality.
- It has the power to monitor, investigate, research, educate, lobby, advise, and report on issues concerning gender equality.

The Commission's functional framework divides work into three areas of operation, ie Public Education and Information, Policy and Research, and Legal Intervention and Complaints.

¹⁰ Albertyn, 1995.

¹¹ Mbetse Kgositsile, 1995.

¹² Watson and Rhoda, 2002.

4.2 The Office on the Status of Women

The OSW is located in the Office of the President. Its mandate is to support and monitor gender mainstreaming in government departments. The OSW has compiled the National Policy Framework for Women's Empowerment and Gender Equality, which outlines an integrated framework for gender mainstreaming.

The key functions of the national OSW are as follows.¹³

- To advance a national gender policy on women's empowerment and gender equality.
- To prioritise key concerns and initiate policy and action-orientated research pertinent to gender mainstreaming.
- To advise and brief the President, Deputy President and Minister in the Presidency on all matters pertaining to the empowerment of women.
- To liaise between NGOs dealing with women's and gender issues and the Presidency.
- To liaise between international bodies and the Presidency.
- To work with Ministries and departments, provinces and all publicly funded bodies in mainstreaming gender in policies, practices and programmes.
- To develop key indicators for measuring the national progress towards gender equality.
- To arrange for training in gender analysis and gender sensitisation;
- To act as a catalyst for Affirmative Action with respect to gender equality.
- To initiate and promote cross-sectoral action on crosscutting issues such as the girl child, violence against women and HIV/Aids.
- To facilitate awareness raising and confidence building amongst women at all levels.
- To provide a co-ordination framework for the effective implementation of the gender programme at national, provincial and local government levels.
- To consult and liaise with civil society and Parliament.

4.3 The Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women

The Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women (JMCIQLSW) started out as an ad hoc committee and succeeded in being established as a permanent committee in 1998. In terms of the rules of Parliament, the JMCIQLSW must:

¹³ Watson and Rhoda, 2002.

1. Monitor and evaluate progress with regard to the improvement in the quality of life and status of women in South Africa, with a specific reference to the government's commitments -
 - a) to the Beijing Platform for Action
 - b) with regard to the implementation of the Convention on the Elimination of Discrimination Against Women; and
 - c) to any other applicable international instruments.
2. Make recommendations to both or either of the Houses, or any joint or House committee on matter arising from (a) of (b).¹⁴

In terms of the roles defined by Parliament's rules, the JMCIQLSW has played a critical role in formulating and overseeing legislation and policy brought to Parliament to ensure that it is gender-responsive. This requires the Committee to monitor the work of government departments in meeting the objectives of gender equality.

The work of the Committee has provided the space for women Members of Parliament to communicate with women's organisations and also provides a platform to place gender issues on the national agenda. The Committee has also involved itself in educating women on issues that are debated in Parliament.¹⁵ It has further invited women to debate obstacles that impede the implementation of legislation. For example, the Committee has hosted several public hearings to review the implementation of the Domestic Violence Act, the Maintenance Act and customary law with respect to issues of inheritance and succession. The committee has prioritised socially vulnerable groups that are rendered voiceless because of their socio-economic status. Their main target group is therefore poor women, particularly rural women.

Despite serious resource constraints, the Committee has been instrumental in shaping, *inter alia*, the Domestic Violence Act, the Maintenance Act, the Recognition of Customary Marriages Act, the Skills Development Act, the Employment Equity Act, in ensuring that a sexual harassment code was incorporated into the Labour Relations Act, in ensuring that the Job Summit targeted employment creation for women, and has consistently engaged with the Finance Ministry on the need to engender the country's macro-economic policy and national budget (Govender, 1999). The Committee has held several public hearings to consult with women on issues related to legislative reform. In 2001, for example, it hosted public hearings on violence against women and HIV/ Aids. A report on these findings has been tabled.

4.4 Gender focal points

The gender focal points are the gender desks in national and provincial government departments. These are tasked with mainstreaming gender into the work of the department and monitoring the gendered impact of legislation

¹⁴ National Assembly Guide to Procedure, 2004.

¹⁵ This is not officially part of the JMCIQLSW's role.

at both national and provincial level. Most government departments at a national level have established gender focal points. Many are staffed with one person. In most cases, the gender focal points have not been established as per the requirements of the National Policy Framework for Women's Empowerment and Gender Equality. For example, many are not located in the Office of the Director General as recommended by the policy framework, which serves to undermine their capacity to act from a strategic point of intervention. Many lack resources to execute their mandate and some have been allocated responsibilities other than gender such as dealing with issues of disability.¹⁶

5. Significant achievements at a political level

5.1 Background

One of the most significant political achievements in promoting gender equity pertains to the increased levels of representation of women in decision-making positions. Women hold a global average of about 15.6% of seats in Parliaments around the world.¹⁷ From June 2000 to September 2005, the number of countries reaching or surpassing the United Nations-designated goal of 30% women in national Parliaments has doubled from 10 to 21. Countries reaching this target now extend beyond the Nordic countries to include countries in Africa, Latin America and the Caribbean.

At the 49th Commonwealth Parliamentary Conference in Bangladesh in 2003, the Commonwealth Parliamentary Association (CPA) called on governments to work towards giving effect to the Millennium Development Goals by integrating gender considerations into all policy-making and to ensure that women are elected into public office. Heads of States were requested to provide resources and practical strategies so that Commonwealth nations can achieve the goal of 30% representation by women in Parliaments and legislatures by 2005. Commonwealth governments have also been called upon to implement gender-based programme analysis and gender responsive budgeting, and to integrate gender into the drafting of legislation and formulation of policies.

In 2000, the United Nations Commission on the Status of Women launched the global 50/50 campaign, aimed at ensuring equal representation of women and men in public office, with an emphasis on national Parliaments. The campaign seeks to bolster women's participation in all decision-making processes worldwide. The 50/50 campaign not only seeks to increase the representation of women in public office, but further aims to pursue a progressive human rights agenda aimed at transforming "malestream" politics into a development agenda for the common good.¹⁸

¹⁶ Rustin and Watson, 2004.

¹⁷ Mpoumou, 2006.

¹⁸ Ibid.

It is also important to note that many countries have ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979. For example, Angola; Botswana; the Democratic Republic of the Congo; Lesotho; Malawi; Mauritius; Mozambique; Namibia; Seychelles; South Africa; Tanzania; Zambia and Zimbabwe have all ratified it with no reservations. Parts 1 and 2 of CEDAW address measures to further the advancement of women in political and public life. Notwithstanding such commitments, many States have continued to fare poorly in according women greater representation in political institutions.

5.2 Statistics of women in Parliaments

While a few countries have been able to show considerable progress in the number of women represented in Parliament, the numbers of women in most Parliaments have increased incrementally in the past decade. On the African continent, Rwanda's elections in 2003 saw one of the most significant increases in women's representation in Parliament. This increase amounted to 23.1% more women being elected to the National Assembly. The representation of women in Parliament currently stands at an impressive 48.8%, rendering Rwanda the country that has come closest to reaching equal numbers of men and women in national Parliament. Among the reasons for this shift, is the fact that women MPs in Rwanda benefited from a constitutional quota which reserves 24 of the 80 seats in the Lower House and 30% of the seats in the Upper House to women. In order to attain this, Rwandan women lobbied heavily and impacted upon the drafting of the new Constitution and the development of election guidelines that guaranteed seats for women candidates. They were also instrumental in the creation of a government ministry of women's affairs that promotes policies that take cognisance of women's gendered needs.

From a regional perspective, Sub-Saharan Africa has also made significant shifts where the regional average has increased from 11.3% in 2000, to 15.3% in 2004. Globally, the world average of women in both Houses of Parliament combined, amounts to 15.6%, which falls far short of the goal of 30%. This is reflected in Table number 1:

Table 1: World average of Members of Parliament (MPs) for both Houses combined¹⁹

Total MPs	42 549
Number of MPs for which the gender breakdown is known:	40 063
Men	33 819
Women	6 244
Percentage of women	15.6%

The IPU has compiled data that ranks States in terms of the numbers of women represented in Parliament. The top twenty States with the highest representation of women in Parliament are reflected in table number 2:

¹⁹ Sourced from the Inter-Parliamentary Union

Table 2: Top twenty states in relation to numbers of women in Parliament²⁰

Rank	Country	% Women in Lower House	% Women in Upper House or Senate
1	Rwanda	48.8	34.6%
2	Sweden	45.3	-
3	Norway	38.2	-
4	Denmark	38	-
5	Finland	37.5	-
6	Netherlands	36.7	29.3
7	Cuba	36	-
7	Spain	36	23.2
8	Costa Rica	35.1	-
9	Mozambique	34.8	-
10	Belgium	34.7	38
11	Austria	33.9	27.4
12	Argentina	33.7	33.3
13	Germany	32.8	18.8
13	South Africa	32.8	33.3
14	Guyana	30.8	-
15	Iceland	30.2	-
16	Belarus	29.4	31.6
16	Seychelles	29.4	-
17	New Zealand	28.3	-
18	Viet Nam	27.3	-
19	Grenada	26.7	30.8
20	Bulgaria	26.3	-

As can be seen from the table above, the prospects for attaining a 50% target in the near future appear dismal within the global context. In fact, the prospects for attaining a 30% target appear dismal. Only 17 States have reached a 30% target to date and women still only comprise 10% or less of the national legislature in about 65 States. Not one State has reached the 50% target as set by the CSW campaign. Table 2 also shows that South Africa has made significant strides in ensuring that women are elected into public office. Before the 1994 elections, South Africa had ranked 141 on the global list, but has moved up to 13th position following the 2004 elections. The following table reflects the representation of women in Parliament in African States that are part of the Commonwealth Parliamentary Association.

²⁰ "Women in Politics", Inter-Parliamentary Union, 2005.

Table 3: Ranking of CPA States on the African Continent

Ranking in relation to other CPA States in Africa	Global Ranking	Country	% Women in Lower House	% Women in Upper House or Senate
1	9	Mozambique	34.8	-
2	13	South Africa	32.8	33.3
3	16	Seychelles	29.4	-
4	22	Namibia	25	26.9
5	24	Uganda	23.9	-
6	32	Tanzania	21.4	-
7	61	Sierra Leone	14.5	-
8	63	Malawi	14	-
9	65	Gambia	13.2	-
10	72	Zambia	12	-
11	73	Lesotho	11.7	36.4
12	77	Botswana	11.1	-
13	78	Ghana	10.9	-
14	79	Swaziland	10.8	30
15	90	Cameroon	8.9	-
16	99	Kenya	7.1	-
17	109	Mauritius	5.7	-
18	114	Nigeria	4.7	2.8

As can be seen from Table 3, States on the African continent have not fared very well in terms of ensuring that adequate numbers of women are represented in its Parliaments. South Africa and Mozambique emerge as the only 2 States to have reached a 30% target, with Mozambique topping the list with 34.8% women in its Parliament. Namibia (25%), Uganda (23.9%) and Tanzania (21.4%) are the only States to have reached a level of over 20%. Many States fall below 20% and a significant number have less than 10% representation of women. This has negative implications for the development of public policy that serves to address women's specific gendered needs and interests. If policy decisions and laws have to be made for the benefit of all members of society, then the extent to which the decision-making bodies are able to take into account the experiences of as broad a spectrum of that society as possible, will be the gauge of the degree to which its decisions will be appropriate and meet the needs of the entire society, rather than those of a particular group or groups.²¹

It needs to be noted that at least 6 countries: Botswana, Lesotho, Namibia, Swaziland, Tanzania and Zambia, have identified the representation of women in power and decision-making as one of their national priority areas of concern.²² This commitment has, however, not manifested itself in practice.

²¹ Ginwala, F 2002.

²² SADC Gender Monitor, 1999.

5.3 The South African Context

Since 1994, the representation and participation of women in the public sphere in South Africa has been greatly enhanced. Over the past 10 years, the numbers of women elected into public office at national level has increased significantly. In the pre-1994 period, the Women's National Coalition played an instrumental role in bargaining for a high level of representation of women in public office. In the period leading up to the 1999 elections, women and civil society organisations also ensured that there was a fairly high level of mobilisation around gender issues, which further contributed to increasing the number of women in parliamentary positions.

In anticipation of the 2004 elections, civil society campaigns such as the 50/50 campaign aimed to achieve balanced representation of women and men in public office. This initiative constitutes part of a global campaign co-ordinated by the Women's Environment and Development Organisation (WEDO). Locally, it is spearheaded by the Commission for Gender Equality, the Gender Advocacy Project and the Institute for Democracy in South Africa. Other African countries involved include Namibia and Uganda. Given that Rwanda is the only State to have come close to achieving 50% representation of women, it is clear that the 50/50 campaign still has much work to do in campaigning for equal representation of women in public office.

The African National Congress (ANC) won the 2004 elections in South Africa, receiving 69.68% of the vote. There are currently 400 members in the National Assembly²³. Of these, 32.8% are women.²⁴ The National Council of Provinces (NCOP) is composed of a delegation from each province consisting of 10 delegates. Of the 10 delegates, 6 are permanent delegates and 4 are special delegates and serve for limited periods. Of the 54 permanent delegates from the 9 provinces, 33.3% are women.²⁵

The high level of representation of women in the South African Parliament can largely be attributed to the ANC's commitment to a one third gender quota where approximately every third name on its national candidate's list was a woman. In order to achieve 50% representation of women, the candidate list would need to be a zebra list where every second name is that of a woman. Gouws (2004) has critiqued that none of the opposition parties adhered to a quota system to ensure that women were well represented, although they did manage to get more women into Parliament.

At Cabinet level, women are now approaching the 50% mark. South Africa has a woman in the position of Deputy President and women comprise 43% of South Africa's 28 national Ministers and 43% of the 21 Deputy Ministers. Within the executive, women have therefore moved beyond the 30% critical mass needed to become a powerful force in government. The President has set the goal of reaching 50% representivity in the national executive after the next national elections in 2009. Women Ministers and Deputy Ministers have

²³ Note that members of the Cabinet are also Members of the National Assembly

²⁴ Inter-Parliamentary Union, 2005.

²⁵ Ibid.

not only been deployed to portfolios with which they are internationally traditionally associated (such as Arts and Culture; Health; Social Services and Housing), but have also served key portfolios such as Foreign Affairs, Safety and Security; Justice and Constitutional Development; Public Service and Administration; Trade and Industry; Home Affairs and Minerals and Energy.

At provincial and local levels, women are not represented as well as they are at national level. Four (44,44%) of the nine provincial Premiers are women. These are the Eastern Cape, Northern Cape, Free State and the North West provinces. In 2003, women constituted approximately 24% of provincial legislators. In 2003 Gauteng, the Northern Cape and North West were the only 3 provinces that had ensured that 30% of their Members of Provincial Legislatures (MPLs) were women.²⁶ Following the elections in 2004, further progress has been made in enhancing the representation of women in provincial legislatures. The current average of women in provincial legislatures now stands at 32.3%. The breakdown per province is reflected in the following table.

Table 4: Representation of women in Provincial Legislatures in South Africa for 2004²⁷

Province	Number of Women Parliamentarians	Number of Men Parliamentarians	Percentage of Women Parliamentarians
Eastern Cape	23	46	33.33%
Free State	9	21	30%
Gauteng	32	42	43.2%
Kwa-Zulu Natal	20	50	28.57%
Limpopo	16	33	33%
Mpumalanga	9	21	30%
North West	7	15	31.8%
North West	7	15	31.8%
Northern Cape	11	19	37%
Western Cape	12	30	28.57%

6. Significant achievements at an economic level

6.1 Situational analysis

In a global context where there are vast disparities between those who have easy access to resources and those living in conditions of dire poverty, South Africa is ranked as having the fifth highest gini-coefficient in the world.²⁸ The South African economic landscape is characterised by the fact that many employees earn less than R1000 per month. For example, almost a quarter of formal sector workers, approximately 76.3% of informal sector workers and

²⁶ South Africa's 2000 Report to Beijing +5 Meeting.

²⁷ Women in Political and Decision Making Positions, 2004, Office on the Status of Women, The Presidency, RSA.

²⁸ Simplistically put, the gini-co-efficient is used to measuring levels of inequality i.e. the gaps between the rich and poor.