

# Assessment Report

*“It is also in this way that we seek to establish and entrench the understanding among all our people, for all time, that we are building a system of justice that must define its justness by the extent to which it enriches our humanity”*

**The Honourable Thabo M. Mbeki**  
*President of South Africa, at the opening  
of the new Constitutional Court Building*

**Department of Justice and  
Constitutional Development**



# Foreword

It gives me great pleasure to release this *Gender Mainstreaming and Gender Budgeting Package*.

I believe that the information in this package will contribute enormously to our efforts around gender transformation through which we seek to comply with the Constitution and our international human rights obligations in terms of CEDAW and related instruments.

In a way the package is based on looking back at what we did or did not do in the last decade with regard to addressing the gender imbalances that we inherited at the dawn of democracy.

The importance of mainstreaming gender in everything we do as a Department cannot be over-emphasised, otherwise we will continue to fail to meet the needs of some of those we seek to serve, especially women from disadvantaged communities. The National Gender Policy Statement states that the implementation of gender equality is first and foremost the responsibility of all the institutions in government. To achieve gender equality the government must embark on a rigorous gender mainstreaming strategy.

I call all members of the justice community to join me and my Department as we implement the *Gender Mainstreaming and Gender Responsive Budgeting* package. I sincerely hope that the lives of women and other disadvantaged groups will be improved as a result.

*Minister for Justice and Constitutional Development  
Pretoria, August 2004*

# Acknowledgements

The *Gender Mainstreaming Assessment Report* is part of the *Gender Mainstreaming* package developed by the Gender Directorate within the Department of Justice and Constitutional Development (hereafter referred to as the Department or DoJCD).

The Gender Directorate is delighted to finally release the *Gender Mainstreaming* and *Gender Responsive Budgeting* package and believes it will assist all role players within the Department, particularly those in leadership positions, to understand the principles of *Gender Mainstreaming* and *Gender Responsive Budgeting*. This will facilitate the integration of gender considerations into all plans, policies and day to day implementation decisions.

The *Gender Mainstreaming* project was inspired by the Directorate's *Gender Needs Assessment Report* which identified an immediate need to build capacity in the Department for both *Gender Mainstreaming* and *Gender Responsive Budgeting*. The target group for the package includes other role players who contribute to policy development, interpretation and implementation within the Justice System.

The Directorate hopes that the application of the information and tools in the *Gender Mainstreaming* and *Gender Responsive Budgeting* package will accelerate the elimination of systematic gender discrimination in the Department, and contribute towards the achievement of gender equality in the Department and the society in general.

Sincere gratitude needs to be extended to the Centre for Reconciliation and Equality Studies (CRES)/ Waweth Agency and DoJCD team for their assistance in the research and writing of the *Assessment Report*, and the development of the *Gender Mainstreaming* and *Gender Responsive Budgeting* package. The following people need special mention:

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# Key Concepts and Acronyms

## Key Concepts

### **Black Economic Empowerment**

Black Economic Empowerment refers to the implementation of measures to advance black people in order to equalise economic opportunities between them and white people.

### **Black Empowerment**

Black empowerment refers to measures that seek to advance black people in order to achieve equality between them and white people.

### **Disaggregate**

Disaggregate means subdivide into constituent parts.

### **Employment Equity**

Employment Equity refers to the process and outcomes relating to the equalisation of and enjoyment of all employment opportunities and benefits, and the ending of gender, racial, disability and other forms of disadvantage and (unfair) discrimination.

### **Equality**

Equality refers to the equal enjoyment of all rights and freedoms. It entails the absence of direct or indirect (unfair) discrimination.

### **Gender**

Gender refers to the power relations between women and men. It is a social construct that assigns roles and worth to each sex based on group culture.

<b>Gender Analysis</b>	A gender analysis or gender equality analysis refers to a systematic process which involves assessing the impact of or likelihood that each decision, policy, law, plan, programme, situation, process or activity will impact differently on women and men because of their diverse socio-economic or physical circumstances, with the effect of prejudicing one gender.
<b>Gender Awareness</b>	Gender awareness refers to the state of being conscious of inequality arising from the power relations between women and men.
<b>Gender Balance</b>	Gender balance refers to an equitable distribution of life's opportunities and resources between women and men.
<b>Gender Bias</b>	Gender Bias refers to any act that advantages or perpetuates an existing advantage of one sex over the other.
<b>Gender Budget</b>	A Gender Budget, also referred to as a <i>Gender Responsive Budget</i> , refers to a budget or expenditure arrangement which is structured in a manner that ensures that women and men benefit equitably from financial resources.
<b>Gender Disaggregated Data</b>	Gender disaggregated data means information subdivided in terms of women and men.
<b>Gender Mainstreaming</b>	<i>Gender Mainstreaming</i> refers to the integration of gender equality considerations in all policy, law, plans, programmes, administrative and financial activities, organisational procedures, processes and decision making, in order to effect profound organisational and ultimately, societal transformation, towards the realisation of <i>de jure</i> and <i>de facto</i> equality between women and men.
<b>Gender Management System</b>	A Gender Management System is a network of structures, mechanisms and processes that are put in place within an organisational framework to facilitate <i>Gender Mainstreaming</i> in pursuit of equality between women and men. ( <i>Adapted from Common Wealth Gender Management System Handbook</i> ).
<b>Gender Responsive Budgeting</b>	<i>Gender Responsive Budgeting</i> refers to the allocation of financial resources in a manner that not only ensures that women and men benefit equally from all resources but also reduces existing patterns of women's systemic inequality. Gender budgeting is one of the mechanisms of an effective Gender Management System.

<b>National Gender Machinery</b>	National Gender Machinery refers to a network of coordinated structures within and outside government which operate cooperatively in facilitating political, social, economic and other forms of transformation to dismantle systemic gender inequality and promote equality between women and men.
<b>Per Capita</b>	<i>Per capita</i> means the average per person. This is worked out by dividing total cost with the number of actual beneficiaries.
<b>Practical Gender Needs</b>	Practical Gender Needs refers to women's day to day needs that result from their subordinate position in society. Addressing Practical Gender Needs does not challenge or transform structural gender inequality but simply helps women cope better with their present position.
<b>Preferential Procurement</b>	Affirmative action in procurement.
<b>Procurement Equity</b>	Procurement Equity refers to the process and outcomes relating to the equalisation of enjoyment in all procurement opportunities and incorporates affirmative procurement.
<b>Pro-women Programmes</b>	Pro-women programmes refers to services and programmes for everyone but that are most likely to respond to the needs of women, for example domestic violence services.
<b>Sex</b>	Refers to the biological difference between women and men.
<b>Sex Disaggregated</b>	Has the same meaning as gender disaggregated. It means broken down according to women and men.
<b>Strategic Gender Needs</b>	Strategic Gender Needs refers to women's long-term needs relating to fundamental social transformation to end their subordination in society.
<b>Unfair Discrimination</b>	Unfair discrimination refers to the direct or indirect unfair denial of opportunities to or imposition of an undue burden on a person or group, on the basis of their gender, race, disability or some other difference, or combination of differences.
<b>Women's Budget</b>	A women's budget has the same meaning as a gender budget or gender responsive budget. 'Women' is used to emphasise the fact that women are the targeted beneficiaries of the budget reform that is entailed in gender budgeting.

<b>Women Empowerment</b>	Women Empowerment means establishing programmes that exclusively target women as a form of affirmative and positive action to empower them in order to equalise opportunities between women and men.
<b>Women's Equal Access</b>	Promoting women's equal access to mainstream services is about mainstreaming gender into all services to ensure that women and men benefit equitably.

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## Acronyms

<b>ADR</b>	Alternative Dispute Resolution (also referred to as Informal Dispute Resolution)
<b>BBBEEA</b>	Broad Based Black Economic Empowerment Act
<b>BEE</b>	Black Economic Empowerment
<b>BPA</b>	Beijing Platform for Action
<b>CCMA</b>	Commission for Conciliation, Mediation and Arbitration
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CGE</b>	Commission on Gender Equality
<b>DGPS</b>	Departmental Gender Policy Statement
<b>DoJCD</b>	Department of Justice and Constitutional Development
<b>DVA</b>	Domestic Violence Act
<b>EEA</b>	Employment Equity Act
<b>ERC</b>	Equality Review Committee
<b>GFP</b>	Gender Focal Point or Person
<b>GENMACC</b>	Gender Mainstreaming Advisory and Compliance Committee
<b>IDASA</b>	Institute for Democracy in South Africa
<b>IPOA</b>	Integrated Plan of Action
<b>MAGCOM</b>	Magistrate's Commission
<b>MTEC</b>	Medium Term Expenditure Committee
<b>MTEF</b>	Medium Term Expenditure Framework
<b>NGPF</b>	National Gender Policy Framework
<b>OSW</b>	Office of the Status of Women
<b>PEPUDA</b>	Promotion of Equality and Prevention of Unfair Discrimination Act
<b>PFMA</b>	Public Finance Management Act
<b>PPPFA</b>	Preferential Procurement Policy Framework Act
<b>SADC</b>	Southern African Development Community
<b>SAHRC</b>	South African Human Rights Commission



<b>SALC</b>	South African Law Commission
<b>SMART</b>	Simple, Measurable, Achievable, Realistic and Tangible
<b>SMME</b>	Small Medium and Micro Enterprises
<b>UPP</b>	Unfunded Priority Project
<b>VAW</b>	Violence Against Women
<b>WCAR</b>	World Conference Against Racism and Related Intolerances

# Assessment Report

## 1. EXECUTIVE SUMMARY

*The implementation of gender equality is first and foremost the responsibility of all the institutions in government. To achieve gender equality, the government must embark on a rigorous gender mainstreaming strategy.*

### **National Gender Policy Framework**

#### 1.1 Purpose

This *Gender Mainstreaming* assessment was conducted by the Gender Directorate of the Department of Justice and Constitutional Development (DoJCD). The purpose of the study is to enhance the Gender Directorate's effectiveness in working with the leadership of the Department to accelerate progress made in the pursuit of gender transformation in order to achieve equality between women and men as envisaged in South Africa's new Constitution.

The aim is to examine the extent to which gender equality considerations are regularly integrated in all organisational decisions, policies, laws, plans, processes and activities. The *Gender Mainstreaming* assessment seeks to establish the nature and extent of gaps, if any, and use the information as a basis for working with the leadership of the Department and the various Components within the Justice System, in order to build adequate capacity for effective *Gender Mainstreaming*.

The integration of gender considerations into all mainstream structures, systems and processes is referred to as *Mainstreaming Gender* or *Gender Mainstreaming*. *Gender Mainstreaming* is a strategic intervention that seeks to transform the core values, structures and systems in society and its institutions in order to eliminate structural inequality and systemic discrimination experienced by women and to promote equality between women and men.

*Gender Mainstreaming* involves intervening in and transforming the mainstream by ensuring that “*the process of achieving gender equality is at the very centre of the transformation process in South Africa, within all the structures, institutions, policies, procedures, practices and programmes, its agencies, parastatals, civil society and the private sector*”. (National Gender Policy Framework)

The basic operational principle underpinning *Gender Mainstreaming* involves: *regularly assessing the differential impact that every decision, plan or action has or is likely to have on women and men, taking into account their different circumstances, including women’s accumulated socio-economic disadvantages in society as a result of gender and related historical injustices. It further involves adjusting the decision, plan or action in question to ensure that women and men benefit or are likely to benefit equally, while operating to reduce existing structural inequality between women and men.*

*Gender Mainstreaming* was officially adopted by United Nations Member States, including South Africa, at the Beijing Conference in 1995. It was adopted as a strategy for accelerating the advancement of women and the realisation of women’s human rights. South Africa further committed itself to the implementation of *Gender Mainstreaming* as one of its National Commitments, through the *Implementation of the Beijing Declaration and Platform for Action* (BPA), 1996. *Gender Mainstreaming* is also a requirement under South Africa’s *National Policy Framework for Women’s Empowerment and Gender Equality* (National Gender Policy Framework). The President made government’s commitment to *Gender Mainstreaming* clear in his February 2003 State of the Nation Address where he called for the acceleration of efforts on *Gender Mainstreaming* and the implementation of the *National Gender Policy Framework*.

The development of a *Gender Policy Statement* by the Department of Justice and its adoption by Cabinet in 1998 was one of the earliest concerted efforts by the Department’s leadership to respond holistically to its international and national *compliance obligations* regarding the advancement of women. It seeks to ensure women’s enjoyment of all human rights and freedoms, equal with men, and the eradication of gender inequality. The *Gender Policy Statement* adopts *Gender Mainstreaming* as an official operational paradigm upon which all decisions, plans and activities performed within the Department’s mandate should be based.

The report is divided into the following sections:

- Introduction;
- Objectives and Methodology;
- Findings; and
- Conclusion and Recommendations.

## 1.2 Summary of Findings

The findings are based on a *Gender Mainstreaming Assessment Instrument* which is premised on twelve dimensions of effective *Gender Mainstreaming*.

The twelve dimensions were elicited from international and national legal and policy instruments on the advancement of women, the promotion of women's human rights and gender equality. It includes measures outlined in the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*<sup>1</sup>, the *Beijing Declaration and Platform for Action (BPA)*, *SADC Declaration on Gender and Development*, the Constitution and national as well as departmental policies on women's empowerment and gender equality. The *Assessment Instrument* was also benchmarked against the *Gender Mainstreaming Assessment Tools* and *Implementation Guidelines* of UN Agencies, other international and justice institutions in comparably situated democracies. It was also tested against *principles of organisational behaviour*.

Below is a summary of the findings.

1. There is generally a sense of awareness that something needs to be done in respect of women within leadership of the Ministry/Department. This is coupled with a commitment to implement change, and there are a number of measures that have been implemented at various levels and in most of the Components in this regard.
2. Measures on matters readily associated with women seem to be fairly sustained over time. These include violence against women and maintenance. However, these are not backed by a systematic, integrated or holistic strategy, with monitoring and evaluation systems, or regular reporting on progress made against agreed targets.
3. The study found no evidence indicating organisational appreciation of the need to mainstream gender or to integrate gender considerations into all aspects of the Ministry/Department. As such there seemed to be no goals or targets in this regard. In fact attitudes, structures and practices revealed that the average person in the organisation does not appreciate that many seemingly neutral practices operate to discriminate indirectly against women, due to the accumulated socio-economic disadvantages and consequent systemic inequality experienced by all women.
4. In fact, there generally seemed to be no clear organisational targets or systematic strategy or plans on the achievement of gender equality or any aspect of women's empowerment.
5. There also seems to be no clear organisational vision on gender equality within the Ministry/Department and its components.

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1. Read with the General and Country Specific Recommendations of the **CEDAW Committee**.

The most serious weaknesses with regard to *Gender Mainstreaming* in the DoJCD, are listed below.

- 5.1 The lack of awareness of key international obligations and local concerns, constant linkages of dialogue on gender with international/national compliance obligations on the advancement of women, women's human rights and the promotion of gender equality, from the most senior leader to the lowest rung personnel.
- 5.2 The lack of recognition that issues of women's empowerment and the promotion of gender equality need to be placed high amongst organisational strategic objectives, and not as a separate 'add on' matter.
- 5.3 The lack of systematic planning with a clear vision, goals/targets, implementation plans and effective monitoring of progress against set goals or targets. This is exacerbated by the absence of clear organisational goals or annual objectives and an integrated strategy for the pursuit of such goals. The Department's new mission and vision which fails to mainstream equality considerations also emerged as a major weakness regarding the development of a strategy on *Gender Mainstreaming*.
- 5.4 The failure to involve women in decision-making at all levels, and to link all decisions to legal and policy obligations. This includes public partnerships and ensuring that women from diverse backgrounds are consulted equally with men in planning court and other justice services, including automation processes.
- 5.5 The failure to ensure an integrated systems approach to programme implementation. This includes ensuring that measures strike at the various pillars that anchor gender inequality. Specific weaknesses in this regard include the following:  
These include:
  - inadequate or ineffective laws and policies;
  - ineffective administrative arrangements, including coordination between various role players;
  - unsupportive attitudes and consequent behaviour amongst role players in the court system, the administration and the public in general;
  - inadequate resources, including infrastructure; and
  - the prevalence of legal illiteracy.
- 5.6 The lack of adequate financial, human and other resources allocated towards programmes in order to address issues listed within international and national documents, including the *Critical Areas of Concern* within the *Beijing Platform for Action* (BPA).
- 5.7 The absence of effective capacity building measures aimed at yielding changes in individual and organisational behaviour and that target everyone in the Ministry/

Department/Component. Capacity building should include changes in organisational systems to ensure that mainstream systems are capable of supporting all the various dimensions of gender transformation. This includes special programmes on matters such as accelerated leadership and skills development for women, taking into account their diversity in terms of race, disability and other factors that compound women's subordination in society and institutions.

- 5.8 The failure to address employment related issues such as affirming and managing diversity, sexual harassment, the balancing of work and family responsibilities, the impact of HIV/AIDS and stress management. It is apparent that there is still an urgent need to achieve a gender balance with regard to representation of women and men in personnel within all structures and at all levels. This includes reviewing Departmental recruitment process, human resource development, succession planning and retention strategies, against objectives relating to the advancement of women and the promotion of gender equality.
- 5.9 The weaknesses in the development of special measures to accelerate the advancement of women through procurement practices. This includes integrating terms of reference that ensure women's empowerment in tender and other procurement specifications and contract appointment processes.
- 5.10 There is a serious lack of systems that ensure that knowledge generation, data collection and management is gender disaggregated to support *Gender Mainstreaming*. This would include the production of accurate information or statistics that can enable the establishment of baseline reports and the generation of regular indicators to support the tracking of progress on the achievement of gender equality. The statistics would cover sexual violence, domestic violence, divorce, maintenance, legal representation, administration of estates, personnel and procurement profiles and skills development activities. There should also be regular dissemination of some of these indicators.
- 5.11 There is a need for a reporting system that is aligned with organisational targets and compliance obligations on gender. These reports should reflect aspects of progress achieved in the implementation of measures to advance women, women's human rights and gender equality, and need to be discussed regularly by management.

### 1.3 Summary of Recommendations

The study established that although there is a lot of movement in the Ministry/Department with regard to women this does not translate into *Gender Mainstreaming* or fundamental organisational transformation

on gender equality. Current activities have thus failed to achieve substantive compliance with constitutional obligations, commitment made through the signing of the Convention to Eradicate Against All Forms of Discrimination Against Women (CEDAW) and other international and national instruments.

A recurring theme in the findings is the need for conscious alignment of all organisational and component plans, decisions and practices with international, national, departmental policy and legal frameworks and related compliance obligations.

Opportunities have been presented by recent developments, including the President's call for accelerated progress on women's empowerment and gender mainstreaming (*State of the Nation Address* February 2002 and 2003), the requirement for all organisations to align their systems and practices with the *Promotion of Equality and Prevention of Unfair Discrimination Act* and the reorganisation of the Director General's Office. These should be utilised to accelerate progress on *Gender Mainstreaming* and transformation in the Ministry/Department.

It is proposed that leadership for *Gender Mainstreaming* should come from the highest levels of decision-making. Specific recommendations on what measures should be taken with immediate effect are captured in the findings outlined in Chapter 4 of this report. Recommended action is outlined in Chapters 4 and 5.

## 2. INTRODUCTION

*We must also refer to the important matter of gender equality. Some progress is being made in government to address this issue. And in the private sector and civil society, the campaign on the rights of women has started at least to form part of the national discourse. But society still lags far behind in terms of actual implementation, particularly in mainstreaming gender issues.*

**President Thabo Mbeki**

State of the Nation Address February 2003

### 2.1 Background

The Department of Justice and Constitutional Development (DoJCD) was among the first to develop a written Gender Policy after extensive consultation with civil society. The policy was formally presented to and adopted by Cabinet in 1998.

The Gender Policy provides a framework for managing gender transformation which includes *Gender Mainstreaming* in the DoJCD. The *gender management* strategy represented in the *Gender Policy Statement* combines women empowerment programmes, which involves interventions that are directed at women, and *Gender Mainstreaming* where gender equality considerations are integrated in all organisational decisions, policies, plans, programmes, procedures, practices and the development as well as application of the law. This is in line with South Africa's *National Policy Frame Work for Women's Empowerment and Gender Equality* (National Gender Policy Framework) adopted by Cabinet in December 2000. The use of *Gender Mainstreaming* as a strategy for achieving women's advancement, their full enjoyment of all human rights and freedoms in equality with men, and the elimination of all inequality between women and men is in line with contemporary international approaches and international human rights obligations.

The *Gender Policy* seeks to *mainstream gender* through bringing a gender perspective into all aspects of planning, policy, legislation development and interpretation, decision-making, transformation activities and other activities within the scope of the Ministry and the Department. This means both internally, when the Department acts as an employer or contractor, and externally, when the Department acts as a service agency of the government. *Gender Mainstreaming* requires that all decision-making and practices in the Ministry/Department and allied institutions should be informed by a gender equality analysis and an endeavour to reduce existing systemic structural inequality and discrimination that is experienced by women in different degrees depending on their racial and other forms of diversity and historically accumulated disadvantage. Ultimately, this should result in the achievement of substantive equality between



women and men and the absence of both *de jure* and *de facto* discrimination against women, primarily through the empowerment and advancement of women.

This report is based on a *Gender Mainstreaming* assessment of institutional practices as reflected in annual reports, strategies and plans, submitted by the eight Business Units of the DoJCD between 2000 and 2003, discussions with various role players in the Ministry and Department and an analysis of written responses by some Business Units to preliminary findings sent to them in December 2002.

The assessment was carried out by the Gender Directorate of the DoJCD in order to establish the extent to which gender mainstreaming is being implemented in every aspect of the Ministry/Department. It also sought to identify obstacles faced by various role-players in this regard, and to ascertain needs for capacity building in order to accelerate progress in the implementation of *Gender Mainstreaming* in the Ministry/Department and affiliated institutions.

## 2.2 Conceptual, Legal and Policy Framework

*Gender Mainstreaming* or *Mainstreaming Gender* is a strategy for effecting systematic gender transformation in organisations and society, in order to eradicate the subordination of women and achieve equality between women and men. *Gender Mainstreaming* involves:

**Integrating gender equality considerations in all policy, law, plans, programmes, administrative and financial activities, organisational procedures, processes and decision-making in order to effect profound organisational and ultimately, societal transformation towards the realisation of *de jure* and *de facto* equality between women and men.**

In practice, *Gender Mainstreaming* entails:

**Preceding all organisational decisions and activities with a gender equality analysis and implementing corrective measures to prevent or alleviate prejudicial impact or the likelihood of such prejudice on either gender and contemporaneously reduce existing disparities between women and men.**

A *gender equality analysis* is:

**A systematic process which involves assessing the impact of or likelihood that each decision, policy, law, plan, programme, situation, process or activity will impact differently on women and men because of their diverse socio-economic or physical circumstances, with the effect of prejudicing one gender.**

This process is often referred to as the subjection of all decisions and actions to a *gender lens*. The

*Gender Policy* of the Department entrenches gender equality analysis as a fundamental requirement in all departmental operations. The *Gender Policy Statement* stipulates that:

**“... a gender equality analysis is to be integrated into every activity that is performed within the scope of the Ministry and Department”.**

It further provides examples of decision-making processes to be subjected to *Gender Mainstreaming*. These include:

- Policy and Programme Development;
- Interpretation of law;
- Legal Advice;
- Drafting of legislation and regulatory provisions;
- Litigation instructions and strategies;
- Dispute resolution, including the judicial process;
- Management policies and practices;
- Consultations; and
- Communication plans and practices.

The *Gender Policy Statement* indicates that operationally the process of mainstreaming gender will involve:

- Identifying gender equality issues that arise in any of the above activities;
- Approaching each activity in a way that recognises the material differences in the life patterns of women and men and the likelihood that a seemingly neutral course of action could exacerbate the disadvantaged position of either gender, taking into account additional historical disadvantages relating to race, disability, poverty and other factors that tend to compound women's subordination; and
- Developing solutions to prevent or eliminate any inequalities where gender equality issues arise.

The pursuit of *Gender Mainstreaming*, in response to the obligation of the DoJCD, is to implement gender transformation to align the Department with South Africa's first democratic Constitution and in particular, the achievement of equality as a core value and critical component of the societal vision underpinning the Constitution.

In addition to singling out non-sexism as one of the core values upon which the new South Africa is founded, the Constitution champions the achievement of equality, including gender equality, throughout its provisions and particularly s9 thereof. It is stated in s9 that neither the state, nor any person, may discriminate directly or indirectly on the grounds of gender, sex, pregnancy, marital status or any other ground or combination of grounds listed or unlisted in s9 (3). To clarify its approach to equality, the Constitution further states that:

**“Equality includes the full and equal enjoyment of all rights and freedoms. To promote equality, legislative and other measures designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination may be taken”**

Equality is also given prominence in the Preamble to the Constitution where it is stated that:

**“South Africa belongs to all who live in it, united in our diversity”**

The reference to diversity includes racial, gender and other forms of human diversity. However, the drafters of the Constitution recognised and made it clear that the realisation of equality, including equality between women and men, was an ideal to be pursued and achieved through the implementation of the Constitution. The Constitution seeks, amongst other things, to:

**“Heal the divisions (including gender divisions)<sup>2</sup> of the past and establish a society based on democratic values, social justice and fundamental human rights, lay the foundations of a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;**

**Improve the quality of life of all citizens and free the potential of each person;**

and

**Build a United and democratic South Africa able to take its rightful place as a sovereign state in the family of nations”**

Implied in the last part of the preamble is a commitment to comply with international law and human rights standards. In fact the Constitution is aligned with and also serves as an instrument for facilitating South Africa’s compliance with its international human rights obligations. Many of the international human rights standards and resultant obligations relate to women’s human rights and the duty of parties to take measures to eradicate inequality between women and men in all spheres of life, including the justice system, the family, societal practices and the economy. Indeed South Africa has specifically committed itself to comply with the provisions of various international instruments, which either specifically promote gender equality or have this as one of the critical compliance responsibilities.

South Africa has ratified without a single reservation, the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW)<sup>3</sup>. The significance of not making any reservations is that South Africa gave up the possibility of arguing for the retention of laws and practices that violate CEDAW and women’s human rights as envisaged there-under. An example in this regard is traditional practices, culture, customs and customary or religious laws that are based on male superiority and which nullify

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2. Implied but not stated in the Constitution

3. South Africa ratified CEDAW in 1996 and presented its First Country in 1998. Its First Subsequent Report was due in 2002 and has at the country’s request been postponed to 2004.

women's enjoyment of all rights and freedoms on an equal basis with men. The country has since submitted its First Report on CEDAW in which several undertakings were made regarding further measures to be adopted to accelerate progress on the realisation of women's human rights.

South Africa also undertook to implement the *Concluding Comments of the CEDAW Committee* at the reading of its First Country Report in 1998. South Africa is a party to and was one of the countries that submitted written *National Commitments Regarding Implementation of the Beijing Platform for Action* (BPA)<sup>4</sup>. In fact the BPA makes Gender Mainstreaming a mandatory element of compliance. The DoJCD was one of the key contributing Departments to the National Commitments. *Gender Mainstreaming* is, accordingly, also an instrument to facilitate compliance by the Department and ultimately, the country, with these international obligations.

The generic human rights instruments which require the mainstreaming of gender to foster the realisation of women's human rights through the implementation of such instruments include:

- Universal Declaration of Human Right (UN 1948);
  - Charter of the United Nations (1945);
  - Vienna Declaration on Human Rights, an instrument that placed women's rights at the centre of the human rights dialogue;
  - International Convention on the Elimination of All Forms of Racial Discrimination (CERD);
  - Convention on the Rights of the Child (CRC);
  - International Covenant on Economic, Social and Cultural Rights;
  - International Covenant on Civil and Political Rights; and
  - Rome Statute on the International Criminal Court (ICC).
- PTO

*Gender Mainstreaming* is also identified as a compliance obligation to ensure that women benefit equally with men in the implementation of generic international policy instruments such as:

- Agenda 21 and the Outcomes Document of the World Summit on Sustainable Development (WSSD) in Johannesburg;
- International Convention on Population and Development (ICPD);
- Declaration and Programme of Action of the World Conference Against Racism (WCAR) and Related Intolerances;
- UN Declaration on Disabled People;
- Copenhagen Declaration on Social Integration; and
- Other policies that deal with the integration of and ending discrimination against vulnerable groups such as elderly people, refugees and people affected by HIV/AIDS.

Membership of the international family also includes membership of the African Union (AU) and the Southern African Development Community (SADC). Amongst other things, the country has a duty to comply

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4. See Country's Commitments submitted to National Conference of Commitment in 1995 and noted in SADC and UN reports

with gender equality provisions of the *African Charter of Human and People's Rights* and the implementation of policy instruments such as the *New Partnership for Africa's Development* (NEPAD). The country and its institutions must also comply with the *SADC Declaration on Gender and Development* (1998) and its addendum on the *Prevention and Eradication of Violence Against Women and Children*. Compliance issues on gender also arise with regard to *International Labour Organisations* (ILO) instruments that South Africa has signed. This includes *Convention 111 on Discrimination Convention on Maternity Protection and the Workers with Family Responsibilities* (Convention 156).

*Gender Mainstreaming* also supports compliance with the Department's obligations arising from national laws and policies. *Gender Mainstreaming* enhances compliance with and should be viewed as an element of, the implementation of transformation laws seeking to equalise opportunities. These include the *Promotion of Equality and Prevention of Unfair Discrimination Act*<sup>5</sup>, *Employment Equity Act*<sup>6</sup>, *Preferential Procurement Policy Framework Act*, *Home Loan and Mortgage Disclosure Act* and the *Black Economic Empowerment Act*. It also covers laws seeking to mediate gender power relations within the family. This includes the *Domestic Violence Act*, *Maintenance Act*, *Mediation in Certain Divorces Act* and *Recognition of Customary Marriages Act*. It also includes efforts seeking to reform *sexual offences laws* and *customary law of succession*.

Key transformation policy frameworks where *Gender Mainstreaming* is critical for ensuring that such policies do benefit women and also operate to reduce existing structural disparities between women and men, include the *White Paper on Reconstruction and Development* (RDP), *White Paper on Transforming the Public Service*, *Batho Pele: White Paper on the Transformation of Service Delivery*, *White Paper on Affirmative Action in the Public Service*, *National Skills Development Strategy* as well as *Development and Poverty Alleviation Policies*.

The *Gender Policy Statement* sought to institutionalise the mainstreaming of gender into everything in the Department as a strategy to eradicate women's subordination and promote gender equality in and through the Department.

It needs to be noted that while most of the provisions of the *Gender Policy Statement* are limited to the Department's narrower mandate prior to June 1999, the provisions relating to *Gender Mainstreaming*, including provisions on institutional transformation and those on employment, apply to all aspects of the Ministry/Department. This includes the Department's additional mandate regarding Constitutional Development

One of the implications of *Gender Mainstreaming* is that all Departmental plans, including *Business Plans* of all the entities in the Department, should be informed by a gender equality analysis. This means that every aspect of the *Business Plan* should be based on a clear understanding of its gender implications and a conscious attempt to meet the needs of both men and women from diverse socio-economic backgrounds.

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5. No.4 of 2000

6. No.55 of 1998

The ultimate goal of *Gender Mainstreaming* and other gender management strategies is the achievement of real or substantive equality between women and men taking into account the diversity of women's circumstances and related needs. This is often referred to as *substantive (gender) equality or equity*.

*Substantive or real equality* combines *de jure* equality or equality in law and *de facto* equality, which incorporates equality of outcomes. This is at the core of the constitutional vision of equality. As indicated earlier, the Constitution adopts a substantive approach to equality, hence the contents of s9(2) referred to earlier. The substantive notion of equality is also at the core of the Department's *Gender Policy Statement*. This notion of equality also underpins the provisions of CEDAW, the BPA, *SADC Declaration on Gender and Development* and *Reporting Guidelines* for various generic human rights instruments, including the two *Covenants* and the *African Charter on Human and People's Rights*.

The element of mainstreaming gender is evident in the insistence on measures to eradicate both *de jure* and *de facto* discrimination and special (temporary) measures to equalise enjoyment of all rights and freedoms in some of the human rights instruments<sup>7</sup>. Reporting Guidelines on instruments such as the two *Covenants* and the *African Charter on Human and People's Rights*, also insist on reporting on measures taken to ensure *de jure* and *de facto* enjoyment by both women and men of all human rights and freedoms protected by the instrument and on special measures adopted to advance women and eliminate existing structural inequality and discrimination against them. This is in response to provisions such as the non discrimination clause<sup>8</sup> and undertaking in the *International Covenant on Civil and Political Rights* that:

**“States parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the instrument”**

This means that real equality between women and men, as envisaged in the above human rights instruments, particularly women's human rights instruments, the Constitution, Equality Laws, *National Gender Policy Framework* and *Departmental Gender Policy* transcends the traditional notion of equality referred to as *formal equality*. *Formal equality* is focused on the form of treatment rather than the substance of experience arising from the treatment.

With regard to gender, the understanding was that equality was achieved when women and men were treated identically regardless of difference or accumulated disadvantage. In practical terms this meant extending *carte blanche* to women, principles and practices previously carved for and by men. This *assimilationist approach* failed to take into account material differences between women and men, including biological differences such as child bearing and accumulated socio-economic disadvantages

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7. See Articles 2, 3 and 4 of CEDAW. Article H of the SADC Declaration on Gender and Development and various articles in the BPA and Beijing +5 Programme of Action.

8. Article 2(2) of the International Covenant on Civil and Political Rights states that

“The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, religion, political or other opinion, national or social origin, property, birth or other status”(UN 1966)

9. See similar provision in the International Covenant on Economic, Social and Cultural Rights (UN1966) quoted at the beginning of this chapter.

due to centuries of women's subordination. The result was perpetuation of women's subordination through mainly means that appear neutral on the surface but impact more harshly on women. This has been the case in all spheres of life, including the justice system where examples include male centred court facilities and language, adversarial engagement, an exclusive dialogue, masculine inclined assumptions about human behaviour and circumstances and the ability to hire a good lawyer as one of the key determinants of success.

*Substantive equality*, often referred to as *real equality*, on the other hand, seeks to treat all with equal consideration and to affirm the equal worth of all human beings and human dignity regardless of difference or disadvantage. This approach focuses mainly on the impact of treatment while paying some attention to form. *Substantive equality* also has a remedial component in that it does not simply stop at avoiding prejudicial impact on an already disadvantaged party or group, but also intervenes to reduce existing structural inequalities with regard to gender. The *substantive equality* approach recognises that all human beings, including women and men, are worthy of equal consideration, protection of their dignity and enjoyment of human rights, by paying attention to and addressing difference and accumulated disadvantage. This includes recognising that an individual's practical access, as opposed to theoretical access, to opportunities and control over resources, is determined by many factors. Such factors include accumulated disadvantages and unequal power relations due to historical injustices based on race, gender, disability and culture, as well as factors such as education, geographic location and social conventions.

To achieve a balanced outcome, *substantive equality* generally, and between women and men in particular, involves taking social context factors into account and modifying treatment to reduce existing systemic inequalities experienced by women and accommodating material differences between them and men. This is often referred to as *gender fairness* or *gender balance*. The challenge for the Justice System involves adapting systems and practices so that both women and men are treated in a manner that fully affirms their humanity and that none of them are treated as some deviation from the 'norm' to be accommodated only to the extent that their life experiences approximate the 'norm' against which everything is modelled.

It is only through the application of the substantive approach to equality that the *Vienna Declaration's* call for "*All Human Rights for All*", adopted as South Africa's own human rights principle in the *National Action Plan for the Protection and Promotion of Human Rights* can be realised. The same applies to the realisation of equal enjoyment by women and men, of all the rights and freedoms enshrined in our Constitution. This is particularly critical given the contemporary realisation that *human rights are integrated, interdependent and indivisible* and that a violation in one area impacts on enjoyment of the other human rights and freedoms<sup>10</sup>. The CEDAW Committee and Beijing Platform for Action have made this point repeatedly in respect of violence against women and poverty. This understanding also informs the *National Gender Policy framework* and *Departmental Gender Policy Statement* hence their insistence on a *systems approach*, also referred to as an *integrated approach* to gender transformation.

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10. The Vienna Declaration (1993), is credited with the formal adoption of this approach by the UN and its popularisation.

A quick analysis of the international framework for the advancement of women and women's human rights yielded a list of 15 Critical Areas of Concern to be given priority in Departmental interventions regarding *Gender Mainstreaming*. The basis of the list is the 12 *Critical Areas of Concern* in the *Beijing Platform for Action* read with provisions of *CEDAW*, *SADC Declaration on Gender and Development*, the *SA Constitution*, *Promotion of Equality Act* and other standard setting instruments on women's advancement and human rights. The *Gender Mainstreaming* programme of the Department should accordingly prioritise these areas in its efforts to advance women and promote equal enjoyment of all rights and freedoms by women and men regardless of gender and other forms of diversity. *Critical Areas of Concern* identified for priority action with regard to gender mainstreaming include the following:

1. **Women, Law and the Constitution**
2. **Women, Culture, Customary Law and Practices**
3. **The Girl Child and other subjects of multiple forms of discrimination**
4. **Women and the Budget (Engendering the Budget)**
5. **Research and Information Management to support Advancement of Women**
6. **Human Rights of Women**
7. **Women and the Family**
8. **Women and Victim Empowerment**
9. **Education and Training of Women and Capacity Building**
10. **Women, Health and the Environment**
11. **Violence Against Women**
12. **Women, Poverty and the Economy**
13. **Women in Power and Decision-making**
14. **Institutional Mechanisms for the Advancement of Women**
15. **Women, Communications and the Media**

It must be noted that the separation of the *Critical Areas of Concern* is purely for emphasis and that in reality there are inextricable overlaps between them. For example, Violence Against Women is a human rights violation, a legal matter and a capacity building concern. At the same time, all rights violations, including indirect violations or indirect discrimination against women such as failure to implement positive action to eradicate existing gendered power imbalances in the other Fourteen (14) Critical Areas, constitute human rights violations with implications for each other, while constituting matters of women and the law.

*Gender Mainstreaming* ensures that the above dialogue informs every activity in the Department. *Gender Mainstreaming* requires that all action be preceded by two simple questions:

- What are the likely differential implications of the intended decision or action for women and men? Take into account material differences between them and accumulated disad-



vantages experienced primarily by women as well as women's diversity in terms of race, disability and other factors that compound disadvantage; and

- How can the intended decision or action be adapted not only to reduce the possibility of negative impact on women or a particular class of women, but to reduce existing systemic inequalities?

### 2.3 The Case for Gender Mainstreaming

The move towards mainstreaming gender rather than addressing women's issues separately from mainstream activities is a recent move which got an official UN Stamp in 1995 through the BPA. The rationale for mainstreaming gender is to ensure that the problem of gender inequality is tackled at its source, which is within all mainstream societal belief systems, values, policies, laws, structures and activities.

The idea is to transform the mainstream to ensure that it affirms gender and other forms of difference. What makes *Gender Mainstreaming* effective as a strategy is that it focuses on the mainstream decision-making systems, policies, laws and activities where unequal power relations between women and men in institutions, systems and society are rooted and reproduced. As indicated earlier, the courts in this regard have to be transformed so that the language used, the systems, processes and decision-making affirm women's experiences and related needs as much as they are responsive to men's experiences and needs.

Effective *Gender Mainstreaming* also requires that women's diversity and consequent needs are taken into account to ensure responsiveness to the needs of all women regardless of race, culture, disability, socio-economic status, HIV status and other social factors. The ultimate goal is to eradicate systemic inequalities between women and men that have been accumulated over centuries of women's oppression and to achieve equality between them and men. This includes the alignment of all societal policies, laws, values, systems and activities with the experiences and needs of women and men and to ensure that both sexes fully experience equal enjoyment of all human rights and freedoms. Only then can we talk about equal enjoyment of all human rights by women and men regardless of gender and other forms of diversity or accumulated disadvantage or power.

In addition to facilitating compliance with the country's human rights obligations, society as whole stands to benefit on many fronts from the transformation resulting from mainstreaming gender. Benefits include the promotion of peace and stability and the harnessing of the potential of all women and men so that they may contribute fully to the society's productivity and global competitiveness.

In view of the fact that women also tend to carry the burden of development, gender mainstreaming also contributes to the achievement of sustainable development and the alleviation of poverty. This is in line with the constitutional commitment to "*Improve the quality of life of all citizens and free the potential of each person*". With South Africa playing a critical role in the pursuit of NEPAD, *Gender Mainstreaming* in

the DoJCD also seeks to ensure that the Department is repositioned as a critical player in ensuring women's full participation in and benefit from efforts seeking to achieve the rebirth of the African continent.

Women constitute 52% of the population, and as such, they constitute a significant component of users of the services offered under the DoJCD, particularly through courts and related dispute resolution mechanisms. However, the representation of women in decision-making in the justice system, remains dissatisfactory although this has improved significantly since 1994. For example, women only account for 25 of the 204 judges (11%). No woman occupies a Judge President position and only 1 is a Deputy Judge President. Women account for only 2 of the 11 positions in the Constitutional Court (18%), and none of the new appointees since 1994 has been a woman. The Supreme Court of Appeal recently had its first appointment of a woman to the 19 positions on the bench. The position of black women generally and African women in particular, is worse. Although constituting the majority in the country's demography, black women only account for 11 of the 204 judges (5%). None of them holds a management position in the senior judiciary.

Better progress has been achieved with regard to advancing women in the magistracy. They occupy 394 of the 1776 (22%) judicial positions in the lower courts. Three of the 25 (12%) Chief Magistrates positions are held by women and two of the six (16%) Regional Court Presidents are women. However, significant gaps still exist even in the magistracy. For example, none of the Head of Regions in the lower courts (Cluster Heads) is a woman. Women, and particularly black women, are grossly under represented in the regional courts. Even with the progress made in the lower courts, the overall picture compares poorly with international benchmarks, and achievements made in comparative democracies.

Women are also better represented in decision-making within the National Prosecutorial Authority (NPA), and non-judicial positions in the courts, which include Registrars and Clerks of Court. However, in the senior management positions in the Department, women are grossly underrepresented. While significant strides were made between 1994 and 1999, the position has worsened since 1999. Examples in this regard include the percentage of women in Deputy Director General positions (1/6 or 17% in 1999 and 1/8 or 12.5% in 2003) and those in Regional Head positions (3/9 or 33% in 1999 and 2/9 or 22% in 2003).

Transforming the courts to ensure that service structuring and delivery is equally informed by the needs of both women and men and is accordingly responsive to the circumstances and needs of both genders, is one of the greatest challenges faced by the Department with regard to *Gender Mainstreaming*.

While significant measures have been adopted to make court services user friendly, the legacy of the historical marginalisation of women in the law and court processes, culture and facilities, persists. This is particularly felt in the handling of crimes such as rape and domestic violence. Contemporary problems are usually not rooted in the formal provisions but rather in the attitudes and resultant practices of judicial officers, prosecutors, court administrative personnel and defence lawyers. A matter that illustrates this point very clearly is the *cautionary rule* that was traditionally applied to the testimony of rape victims because of assumptions regarding the reliability of women. While the cautionary rule is no longer part of the formal law, there is evidence that the legacy of the rule persists in the minds of those who

handle rape cases. This is particularly the case in respect of child survivors of rape. Even the manner in which rape is conceptualised fails to capture fully the practical experience of rape victims.

While a number of courts have transformed their physical environments to provide a more user-friendly atmosphere which affirms the diversity of court users, progress in this area has not gone far enough. For example, only a few courts have made these improvements and even where these have been made, it was found that improvements are out of order or inadequate in meeting the needs of victims of violence and other court users, particularly vulnerable groups such as people with disabilities, poor people and those lacking in legal and general literacy. The language used in court remains masculine and obscure with the dialogue being generally exclusive. While this affects court users from all walks of life, women are more severely affected due to the accumulated social and economic disadvantages that they generally experience in society.

Problems of this nature are not only felt in respect of matters relating to gender violence. They also bedevil the maintenance system, divorce procedures and administration of Black Intestate Estates, the general civil justice system including the practices of sheriffs, principles of contract and access to legal advice and related services. For black women and other women, historically subjected to multiple injustices, the disadvantages suffered in regard to access to justice, are compounded.

The court system, as with other institutions in South Africa, is required in terms of the constitutional vision and South Africa's international human rights obligations on gender and other human rights, to transform itself. The transformation objective is not only to ensure that all forms of discrimination against women are eliminated within the system but also to reposition the courts so that they play a more meaningful role in the eradication of systemic gender discrimination and inequality elsewhere in society.

*Gender Mainstreaming* in the Ministry and Department accordingly, also targets the court system and service providers within. This includes ensuring visible transformation in the profile of the judiciary, administrative components and other decision-making structures in the courts. The issue of service provider profile remains a major challenge as progress on women's representation, particularly at management levels, has hitherto been rather poor, as indicated from the figures presented above. Bringing more women into decision-making processes contributes significantly to the integration of women's perspectives in mainstream societal systems and processes where key decisions are made. Notable instruments that expressly require measures to ensure women's equal participation with men at all levels of decision-making include *CEDAW*, the *BPA* and the *SADC Declaration on Gender and Development*. The obligation is also implied in generic instruments such as the *Universal Declaration of Human Rights* and the *African Charter on Human and People's Rights*<sup>11</sup>.

*Gender Mainstreaming* efforts in the Ministry and Department should also cover constitutional development and interpretation. This is specifically provided for in *Articles 1 and 2 of CEDAW* where one of the requirements is that gender discrimination must be defined in the Constitution. *Gender Mainstreaming*

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11. See Reporting Guidelines.

is also required to inform the development of new laws and review of existing ones. As indicated earlier, practically every decision or activity has to be preceded by a gender impact analysis or gender lens. This is to ensure that every decision and activity works cooperatively to advance the country's constitutional and policy objectives with regard to the achievement of (substantive) equality between women and men in every sphere of life.

#### **2.4 The Role of the Gender Directorate**

The Gender Directorate is a component of the country's *National Gender Machinery* established in fulfilment of the *country's commitments with regard to the implementation of the Beijing Platform for Action*. The mission of the *Gender Machinery* is to facilitate the achievement of gender equality through advice, capacity building, advocacy and monitoring. The machinery includes the *Office on the Status of Women* (OSW) in the Presidency, the *Commission for Gender Equality* (CGE) which is an independent Constitutional Institution, the *Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women*, *Gender Focal Points* (GFPs) in various Departments, and other role players, including civil society. The role of the *Gender Machinery* and the country's commitment to mainstream gender into all activities are reiterated in the *National Gender Policy Framework* issued by the Presidency in 2000. It is within this context that the Gender Directorate has conducted this study primarily as a needs assessment, to provide a basis for its technical support to the various Components and independent institutions affiliated to the Department.

### 3. OBJECTIVES & METHODOLOGY

*The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in this Covenant*

**International Covenant on Economic Social and Cultural Rights (UN1966)**

*The current systemic inequalities, resulting from centuries of legalised injustice against women, cannot simply be eliminated by the identical treatment of men and women; and*

*The legal system has, until now, failed to accommodate some of the fundamental differences in the social experiences of men and women, and has instead imposed rules on women that are based on men's experiences. These have resulted in further injustices.*

**Gender Policy Statement**

**Department of Justice (RSA1998)**

#### 3.1 Scope of the Study

The study involved a *Gender Mainstreaming Assessment* of institutional practices in the Ministry and Department of Justice. This covered recent Annual Reports of the Department, interviews and an analysis of the Business Plans of the following Business Units:

- Court Services;
- Legal Services;
- Legislation and Constitutional Development;
- Masters;
- Finance;
- Human Resources;
- Public Education and Communication; and
- Information Management Systems.

### 3.2 Study Objectives

The objectives of the *Gender Mainstreaming Assessment* included the following:

- To identify the extent to which gender considerations are regularly integrated in all laws, organisational policies, plans, processes and activities;
- To assess the Business Plans to establish if concerns relating to the different circumstances and needs of men and women have been considered and addressed;
- To ascertain progress made with regard to the incorporation, application and implementation of the *Department's Gender Policy*;
- To establish the level of understanding and compliance with relevant national and international obligations on the advancement of women gender equality;
- To enhance the level of awareness on issues regarding equality between women and men;
- To identify gaps, including needs for capacity building; and
- To recommend measures to be implemented to enhance organisational performance with regard to gender mainstreaming.

### 3.3 Methodology

The methodology consisted of the following:

- Analysis of the legal and policy framework for compliance on the advancement of women, gender equality and women's human rights<sup>12</sup>;
- Development of a *Gender Mainstreaming Assessment Instrument*;
- Application of the instrument in conducting a review and analysis of Business Plans, reports and interviews with personnel at different levels in the Department, including senior leadership; and
- Report Writing.

The development of the *Gender Mainstreaming Assessment Instrument* was guided by principles of *Gender Mainstreaming*. The *Assessment Instrument* was developed to establish the extent to which gender is being mainstreamed in the organisation by probing into all organisational aspects to identify the manner in which women and men are currently treated and the extent to which their different needs are appreciated and steps taken to accommodate the differences. The probing also covered the extent to which women and men are equally involved in all decision-making processes and the existence of measures implemented to accelerate the eradication of existing structural and systemic inequalities, primarily experienced by women.

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12. This also included literature review, which covered gender mainstreaming guidelines and reports of international agencies such as UNDP and practices in similarly placed democracies and institutions.

The assessment instrument in Table 1, see page 34, has 12 Key Result Areas (KRA'S) based on the Critical Dimensions of effective gender mainstreaming, namely:

1. Awareness;
2. Commitment;
3. Decision-making;
4. Planning;
5. Implementation;
6. Resources;
7. Capacity Building;
8. Communication and Information Systems;
9. Employment;
10. Procurement;
11. Monitoring and Evaluation; and
12. Reporting.

A number of probing questions are posed under each Key Result Area (KRA) to elicit indicators of *Gender Mainstreaming* practices or results. The application of the *Gender Mainstreaming Assessment Instrument* and questions under its 12 KRA'S in the study involved asking questions based on what should ideally be taking place in an organisation if *Gender Mainstreaming* was optimally taking place in respect of each of the critical dimensions of effective *Gender Mainstreaming* and eliciting indicators in this regard.

During the study the same Matrix was uniformly applied to all Business Units and individual respondents with minor modifications in questions to address differences in the circumstances and opportunities in each of the key areas of operation. A summary of the *Gender Mainstreaming Assessment Instrument* on which the findings of this study are based is presented in Table 1, see page 34.

Table 1: Gender Mainstreaming Assessment Instrument

KEY RESULT AREA	INDICATORS
1. Awareness	<p><b>Reference to Gender Issues and Policy</b></p> <p>Q: Do business discussions and documents regularly refer to gender obligations, priorities and targets? Are all managers made fully aware of their accountability with regard to <i>Gender Mainstreaming</i>?</p> <p>Q: Are there regular references to organisational and government policy/policies on gender, including justification of decisions on such?</p> <p><b>Reference to International Instruments</b></p> <p>Q: Are there regular references to instruments such as <i>CEDAW</i>, <i>BPA</i>, <i>SADC Declaration on Gender and Development</i> and the <i>Addendum on Violence Against Women</i>?</p> <p><b>Reflection of Compliance Obligations</b></p> <p>Q: To what extent are all the 12 <i>critical Areas of Concern in the BPA</i> referred to in business processes and do plans and decision-making processes reflect commitment to giving priority to justice and constitutional issues in the <i>BPA</i>, <i>CEDAW</i> and the <i>SADC Declaration on Gender and Development</i>?</p>
2. Commitment	<p><b>Policy</b></p> <p>Q: Is there regular reference to gender mainstreaming, gender transformation and related legal/policy obligations in all processes, including decision-making?</p> <p>Q: Is there specific organisational policy on all key gender concerns?</p> <p>Q: Are practices that contravene or undermine the commitment towards the advancement of women and promotion of gender equality openly sanctioned and achievements rewarded?</p> <p><b>Structure and Workforce Profile</b></p> <p>Q: To what extent are women involved at the highest level of decision-making in all processes?</p> <p>Q: Does the structure and decision-making process encourage equal participation for women?</p> <p>Q: What is the current workforce profile with regard to men and women?</p> <p><b>Advocacy</b></p> <p>Q: Does the leadership play a prominent and consistent advocacy role on women's issues and gender equality?</p>



KEY RESULT AREA	INDICATORS
	<p><b>Q:</b> Are there conscious efforts that encourage value transformation to affirm women and effect individual and organisational behaviour modification in line with this?</p> <p><b>Finances</b></p> <p><b>Q:</b> Are there any measures that have been implemented to engender the budget? If so do expenditure patterns in the organisation, including <i>per-capita</i> expenditure, reflect a commitment to gender balance and adequate resourcing of gender transformation and related programmes?</p>
3. Planning	<p><b>Strategy/Plan(s)</b></p> <p><b>Q:</b> Is there a <i>Gender Mainstreaming</i> strategy or plan which incorporates a clear vision and values underpinning gender transformation?</p> <p><b>Q:</b> Are there specific organisational/component goals/targets regarding gender transformation?</p> <p><b>Q:</b> Does the organisational mission, vision and values reflect an integration of gender equality considerations?</p> <p><b>Q:</b> Are gender considerations (involving specific goals) demonstrably/consciously addressed/integrated in the strategic and other plans/planning processes?</p> <p><b>Gender Analysis</b></p> <p><b>Q:</b> Are questions regarding gender impact raised consistently in the process of planning?</p> <p><b>Q:</b> Is Planning Data disaggregated by gender and the intersection of gender with compounding factors such as race, disability and other socio-economic disparities in society?</p> <p><b>Consistency</b></p> <p><b>Q:</b> Are gender issues in general programmes or projects regularly raised throughout the different project phases, from project design to monitoring and evaluation?</p>
4. Policy and Decision-making	<p><b>Women's Equal Participation in Decision-making</b></p> <p><b>Q:</b> Are women placed in positions and structures that allow them to participate fully in decision-making?</p>

KEY RESULT AREA	INDICATORS
	<p>Q: What is the extent of women's participation at the highest level of decision-making and what special measures are being implemented to accelerate progress in this regard?</p> <p>Q: Does the current structure(s) and decision-making processes encourage equal participation for women and men. If not, what special measures are in place to foster women's participation in the short term and in the long term?</p> <p>Q: : Are women as service users fully consulted in equality with men in all decision-making processes?</p> <p><b>Policy and Legal Compliance</b></p> <p>Q: Does the leadership insist on alignment of all decisions with legal/policy compliance obligations on women's advancement, women's human rights and gender equality?</p> <p>Q: Are there any risk management systems and do these incorporate the reduction of non-compliance with policy and law on the advancement of women and the promotion of gender equality?</p> <p><b>Responsiveness to Women</b></p> <p>Q: Is decision-making supported by gender disaggregated data that accurately reflects the position and consequent needs of women from various racial, socio-economic and other backgrounds?</p> <p>Q: What measures are in place to mediate the negative impact that many seemingly neutral decisions and practices have on women? Do special measures seeking to mediate unequal gender relations also take into account and address additional disadvantages faced by black women, particularly African women, women with disabilities and other victims of multiple discrimination?</p> <p><b>Organisational Priorities</b></p> <p>Q: Are women's concerns reflected in organisational priorities as indicated in annual budget and implementation processes?</p> <p>Q: Do decision-making policies and processes encourage policy compliance on gender and other policies? For example, do decision makers regularly consider what the implications are of decisions they are about to make? Are proposed decisions that violate policy or undermine progress on gender equality regularly referred back?</p> <p><b>Law Making and Interpretation</b></p> <p>Q: Do legislative priorities and the legislative process give priority to women's</p>

KEY RESULT AREA	INDICATORS
	<p>human rights concerns as reflected in <i>CEDAW</i> and related human rights instruments? In particular, are the <i>15 Critical Areas of Concern on Women and Gender issues</i> reflected in the legislation programme and achievements every year? If so what has been achieved since the reading of the country's <i>CEDAW Report</i> in 1998?</p> <p><b>Q:</b> Are all laws that are passed annually, as well as existing laws subjected to a gender equality (impact) analysis? If so what have been the achievements since 1998? Is this also extended to the certification of laws, state contracts and advice given to the state by the State Law Advisors and Attorneys?</p> <p><b>Q:</b> What measures have been implemented to test the country's Constitution against <i>CEDAW</i> and the Country's National Commitments regarding the implementation of the BPA?</p>
<p>5. Implementation</p>	<p><b>Gender in Programmes and Projects</b></p> <p><b>Q:</b> What measures have been put in place regarding the creation of an environment that affirms women and promotes gender equality?</p> <p><b>Q:</b> Do women and men benefit equally from current programmes and services?</p> <p><b>Q:</b> What processes are being implemented to transform gender relations to equalise service and opportunities to address inequality between men and women?</p> <p><b>Q:</b> Are women's concerns, particularly those singled out in <i>CEDAW</i>, the <i>BPA</i>, <i>SADC Declaration</i>, <i>Equality Act</i>, <i>Preferential Procurement Policy Framework Act</i> and <i>Employment Equity Act</i>, reflected in Departmental programme implementation priorities?</p> <p><b>Beijing and CEDAW Priorities</b></p> <p><b>Q:</b> Do programmes and projects priorities on gender transformation address all of the <i>15 Critical Areas of Concern</i> regarding the advancement of women and realisation of women's human rights extracted from international and national human rights framework?</p> <p><b>Q:</b> Does project content cover all key issues under each Critical Area and the 12 dimensions of <i>Gender Mainstreaming</i> outline as key Result Areas in the <i>Assessment instrument</i>?</p> <p><b>Integrated and Holistic Approach</b></p> <p><b>Q:</b> Is the implementation of gender programmes and interventions a deliberate systematic goal driven, holistic and integrated process that is collectively coordinated and monitored by the senior leadership?</p>

KEY RESULT AREA	INDICATORS
	<p><b>Special Programmes</b></p> <p>Q: What special programmes are in place for accelerating the advancement of women and women's empowerment?</p> <p>Q: What programmes are in place for involving men and transforming male attitudes and behaviour?</p> <p><b>Mainstreaming Equality and Other Human Rights</b></p> <p>Q: Are human rights and equality considerations mainstreamed and factored into all decisions, systems, processes and practices?</p>
6. Resources	<p><b>Engendering Budget</b></p> <p>Q: Is consideration given to per capita expenditure between male and female beneficiaries of different races, disability and others in general budgets?</p> <p>Q: Are questions regarding gender equality impact regularly raised in the budget process and are measures implemented to equalise expenditure and related benefits?</p> <p><b>Human and Other Resources</b></p> <p>Q: Does the component have a <i>Gender Focal Point</i> (GFP) and how often does the leadership interface with the <i>GFP</i>, <i>Gender Directorate</i> and external experts?</p> <p>Q: What structures are in place to coordinate gender programming?</p> <p>Q: What percentage of the budget is allocated to gender transformation work, including the budget of the gender Unit, expertise, literature and coordinating mechanisms?</p> <p><b>Funding For Special Programmes</b></p> <p>Q: What budget has been allocated to capacity building on gender mainstreaming, related skills and other programmes to facilitate institutional transformation?</p> <p>Q: What budget has been set aside for special programmes on women's empowerment in all aspects of the Department's work, including accelerated leadership development, access to justice, victim support and empowerment, economic empowerment and professional and technical skills development?</p>

KEY RESULT AREA	INDICATORS
<p>7. Capacity Building</p>	<p><b>Education and Training on CEDAW and Other Obligations</b></p> <p><b>Q:</b> What measures have been implemented to familiarise senior managers and the rest of personnel with the provisions of <i>CEDAW</i> and specific obligations for the Unit?</p> <p><b>Q:</b> What other instruments have been dealt with and have obligations for each component been elicited and if so, do these cover all of the <i>15 Critical Areas</i> and the various gender issues emerging from relevant articles as well as the <i>12 Dimensions of effective Gender Mainstreaming</i> outlined in the <i>Assessment Instrument</i>?</p> <p><b>Q:</b> Are there any long term skills development measures that seek to empower managers and staff with effective gender mainstreaming skills, including gender analysis, equality and diversity management as well as change leadership?</p> <p><b>Q:</b> Are there any interventions seeking to involve men and transform male perceptions and behaviour as part of gender transformation?</p> <p><b>Learning Resources and Aids</b></p> <p><b>Q:</b> Are members of the component familiar with the text of the <i>Gender Policy</i> of the Department, <i>National Gender Policy, Equality Laws, Constitution and key human rights instruments on women's advancement</i> and the promotion of gender equality. Do they know their obligations?</p> <p><b>Technical Support and Expertise</b></p> <p><b>Q:</b> Does the component habitually engage in discussions with or seek advice from the <i>GFP, Gender Directorate</i> and external experts on gender?</p> <p><b>Specialist Skills and Professional Development</b></p> <p><b>Q:</b> What programmes or resources are in place for accelerated professional development of <i>Gender Focal Points</i> and specialist <i>Equality or Equity Managers</i> to strengthen their technical input and gender management support?</p> <p><b>Q:</b> What measures are in place to accelerate women's skills, professional and leadership development to support their entry, advancement and retention in areas where they are currently underrepresented?</p>

KEY RESULT AREA	INDICATORS
<p><b>8. Communication / Information</b></p>	<p><b>Internal and External Communication Processes</b></p> <p><b>Q:</b> Does communication consciously address the situation of women and their concerns (how)?</p> <p><b>Q:</b> Are women consulted equally with men in decision-making processes (on what and how often)?</p> <p><b>Q:</b> Does all departmental communication (speeches, newsletters, press releases, etc) consistently convey the importance of women's advancement and the promotion of gender equality?</p> <p><b>Knowledge Generation and Information Management</b></p> <p><b>Q:</b> Do research interventions and management systems, including information technology, facilitate a better understanding of gender concerns and enable the assessment of progress made on the advancement of women and women's enjoyment of all human rights?</p> <p><b>Q:</b> What programmes are in place to measure progress on each of the <i>15 Critical Areas</i> identified earlier and on all <i>12 dimensions of the Assessment Instrument</i>?</p> <p><b>Q:</b> Are women's concerns appreciated and given priority in research and/or knowledge generation?</p> <p><b>Readily Available Reliable Indicators</b></p> <p><b>Q:</b> Are accurate gender disaggregated statistics also broken down in terms of race, disability and other grounds for multiple forms of discrimination, and are these regularly maintained and readily available?</p> <p><b>Q:</b> Do such statistics provide baseline information on the extent of systemic and structural gender inequality and discrimination in the Department's scope of work and society, with specific reference to the various gender issues under each of the <i>15 Critical Areas of Concern</i>?</p>
<p><b>9. Employment</b></p>	<p><b>Gender Profile and Trends</b></p> <p><b>Q:</b> Does the organisational profile reflect a gender balance at all levels and in all occupational categories and do current trends reflect significant movement towards achieving this?</p> <p><b>Q:</b> Are women and men equally involved in employment related decision-making, including recruitment and appointments?</p>

KEY RESULT AREA	INDICATORS
	<p><b>Legal and Policy Compliance and Planning</b></p> <p>Q: Do organisational practices reflect a full understanding of and commitment to comply with all the provisions of the Employment Equity Act and related national and international legal and policy frameworks?</p> <p>Q: Is there a holistic <i>Employment Equity Plan</i> with clear targets and time-frames for the empowerment and advancement of women and is such plan integrated in the main strategy?</p> <p>Q: Is the plan rigorously adhered to in all employment practices, from recruitment to retention, and is non-compliance backed by appropriate sanctions? Does this include clear responsibilities and accountability for performance on gender transformation?</p> <p>Q: What changes have been effected in the work place to affirm gender diversity and to comply with relevant law and policy?</p> <p>Q: What policies are in place to support organisational transformation and gender equity in the workplace and are such policies rigorously enforced?</p> <p><b>Special Measures and Skills Development</b></p> <p>Q: What special measures are in place to accelerate women's recruitment, development, advancement and retention at all levels and in all occupational categories? (This includes the judiciary and the legal profession.)</p> <p>Q: What is being done to align skills development initiatives with employment equity objectives relating to the advancement of women?</p> <p>Q: What measures are in place to enhance diversity awareness and management and to enhance change management capacity and resilience at all levels?</p> <p><b>Monitoring and Evaluation</b></p> <p>Q: Have decision-making and performance management systems been adjusted to support effective progress tracking and accountability on targets set for the advancement of women and related organisational transformation?</p> <p>Q: Is progress monitored regularly and management advised to change course where necessary?</p>
<p>10. Procurement</p>	<p><b>Contractor Profile</b></p> <p>Q: Are women and men from all races benefiting equitably from tenders and other Departmental or Component contractual opportunities?</p>

KEY RESULT AREA	INDICATORS
	<p><b>Legal and Policy Compliance</b></p> <p><b>Q:</b> Are all managers and personnel involved in procurement informed on relevant law and policy obligations regarding women's empowerment and the promotion of gender equality?</p> <p><b>Q:</b> Have all organisational systems been aligned with relevant legal and policy obligations? This includes standardisation of practices, existence of Departmental policy and standards and gender disaggregated data to generate indicators for tracking progress?</p> <p><b>Q:</b> Have targets been set for increasing the number and value of contracts received by women, taking into account race and other forms of diversity?</p> <p><b>Special Programmes</b></p> <p><b>Q:</b> What special programmes are being implemented to accelerate women's full participation in state contracts?</p> <p><b>Q:</b> Do special programmes take into account and address additional barriers to women accessing state contracts that are based on race, disability and other factors that compound women's inequality and disadvantage?</p>
<p><b>11. Monitoring and Evaluation</b></p>	<p><b>Disaggregated Data</b></p> <p><b>Q:</b> Are service, employment and procurement statistics disaggregated in terms of gender?</p> <p><b>Q:</b> Have adjustments been made to information and statistics collection to ensure that there is baseline data which is regularly available, with accurate indicators for tracking progress on all key issues under each of the 15 <i>Critical Areas of Concern</i> on women's human rights?</p> <p><b>Accountability</b></p> <p><b>Q:</b> Are gender indicators, targets and benchmarks incorporated in performance agreements of management and general personnel?</p> <p><b>Q:</b> Are questions regarding performance on gender targets raised constantly by the leadership?</p> <p><b>Risk Management and Benchmarking</b></p> <p><b>Q:</b> Are monitoring systems and practices aligned with compliance obligations under international instruments and policies?</p> <p><b>Q:</b> Are there any checks and balances that facilitate early detection of non-compliance with, or potential violation of international and national legal and policy obligations?</p>



KEY RESULT AREA	INDICATORS
12. Reporting	<p><b>Gender Disaggregated Records and Reports</b></p> <p>Q: Are gender disaggregated records kept on all key operations and are these readily available for swift compilation of accurate reports?</p> <p>Q: Are reports on gender and the advancement of women regularly required, submitted and discussed in all key management structures?</p> <p><b>Standardised Reporting on Gender</b></p> <p>Q: Are all managers fully aware of reporting obligations under various international and national instruments and have they aligned their internal reports with this?</p> <p>Q: How often are gender issues mentioned in general reports and do the mentioned issues cover all of the 15 Critical Areas of Concern and relevant issues under each area? Furthermore are gender concerns integrated in all items or segregated and addressed as an add-on matter?</p> <p>Q: Are reports standardised and aligned with agreed goals and targets?</p>

The *Gender Mainstreaming Assessment Instrument* has been developed on the basis of a synthesis of ideas extracted from *Guidelines for the Preparation of Country Reports* on international instruments such as CEDAW, the BPA and the SADC Declaration on Gender and Development, *Gender Mainstreaming Guidelines*, formulated by the various international agencies and *Principles of Organisational Behaviour*<sup>13</sup>.

The theory behind the *Gender Mainstreaming Assessment Instrument* is that an *organisation operates as a system* and that through an examination of the *behaviour of an organisation*, it is possible to ascertain the *gender character* of or the extent to which *Gender Mainstreaming* is practiced in that organisation. The underlying assumption is that an analysis of *organisational behaviour* (or *institutional character*) can provide pointers as to whether or not gender is being mainstreamed in that organisation. It can also indicate the extent to which such mainstreaming is succeeding in transforming gender relations in the organisation and the sector where that organisation operates within the broader society. This will be reflected in an organisation's structure and policies (including mission, vision and value statements); its strategic and operational plans; all publications and other forms of corporate and public communication; its decisions and decision-making systems and participation therein; the behaviour of the leadership and ordinary members; its composition; its reward and disciplinary practices; and its staff turnover trends.

13. Developed by T. Madonsela, J. Maluleke, and S Pillay 2002.

The *systems approach* to organisational behaviour incorporates an appreciation of the fact that what happens in any part or aspect of the organisation impacts on other parts of the organisation. In this regard, organisational components such as structure, policies, processes and actors within and outside the organisation determine organisational behaviour and the impact of such behaviour on women and men. This means that certain *gender behavioural traits* are expected from an organisation where gender considerations are routinely integrated in all decisions and operations, and that such trends are not likely to be indicated in an organisation where gender mainstreaming is not a core value.

The theory assumes that the composition of an organisation, the beliefs of the people in it and outsiders who play a critical role in its decision-making processes determine organisational outlook. The organisational outlook will include organisational priorities, values and understanding of who the main customers are, what needs to be done to meet the needs of the identified customers, and ultimately who and what is worth spending limited organisational resources on.

Another element of the *Assessment Instrument* is the understanding that people's beliefs, values and inputs into the decision-making processes and operations of the organisation are influenced by their perceptions or 'world view'. Such perceptions or paradigms are shaped by each person's years of socialisation before and after entering the organisation. Social factors such as race, sex, culture, religion, class, geographic location, age, exposure to information, and an understanding of what is regarded as important by those in power (eg political and administrative heads), play a major role in shaping a person's behaviour in, and contribution to an organisation. This includes a person's perception of which customers matter, what are their needs and how best to respond to such needs, including what to prioritise and what to spend most of the limited resources on.

With regard to the gender character of an organisation, or the gender dimensions of its behaviour, the factors outlined above are best summarised in what gender activists refer to as a *Gender Tree*. The *Gender Tree* depicted in *Figure 1* below, presents a framework for understanding the gender character or behaviour of an organisation.

This is one way of eliciting indicators on the extent of *Gender Mainstreaming* in an organisation. *Gender Mainstreaming*, as indicated earlier, consciously intervenes into all organisational aspects, including policies, laws, processes and activities to ensure that each of these is based on a proper understanding of the differential circumstances and consequent needs of women and men from diverse racial, cultural, class and other backgrounds. It also includes efforts to respond meaningfully to these different needs while progressively eradicating inequality between women and men.

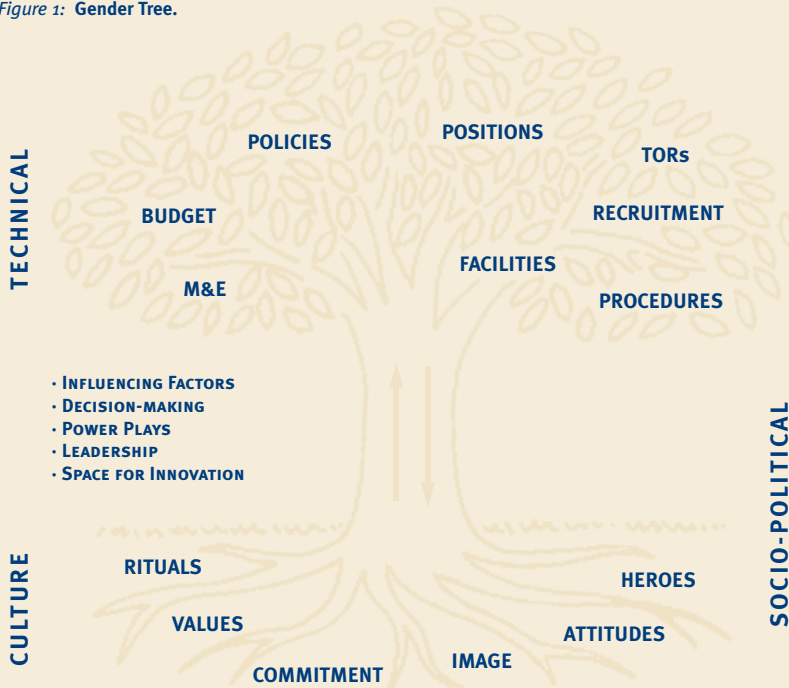
The Gender Tree is based on the understanding that an organisation is like a tree with *three main dimensions* that work together to determine its gender character or the extent to which it progressively operates to eradicate inequality between women and men.

*The first is a cultural dimension.* This is likened to *roots of a tree* and covers *key norms and values* indicating what the organisation stands for and how it wishes to operate. This is expressed through symbols, slogans, leadership behaviour and staff behaviour. This dimension also includes relationships and change processes. (An example in this regard is the new South African Coat of Arms which carries a message strongly indicating that diversity is valued.)

*The second is a socio-political dimension.* This is likened to the *stem of a tree* and covers *policy influences, decision-making and space allowed for individual contributions*, including involvement in decision-making. For example, the *Batho Pele* White Paper clearly indicates that the Government values putting customers first in all decisions and redirecting resources to address inherited unequal distribution of public service resources and benefits, while pursuing global competitiveness.

*The third is a technical dimension.* This is likened to the *branches, leaves and fruits of a tree* and is informed by the roots and stem. This dimension covers *policies, action tasks, responsibilities and expertise*. An example in this regard is tender specifications that indicate that teams should be gender and racially balanced and that experts within such teams should embrace non-sexism and non-racialism.

Figure 1: Gender Tree.



The development of the Assessment Instrument depicted in *Table 1* above also drew from the Model depicted in *Table 2* below. This model focuses on the various phases through which an ideal organisation evolves as it implements Gender Mainstreaming.

**Table 2 Gender Mainstreaming Continuum**

**Extent to which gender considerations are integrated in every part of an organisation**

*(Adapted from: Verona and Gurung 2001: 46)*

<b>I</b>
The organisation reflects roles and values of women and men in society. Both women and men are employed but mainly do different types of work. The services of the organisation are carved on the experiences of and operate mainly in response to the needs of men.
<b>II</b>
In the organisation it is recognised that there are differences between women and men in terms of access to opportunities, resources and services offered by the organisation. It is also realised that women and men have different perceptions and interests owing to their position in society. Problems resulting from gender differences are identified.
<b>III</b>
In the organisation it is recognised that there are underlying and hidden causes of inequality between women and men which are being identified. The observed differences are considered undesirable, unjustifiable and unfair.
<b>IV</b>
In the organisation willingness exists to take action to reduce undesirable, unjustifiable and unfair discrimination. This includes indirect discrimination.
<b>V</b>
In the organisation actions and measures are taken at all levels to ensure fair and just distribution of tasks, responsibilities, resources, benefits and contractual opportunities between women and men. This includes eradicating gender inequalities in the services delivered by the organisation, thus ensuring that women and men benefit equally from resources employed, policies made, decisions taken and activities implemented.
<b>VI</b>
In the organisation both women and men feel at ease in the working environment, which is gender balanced and fair with both sexes equally represented at all levels of decision-making. This is also evident for all working for the organisation through outsourcing or prioritising public partnership and equal opportunities. Male and female customers from diverse racial socio-economic and other backgrounds receive services that are tailored to their experiences and related needs. They are satisfied with the responsiveness of services. Efforts are taken to maintain this situation.

The conceptualisation of the *Gender Mainstreaming Assessment Instrument* was informed by the *National Gender Policy Framework* and in particular by the following Four Pillar Gender Management System:

**Table 3: Gender Mainstreaming System (GMS)**

ENABLING ENVIRONMENT	GMS PROCESSES	GMS STRUCTURES	GMS MECHANISMS
<ul style="list-style-type: none"> <li>• Political Will</li> <li>• Legislative and Administrative Framework</li> <li>• Active involvement of civil society</li> <li>• Adequate human and financial resources</li> <li>• Women in decision-making positions at all levels</li> </ul>	<ul style="list-style-type: none"> <li>• Setting up GMS Structure and Mechanisms</li> <li>• Developing and Implementing a National Gender Action Plan</li> <li>• Mainstreaming Gender in the National Development Plan and Departments</li> </ul>	<ul style="list-style-type: none"> <li>• OSW Mechanisms</li> <li>• Gender Coordinating Structures</li> <li>• Gender Focal Points</li> <li>• Parliamentary Women's Caucus</li> <li>• Commission For Gender Equality</li> </ul>	<ul style="list-style-type: none"> <li>• Gender (Equality) Analysis</li> <li>• Gender Training and Education</li> <li>• Management &amp; Information System</li> <li>• Performance Appraisal systems</li> </ul>

## 4. FINDINGS

*When you presume you are not treating me as the person I am; when you do not presume you are treating me as the person I am in a minimal sense; when you recognise and respond to the person I am; you are treating me as the person I am in a maximal sense.*

**Spelman E 1978**

The findings of the study are summarised under two categories. These are: *General Observations* and *Specific Findings on Business Units*.

### 4.1 General Observations

1. Significant strides have been made in the Ministry and Department of Constitutional Development with regard to effecting gender transformation in pursuit of the constitutional vision of a non sexist and non racial society based on human dignity, equality and the advancement of human rights and freedoms and where the quality of life of all citizens is improved and the potential of each person is freed <sup>14</sup>
2. Measures have been taken to effect gender transformation over the last nine years. These have covered a broad spectrum of issues in the area of law and policy, planning, placement of women in senior decision-making positions and the recruitment of women into management and professional positions, from which they were previously excluded. There have also been efforts to address gender and women's concerns in internal and public communication and to effect visible changes in service delivery systems, particularly the courts and prosecutorial.

Specific measures have included:

- Varying degrees of awareness reflected in discussions on issues such as appointments within the Magistrates Commission, Lower Courts Management Committee, National Prosecutorial Authority and some of the Business Units in the Department;
- An open commitment to implement measures to advance women and promote gender equality. Examples include the *Gender Policy Statement* of the Department, *Speeches* by the leadership, including the Ministers and Director General and *Reports* of the Department and affiliated institutions;

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<sup>14</sup> Adapted from the *Preamble and Founding Provisions of the Constitution*. (The Constitution of the Republic of South Africa, 1996).

- Mainstreaming women's concerns and gender issues in the Department's first Strategic Plan: *Justice Vision 2000* and some women's concerns are articulated in some of the *Business Plans* of the present Business Units and the Department's *Employment Equity Plan*;
  - Policy interventions in pursuit of gender transformation including the Department's *Gender Policy Statement* and the articulation of gender issues in Departmental policies such as the *Employment Equity Policy, HIV/Aids Policy, Disability Policy and Human Resource policies*, including policy regarding starting times for work in the Department;
  - Law reform to address women's concerns and eliminating some of the justice concerns of women relating to the following issues:
    - Recognition of customary marriages;
    - Maintenance;
    - Gender violence with particular reference to management of domestic violence cases and sentencing in sexual violence; and
    - Family law with particular reference to divorce.
3. Incomplete initiatives on measures that seek to deal with women's enjoyment of human rights in respect of:
- Sexual offences against children and others;
  - Victim's rights and empowerment;
  - Succession under customary law;
  - Legal advice and related services;
  - Equality and non discrimination in all spheres of life; and
  - Freedom from trafficking in women and children.
4. Administrative improvements in some of the courts that seek to improve access to justice and user friendliness, covering:
- Victim protection services, including one way mirrors, television circuits, separate waiting rooms and automated screening services for rape cases;
  - Victim support services, including waiting rooms, information services and NGO provided services, such as counselling for victims of violence;
  - Stress management services for court personnel to enhance empathy;
  - Improved court facilities and environments which are less intimidating and accommodate some of the needs of Women with Disabilities;
  - Improved language services, including the accommodation of disability;
  - Public education and information services on various aspects of the law and justice processes;
  - Better coordination with other role players, including the police, probation officers and civil society agencies;
  - Court improvements in preparation of the implementation of Equality Courts; and
  - Bringing courts physically closer to some of the historically neglected communities;

5. Some improvements have been effected in resource allocation towards services that are mainly used by women. This includes a special allocation towards maintenance administration. It also includes the setting up of a Gender Focal Point at a very senior level (directorate), appointment of gender personnel at various levels in some of the regions of the Department and establishment of a Gender Committee attached to the Lower Courts Management Committee.
6. Some effort has gone towards capacity building to improve the ability to understand and tackle gender and women's concerns. Initiatives include training provision to a number of court personnel including judicial officers, covering matters such social context, diversity, awareness, domestic violence and general equality. The prohibition of unfair discrimination and training of some managers and admin staff on *Batho Pele*, employment equity and affirmative action, HIV/AIDS, disability and diversity management has also taken place.
7. Some attention is paid to employment equity principles and aspects of the Preferential Procurement Policy Framework Act, in the handling of procurement, and to some level of monitoring evaluating and reporting on progress made in the implementation of the few programmes in place on women and gender.

**Significant gaps, however, exist with regard to the following:**

#### **Awareness**

1. There is inadequate awareness of the international and national frameworks for women's human rights and appreciation of the full nature and scope of the compliance obligations applicable to the Ministry and Department regarding the advancement of women and promotion of gender equality. Similar gaps exist with regard to full appreciation of the different circumstances and needs of women and men from diverse racial and other backgrounds. Due to this, seemingly neutral decisions and operations within the Ministry and Department tend to impact negatively on women, and this will impact further due to race, disability and other factors that underpin multiple injustices.
2. The current level of dialogue in the Ministry and Department and resultant initiatives on the advancement of women's human rights do not cover the full spectrum of Critical Areas of Concern captured in the *Beijing Platform for Action (BPA)*, the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, the *SADC Declaration on Gender and Development and Addendum on the Prevention and Eradication of Violence Against Women*, the *Bill of Rights in the Constitution*, the *Promotion of Equality and Prevention of Unfair Discrimination Act* and *Prevention of Unfair Discrimination Act, Employment Equity Act, Preferential Procurement Policy Framework Act*.

In addition, there needs to be more observance of government policy on women empower-



ment and the transformation of the public service, including the *Batho Pele White Paper* and the *National Policy Framework For Women's Empowerment and Gender* and the *National Skills Development Strategy Equality*

Further, there are Departmental policy pronouncements captured in amongst others, *Justice Vision 2000*, the *Gender Policy Statement*, *Employment Equity Policy*, *National Commitments on the Implementation of the BPA* and *SADC Addendum on Violence Against Women and Children*, that need to be better observed.

3. Not much dialogue or action is taking place on *Critical Areas of Concern* such as the following:
  - Women and the Constitution;
  - The relationship between gender equality and customary law as undertaken in the ratification of CEDAW;
  - Women and the law broadly, including the Civil Justice System (other than Family Law);
  - Women's human rights broadly, as articulated in the two Human Rights Covenants, CEDAW, the Constitution and other instruments;
  - Women and culture, including customary law practices (other than Recognition of Customary Marriages);
  - The placement of women in decision-making positions;
  - Engendering the budget;
  - Research and information management to support efforts to advance women;
  - Poverty and women's economic empowerment;
  - Women's health; and
  - Women and the environment .
  
4. Areas covered in the gender dialogue within the Ministry and Department are not only narrower than the 15 Critical Areas of Concern derived from the international and national Legal and Policy Compliance Framework on women's advancement and the promotion of gender equality, but also cover a very narrow spectrum of compliance issues under each *Critical Area of Concern*. For example, with regard to violence against women, focus has primarily been on general public awareness and the Domestic Violence Act. Departmental initiatives have not consistently captured all the issues outlined in *CEDAW General Recommendations 12 and 19*, the *SADC Addendum on Violence Against Women and Children*, *Promotion of Equality Act* and other legal and policy frameworks. An example of an issue that is consistently left out is the issue of *Trafficking in Women and Children*.
  
5. Even on issues that are covered in programming, there is often lack of follow through or focussed implementation. For example, progress made in following through with law reform directed at gender discrimination in the provisions of the Black Administration Act relating to succession under customary law, seems to be omitted from departmental priorities (the Bill was returned by parliament for further consultations nearly 5 years ago, 1998). The implementation of the Maintenance Act is an example of poor follow through on laws already passed. This Act, the Domestic Violence Act and the Family Court Project are also examples of poor monitoring and evaluation of fairly

meaningful interventions. Another example relates to gender budgeting. Although the Department has committed itself to Gender Budgeting, a commitment noted by SADC and the United Nations, no meaningful measures are being taken towards gender budgeting.

6. Some of the legal and policy interventions fail to respond to all the critical elements of the problem or compliance obligations in terms of CEDAW and other women's human rights instruments. An example in this regard is the *Recognition of Customary Marriages Act* which leaves unanswered the question of proprietary rights for women married under Customary Law before the enactment of this law, a condition that falls short of compliance with CEDAW, the BPA, SADC Declaration on Gender and Development and other human rights obligations.
7. Most of the issues dealt with under the *Critical Areas of Concern* are often dealt with uni-dimensionally and usually seen as isolated women's concerns without appreciation of the structural gender relations and bias within organisational systems, values and practices and the implementation of measures aimed at broader organisational transformation in response to this. For example, gender violence is not systematically integrated in general departmental planning and processes on policy review, budgets, capacity building, communication and information management systems, human resource planning and management, procurement, monitoring and evaluation and regular reporting. There is not a holistic strategy that responds to the multifaceted nature of the problem of gender violence through multifaceted measures in response to each dimension of the problem. This observation applies in respect of the other 14 *Critical Areas of Concern* referred to earlier.

### **Commitment**

1. There is generally a serious gap with regard to aligning policy development and planning processes within the Ministry and Department and its Components with international and national compliance obligations on gender. A gap exists with regard to the implementation of relevant policies whether internal, national or international. Evidence of this weakness includes:
  - A general lack of references to international and national legal and policy frameworks or compliance obligations there-under in Departmental and Component policies or plans. For example, Plans of Business Units in the Department do not make any reference to the Departmental *Gender Policy Statement* or any other superior policy or legal instrument and compliance obligations under such instrument. An exception is some cursory reference to the *Employment Equity Act* and *Preferential Procurement Policy Framework Act* in some of the Business Plans;
  - A general absence of a culture of justifying decisions or rejecting proposals on the basis of international and national legal and policy frameworks and compliance obligations on women's advancement and human rights. Decisions that contradict own policies or national or international obligations on women's advancement and human rights are often made

without reference to these frameworks or obligations there-under. Appointments present an excellent example in this regard;

- Absence of any meaningful action taken towards engendering the budget despite the undertaking made in this regard in the *National Commitments regarding the Implementation of the BPA and in the Department's Gender Policy Statement*; and
  - The absence of implementation strategies or conscious implementation efforts on the Department's *Gender Policy Statement, National Gender Policy Framework, Departmental Compliance with Gender Provisions of the Promotion of Equality Act, the Preferential Procurement Policy Framework Act, Skills Development Act & Strategy, Batho Pele* and other policies with critical gender dimensions.
2. The Ministry and Department appear to have no clear vision underpinning gender transformation and other equality initiatives. While there is a general sense that something needs to be done to address women's needs, there does not seem to be much appreciation of the link between this and the eradication of women's inequality within the sector and society as a whole. Furthermore, initiatives do not target the transformation of all organisational aspects to affirm women and gender equality.
  3. There is inadequate advocacy for holistic and systematic gender transformation at leadership levels. This includes frequency of leadership references to organisational commitments regarding the advancement of women, contribution to the delivery of women's enjoyment of all human rights and freedoms and the achievement of gender equality in the Ministry and Department and all spheres of life. It also includes paucity leadership of pronouncements on key objectives to be achieved and practices to be changed<sup>15</sup>.
  4. The current organisational structure and decision-making model used by the Department undermines efforts to promote women's participation at all levels of decision-making and does not ensure that all decisions are in line with gender compliance obligations arising from international and national legal policy frameworks. The rank-based representation in key decision-making structures undermines equitable representation of women in such structures because they are grossly under-represented at top and senior management. Another aspect of weakness in decision-making is that there are no checks and balances that ensure that proposed decisions that violate gender and other legal and policy compliance obligations, are referred back.
  5. There is fragmented and often ad hoc implementation of interventions on women and the promotion of gender equality. For example, the various plans contained disparate provisions on common issues such as employment equity, procurement equity and resource allocation towards gender programming. Some had no gender provisions on these issues. Most of the gender or women's empowerment issues outlined in business plans and annual reports, did not translate into sus-

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<sup>15</sup> This compares poorly with the President's visible advocacy for women's empowerment for women's human rights, as may be gleaned from his key addresses, including State of the Nation addresses.

tainable, holistic transformation programmes, but rather tended to be ad hoc. Examples include violence against women, maintenance, family court project and initiatives relating to achieving user-friendly courts.

6. There is a limited understanding of the content and accordingly compliance action required under some of the policies. An example in this regard is the fact that employment equity transcends representivity and gender transcends issues that specifically relate to women. On the broader question of *Gender Mainstreaming*, no evidence was found indicating organisational appreciation of the need to mainstream gender or integrate gender considerations into all aspects of the Ministry and Department and as such there seemed to be no goals or targets in this regard. In fact attitudes, structures and practices revealed that the average person in the organisation did not appreciate that many seemingly neutral practices operated to discriminate indirectly against women due to the accumulated socio-economic disadvantages and systemic inequality experienced by women in society with the position of black women and other victims of multiple historical injustice being more acute. This was accompanied by apparent indifference to the reality that structural inequality within the socio-economic stratification in society replicates itself in all organisations, including the Ministry and Department, unless deliberate positive interventions were taken to address the historical imbalances. An example in this regard is a response from one of the Business Units that said there were no gender problems because everyone was new and that similar treatment and therefore equal treatment was extended to women and men. They further stated that gender concerns were being addressed through a specific project on maintenance. Another example was the apparent lack of appreciation that rank based participation in decision-making automatically prejudiced women, due to their under-representation in most senior positions.
7. There is a lack of social context awareness, particularly, appreciation of the position of women in society, their experiences in the justice system due to their accumulated socio-economic disadvantages, and the fact that the court structures and processes that were initially modelled against the experiences of men as primary users, fail to accommodate the experiences of women that are not shared by men. There is also failure to appreciate that seemingly neutral decisions, plans or practices, often operate in a manner that discriminates indirectly against women by perpetuating existing structural and systemic inequalities between women and men in society.

## Planning

1. There is a lack of clear vision and values on gender transformation with the situation compounded by a mission and vision statement, which fails to mainstream equality and other human rights.
2. There is poor planning, policy alignment and co-ordination, accountability and monitoring of transformation interventions, including those relating to gender. This includes the absence of clear goals and targets aligned with customer needs and compliance obligations under interna-

tional/national legal and policy frameworks on human rights and other issues.

3. There is a lack of clarity on the goals of transformation, including gender transformation. Each Business Unit apparently follows its own. For example, finance and automation changes could easily move towards the ruthless efficiency that grinds the souls of justice users, particularly women and other disadvantaged groups whose experiences and needs have been historically marginalised. Problems include a general absence of target setting, including SMART organisational goals for the MTEF and SMART annual objectives, including those relating to gender and other equality issues.
4. There is poor planning data (statistics and other information) available, and inadequate use of available data to plan organisational changes, particularly those relating to service delivery and employment with the problem exacerbated by the fact that most data is not centralised. Further, the data is not disaggregated by gender and compounding factors such as race, socio-economic status, disability, HIV status, culture, religion and language.

### **Policy and Decision-making**

1. There is a hierarchical organisational culture with participation mainly linked to rank in a context where women's representation is very thin at the top and virtually non-existent in some of the structures. It has been proven that you need a critical mass of any group for their voices to make an impact with regard to organisational behavioural change in order to affirm the experiences of that group.
2. There is a general failure to mainstream equality and other human rights in organisational policies, systems, processes, actions and regular pronouncements, including statements made in internal and external media opportunities.
3. There is a poor 'follow-up' culture, with many policies never being implemented consciously and only mentioned during development stage. This usually happens when the organisation has to submit accountability and or progress reports to government or international forums. This includes apparent organisational indifference to many of its own and government policies on equality or aspects thereof, e.g. *Departmental Policies on Employment Equity, Gender and National Gender Policy Framework* and policy directives on Black Empowerment.

### **Implementation**

1. There are unclear responsibilities and accountability for different managers and ordinary persons with regard to the implementation of gender transformation, including *Gender Mainstreaming*, women empowerment and interventions seeking to change male and organisational behaviour.

2. There is fragmented implementation and the absence of a results focussed systems approach for the prioritisation of transformation interventions, where interventions complement each other. For example, gender budgeting, preferential and affirmative procurement, pay equity and other employment equity issues, such as targeted recruitment and retention strategy for groups designated in the Employment Equity Act, do not appear to be systematically coordinated between the different components.
3. The organisational interventions generally seem to deviate from systems thinking and do not reflect a desire to address all key compliance obligations that arise from international and national legal and policy frameworks that are binding on the South African government.

### **Resources**

1. A budget which is not engendered with no visible efforts to address this weakness and the situation is compounded by acute weaknesses with regard to engaging in results based decision-making, including the achievement of outcomes or objectives based budgeting that is zero-based and takes into account the need to redirect resources to historically neglected areas as required by *Batho Pele*.
2. Inadequate resources allocated towards gender transformation programmes, including the work of the Gender Directorate and special programmes to accelerate the equalisation of opportunities between women and men.

### **Capacity Building**

1. There is weak organisational capacity for *Gender Mainstreaming* owing to poor policy awareness and lack of overall strategy, appropriate skills, values and knowledge.
2. The resources invested in the Gender Directorate and related support mechanisms are also limited, as the work involved is not seen as value adding.
3. There are inadequate skills for implementing technical *Gender Mainstreaming* tasks, such as conducting a gender equality analysis, gender budgeting, managing gender and related forms of diversity as well as managing change, with no ongoing systematic measures to address this.

### **Employment**

1. There is a lack of an integrated uniform strategy for accelerating the recruitment, development, advancement and retention of women of all races, at all levels, and in all occupational categories where they were historically excluded. In many instances, employment related decisions, including appointments, are not aligned with the provisions of the Department's Employment Equity Policy and Plan.
2. There is an absence of systematic efforts aimed at transforming organisational values and behaviour in order to affirm difference as well as skills to manage diversity and related change.

### **Procurement**

1. There is an absence of an integrated organisational policy and/or strategy for accelerating equal access to procurement opportunities for women, black people and People with Disabilities. About two Business Units make casual references to the *Preferential Procurement Policy Framework Act* without clarity as to own policy, strategy or goals as envisaged under the Act read with s217 of the Constitution (and s9(2)) and the *Promotion of Equality and Prevention of Unfair Discrimination Act*.

### **Communication and Information Management Systems**

1. There are weak monitoring and evaluation systems with virtually no arrangements for effective tracking of progress on gender transformation. This is compounded by the fact that there is generally poor internal policy enforcement mechanisms and management of risks.

### **Reporting**

1. There is a lack of systematised reporting formats, and in particular, there is a need to insist on reporting against predetermined and agreed targets, including those relating to gender. This includes the need for enhanced reporting capacity which covers efficient information management, and knowledge generation on critical gender issues, and good reporting skills,

## 4.2. Specific findings on business units

Specific findings on gender mainstreaming practices in each of the eight (8) Business Units in The DoJCD are outlined in the following tables.

### 4.2.1 Court Services

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
1. Awareness	<ul style="list-style-type: none"> <li>There appears to be a limited awareness regarding the differential needs of women and men as court users.</li> </ul>	<ul style="list-style-type: none"> <li>There is no indication that measures are implemented to make it clear to all managers regarding their accountability with regard to <i>Gender Mainstreaming</i>;</li> <li>Awareness of gender issues appears to be limited to issues where the implications for women are obvious to all, for example domestic violence, sexual offences, maintenance and family law services; and</li> <li>There is no evidence of regular reference to the departmental Gender Policy Statement, government policy and relevant international instruments.</li> </ul>	<ul style="list-style-type: none"> <li>Raise awareness on gender by constantly engaging in dialogue and providing literacy on gender issues;</li> <li>Brief all managers and staff about all key policy frameworks (international, national and departmental) on their accountability with regard to <i>Gender Mainstreaming</i>;</li> <li>Ensure that all managers are fully informed of their accountability with regard to <i>Gender Mainstreaming</i>; and</li> <li>Provide capacity building to all managers and staff to bring to their attention the unequal and different circumstances of women and men. (This will help them understand that because of those differences, virtually all laws, policies, plans and activities, including court processes, impact differently on women and men and often exacerbate existing inequalities.)</li> </ul>
2. Commitment	<ul style="list-style-type: none"> <li>There appears to be reasonable commitment to addressing some of the issues with obvious implications for equality between women and men, for example, sexual offences, domestic violence and maintenance;</li> <li>There appears to be some level of representation of women in decision-making;</li> <li>Efforts to enhance the effectiveness of court management, including case management, in the courts is likely to impact positively on women and other disadvantaged court users; and</li> </ul>	<ul style="list-style-type: none"> <li>There are no activities that demonstrate an appreciation of the need for and implementation of gender analysis in all court related policies, plans and activities;</li> <li>Total profile and plan of the Business Unit do not adequately demonstrate real commitment to progressively equalise opportunities between women and men;</li> <li>Gender neutrality in the implementation of plans may fail to address existing inequalities between women and men with regard to access to justice. The emphasis on speedy justice may leave women behind.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that equality and other human rights concerns are integrated in all Unit activities from planning, through implementation, to monitoring and reporting. This entails making it mandatory to assess the effect or likely impact of all policies, programmes and activities on women and men. The aim is to ensure that all these respond meaningfully to the circumstances of women and men and reduce existing inequalities;</li> <li>Insist on equal participation of women and men in decision-making in all areas and at all levels;</li> <li>Conduct an audit to establish the gender profile of the Unit, covering employment profile trends, decision-making trends, procurement, information, knowledge generation and management, communication patterns and reporting practices;</li> <li>continued ...</li> </ul>



KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
2. Commitment continued ...	<ul style="list-style-type: none"> <li>The various transformational initiatives introduced in the courts over recent years, which include the criminal justice strengthening programme, has potential to reduce gender gaps in the responsiveness of the justice system.</li> </ul>	<p>This is particularly true for those women from historically disadvantaged backgrounds, as they may be unable to readily adapt to the use of technology or enjoy access to such technology.</p>	<ul style="list-style-type: none"> <li>Ensure that gender issues are raised regularly and with conviction in policy and other forms of dialogue with internal and external stakeholders;</li> <li>Ensure that achievements on gender targets are celebrated and rewarded;</li> <li>Develop and display appropriate policy statements, gender profiles and progress reports on targets, in places where all members of the Unit can regularly view them;</li> <li>Ensure that the gender mainstreaming strategy or plan is viewed as one of the key result areas of the overall strategy of the Business Unit;</li> <li>Incorporate or make reference to specific sections in the department's Gender Policy in the Unit's Business Plan and link this to service delivery in the Unit;</li> <li>Allocate adequate resources for gender transformation;</li> <li>Integrate non-sexism and the achievement of gender equality in the statement of values, and discourage sexist jokes; and</li> <li>Create an enabling environment that supports initiatives towards fundamental gender transformation.</li> </ul>
3. Planning	<ul style="list-style-type: none"> <li>Plan to address fragmentation and role clarification for all key role players (judges, magistrates, prosecutors and administration) in the courts; and</li> <li>Plan to enhance security in courts. This has the potential to address security concerns of women.</li> </ul>	<ul style="list-style-type: none"> <li>No gender mainstreaming strategy or plan; and</li> <li>The plan does not reflect a gender analysis or assessment of the different needs of women and men. There is no conscious attempt to improve responsiveness to women, and to respond to the specific needs of women, who have been historically marginalized.</li> </ul>	<ul style="list-style-type: none"> <li>Conduct research to identify women's circumstances and needs with regard to court services, disaggregating women in terms of various categories. These should include occupational categories (judges, magistrates, managers, clerks of courts, secretaries, etc), court users and social factors such as race, class, disability, etc. Use this information to review current information management plans and to establish impact on women and implement corrective action;</li> <li>Develop a <i>Gender Mainstreaming</i> strategy or plan and ensure that this plan covers all Critical Areas of Concern and key issues on women's advancement and human rights in CEDAW, BPA and other relevant instruments. Ensure that the plan is integrated into the Business Plan of the Unit and in operational or project plans of all components of the Business Unit and collaborate activities with other stakeholders;</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
3. Planning continued ...			<ul style="list-style-type: none"> <li>• Ensure that the plan, sub-plans and future plans are subjected to a gender analysis (being an assessment of the likely differential impact on women and men taking into account all material differences in the circumstances of women and men from diverse backgrounds). Data relied on for planning should be disaggregated by gender and its intersection with race, disability, HIV status and other forms of difference;</li> <li>• Subject all plans to compliance tests regarding key international, national and departmental policies, targets and benchmarks;</li> <li>• Request comments from the Gender Directorate, Gender Expert or Gender Forum on plans before they are finalised;</li> <li>• Incorporate gender analysis in planning and policy formulation within the Unit; and</li> <li>• Ensure that women committed to women's emancipation are involved in all stages of planning especially in policy formulation.</li> </ul>
4. Policy and Decision-making	<ul style="list-style-type: none"> <li>• The greatest challenge for the Unit is to integrate a gender analysis in all activities, structures and systems, including the prioritisation of activities, allocation of resources, and implementation and monitoring.</li> </ul>	<ul style="list-style-type: none"> <li>• Decision-making is not always informed by a gender analysis and an attempt to comply with relevant international obligations, the Constitution, national policies and departmental policy frameworks;</li> <li>• Measures on the transformation of courts do not reflect an attempt to ensure gender inclusiveness;</li> <li>• No indication that women and organisations that focus on increasing women's access to justice and opportunities in the justice system are consulted, or that they participate in decision-making regarding courts; and</li> <li>• Current court priorities, including budgets and implementation actions and processes, do not reflect an appreciation or an attempt to address women's pressing needs regarding justice; and</li> </ul>	<ul style="list-style-type: none"> <li>• Mandatory requirements regarding <i>Gender Mainstreaming</i> (as stated in Chapter 5 of the Gender Policy) to be reflected in all polices, plans, activities and decision-making processes;</li> <li>• Organisational memoranda and other decision-making processes should always include a clause indicating gender impact, also taking into account the diversity of women's circumstances and needs;</li> <li>• Institute measures to affirm women and accelerate their equal representation in all aspects of the court system in response to an audit of the current gender profile and trends and identification of obstacles;</li> <li>• Make it mandatory that women and men be equally represented in all committees, conferences, decision-making processes, including representation in international structures and processes;</li> <li>• Make it a mandatory requirement that suitably qualified women and organisations that work for gender equality are consulted and participate fully and equally with men in decision-making regarding the courts;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
4. Policy and Decision-making continued ...		<ul style="list-style-type: none"> <li>No evidence of policies that specifically seek to identify and alert all role players to address the gender dimensions of all justice processes, structures and systems.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that women's needs are established and reflected in the Top 5 organisational priorities and that this is also reflected in budget and processes;</li> <li>Develop <i>Gender Mainstreaming</i> guidelines covering all aspects of the court system and incorporating aspects relating to the needs of women as employees, contractors and customers. Incorporate these into all strategic and operational documents relating to courts and familiarise all role players with such. Deal with the gender dimensions of HIV and AIDS; and</li> <li>Insist on basing all decisions on the gender strategy of the Unit and a gender equality analysis.</li> </ul>
5. Implementation	<ul style="list-style-type: none"> <li>There appears to be some attempts to equalise responsiveness of the judicial system to both women and men. These initiatives give priority to improving (the delivery of) services that specifically address women's critical needs (for example Maintenance and Violence against Women);</li> <li>Generic victim support services that are being enhanced have potential to address women's concerns;</li> <li>Court Process Project (Bureau of Justice) focussing on sexual offences could, in the long term, improve justice experiences of victims of crime;</li> <li>Some judicial officers and administrative personnel in the courts have been exposed to education interventions to improve appreciation of women's circumstances and gender issues.</li> </ul>	<ul style="list-style-type: none"> <li>Negative perceptions continue to bedevil service delivery in the justice system, especially the courts. Women, in particular, continue to experience the justice system in a hostile and unfriendly manner;</li> <li>Core services have not been adequately adjusted to respond meaningfully to specific justice needs of women from diverse backgrounds, including race, culture, disability, socio-economic status, language, literacy levels, etc;</li> <li>Court facilities in most of the courts have not been adequately adjusted to address women's needs particularly as parents, survivors of gender-based violence and as a socio-economically disadvantaged group, and the plan does not reflect an intention to address this;</li> <li>The continuing court problems (including case management) such as case backlogs and unduly long case turnover due to, amongst other things, poor productivity in the courts,</li> </ul>	<ul style="list-style-type: none"> <li>Conduct a customer survey disaggregated by gender, race, disability and the intersection of these to establish how women and men from diverse backgrounds experience the justice system;</li> <li>Conduct a gender analysis of all core services to ascertain the differential impact on women and men from diverse backgrounds. Consider, in particular, responsiveness to women's needs, taking into account their diversity in terms of race, gender, disability, socio-economic status, language, literacy levels, geographic location, etc. Adopt measures to address these;</li> <li>Conduct a gender audit of all court facilities based on customer surveys regarding women's circumstances and related needs and ensure that court transformation processes respond to identified problem areas;</li> <li>Review court and case flow management processes to elicit gender dimensions (employment, services, decision-making and procurement) and deal with gaps regarding responsiveness to women's needs and the achievement of (substantive) equality;</li> <li>Review current co-ordination processes to establish and address weaknesses, particularly those that contribute to failure of the justice system.</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
5. Implementation continued ...		<p>impacts more negatively on women. Current initiatives do not adequately reflect an awareness of this dimension and a conscious effort to respond to it;</p> <ul style="list-style-type: none"> <li>• Inadequate synergy in the operations of the key role players in the justice process and weaknesses in managing change in the recent separation and redefinition of roles and responsibilities between the prosecution, administration and the judiciary. This continues to undermine an integrated justice system required for responsive delivery of services that are primarily used by women;</li> <li>• The continued existence of inefficient and outmoded structures, processes and legal principles in the courts, particularly the district courts, has a compounded adverse impact on women (for example the processing of maintenance);</li> <li>• There is no evidence of appreciation and or plans to address the possibility that planned speedy justice processes may undermine participation by disadvantaged groups, particularly women who may be slow to understand the changed procedures.</li> </ul>	<ul style="list-style-type: none"> <li>• Review departmental priorities in terms of infrastructure and ensure a balance between the basic needs approach, taking into account the diversity of needs of court users, whilst ensuring that all courts move towards globally competitive standards;</li> <li>• Review case flow management plans and implementation processes to elicit gender dimensions; and</li> <li>• Implement empowerment interventions to address gender and related imbalances.</li> </ul>
6. Resources	<ul style="list-style-type: none"> <li>• Current plan to address structural problems and historical imbalances in court infrastructure is likely to reduce women's frustrations. Measures to extend infrastructure to historically neglected areas are being implemented</li> </ul>	<ul style="list-style-type: none"> <li>• Most of the well-resourced courts continue to be located in the historically white areas. Thus women in the rural areas, historically black townships and informal settlements continue to face serious obstacles in accessing courts; and</li> </ul>	<ul style="list-style-type: none"> <li>• Allocate specific resources towards gender programming, including special programmes to empower women and those directed at altering male behaviour;</li> <li>• Appoint gender focal persons in branches and provinces with clear powers, resources and responsibilities on gender dimensions of issues, in decision-making processes;</li> </ul> <p>Continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
6. Resources continued ...		<ul style="list-style-type: none"> <li>Most of the expenditure on courts and related facilities appears to continue to be directed at the historically advantaged centres.</li> </ul>	<ul style="list-style-type: none"> <li>Prioritise basic infrastructure for all courts, taking into account specific gender needs relating to gender violence, maintenance, family law and access to Equality Courts;</li> <li>Redirect expenditure to historically neglected areas and needs, as required by <i>Batho Pele</i>, and ensure that an impact analysis incorporating this aspect precedes all decisions regarding resource allocation;</li> <li>Implement measures to engender the entire budget, paying attention to achieving a gender balance in <i>per capita</i> expenditure in the courts; and</li> <li>Engender the entire budget.</li> </ul>
7. Capacity Building		<ul style="list-style-type: none"> <li>No indication of executed or planned training relating to <i>Gender Mainstreaming</i> capacity building for management and employees;</li> <li>No indication of regular consultation with the Gender Directorate or use of gender specialists or experts;</li> <li>No indication of planned or executed diversity awareness and management programme to assist personnel to value and manage difference at work, decision-making and service delivery.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that all Unit members, starting with management, are exposed to an induction and thereafter have regular exposure to <i>Gender Mainstreaming</i> training and related materials;</li> <li>Integrate <i>Gender Mainstreaming</i> training in all general training and communication activities, including induction courses, information booklets and regular newsletters;</li> <li>Include representation of the Gender Unit and if possible, other specialists in the Unit's management structures and consult regularly with these bodies;</li> <li>Provide adequate resources for Gender Focal Points in Units, and ensure that adequate capacity in terms of skills, budget, office space, infrastructure and information resources is provided; and</li> <li>Implement accelerated professional and leadership development and succession planning in respect of women.</li> </ul>
8. Communication and Information		<ul style="list-style-type: none"> <li>Except for employment, information management systems do not reflect a conscious effort to collect and maintain information disaggregated by gender or relating to the advancement of women and women's human rights;</li> </ul>	<ul style="list-style-type: none"> <li>Collect, maintain and regularly disseminate gender disaggregated data on all aspects of the Unit, with special attention paid to employment, procurement, service (usage and per capita expenditure) and decision-making systems;</li> <li>Allocate a percentage of the budget to research or knowledge generation on women and men and women's circumstances and diverse needs;</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
8. Communication and Information continued ...		<ul style="list-style-type: none"> <li>• No indication or appreciation of, and/or conscious efforts to align internal and external communication with the differential circumstances and needs of women and men;</li> <li>• Women do not appear to be consulted equally with men and no plan seems to be in place to address this gap;</li> <li>• Women's concerns do not appear to be prioritised in research or knowledge generation and storage;</li> <li>• No conscious plan appears to be in place to address gender gaps in IT issues; and</li> <li>• There appears to be no regular reference to the department's national and international compliance standards, in order to justify or motivate for specific decisions.</li> </ul>	<ul style="list-style-type: none"> <li>• Design communication material that will reach, address and prioritise the needs of women taking into account the diverse social contexts that different women and men live under;</li> <li>• Prepare a gender profile of those consulted on courts in the past year, and develop a strategy to enhance consultation with women and women's NGOs;</li> <li>• Conduct a gender audit of all IT processes, plans and activities to establish responsiveness to women's circumstances and related needs;</li> <li>• Make it mandatory for all written decisions within the Unit to indicate implications for compliance with gender related international and national standards;</li> <li>• Mainstream equality and other human rights in all communication and information systems and processes; and</li> <li>• Implement research and knowledge generation measures to accurately establish the position of women in the justice system and related needs.</li> </ul>
9. Employment		<ul style="list-style-type: none"> <li>• There appears to be no plan or activity that seeks to create an employment environment which validates women and men equally while responding meaningfully to their different needs;</li> <li>• There appears to be inadequate efforts to enhance women's representation in the judiciary generally and the decision-making structures therein;</li> <li>• There appears to be no institutional policies to address gender concerns such as sexual harassment, parental rights and value transformation; and</li> </ul>	<ul style="list-style-type: none"> <li>• Be uncompromising on compliance with the <i>Employment Equity Act</i> and related instruments including the employment equity plan and progress reports;</li> <li>• Mainstream employment equity in the Unit's Plan and sub-plans, and consider development and enforcement of a policy statement on ensuring an environment that validates women and men equally throughout the Unit and courts;</li> <li>• Ensure that policy includes measures to eradicate existing inequalities and unfair discrimination, and is designed to accelerate women's entry, advancement and retention in critical decision-making positions;</li> <li>• Conduct an audit to establish the profile of the courts, including obstacles to women's entry, development, advancement and retention;</li> </ul> <p>Continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
9. Employment continued ...		<ul style="list-style-type: none"> <li>• There appears to be no programmes specifically for accelerating women's entry, development, advancement and retention in the Unit while creating an environment, which affirms them.</li> </ul>	<ul style="list-style-type: none"> <li>• Develop an implementation strategy with a clear vision, targets and milestones to address obstacles, taking into account women's diversity and, international benchmarks and commitments; and</li> <li>• Review Unit's Employment Equity Plan and ensure that there is a specific programme to accelerate the entry, development, advancement and retention of women from diverse backgrounds. This should be done while transforming work relations to affirm women's human dignity, and respond to the gender impact of HIV and AIDS.</li> </ul>
10. Procurement		<ul style="list-style-type: none"> <li>• No indication of any deliberate attempt to achieve gender inclusiveness in outsourcing work;</li> <li>• No indication that the Unit has identified women as a target for preferential treatment;</li> <li>• No evidence of attempts to actively target suitably qualified women for contracts; and</li> <li>• No indication of any effort to comply with Preferential Procurement Policy Framework Act generally and the promotion of equal access to contracts by women in particular.</li> </ul>	<ul style="list-style-type: none"> <li>• Familiarise all managers and staff with compliance requirements regarding equity. This should include preferential procurement in terms of the law and international obligations;</li> <li>• Gender disaggregated profiles (including race, gender and disability) of contractors and outsourcing trends over the last year should be prepared;</li> <li>• Set targets and standards for remedial action directed at improving women's representation and an implementation protocol be prepared and enforced through decision-making channels such as approval of memoranda;</li> <li>• Implement measures to identify and affirm women from diverse backgrounds;</li> <li>• Ensure that judiciary and court personnel are made aware of their accountability for accessing opportunities;</li> <li>• Consider special programmes to empower women through providing them with information on the availability of contract opportunities and on procedures to access such contracts;</li> <li>• Take special measures to involve women and women's NGO's in Public, Private Partnership (PPP) initiatives, avoid limiting those opportunities to historically advantaged groups, and promote skills transfer; and</li> <li>• Communicate and advertise tenders in places that are accessible to women; and</li> <li>• Implement special measures to ensure that women benefit equally with men from contracts issued by the Unit.</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
11. Monitoring and Evaluation		<ul style="list-style-type: none"> <li>• No express mention of gender indicators and mechanisms for tracking gender progress;</li> <li>• Performance agreements in Unit currently do not hold people accountable for promoting gender equality and facilitating departmental compliance with relevant instruments;</li> <li>• No indicators to monitor compliance with international instruments;</li> <li>• Provision is not made for monitoring performance on gender equity in procurement, or within representation with regard to decision-making;</li> <li>• Business decisions are not regularly analysed in terms of implications for equality between women and men;</li> <li>• Plans do not reflect intention to mainstream gender in the judicial system, or to monitor compliance;</li> <li>• There appears to be inadequate appreciation of compliance responsibilities in relation to matters other than employment; and</li> <li>• No monitoring mechanisms seem to be in place for services and programmes that are mainly for women's use.</li> </ul>	<ul style="list-style-type: none"> <li>• Stipulate gender disaggregated indicators, benchmarks and milestones in Unit's Plan and sub-plans for tracking gender progress;</li> <li>• Integrate specific gender indicators, including milestones in performance agreements of all in the Unit and affiliated institutions;</li> <li>• Indicate specific gender targets and benchmarks drawn from international instruments such as the Beijing Platform for Action and SADC Declaration on Gender and Development, in the Unit's Plans and sub-plans and monitor these rigorously;</li> <li>• Implement gender disaggregated reporting, covering service, employment equity, procurement and decision-making structures. Prepare to be tabled to management meetings, including the Board, Magistrate Commission and JSC, with questions raised on non-performance;</li> <li>• Require regular gender disaggregated reports on procurement for tracking gender progress and planning corrective action;</li> <li>• Ensure that board, mini-boards and other meetings regularly ask questions on employment equity, with regard to gender, including questions relating to planned or recent appointments;</li> <li>• Ensure that milestones achieved are celebrated and publicised in newsletters and meetings, and are regularly presented in all key meetings and pasted on bulletin boards;</li> <li>• Give consideration to the development and implementation of a risk management tool to limit non-compliance with international, national and internal policy and legal frameworks on gender equality matters;</li> <li>• Use any opportunity presented by the <i>Promotion of Equality Act</i> and black empowerment initiatives to strengthen monitoring of transformation relating to equalising opportunities between women and men. This should take women's diversity in terms of race, disability, impact of HIV and AIDS and other factors, into account; and</li> </ul> <p>Continued ...</p>



KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
11. Monitoring and Evaluation continued ...			<ul style="list-style-type: none"> <li>Align information management systems with information needs for effective tracking of progress on women's empowerment and the promotion of women's human rights through the courts. Attention to be paid to diversity of women's circumstances and needs.</li> </ul>
12. Reporting	<ul style="list-style-type: none"> <li>Reporting on issues generally identified with women is effected. This includes violence against women and maintenance.</li> </ul>	<p>* General records on the courts are not disaggregated by gender, race, disability and other forms of diversity and there appears to be no plan to address this;</p> <p>* Specific information for effective monitoring of issues such as sexual violence, rape and gender dimensions of the rest of civil and criminal court processes is not available;</p> <ul style="list-style-type: none"> <li>Court related reports do not reflect an attempt to account on gender progress on all court activities, and not only those obviously associated with women;</li> <li>Reporting forms and practices on mainstream court services relating to crime, family law, etc, are gender neutral, thus making it difficult to elicit gender issues; and</li> <li>Gender issues appear to be marginalised in court related reports.</li> </ul>	<ul style="list-style-type: none"> <li>Make it a mandatory requirement for all components, including structures responsible for managing the judiciary and judicial system, to maintain in an easily retrievable form, reliable gender disaggregated data;</li> <li>Ensure that all managers and governing bodies are made aware that they are accountable with regard to mainstreaming gender. All reports should indicate progress made to promote equality between women and men, and planned action to address setbacks;</li> <li>Make it a mandatory requirement for all reports in the Unit to indicate progress made on gender and gender implications of all other activities and challenges and that reports are always against plans;</li> <li>Ensure that standardised reporting formats are adhered to and that data collection, storage and retrieval supports effective reporting on gender transformation;</li> <li>Reorganise reporting requirements to ensure that court statistics indicate race, gender and disability of parties involved and that gender based crimes such as rape and domestic violence are labelled as such; and</li> <li>Ensure that gender issues are given priority in court related reports and that such reports should also cover progress made on all aspects of gender transformation including women's representation in the judiciary and other judicial decision-making structures.</li> </ul>

## 4.2.2 Legal Services

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
1. Awareness	<ul style="list-style-type: none"> <li>Some training on human rights and the Constitution provided to personnel in State Law advisor section.</li> </ul>	<ul style="list-style-type: none"> <li>No indication of awareness of gender issues. Departmental Gender Policy Statement and related instruments not mentioned once in key documents;</li> <li>No reference to department and related gender instruments; and</li> <li>There is no indication that measures are implemented to acquaint all managers with their accountability regarding gender mainstreaming.</li> </ul>	<ul style="list-style-type: none"> <li>Raise the level of awareness on gender by constantly engaging in debates and discussions on those issues;</li> <li>Brief all managers and staff about all key policy frameworks (international, national and departmental) regarding their accountability with regard to gender mainstreaming;</li> <li>Provide literacy on gender issues;</li> <li>Ensure that all managers are fully informed of their accountability with regard to gender mainstreaming;</li> <li>Capacity building to be provided to all managers and staff to bring to their attention the unequal and different circumstances of women and men. This will also help them to understand that because of those differences, virtually all laws, policies, plans and activities, including legal services, impact differently on women and men and often have the impact of exacerbating existing inequalities; and</li> <li>Incorporate references to the Gender Policy Statement of the department especially Chapters 3 and 5 and other international instruments on gender and the advancement of women.</li> </ul>
2. Commitment	<ul style="list-style-type: none"> <li>Profile reflects an attempt to equalise representation and participation in decision-making between women and men.</li> </ul>	<ul style="list-style-type: none"> <li>No indication of commitment to gender issues or mainstreaming in Business Plan.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that equality concerns are integrated in all Unit activities from planning, through implementation, to monitoring and reporting. This entails making it mandatory to assess the effect or likely impact of all policies, programmes and activities on women and men.</li> <li>Ensure that all these respond meaningfully to the circumstances of women and men and reduce existing inequalities.</li> <li>The business plan should incorporate or make reference to specific sections in the Department's Gender Policy and link it to service delivery in the Unit;</li> <li>Insist on equal participation of women and men in decision-making in all areas and at all levels;</li> </ul> <p>Continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
2. Commitment continued ...			<ul style="list-style-type: none"> <li>• Conduct an audit to establish the gender profile of the Unit, covering employment profile and trends, decision-making trends, procurement, information, knowledge generation and management, communication patterns and reporting practices;</li> <li>• Ensure that gender issues are raised regularly and with conviction in policy and other forms of dialogue with internal and external stakeholders;</li> <li>• Ensure that achievement on gender targets is celebrated and rewarded and that non-compliance is openly sanctioned;</li> <li>• Develop and display appropriate policy statements, gender profile and progress reports, in places where all members of the Units can regularly view;</li> <li>• Ensure that gender mainstreaming strategy plan is viewed as one of the key result areas of overall strategy of the Business Unit;</li> <li>• Allocate adequate resources for gender transformation; and</li> <li>• Integrate non-sexism and the achievement of gender equality in value statements and discourage sexist jokes.</li> </ul>
3. Planning		<ul style="list-style-type: none"> <li>• No gender mainstreaming strategy, plan or protocol;</li> <li>• Gender goals, objectives and milestones not reflected in Business Plan.</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct research to identify women's circumstances and needs with regard to legal services;</li> <li>• Disaggregate women in terms of various categories, including occupational categories (judges, magistrates, managers, clerks of courts, secretaries, etc), court users and social factors such as race, class and disability;</li> <li>• Use this information to review current information management plans and to establish impact on women and implement corrective action;</li> <li>• Develop a Gender mainstreaming strategy or plan and ensure that this is integrated in the operational and project plans of all components of the Business Unit and in joint activities with other stakeholders;</li> <li>• Ensure that Business Plans, all sub-plans and future plans are subjected to a gender analysis (being an assessment of the likely</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
3. Planning continued ...			<p>differential impact on women and men taking into account all material differences in the circumstances of women and men from diverse backgrounds);</p> <ul style="list-style-type: none"> <li>• Dissagregate data relied on for planning by gender and its intersection with race, disability, HIV status and other forms of difference;</li> <li>• Subject all plans to a compliance test regarding key international, national and departmental policies, targets and benchmarks;</li> <li>• Request comment from the Gender Directorate, experts and gender forums on plans before they are finalised;</li> <li>• Incorporate gender analysis in planning and policy formulation within the Unit; and</li> <li>• Ensure that women committed to women's emancipation are involved at all stages of planning especially in policy formulation.</li> </ul>
4. Policy and Decision-making	<ul style="list-style-type: none"> <li>• Women and men are involved in decision-making and recent appointments have increased the representation of women in senior positions.</li> </ul>	<ul style="list-style-type: none"> <li>• The greatest challenge for the Unit is to integrate gender in the technical advice given to the state and in decision-making processes.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that women are consulted at all levels and stages as both stakeholders and members of the Unit;</li> <li>• Put mechanisms in place that facilitate women's participation in decision-making;</li> <li>• Ensure that legal services is gender inclusive;</li> <li>• Ensure that the impact of the legal services provided operate in a way that eliminates gender imbalances; and</li> <li>• Insist on the basing of all decisions, including legal advice, on gender analysis and objectives in gender mainstreaming strategy or plan.</li> </ul>
5. Implementation	<ul style="list-style-type: none"> <li>• There is some representation in senior structures and decision-making.</li> </ul>	<ul style="list-style-type: none"> <li>• The plan does not show specific programme of action or processes to address gender gaps and mainstreaming gender in advisory services;</li> <li>• No evidence of measures towards creating an environment that affirms women and promotes gender equality;</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that legal services are responsive to the needs of women within the context of the state as its client;</li> <li>• Integrate gender considerations in litigation and certification of legislation;</li> <li>• Implement professional and leadership development programmes to fast track women's advancement and involvement at all decision-making levels; and</li> </ul> <p>Continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
5. Implementation continued ...		<ul style="list-style-type: none"> <li>No evidence of processes to equalise services and opportunities between women and men.</li> </ul>	<ul style="list-style-type: none"> <li>Strengthen efforts to appoint women in senior decision-making positions and ensure their advancement, job satisfaction and retention.</li> </ul>
6. Resources	<ul style="list-style-type: none"> <li>Plan to establish Constitutional Litigation Unit likely to enhance awareness of human rights, including gender.</li> </ul>	<ul style="list-style-type: none"> <li>No budget for gender programming.</li> </ul>	<ul style="list-style-type: none"> <li>Identify a specific budget for women's empowerment programmes as well as set aside funds for supporting gender mainstreaming in the Unit;</li> <li>Reprioritise activities in response to gender inequalities in the Unit and its work and allocate resources accordingly; and</li> <li>Engender the entire budget.</li> </ul>
7. Capacity Building		<ul style="list-style-type: none"> <li>No indication of training activity on mainstreaming gender; and</li> <li>No indication of consultation with the Gender Directorate or use of expert advice on mainstreaming gender.</li> </ul>	<ul style="list-style-type: none"> <li>Promote women's access to wider opportunities in education, vocational training, and acting appointment in senior levels of responsibility;</li> <li>Implement induction and ongoing development programmes to skill personnel on gender mainstreaming, social context awareness, affirming diversity and change management;</li> <li>Study the impact of the interaction of automation on women and their needs more closely;</li> <li>Implement bursaries and incentives specifically targeted at recruiting women;</li> <li>Use effective training and internal placements to accelerate and promote women in the Unit; and</li> <li>Allocate money towards gender programming, including resources for a Gender Focal Point and those for transforming human and organisational behaviour to affirm gender diversity.</li> </ul>
8. Communication and Information	<ul style="list-style-type: none"> <li>Some progress appears to have been achieved with regard to consulting women and men within the Unit.</li> </ul>	<ul style="list-style-type: none"> <li>Communication does not appear to deliberately address women's concerns where such differ from men's; and</li> <li>The leadership does not regularly raise the need to achieve equality between women and men internally and externally in dialogues, debates and other forms of communication.</li> </ul>	<ul style="list-style-type: none"> <li>Communicate with women in a manner that best meets their needs as consumers and providers of services;</li> <li>Ensure that information relating to the legal services is accessible and friendly to women; and</li> <li>Ensure that communication covers all Critical Areas of Concern as identified in this report.</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
9. Employment		<ul style="list-style-type: none"> <li>No evidence of policies that specifically address the elimination of unfair discrimination and promotion of gender equality in the Unit.</li> </ul>	<ul style="list-style-type: none"> <li>Develop targets for the filling of vacancies in accordance with the Employment Equity Plan; and</li> <li>Create a work environment that is conducive to women, for example, gender bias-free attitudes, rights in respect of family responsibilities, and absence of sexual harassment, etc.</li> </ul>
10. Procurement		<ul style="list-style-type: none"> <li>No indication of deliberate attempt to achieve gender inclusiveness in outsourcing work;</li> <li>No indication that Unit has identified women as a target for preferential treatment as required by the Preferential Procurement Policy Framework Act; and</li> <li>No evidence of attempts to actively seek out suitably qualified women for contracts.</li> </ul>	<ul style="list-style-type: none"> <li>Incorporate gender criteria into the procurement policies and practices of the Unit;</li> <li>Set quotas and targets for women contractors;</li> <li>Communicate and advertise tenders in places that are accessible to women. Incorporate gender criteria into the procurement policies and practices of the Unit; and</li> <li>Implement special measures to ensure that suitable women professionals get an equitable share of contracts from the Unit.</li> </ul>
11. Monitoring and Evaluation		<ul style="list-style-type: none"> <li>No visible arrangements for monitoring and evaluation on the achievement of gender equality;</li> <li>No indication that questions regarding performance on gender targets are raised constantly;</li> <li>Statistics on service provision, procurement and aspects of employment are not disaggregated; and</li> <li>No evidence of incorporation of gender indicators targets and benchmarks in performance agreements.</li> </ul>	<ul style="list-style-type: none"> <li>Develop a monitoring and evaluation system for the Unit that incorporates goal, targets and Key Performance Indicators for women;</li> <li>Develop gender sensitive instruments that would track progress on the key target areas;</li> <li>Use the monitoring and evaluation information obtained from the collection of gender disaggregated data to analyse the impact on gender equality and to plan for service delivery improvement and budgeting;</li> <li>Align current research, information generation and data management systems and practices with objectives relating to the advancement of women, women's human rights and gender transformation in all aspects of Unit; and</li> <li>Enforce accountability by integrating gender mainstreaming objectives in performance contracts of all, including contractors.</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
12. Reporting		<ul style="list-style-type: none"> <li>No evidence of reporting mechanisms in place for tracing gender impact of services.</li> </ul>	<ul style="list-style-type: none"> <li>Keep record on data disaggregated by gender on all aspects of operations;</li> <li>Ensure that data is stored in accordance with gender goals, targets and indicators for the Unit;</li> <li>Structure all reports in a manner that ensures that each report speaks to the agreed goals, targets and indicators on gender and other matters; and</li> <li>Ensure that all senior managers report on gender indicators as part of the performance management system.</li> </ul>

### 4.2.3 Legislation and Constitutional Development

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
1. Awareness	<ul style="list-style-type: none"> <li>Some recognition of different needs of diverse communities, but no specific reference to gender differences and the need for all activities to be responsive to this reality.</li> </ul>	<ul style="list-style-type: none"> <li>No reference to departmental Gender Policy Statement and international instruments such as CEDAW, BPA, etc;</li> <li>No reference to different impact of laws on women and men; and</li> <li>No reference to gender gaps in the legislative framework; and</li> <li>There is no indication that measures are implemented to make it clear to all managers regarding their accountability with regard to gender mainstreaming.</li> </ul>	<ul style="list-style-type: none"> <li>Raise awareness on gender by constantly engaging in debates and discussions on those issues;</li> <li>Brief all managers and staff about all key policy frameworks (international, national and departmental) regarding their accountability in respect of mainstreaming;</li> <li>Provide literacy on gender issues;</li> <li>Provide capacity building to all managers and staff to bring to their attention to the unequal and different circumstances of women and men; and</li> <li>Incorporate references to the Gender Policy Statement of the department and other international instruments on gender and development and review of all laws.</li> </ul>
2. Commitment	<ul style="list-style-type: none"> <li>Commitment to implementation of employment equity plan to promote representivity has positive implications for gender.</li> </ul>	<ul style="list-style-type: none"> <li>No reference to gender issues in goals relating to service delivery improvement;</li> <li>Employment Equity is restricted to representivity and not disaggregated on the basis of gender or disability;</li> </ul>	<ul style="list-style-type: none"> <li>Insist on equal participation of women and men in decision-making in all areas and at all levels;</li> <li>Conduct an audit to establish the gender profile of the Unit; covering employment profile and trends, decision-making patterns, procurement, information, knowledge generation and management communication patterns and reporting practices;</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
2. Commitment continued ...		<ul style="list-style-type: none"> <li>• There appears to be no significant involvement of women in decision-making; and</li> <li>• Current workforce profile is skewed in favour of men at the senior and top leadership levels.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that gender issues are raised regularly and with conviction in policy and other forms of dialogue with internal and external stakeholders;</li> <li>• Ensure that achievement on gender targets is celebrated and rewarded and that non-compliance is openly sanctioned;</li> <li>• Develop and display appropriate policy statements, gender profile and progress reports in places where all members of the Units can regularly view;</li> <li>• Ensure that gender mainstreaming strategy or plan is viewed as one of the key result areas of the overall strategy of the Business Unit;</li> <li>• Ensure that the Business Plan incorporates or makes reference to specific sections in the Department's Gender Policy and link it to service delivery in the Unit;</li> <li>• Allocate adequate resources for gender transformation; and</li> <li>• Integrate non-sexism and the achievement of gender equality in value statements and discourage sexist jokes.</li> </ul>
3. Planning	<ul style="list-style-type: none"> <li>• Goals to rationalise structures and bodies to bring them in line with constitutional principles covers gender by implication;</li> <li>• Goals to develop legislation to give effect to the Bill of Rights covers gender equality by implication.</li> </ul>	<ul style="list-style-type: none"> <li>• If the numbering of the goals reflects prioritisation, this fails to prioritise pressing needs of women, particularly those due to the intersection of gender and racial oppression;</li> <li>• No gender mainstreaming strategy or plan; and</li> <li>• <i>Gender Mainstreaming</i> does not appear to be integrated in all aspects of business plans and sub-plans.</li> </ul>	<ul style="list-style-type: none"> <li>• Develop a <i>Gender Mainstreaming</i> strategy or plan and ensure that this is integrated in the operational and project plans of all components of the Business Unit and collaborate activities with other stakeholders;</li> <li>• Ensure that the plan, sub-plans and future plans should be subjected to a gender analysis;</li> <li>• Ensure that data relied on for planning should be disaggregated by gender and its intersection with race, disability, HIV status and other forms of difference;</li> <li>• Subject all plans to compliance test regarding key international, national and departmental policies, targets and benchmarks;</li> <li>• Request comment of the Gender Directorate, expert or Gender Forum on plans before they are finalised;</li> <li>• Incorporate gender analysis in planning, policy formulation and decision-making within the Unit;</li> </ul> <p>Continued ...</p>



KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
3. Planning continued ...			<ul style="list-style-type: none"> <li>• Ensure that women committed to women's emancipation are involved at all stages of planning especially in policy formulation;</li> <li>• Prioritise those activities that have been identified by the Unit as having a gender focus; and</li> <li>• Ensure that the Customary Succession Legislation are passed and that an effective implementation strategy is developed and budgeted for.</li> </ul>
4. Policy and Decision-making	<ul style="list-style-type: none"> <li>• Some level of participation of women in decision-making is made possible through the work of the South African Law Commission.</li> </ul>	<ul style="list-style-type: none"> <li>• Inadequate participation in and consultation of women from all walks of life in decision-making; and</li> <li>• No evidence that women concerns are integrated in organisational priorities as reflected in organisational budget and process.</li> </ul>	<ul style="list-style-type: none"> <li>• Consult women at various levels, that is, as stakeholders and as members of the Unit;</li> <li>• Ensure that women's concerns relating to existing and pending legislation are documented and reflected in the core business of the Unit;</li> <li>• Put mechanisms in place to enhance women's participation in decision-making, including the legislative processes;</li> <li>• Identify and remove discriminatory legislation and pass legislation that will protect and advance women's rights; and</li> <li>• Ensure that all decisions, including policy related decisions, are preceded by a gender analysis.</li> </ul>
5. Implementation	<ul style="list-style-type: none"> <li>• The goal regarding implementation of the Constitution and increased number of persons exercising their rights covers women by implication; and</li> <li>• The goal to promote the rights of vulnerable groups and persons covers gender concerns such as HIV testing for persons accused of rape, the possibility of criminalising wilful HIV transmission and law reform on adoption, marriage and succession.</li> </ul>	<ul style="list-style-type: none"> <li>* Gender targets or concerns are not specifically articulated in the goal relating to the implementation of the Constitution;</li> <li>• No indication of measures to create an environment that affirms women and promotes gender equality;</li> <li>• There appears to be no appreciation of the unequal benefits between women and men from current programmes and services;</li> <li>• There appears to be no systematic process to equalise services and opportunities between women and men;</li> </ul>	<ul style="list-style-type: none"> <li>• Specify gender targets to be achieved within a specified timeframe in each activity;</li> <li>• Indicate what processes will be set in motion to overcome obstacles to achieve gender targets in respect of each activity;</li> <li>• Prioritise the implementation of law reform on customary law of succession and other gender priorities that affect women who are victims of multiple forms of discrimination;</li> <li>• Ensure that all legislation drafted to respond to women's needs must be evaluated before enactment to ensure that such needs are in fact concretely addressed;</li> <li>• Link implementation of the Unit's activities to national priorities regarding gender and Departmental compliance</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
5. Implementation continued ...		<ul style="list-style-type: none"> <li>• Goal relating to traditional leaders fails to reconcile the intended transformation with existing gender inequalities and unfair practices, under customary law and traditional authorities; and</li> <li>• Other gender issues raised in the Gender Policy Statement of the Department are not taken cognisance of.</li> </ul>	<p>obligations in terms of CEDAW, BPA, SADC Declaration on Gender, the Constitution and Equality Legislation. This includes policy on transformation and gender policy; and</p> <ul style="list-style-type: none"> <li>• Make a concerted effort to appoint women in senior decision-making positions.</li> </ul>
6. Resources		<ul style="list-style-type: none"> <li>• No clear personnel/ financial systems or plans for supporting and implementing gender programming;</li> <li>• No analysis appears to have been conducted on expenditure inequalities between women and men;</li> <li>• Questions regarding gender impact do not appear to be asked during decision-making; and</li> <li>• Budget makes no reference to gender priorities.</li> </ul>	<ul style="list-style-type: none"> <li>• Identify a specific budget for women's empowerment programmes as well as set aside funds for supporting <i>Gender Mainstreaming</i> in the Unit;</li> <li>• Re-prioritise activities in response to the expenditure inequalities relating to gender and allocate resources accordingly; and</li> <li>• Engender the budget of the Unit and allocate an adequate budget towards systematic gender transformation.</li> </ul>
7. Capacity Building	<ul style="list-style-type: none"> <li>• Commitment to induction programmes for new personnel can be of assistance to women as new entrants.</li> </ul>	<ul style="list-style-type: none"> <li>• Training is not specific or targeted with regard to <i>Gender Mainstreaming</i>.</li> </ul>	<ul style="list-style-type: none"> <li>• Use an induction programme and other training opportunities to skill people on gender mainstreaming, change management and diversity management;</li> <li>• Implement special training interventions and use training to accelerate skills and leadership development for women;</li> <li>• Implement succession planning to accelerate women's entry, advancement and retention in the Unit; and</li> <li>• Establish a Gender Focal Point and resource it adequately.</li> </ul>
8. Communication and information		<ul style="list-style-type: none"> <li>• Communication does not reflect gender awareness or commitment to meeting the communication needs of women from diverse background;</li> </ul>	<ul style="list-style-type: none"> <li>• Communicate with women in a manner that best meets their needs;</li> <li>• Demystify the legislative process so that it is more accessible to all women;</li> </ul> <p>Continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
8. Communication and information continued ...		<ul style="list-style-type: none"> <li>• No clear plan or demonstration of commitment to enhance participation of women in decision-making, both as internal and external stakeholders;</li> <li>• If the numbering of goals reflects priorities, women's programmes are at the bottom of the list;</li> <li>• There appears to be no plan or action seeking to equalise opportunities between women and men;</li> <li>• The leadership does not appear to raise questions regarding the need to achieve equality between women and men internally and externally in dialogues, debates and other forms of communication; and</li> <li>• Data management and knowledge generation does not effectively support gender mainstreaming.</li> </ul>	<ul style="list-style-type: none"> <li>• Identify the appropriate forums and medium of communication for legislation;</li> <li>• Build a strong lobby inside and outside the Unit advocating gender issues;</li> <li>• Align knowledge generation and information management systems and priorities with national priorities regarding the advancement of women;</li> <li>• Ensure that communication practices are based on an understanding of the different circumstances of women and men; and</li> <li>• Align knowledge generation systems and priorities with gender transformation objectives and targets.</li> </ul>
9. Employment	<ul style="list-style-type: none"> <li>• Although gender blind, goals to improve salaries, may benefit women by broadening their access to the Unit.</li> </ul>	<ul style="list-style-type: none"> <li>• Employment goals, strategies and action plans are gender neutral and do not reflect an appreciation of employment problems relating to employee diversity.</li> </ul>	<ul style="list-style-type: none"> <li>• Use effective training and internal placements, including succession planning, to accelerate and promote women in the Unit;</li> <li>• Implement innovative recruitment strategies to ensure that recruitments to key positions in the Unit advance employment equity objectives relating to gender;</li> <li>• Promote women's access to wider opportunities in vocational training and other types of training;</li> <li>• Promote the appointment of women to senior levels of responsibility;</li> <li>• Adapt working conditions to suit the needs of employees with family responsibilities; and</li> <li>• Implement special programmes to promote diversity awareness and management in the Unit in order to create an environment which affirms women of all races and encourages their retention and advancement.</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
10. Procurement		<ul style="list-style-type: none"> <li>• No indication of any deliberate attempts to achieve gender inclusiveness in outsourcing work;</li> <li>• No indication that the Unit has identified women as a target for preferential treatment; and</li> <li>• No evidence of attempts to actively seek out suitably qualified women for contracts.</li> </ul>	<ul style="list-style-type: none"> <li>• Incorporate gender criteria into the procurement policies and practices of the Unit;</li> <li>• Set quotas and targets for women contractors;</li> <li>• Communicate and advertise tenders in places that are assessable to women; and</li> <li>• Implement special measures to ensure that women benefit equally with men from contracts issued by the Unit.</li> </ul>
11. Monitoring and Evaluation		<ul style="list-style-type: none"> <li>• Key Performance Indicators deal mainly with family law and women's concerns in other areas of law, particularly civil law, are ignored;</li> <li>• No specific arrangements or performance indicators are made for tracking gender progress; and</li> <li>• No specific arrangements are in place for monitoring compliance with international law and state obligations.</li> </ul>	<ul style="list-style-type: none"> <li>• Develop a monitoring and evaluation system for the Unit that incorporates goals, targets and Key Performance Indicators for women;</li> <li>• Develop gender sensitive instruments that would track progress on the key target areas;</li> <li>• Use the monitoring and evaluation information obtained from the collection of gender disaggregated data to analyse the impact on gender equality; and</li> <li>• Integrate accountability for performance on gender transformation and related targets in the performance contracts of all managers in the Unit.</li> </ul>
12. Reporting		<ul style="list-style-type: none"> <li>• No indication of incorporation of indicators, targets and benchmarks in performance agreements of management and staff;</li> <li>• No indication of reporting arrangements on equality generally and gender equality specifically;</li> <li>• No evidence of gender disaggregated records except employment statistics; and</li> <li>• No arrangements appear to exist for monitoring programmes.</li> </ul>	<ul style="list-style-type: none"> <li>• Keep record on data disaggregated by gender;</li> <li>• Store all data in accordance with goals, targets and indicators for the Unit;</li> <li>• Structure all reports in such a way that each report speaks to the gender goals, targets and indicators;</li> <li>• Require all senior managers to report on gender indicators as part of the performance management system; and</li> <li>• Report regularly on gender transformation based on standard formats and discuss such reports in all key meetings.</li> </ul>

#### 4.2.4 Masters

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
1. Awareness		<ul style="list-style-type: none"> <li>• No indication of awareness of gender issues;</li> <li>• No indication of awareness of different needs between women and men;</li> <li>• No reference to departmental Gender Policy Statement and related international instruments; and</li> <li>• There is no indication that measures are implemented to make it clear to all managers regarding their accountability with regard to gender mainstreaming.</li> </ul>	<ul style="list-style-type: none"> <li>• Raise awareness on gender by constantly engaging in dialogue on gender issues;</li> <li>• Brief all managers and staff about all key policy frameworks (international, national and departmental) regarding their accountability for gender mainstreaming;</li> <li>• Provide literacy on gender issues;</li> <li>• Provide capacity building to all managers and staff to bring to their attention the unequal and different circumstances of women and men; and</li> <li>• Incorporate references to the Gender Policy Statement of the department especially Chapter 3 and 5 and other international instruments on gender.</li> </ul>
2. Commitment		<ul style="list-style-type: none"> <li>• No reference to gender issues in goal relating to service delivery improvement;</li> <li>• Reference to employment equity is cursory and makes no reference to gender specific goals;</li> <li>• There appears to be no significant involvement of women in decision-making; and</li> <li>• Current workforce profile is skewed in favour of men at the senior and top leadership levels.</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct an audit to establish the gender profile of the Unit. This should cover employment profiles and trends, decision-making patterns, procurement, information, knowledge generation and management communication patterns and reporting practices;</li> <li>• Ensure that gender issues are raised regularly and with conviction in policy and other forms of dialogue with internal and external stakeholders;</li> <li>• Ensure that achievement on gender targets is celebrated and rewarded and non-compliance is openly sanctioned;</li> <li>• Develop and display appropriate policy statements, gender profiles and progress reports in places where all members of the Units can regularly view;</li> <li>• Ensure that the <i>Gender Mainstreaming</i> strategy or plan is viewed as one of the key result areas of the overall strategy of the Business Unit;</li> <li>• Allocate adequate resources for gender transformation;</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
3. Planning	<ul style="list-style-type: none"> <li>Plan includes an accelerated development programme for legal personnel from disadvantaged groups as part of implementation strategy for the employment equity.</li> </ul>	<ul style="list-style-type: none"> <li>It appears that plans have not been formulated on the basis of gender disaggregated information to address gender inequality;</li> <li>Customary law and practices that undermine women's proprietary rights with regard to succession are not clearly addressed;</li> <li>Plans do not show that they were preceded by a situation analysis to establish the diversity of stakeholders' needs particularly gender diversity; and</li> <li>None of the objectives refers to unequal power relations between women and men and efforts to empower women and other disadvantaged groups.</li> </ul>	<ul style="list-style-type: none"> <li>Conduct research to identify women's circumstances and needs with regard to the Master's office. This means disaggregating women in terms of various categories including occupational categories. It also means considering social factors such as race, class, disability, etc. This information should be used to review current information management plans and to establish the impact on women, as well as to implement corrective action;</li> <li>Develop a <i>Gender Mainstreaming</i> strategy and plan and ensure that this is integrated in the operational and project plans of all components of the Business Unit and collaborate activities with other stakeholders;</li> <li>Ensure that the plans, sub-plans and future plans are subjected to a gender analysis. Data relied on for planning should be disaggregated by gender and its intersection with race, disability, HIV status and other forms of difference;</li> <li>Subject all plans to a compliance test regarding key international and national and departmental policies, targets and benchmarks;</li> <li>Request comment of the Gender Directorate, experts and or Gender Forum on plans before they are finalised;</li> <li>Incorporate gender analysis in planning and policy formulation within the Unit;</li> <li>Ensure that women committed to women's emancipation are involved at all stages of planning, especially in policy formulation; and</li> <li>Incorporate gender analysis in planning and policy formulation within the Unit.</li> </ul>
4. Policy and Decision-making		<ul style="list-style-type: none"> <li>No indication of women's full participation or efforts to achieve such in decision-making.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that women are consulted at various levels, that is, as stakeholders and as members of the Unit;</li> <li>Put mechanisms in place that facilitate participation and decision-making in the Unit;</li> <li>Consult women on their concerns relating to customary law, property, traditional practices, civil law, economic justice, etc;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
4. Policy and Decision-making continued ...			<ul style="list-style-type: none"> <li>• Reflect all responses from women in policy; and</li> <li>• Ensure that all decisions are informed by a gender analysis and gender transformation objectives.</li> </ul>
5. Implementation	<ul style="list-style-type: none"> <li>• Unification of the administration of estates may enhance responsiveness to economic power inequalities between women and men. This works to reduce the risk of gender and racial discrimination.</li> </ul>	<ul style="list-style-type: none"> <li>• The move towards a tariff based approach to services does not seem to have taken into account or made provision for unequal economic power between women and men; and</li> <li>• Plans are neutral and therefore gender inequality may not necessarily be addressed.</li> </ul>	<ul style="list-style-type: none"> <li>• Develop mechanisms for the implementation of services for the Master's offices that protect and advance women's rights;</li> <li>• Identify activities for the Unit and specify gender targets to be achieved within allocated timeframes; and</li> <li>• Ensure that Key Performance Indicators for gender are implementable.</li> </ul>
6. Resources		<ul style="list-style-type: none"> <li>• Although reference is made to Batho Pele, no clear strategy is articulated for redirection of resources to historically neglected areas, or to equalise service for women and men; and</li> <li>• The is no budget or personnel assigned specifically for gender programming.</li> </ul>	<ul style="list-style-type: none"> <li>• Identify a specific budget for women's empowerment programmes as well as set aside funds for supporting gender mainstreaming;</li> <li>• Establish structures and allocate sufficient financial and human resources to ensure policy and planning objectives for gender integration; and</li> <li>• Engender the entire budget of the Unit and ensure that women and men benefit equally from all resources.</li> </ul>
7. Capacity Building	<ul style="list-style-type: none"> <li>• Scholarships and planned strategies have the potential for improving access to opportunity for women.</li> </ul>	<ul style="list-style-type: none"> <li>• No indication of planned or executed training initiatives on gender sensitivity and mainstreaming skills for professionals in this division; and</li> <li>• No specific programmes to empower women.</li> </ul>	<ul style="list-style-type: none"> <li>• Implement special measures to accelerate women's access to wider opportunities in education, vocational training and acting appointments at senior levels of responsibility;</li> <li>• Implement induction programmes to introduce personnel to gender mainstreaming with more sustainable training provided to skill personnel on various aspects of gender mainstreaming, including gender analysis, diversity awareness and management as well as change management.;</li> <li>• Establish and address the impact of automated services on women;</li> <li>• Ensure that bursaries and incentives are specifically targeted at recruiting women from all racial and sub-racial categories; and</li> </ul> <p>Continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
7. Capacity Building continued ...			<ul style="list-style-type: none"> <li>Use effective training and internal placements to accelerate and promote women in the Unit.</li> </ul>
8. Communication and information		<ul style="list-style-type: none"> <li>No clear strategy to address differential needs of women and men in communication;</li> <li>Women concerns not reflected in issues prioritised in Business Unit's Newsletter;</li> <li>No indication that women stakeholders are consulted equally with men in decision-making processes; and</li> <li>Inadequate representation of women in decision-making structures in the Unit and no clear plan to address this gap.</li> </ul>	<ul style="list-style-type: none"> <li>Communicate with women in a manner that best meets their needs as consumers and providers of services;</li> <li>Ensure that information relating to the Masters' Office is accessible to women;</li> <li>Identify linguistic needs of women and adopt policies to provide for the identified needs; and</li> <li>Align research, knowledge generation and information management with women's human rights issues and needs and ensure that information management systems effectively support efforts to track progress on gender transformation.</li> </ul>
9. Employment	<ul style="list-style-type: none"> <li>Reference made to employment equity goals although not gender disaggregated.</li> </ul>	<ul style="list-style-type: none"> <li>Human Resources references do not deal with gender equality; and</li> <li>No programme appears to systematically eliminate unfair discrimination on the ground of gender.</li> </ul>	<ul style="list-style-type: none"> <li>Use effective training and internal placements to accelerate and promote women in the Unit;</li> <li>Implement special measures to recruit women of all races, and develop and promote them into key areas in the Unit in accordance with Employment Equity Plan;</li> <li>Promote women's access to wider opportunities in vocational training and acting appointments at higher levels of responsibility;</li> <li>Adapt working conditions to suit the needs of employees with family responsibilities; and</li> <li>Implement measures to prevent sexual harassment and measure to deal with it appropriately if it does happen.</li> </ul>
10. Procurement		<ul style="list-style-type: none"> <li>No indication of efforts to comply with the Preferential Procurement Policy Framework Act generally, and the promotion of equal access to contracts by women, in particular.</li> </ul>	<ul style="list-style-type: none"> <li>Incorporate gender criteria into the procurement policies and practices of the Unit;</li> <li>Set quotas and targets for women contractors;</li> </ul> <p>Continued ...</p>



KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
10. Procurement continued ...			<ul style="list-style-type: none"> <li>• Communicate and advertise tenders in places that are accessible to women; and</li> <li>• Implement special measures to ensure that women of all races benefit equally with men in tenders and other contracts from the Unit.</li> </ul>
11. Monitoring and Evaluation		<ul style="list-style-type: none"> <li>• Monitoring and evaluation does not address the need for women's involvement as stakeholders and does not deal with tracking progress on gender equality;</li> <li>• Questions regarding performance on gender equality do not appear to be raised regularly;</li> <li>• There appears to be no appreciation of unequal circumstances for women and men; and</li> <li>• There appears to be no processes to equalise benefits and opportunities between women and men.</li> </ul>	<ul style="list-style-type: none"> <li>• Develop a monitoring and evaluation system for the Unit that incorporates goals, targets and KPI's for women;</li> <li>• Develop gender sensitive instruments that would track progress on the key target areas;</li> <li>• Use disaggregated data to assess impact on gender equality; and</li> <li>• Align data management systems with gender objectives and targets and the generation of effective indicators for the monitoring of progress on all aspects of gender transformation.</li> </ul>
12. Reporting		<ul style="list-style-type: none"> <li>• Report back mechanisms address Business Plans generically with no specific reference to gender and its intersection with other forms of inequality and difference;</li> <li>• Unit does not appear to keep gender disaggregated records;</li> <li>• There appears to be no specific monitoring mechanisms for services or programmes that are used by women mostly, for example the administration of deceased estates; and</li> <li>• Unit does not appear to keep gender disaggregated records.</li> </ul>	<ul style="list-style-type: none"> <li>• Maintain records on data disaggregated by gender;</li> <li>• Store Data in accordance with goals, targets and indicators for the Unit;</li> <li>• Structure reports in such a way that each report speaks to the goals, targets and indicators;</li> <li>• Ensure that all senior managers report on gender indicators as part of the performance management system;</li> <li>• Ensure that reports on progress with regard to the advancement of women and gender transformation are aligned with international and national compliance obligations and are regularly presented to and discussed at management meetings; and</li> <li>• Employ standardised reporting formats for all gender related reports.</li> </ul>

#### 4.2.4 Finance

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
1. Awareness	<ul style="list-style-type: none"> <li>• Specific reference made to staff (employee) diversity in terms of race, gender, disability as a strength.</li> </ul>	<ul style="list-style-type: none"> <li>• No mention of gender budget as provided for in item 2 of Chapter 5 of the Departmental Gender Policy Statement;</li> <li>• No specific reference to departmental Gender Policy Statement or other related instruments;</li> <li>• No mention of need for mainstreaming gender;</li> <li>• Stakeholder analysis does not reflect an appreciation and attempt to address gender difference; and</li> <li>• There is no indication that measures are implemented to acquaint all managers regarding their accountability in respect of <i>Gender Mainstreaming</i>.</li> </ul>	<ul style="list-style-type: none"> <li>• Raise the awareness on gender by constantly engaging in debates and discussions on those issues;</li> <li>• Brief all managers and staff about key policy frameworks (international, national and departmental) regarding their accountability with regard to <i>Gender Mainstreaming</i>;</li> <li>• Provide literacy on gender issues;</li> <li>• Provide capacity building to all managers and staff to bring to their attention the unequal and different circumstances of women and men; and</li> <li>• Incorporate references to the Gender Policy Statement of the Department and other international instruments on gender.</li> </ul>
2. Commitment		<ul style="list-style-type: none"> <li>• No indication of commitment to <i>Gender Mainstreaming</i> or programming in the Business Plan; and</li> <li>• Leadership predominantly male with no visible attempts to address gender gaps.</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct an audit to establish the gender profile of the Unit covering employment profile and trends, decision-making patterns, procurement, information, knowledge generation and management communication patterns and reporting practices;</li> <li>• Ensure that gender issues are raised regularly and with conviction in policy and other forms of dialogue with internal and external stakeholders;</li> <li>• Ensure that the achievement on gender targets is celebrated and rewarded and that non-compliance is openly sanctioned;</li> <li>• Develop and display appropriate policy statements, gender profiles and progress reports in places where all members of the Units can regularly view them;</li> <li>• Ensure that the <i>Gender Mainstreaming</i> strategy or plan is viewed as one of the key result areas of the overall strategy of the Business Unit;</li> </ul> <p>Continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
2. Commitment continued ...			<ul style="list-style-type: none"> <li>• Incorporate or make reference to specific sections in the Department's Gender Policy in the Business Plan and link it to service delivery in the Unit;</li> <li>• Allocate adequate resources for gender transformation;</li> <li>• Integrate non-sexism and the achievement of gender equality in value statements and discourage sexist jokes; and</li> <li>• Disaggregate the Unit's personnel profile on the basis of gender and commit the Unit to placing women of all races and sub-racial categories in positions that enhance participation in decision-making.</li> </ul>
3. Planning		<ul style="list-style-type: none"> <li>• No indication of conscious integration of gender considerations in planning process and plans; and</li> <li>• No indication of questions asked on the likely gender impact of budgets and other plans.</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct research to identify women's circumstances and needs with regard to finance, disaggregating women in terms of various categories including occupational categories (Judges, Magistrates, Managers, Clerks of Courts, Secretaries, etc). Also consider court users. This should be done taking social factors such as race, class, disability, etc, into account;</li> <li>• Develop a <i>Gender Mainstreaming</i> strategy and or plan and ensure that this is integrated in the operational and project plans of all components of the Business Unit and collaborative activities with other stakeholders;</li> <li>• Subject the Business Plan, sub-plans and future plans to a gender analysis (being an assessment of the likely differential impact on women and men taking into account all material differences in the circumstances of women and men from diverse backgrounds). Data relied on for planning should be disaggregated by gender and its intersection with race, disability, HIV status and other forms of difference;</li> <li>• Subject all plans to compliance tests, taking into account all key international and national policies, as well as departmental policies, targets and benchmarks;</li> <li>• Request comments from the Gender Directorate, gender experts and or the Gender Forum on the plans, before they are finalised; and</li> <li>• Incorporate gender analysis in planning and policy formulation within the Unit.</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
4. Policy and Decision-making		<ul style="list-style-type: none"> <li>No indication of women's full participation or efforts to achieve such in decision-making.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that women are consulted at all levels, as stakeholders and as members of the Unit;</li> <li>Put mechanisms in place that facilitate participation and decision-making in the Unit;</li> <li>Reflect issues raised by women in all policy; and</li> <li>Ensure that all decisions are informed by a gender analysis and gender transformation objectives.</li> </ul>
5. Implementation		<ul style="list-style-type: none"> <li>No visible indication of consciously creating an environment that affirms women and promotes gender equality;</li> <li>No budget analysis or review to ascertain benefits, per capita, by women and men to address gaps; and</li> <li>No evidence of processes devoted to equalising services and opportunities between women and men.</li> </ul>	<ul style="list-style-type: none"> <li>Introduce a women's budget, not as a separate budget, but as an integral part of the department's programme to ensure the implementation of gender programmes;</li> <li>Examine the impact of all programme implementation to ensure responsiveness to women and men from diverse social and economic backgrounds;</li> <li>Develop mechanisms for the implementation of finance services that ensures that gender programmes and priorities are achieved;</li> <li>Ensure that a reasonable share of the Unit's and Department's budget is allocated to programmes seeking to equalise opportunities and services for women and men from all walks of life; and</li> <li>Ensure that gender priorities are visibly integrated in all aspects of the budget.</li> </ul>
6. Resources		<ul style="list-style-type: none"> <li>No indication of conscious analysis of expenditure patterns in terms of responsiveness to women's needs;</li> <li>No indication of questions asked regarding gender impact;</li> <li>No indication of resources allocated specifically to gender programming or capacity building; and</li> <li>No provision for a Gender Focal Point in the Unit.</li> </ul>	<ul style="list-style-type: none"> <li>Identify a specific budget for women's empowerment programmes and set aside funds for supporting gender mainstreaming in the Unit;</li> <li>Re-prioritise activities and allocate resources accordingly in response to identified expenditure inequalities relating to gender;</li> <li>Analyse all gender related services and provide a database on expenditure per service and on a per capita basis;</li> <li>Allocate a budget for skills development relating to <i>Gender Mainstreaming</i> and change management in this regard; and</li> <li>Use gender disaggregated data for planning all institutional activities.</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
7. Capacity Building	<ul style="list-style-type: none"> <li>Planned skills development including Project Management and Teambuilding could have positive implications for gender equality although articulated in neutral language.</li> </ul>	<ul style="list-style-type: none"> <li>No indication of training executed or planned on gender;</li> <li>No indication of Gender Focal Person; and</li> <li>No indication of use of gender experts.</li> </ul>	<ul style="list-style-type: none"> <li>Train management and personnel specifically on the concept of gender budgeting and other dimensions of <i>Gender Mainstreaming</i>, including valuing and managing diversity, commencing with senior management;</li> <li>Use induction programmes to introduce people to principles of <i>Gender Mainstreaming</i> and provide long term training for related skills development;</li> <li>Implement special programmes to accelerate professional, management and leadership development of women, particularly black women. This is to fast track their recruitment and advancement into senior decision-making positions; and</li> <li>Allocate a budget for measures seeking to mainstream equality and other human rights in the Ministry and Department and affiliated institutions.</li> </ul>
8. Communication and information		<ul style="list-style-type: none"> <li>No gender advocacy statements from the leadership;</li> <li>No evidence of conscious effort to address the situation of women and their concerns;</li> <li>No evidence of conscious effort to equally consult women and men in planning and decision-making; and</li> <li>No indication of prioritisation of the budget for women's concerns in research or knowledge generation.</li> </ul>	<ul style="list-style-type: none"> <li>Build strong advocacy, especially amongst the leadership that advocates women's and gender issues;</li> <li>Ensure that the Unit communicates its priorities and gender targets;</li> <li>Translate and communicate financial language in a manner that meet women's needs as consumers, and service providers in the department;</li> <li>Ensure that financial information is readily accessible and user-friendly; and</li> <li>Communicate in a manner that ensures that linguistic and other diverse needs of women are catered for.</li> </ul>
9. Employment		<ul style="list-style-type: none"> <li>No reference to gender equity planning;</li> <li>No indication of plans to address inequality of opportunities between women and men; and</li> <li>No indication of plans to address gender related employment needs.</li> </ul>	<ul style="list-style-type: none"> <li>Specify targets for women of all races and other forms of diversity in accordance with the employment equity plan;</li> <li>Use effective training and internal placements to accelerate and promote women in the Unit;</li> <li>Implement special measures to recruit, develop and promote women of all races and sub-racial categories in key areas that ensure their involvement in decision-making in the Unit, in accordance with Employment Equity Plan;</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
9. Employment continued ...			<ul style="list-style-type: none"> <li>Promote women's access to wider opportunities in vocational training and training in the Unit and acting appointments to higher levels of responsibility; and</li> <li>Adapt working conditions and adjust the organisation to suit the needs of the employee with family responsibilities.</li> </ul>
10. Procurement		<ul style="list-style-type: none"> <li>No indication of efforts to comply with Preferential Procurement Policy Framework Act generally and the promotion of equal access to contracts by women in particular.</li> </ul>	<ul style="list-style-type: none"> <li>Since the management of the procurement function falls within the ambit of this Unit it is crucial that the procurement policy and procedures incorporate women as a target group;</li> <li>Consider introducing an Implementation Protocol for Equalisation of Procurement Opportunities. Ensure that all in the Unit and the Department are aware of this protocol and their specific responsibilities with regard to its implementation;</li> <li>Review current contractor profile and practices to establish gender patterns, taking into account the intersection of gender with race and other factors;</li> <li>Incorporate gender criteria into the procurement policies and practices of the Unit and the Department;</li> <li>Set targets for engaging women contractors;</li> <li>Communicate and advertise tenders in places that are accessible to women from diverse backgrounds; and</li> <li>Implement special measures to ensure that women benefit equally with men from all contractual opportunities.</li> </ul>
11. Monitoring and Evaluation		<ul style="list-style-type: none"> <li>No indication of plans to monitor gender targets;</li> <li>No indication of gender disaggregation of statistics on service, employment, procurement and stakeholder participation;</li> <li>No reference to monitoring compliance with international instruments; and</li> </ul>	<ul style="list-style-type: none"> <li>Develop a monitoring and evaluation system for the Unit that tracks budget information on the following: <ul style="list-style-type: none"> <li>specialty targeted programmes for women;</li> <li>programmes aimed at change within the Unit;</li> <li>mainstreaming gender.</li> </ul> </li> <li>Align all systems and processes with gender transformation objectives to facilitate effective monitoring and decision-making that is based on gender analysis; and</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
11. Monitoring and Evaluation continued ...		<ul style="list-style-type: none"> <li>No indication of incorporation of gender targets and benchmarks in performance agreements of management and staff.</li> </ul>	<ul style="list-style-type: none"> <li>Use the gender disaggregated data to assess impact of budget and decisions on gender equality.</li> </ul>
12. Reporting		<ul style="list-style-type: none"> <li>No indication of the keeping of records of data disaggregated by gender;</li> <li>No indication of specific monitoring mechanisms for programmes mainly used by women;</li> <li>No indication of regular reporting on gender progress; and</li> <li>No indication of reporting on gender budget.</li> </ul>	<ul style="list-style-type: none"> <li>Keep records of data disaggregated by gender and its intersection with race and other factors;</li> <li>Ensure that data is stored in accordance with gender goals, targets and indicators for the Unit;</li> <li>Structure reports in such a way that each report speaks to the goals, targets and indicators on gender and other matters; and</li> <li>Ensure that all senior managers report regularly on gender indicators and accountability on gender transformation, against predetermined targets. This should be integrated in performance contracts, as part of the performance management system.</li> </ul>

#### 4.2.6 Human Resources

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
1. Awareness	<ul style="list-style-type: none"> <li>Conscious mention of need to align organisational processes with Employment Equity Act, Skills Development Act and Gender issues; and</li> <li>Gender specifically mentioned as a critical element of Key Performance Indicators.</li> </ul>	<ul style="list-style-type: none"> <li><i>Gender Mainstreaming</i> is not mentioned at the level of goal setting;</li> <li>No mention of Departmental Gender Policy Statement and related national and international instruments;</li> <li>Specifically no mention of issues dealt with in Chapter 4 and 5 of the Gender Policy Statement; and</li> </ul>	<ul style="list-style-type: none"> <li>Raise the level of awareness on gender by constantly engaging in dialogue on gender issues;</li> <li>Implement measures to ensure that all managers and staff in the Business Unit, and employees in the Department, and affiliated institutions, are fully informed of their accountability with regard to gender mainstreaming;</li> <li>Ensure that all role-players are aware of their duty to integrate gender considerations in all organisational processes and that all decisions should clearly reflect this awareness;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
1. Awareness continued ...		<ul style="list-style-type: none"> <li>• There is no indication that measures are implemented to acquaint all managers regarding their accountability in respect of <i>Gender Mainstreaming</i>.</li> </ul>	<ul style="list-style-type: none"> <li>• Brief all managers and staff in the Unit about key international, national and Departmental policy frameworks and related compliance responsibilities regarding the achievement of gender equality; and</li> <li>• Familiarise all members with provisions of Chapter 4 and 5 of the Department's Gender Policy Statement and assist the Gender Directorate in ensuring that all persons in key leadership positions are appraised of their compliance responsibilities as spelt out in these chapters.</li> </ul>
2.. Commitment	<ul style="list-style-type: none"> <li>• Conscious mention of the need to align organisational processes with gender issues; and</li> <li>• Gender referred to as critical element of key performance indicators.</li> </ul>	<ul style="list-style-type: none"> <li>• No indication of specific goals on gender equality;</li> <li>• Gender does not permeate the entire plan and ethos of the Business Unit; and</li> <li>• No indication of a culture of justifying decisions on the Gender policy objectives.</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct an audit to establish the gender profile of the Unit, covering employment profile and trends, decision-making patterns, procurement, information, knowledge generation and management, communication patterns and impact and reporting practices;</li> <li>• Ensure that gender issues are raised regularly and with conviction in policy and other forms of dialogue with internal and external stakeholders;</li> <li>• Ensure that achievement on gender targets is celebrated and rewarded and that non-compliance is openly sanctioned;</li> <li>• Develop and display appropriate policy statements, gender profile and progress reports on targets, in places where all members of Units can regularly view them;</li> <li>• Ensure that the gender mainstreaming strategy plan is viewed as one of the key result areas of the overall strategy and plan of the Business Unit;</li> <li>• Ensure that the Unit's business plan incorporates or makes reference to specific sections in the department's Gender Policy and link it to service delivery in the Unit;</li> <li>• Allocate adequate resources for gender transformation;</li> <li>• Integrate non-sexism and achievement of gender equality in value statements and discourage sexist jokes;</li> <li>• Implement measures to ensure that all organisational activities reflect an appreciation of and meaningful effort to address equality concerns, particularly of women;</li> </ul> <p>continued ...</p>



KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
2. Commitment continued ...			<ul style="list-style-type: none"> <li>• Ensure that understanding of and responsiveness to equality concerns, particularly those relating to historically marginalised women, permeate all activities of the Unit and the Department, from planning through implementation, to reporting. Ensure that principles of gender equality are visibly treated as an integral part of core institutional values;</li> <li>• Make it a habit to regularly benchmark or justify decisions on the basis of gender analysis;</li> <li>• Make it mandatory that the likely impact on equality between women and men of every decision in the Unit be indicated before adoption. The same should be done with all human resources decisions in the entire Department and affiliated institutions; and</li> <li>• Ensure that all senior managers report regularly on gender indicators and accountability on gender transformation, against predetermined targets. This should be integrated in performance contracts and institutionalised as part of the performance management system.</li> </ul>
3. Planning	<ul style="list-style-type: none"> <li>• Gender disaggregated data used for planning; and</li> <li>• Conscious decision to regard gender as an element of key performance indicators.</li> </ul>	<ul style="list-style-type: none"> <li>• Use of gender disaggregated data appears to be limited to employment equity profile only;</li> <li>• No gender mainstreaming strategy and plan; and</li> <li>• Gender considerations not fully integrated throughout plan.</li> </ul>	<ul style="list-style-type: none"> <li>* Conduct research to identify women's circumstances and needs, disaggregating women in terms of various categories including occupational categories and social factors such as race, class and disability, into account;</li> <li>• Develop a <i>Gender Mainstreaming</i> strategy or plan aligned with the Employment Equity Plan and ensure that this is integrated in the operational and project plans of all components and collaborate activities with other stakeholders;</li> <li>• Ensure that the Business Plan, all sub-plans and future plans are subjected to a gender analysis. Data relied on for planning should be disaggregated by gender and its intersection with race, disability, HIV status and other forms of difference; and</li> <li>• Subject all plans to compliance testing regarding key international, national and Departmental policies, targets and benchmarks.</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
3. Planning continued ...			<ul style="list-style-type: none"> <li>Request comment of Gender Directorate, expert or Gender Forum on plans before they are finalised;</li> <li>Incorporate gender analysis in planning and policy formulation within the Unit;</li> <li>Ensure that women committed to women's emancipation are involved at all stages of planning especially in policy formulation;</li> <li>Use gender disaggregated data for planning all institutional activities, including all aspects of Human Resource Development and Management, HIV and AIDS Management and Employee Assistance Programme (EAP), procurement and decision-making systems;</li> <li>Ensure that all aspects of plans and sub-plans reflect an appreciation of different circumstances and needs of women and men;</li> <li>Facilitate the development or review of policy directives on various aspects of gender and work, including harassment (sexual and other forms), stress management and rights of workers with family responsibilities;</li> <li>Acquaint staff with policies, including the Department's Employment Equity Plan, Department's Employee Profile and other departmental policies, and ensure that they are displayed where all can read them regularly;</li> <li>Ensure that remuneration and employment conditions' plans incorporate an appreciation of systemic inequalities between women and men in earnings and benefits and strategic interventions to progressively address the imbalances; and</li> <li>Integrate non-sexism and the achievement of equality amongst institutional values.</li> </ul>
4. Policy and Decision-making	<ul style="list-style-type: none"> <li>There is some participation of women in decision-making.</li> </ul>	<ul style="list-style-type: none"> <li>Women's concerns not consciously reflected in organisational priorities;</li> <li>Budget process and outcomes does not reflect gender concerns;</li> </ul>	<ul style="list-style-type: none"> <li>Enhance women's participation in decision-making and ensure that this happens at all levels and in all structures and that women's concerns are directly and indirectly reflected in organisational priorities;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
4. Policy and Decision-making continued ...		<ul style="list-style-type: none"> <li>No specific programmes targeted at value transformation and skills development for gender mainstreaming;</li> <li>Inadequate appreciation of gender issues and gender mainstreaming is reflected in plans and activities;</li> <li>Gender mainstreaming principles and values do not appear to permeate decisions regarding plans, policies and practices in Unit and Department;</li> <li>No evidence of involvement of gender specialists or women's organisations in decision-making.</li> </ul>	<ul style="list-style-type: none"> <li>Review the budget to ensure that <i>per capita</i> expenditure between women and men is progressively equalised and that a fair amount is specifically allocated to special programmes seeking to empower women and eradicate inequality between them and men;</li> <li>Encourage through rewards and sanctions, value based decision-making which incorporates values of non-sexism and the achievement of gender equality in and through all Unit and Departmental activities;</li> <li>Note and enforce compliance with the mandatory requirement (in Gender Policy) that all policies, plans, activities and decision-making processes must include a gender equality analysis to establish the likely impact on women and men and current systemic inequality between them;</li> <li>Make it a mandatory requirement that all human resource decisions, from recruitment to dismissal and resignation, are preceded by a gender analysis and written impact statement regarding the likely impact on the achievement of employment equity in respect of women and men from diverse backgrounds, including race, disability and HIV status; and</li> <li>Consult with the Gender Directorate and external gender experts regularly and particularly in the process of decision-making.</li> </ul>
5. Implementation	<ul style="list-style-type: none"> <li>Mention of learning organisation and 21 century leadership alignment has positive implications for gender.</li> </ul>	<ul style="list-style-type: none"> <li>No indication of specific measures in place to create an environment that affirms women and promotes gender equality;</li> <li>No indication of plans to equalise services received by women and men; and</li> <li>No indication of plans to equalise benefits and opportunities between women and men.</li> </ul>	<ul style="list-style-type: none"> <li>Conduct survey to ascertain the impact on equality between women and men from diverse backgrounds, including race, culture, disability, language, geographic location and people affected by HIV and AIDS;</li> <li>Ensure that there are projects under the Employment Equity Plan that specifically target women for empowerment and eradication of gender discrimination in employment practices; and</li> <li>Adopt and publicise special measures to empower women and close identified gaps between women and men.</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
6. Resources	<ul style="list-style-type: none"> <li>• HRD and EAP create an opportunity for specific programmes for the advancement of women.</li> </ul>	<ul style="list-style-type: none"> <li>• No resources specifically allocated for gender programming; and</li> <li>• Questions regarding gender impact not reflected in resource allocation processes.</li> <li>• No indication that the Gender Unit or Gender experts are consulted as a resource; and</li> <li>• No indication of analysis of expenditure on men and women's issues (for example salaries, benefits and training) in the department.</li> </ul>	<ul style="list-style-type: none"> <li>• Establish a 'resident' Gender Focal Point and Support Team to coordinate and help the Unit head to plan and execute gender transformation programmes and monitor progress;</li> <li>• Allocate adequate resources towards <i>Gender Mainstreaming</i> and related programmes, including capacity building;</li> <li>• Allocate a budget towards special programmes involving accelerated professional, skills and leadership development to empower women for absorption, advancement and retention in key leadership positions throughout the Department;</li> <li>• Allocate specific and adequate funds to gender programming and ensure that all women and men benefit equally from the budget;</li> <li>• Ensure that all allocations are preceded and informed by an analysis of the likely implications for per capita expenditure and inequality between women and men; and</li> <li>• Resource allocation should aim to reduce current inequalities and aim to achieve gender equality in all activities, including remuneration.</li> </ul>
7. Capacity Building	<ul style="list-style-type: none"> <li>• Induction programme which is likely to support gender transformation.</li> </ul>	<ul style="list-style-type: none"> <li>• No specific programmes targeted at value transformation and skills development for gender mainstreaming; and</li> <li>• No reference to the use of gender experts likely to impact negatively on gender.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that all Unit members, starting with management, are exposed to an induction, and continuing courses on <i>Gender Mainstreaming</i> and gender analysis;</li> <li>• Provide continuing training to strengthen knowledge, values and skills on gender mainstreaming;</li> <li>• Ensure ongoing provision of capacity building on change management, affirming diversity and managing diversity;</li> <li>• Ensure that adequate resources and skills are provided to the Gender Focal Point in the Unit;</li> <li>• Make use of gender experts on matters where there is inadequate or no resident expertise, facilities or time for research or training;</li> <li>• Ensure that knowledge generation and information management systems support planning, implementation and monitoring of gender transformation and women's advancement; continued ...</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
7. Capacity Building continued ...			<ul style="list-style-type: none"> <li>• Conduct a needs assessment and facilitate the development and implementation of a Gender Management Course with <i>Gender Mainstreaming</i> including gender analysis and diversity management as key modules, and ensure that all are exposed to adapted versions of the course; and</li> <li>• Integrate <i>Gender Mainstreaming</i> in all training activities, including induction courses and management development courses as well as reading materials, and other training aids.</li> </ul>
8. Communication and information	<ul style="list-style-type: none"> <li>• Employment is disaggregated by gender, race and disability.</li> </ul>	<ul style="list-style-type: none"> <li>• Statistics do not appear to be released regularly to facilitate the tracking of gender progress and revitalise levels of commitment;</li> <li>• No indication of attempts to address differential circumstances and needs of women and men;</li> <li>• No indication of conscious endeavour to consult women and men in decision-making on employment, HR matters across the board;</li> <li>* No evidence of special measures to address gender related gaps regarding access to opportunities in communication activities such as advertisements and requests for nominations for training and international trips.</li> </ul>	<ul style="list-style-type: none"> <li>• Release gender disaggregated statistics on human resource practices, on a regular basis. These should cover the process from planning through recruitment, to employee retention for the Unit and the Department;</li> <li>• Integrate Employment Equity Plan provisions relating to the achievement of gender equality in mainstream communication. Also integrate the overall dialogue on human resource activities as reflected in the Unit's Plan;</li> <li>• Ensure that communication on opportunities, including appointments and developmental opportunities, reach women of all races through out the country</li> <li>• Align knowledge generation, management and data management systems with the national objectives for gender transformation;</li> <li>• Implement special measures to consult women as a group on ongoing transformation and reflect their views in all activities including the Unit's Newsletter and other communication activities; and</li> <li>• Consider special programmes to empower women with information on available opportunities in the Department and affiliated institutions, including opportunities relating to overseas trips and how to access such opportunities.</li> </ul>
9. Employment	<ul style="list-style-type: none"> <li>* Commitments in respect of Employment Equity and Skills Development Act include gender.</li> </ul>	<ul style="list-style-type: none"> <li>• Decision-making processes, including memoranda do not appear to be aligned with Departmental compliance obligations in terms of the Employment Equity Act, Equality Act and</li> </ul>	<ul style="list-style-type: none"> <li>• Make it compulsory that all memoranda seeking a decision should advise the person approached for decision on the gender implications of the proposed decision;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
9. Employment continued ...		<p>related instruments, as well as the Department's own Employment Equity Plan;</p> <ul style="list-style-type: none"> <li>• There is no indication of gender analysis and plans to equalise (on the basis of gender) all employment opportunities in the Department; and</li> <li>• There appears to be no policies in the Unit and Department specifically addressing women's concerns relating to their treatment with equal consideration to their male counterparts.</li> </ul>	<ul style="list-style-type: none"> <li>• Use the gender disaggregated data to estimate the likely impact on women and men of all employment practices and to reduce existing systemic inequalities; and</li> <li>• Develop, review and or publicise existing policies on pressing gender issues.</li> </ul>
10. Procurement		<ul style="list-style-type: none"> <li>• No reference is made to gender inequalities in procurement of human resources and related services;</li> <li>• No indication exists of a plan for addressing gaps; and</li> <li>• There appears to be no uniformity of practice with regard to procurement equity, including Black Empowerment and Women's Empowerment.</li> </ul>	<ul style="list-style-type: none"> <li>• Familiarise management and staff with the provisions of the Preferential Procurement Policy Framework Act (read with s217 of the Constitution and the Promotion of Equality Act) and clarify their compliance responsibilities in the process;</li> <li>• Establish the gender profile of all contractors and outsourced activities in the past year, and identify gender gaps (in numbers and amounts involved);</li> <li>• Develop a plan for the Unit targeted procurement strategy with clear targets and milestones as well as remedial action to address barriers to contracting women;</li> <li>• Consider introducing an Implementation protocol for equalisation of procurement opportunities and ensure that all in the Unit are aware of this protocol and plan their specific responsibilities with regard to implementation;</li> <li>• Review current contractor profile and practices to establish gender patterns also taking into account the intersection of gender with race and other factors;</li> <li>• Adopt special measures to ensure that women and men benefit equally from contract opportunities in the Unit and to involve women's NGOs in public and private partnerships;</li> <li>• Familiarise all managers and staff with compliance requirements regarding preferential procurement in respect of women;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
10. Procurement continued ...			<ul style="list-style-type: none"> <li>• Implement gender disaggregated reporting covering service, employment equity, procurement and decision-making structures to be tabled to management meetings, including the Board, with questions raised on non-performance;</li> <li>• Require gender disaggregated reports on procurement regularly for tracking gender progress and planning corrective action;</li> <li>• Develop a gender disaggregated profile (including race, gender and disability) of contractors and outsourcing trends over the last year; and</li> <li>• Set targets and standards for remedial action directed at improving women's representation and implementation protocol to be prepared and enforced through decision-making channels such as approval of memoranda.</li> </ul>
11. Monitoring and Evaluation	<ul style="list-style-type: none"> <li>• Gender disaggregated data; and</li> <li>• Gender indicators (but not targets and benchmarks) planned to be incorporated in performance agreements of management and staff.</li> </ul>	<ul style="list-style-type: none"> <li>• No express mention of gender indicators and mechanisms for tracking gender progress;</li> <li>• No indicators for monitoring compliance with international instruments; and</li> <li>• Gender equality is not reflected as a key performance area in performance agreements.</li> </ul>	<ul style="list-style-type: none"> <li>• Include gender specific indicators, targets and milestones in the Unit's Business Plan and sub-plans to facilitate the tracking of gender progress;</li> <li>• Draw up specific indicators and benchmarks to be drawn from international instruments such as the Beijing Platform for Action and the SADC Declaration on Gender and Development;</li> <li>• Incorporate specific gender indicators and targets in performance agreements of all senior managers in the Department and affiliated institutions; and</li> <li>• Align data management systems to ensure that accurate and centralised data is readily available on all aspects of gender transformation throughout the Department and affiliated institutions.</li> </ul>
12. Reporting	<ul style="list-style-type: none"> <li>• Records of gender disaggregated data kept.</li> </ul>	<ul style="list-style-type: none"> <li>• No express plan to report on gender progress; and</li> <li>• No mention of measuring mechanisms for services seeking to address women's specific needs as workers and employees.</li> </ul>	<ul style="list-style-type: none"> <li>• Keep records on data disaggregated by gender;</li> <li>• Store data in accordance with gender goals, targets and indicators for the Unit;</li> <li>• Structure reports in such a way that ensures that each report speaks specifically to agreed goals, targets and indicators on gender and other matters;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
12. Reporting continued ...			<ul style="list-style-type: none"> <li>• Reports should be presented by all senior managers as part of the performance management system;</li> <li>• Ensure regular reporting on all aspects of gender transformation is done and that these reports are discussed at management meetings, and integrated into mainstream reports; and</li> <li>• Ensure that all reporting on human resources is standardised through out the Department.</li> </ul>

#### 4.2.7 Public Education and Communications

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
1. Awareness	<ul style="list-style-type: none"> <li>• There is an awareness that communities are not homogeneous, and in prioritising its activities women will be the focus and receive benefits from departmental programmes.</li> </ul>	<ul style="list-style-type: none"> <li>• No indication that measures are implemented to make it clear to all managers regarding their accountability with regard to <i>Gender Mainstreaming</i>; and</li> <li>• No mention of Department's Gender Policy Statement.</li> </ul>	<ul style="list-style-type: none"> <li>• Raise the level of awareness on gender by constantly engaging in debates and discussions on gender issues;</li> <li>• Brief all managers and staff about key policy frameworks (international, national and departmental) regarding their accountability with regard to gender mainstreaming;</li> <li>• Provide literacy on gender issues;</li> <li>• Ensure that all managers are fully informed of their accountability with regard to gender mainstreaming;</li> <li>• Provide capacity building to all managers and staff to bring to their attention the unequal and different circumstances of women and men. (This will also help them to understand that because of those differences, virtually all laws, policies, plans and activities, including court processes, impact differently on women and men and often have the impact of exacerbating existing inequalities); and</li> <li>• Incorporate references to the Gender Policy Statement of the department and other international instruments on gender.</li> </ul>



KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
2. Commitment	<ul style="list-style-type: none"> <li>• There is a focus on specific women's events, that is gender and children's leaflet, maintenance, customary marriages and domestic violence.</li> </ul>	<ul style="list-style-type: none"> <li>• No conscious commitment to addressing gender issues in the course of doing business; and</li> <li>• Gender considerations are not incorporated into operational procedures:                             <ul style="list-style-type: none"> <li>• Publications (how do you cater for women's needs, specifically how to bring issues of gender into all communications rather than just gender and children's leaflet)</li> <li>• Imaging (do you have to profile women different from men).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Conduct an audit to establish gender profile of Unit covering employment profile and trends, decision-making trends, procurement, information, knowledge generation and management communication patterns/ impact and reporting practices;</li> <li>• Ensure that gender issues are raised regularly and with conviction in policy and other forms of dialogue with internal and external stakeholders;</li> <li>• Ensure that gender mainstreaming strategy plan is viewed as one of the key result areas of overall strategy of the Business Unit;</li> <li>• Incorporate or make reference to specific sections in the department's Gender Policy in Unit's Business Plan and link it to service delivery in the Unit;</li> <li>• Allocate adequate resources for gender transformation;</li> <li>• Integrate non-sexism and achievement of gender equality in value statements and discourage sexist jokes;</li> <li>• Ensure that the Unit's Business Plan incorporates or makes reference to specific sections in the department's Gender Policy and link it to service delivery in the Unit; and</li> <li>• Disaggregate the Unit's work profile on the basis of gender and commit to placing women in positions that enhance decision-making.</li> </ul>
3. Planning	<ul style="list-style-type: none"> <li>• Lack of recognition in the planning that all development and Business Unit efforts need to consciously plan and seize opportunities that link gender to programmes and resources.</li> </ul>		<ul style="list-style-type: none"> <li>• Conduct research to identify women's circumstances and needs with regard to finance and disaggregating women in terms of various categories. These categories include occupational categories (Judges, Magistrates, Managers, Clerks of Courts, Secretaries, etc). Court users should also be considered. This should be done taking social factors such as race, class, disability, etc, into account;</li> <li>• Develop a <i>Gender Mainstreaming</i> strategy and plan, and ensure that it is integrated into the operational and project plans of all components of Business Unit and collaborate activities with other stakeholders;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
3. Planning continued ...			<ul style="list-style-type: none"> <li>• Ensure that the Business Plan, all sub-plans and future plans are subjected to a gender analysis (being an assessment of the likely differential impact on women and men taking into account all material differences in the circumstances of women and men from diverse backgrounds);</li> <li>• Ensure that data relied on for planning should be disaggregated by gender and its intersection with race, disability, HIV status and other forms of difference;</li> <li>• Subject all plans to compliance test regarding key international/national and departmental policies, targets and benchmarks;</li> <li>• Request comment of gender directorate, experts and Gender Forum on plans before they are finalised;</li> <li>• Incorporate gender analysis in planning and policy formulation within the Unit; and</li> <li>• Ensure that women users and those who work towards women's emancipation are involved in all stages of planning, especially in policy formulation.</li> </ul>
4. Policy and Decision-making	<ul style="list-style-type: none"> <li>• No commitment in the policy that addresses gender directly by providing mechanisms or processes in the plans that enhance women's decision-making; and</li> <li>• While the Unit identifies leadership and managerial development and character development as critical it does not specify the needs of women leaders.</li> </ul>		<ul style="list-style-type: none"> <li>• Consult women at various levels, that is as stakeholders and as members of the Unit;</li> <li>• Put mechanisms in place that facilitate participation and decision-making in respect to the Unit;</li> <li>• Consult women on the concerns relating to customary law, property, traditional practices, civil law, etc;</li> <li>• Reflect these issues in policy and ensure that women are involved in all decision-making processes; and</li> <li>• Consider altering the standard provisions of organisational memoranda to insert a requirement on equality implications and compliance with relevant national and international legal and policy obligations.</li> </ul>
5. Implementation		<ul style="list-style-type: none"> <li>• Public education and communication appears not to challenge the stereotypes of the different information that women and men need; and</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct a gender needs assessment;</li> <li>• Develop an education programme aimed at creating an awareness and providing services that are directed at women;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
5. Implementation continued ...		<ul style="list-style-type: none"> <li>No evidence of the methods of data collection and information utilization as it applies to women and men;</li> <li>No evidence that the implementation of activities will benefit women and men equally;</li> <li>It appears that a gender needs assessment of the kind of information needed to educate both the staff at PEC and members of the public has not been conducted;</li> <li>The plan does not indicate how the personnel of the department will be educated to initiate changes that impact on the values and attitudes regarding a gender-blind culture in some sectors of the department; and</li> <li>There appears to be a perpetuation of gender-based roles that prevent information getting to women, for example religious, tradition, societal and cultural taboos.</li> </ul>	<ul style="list-style-type: none"> <li>Develop mechanisms for the implementation of PEC services that protects and advances women's rights;</li> <li>Identify activities for the Unit and specify gender targets to be achieved with allocated timeframes;</li> <li>Implement programmes targeting legal literacy on Critical Areas of Concern and key issues arising from the BPA, CEDAW, Equality Legislation and other standard setting instruments on women's human rights and gender equality;</li> <li>Ensure that Unit's Key Performance Indicators for gender are implementable;</li> <li>Ensure that implementation increases the likelihood that benefits accrue equally to women and men;</li> <li>Implement public and corporate awareness programmes that cover the full spectrum of Critical Areas of Concern for Women and the key issues that arise under each Critical Area of Concern;</li> <li>Ensure that education and awareness on each issue is sustained, effective and responsive to diverse circumstances of women and men from different walks of life.</li> <li>Implement special programmes that seek to alter male perceptions and attitudes in the organisation and the community sector within which the department operates; and</li> <li>Ensure that gender considerations are integrated in all communication and women and men are equally involved in all communication processes.</li> </ul>
6. Resources		<ul style="list-style-type: none"> <li>No resources are allocated to gender specific programmes;</li> <li>No gender coordinator identified; and</li> <li>Gender Directorate is not utilized as a resource.</li> </ul>	<ul style="list-style-type: none"> <li>Identify a specific budget for women's empowerment programmes as well as set aside funds for supporting gender mainstreaming; and</li> <li>Establish structures and allocate sufficient financial and human resources to ensure policy and planning objectives for gender.</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
7. Capacity Building		<ul style="list-style-type: none"> <li>• Training and education not specifically geared for women; and</li> <li>• No training for staff on gender equity.</li> </ul>	<ul style="list-style-type: none"> <li>• Promote women's access to wider opportunities in education, vocational training and employment in senior levels of responsibility;</li> <li>• Ensure that induction programmes are used to introduce personnel to gender mainstreaming and ongoing capacity building is provided to develop more technical skills on gender, diversity management and change management;</li> <li>• Allocate a budget towards technical support for gender mainstreaming; and</li> <li>• Use effective training and internal placements to accelerate and promote women in the Unit.</li> </ul>
8. Communication and information		<ul style="list-style-type: none"> <li>• Several strategies are identified to reach consumers of the Business Unit and the general public, however, its impact on women and men are not identified; and</li> <li>• Lack of language policy;</li> </ul>	<ul style="list-style-type: none"> <li>• Communication is the cornerstone of this Unit and for its successful placing of 'gender' on the agenda it should:</li> <li>• Analyse the internal and external customer on the basis of gender;</li> <li>• Communicate with women in a manner that best meets their needs as consumers and providers of services;</li> <li>• Ensure that linguistic needs of women are identified and policies adopted to provide for their needs; and</li> <li>• Ensure that gender considerations are integrated in all communication and that the power of communication is harnessed to contribute meaningfully towards gender transformation in the organisation and society.</li> </ul>
9. Employment		<ul style="list-style-type: none"> <li>• No indication that certain jobs have been earmarked for women in accordance with the Employment Equity Plan; and</li> <li>• No evidence of reference to labour policies that are sensitive to gender issues, for example sexual harassment, maternity leave.</li> </ul>	<ul style="list-style-type: none"> <li>• Use effective training and internal placements to accelerate and promote women in the Unit;</li> <li>• Recruiting and promoting for key areas in the Unit in accordance with employment equity plan;</li> <li>• Promote women's access to wider opportunities in vocational training and training in the Unit and at higher levels of responsibility;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
9. Employment continued ...			<ul style="list-style-type: none"> <li>Adapt working conditions and adjusting work organisation to suit the needs of employees with family responsibilities; and</li> <li>Ensure that the Sexual Harassment policy for the department is adopted and incorporated into the business plan of the Unit.</li> </ul>
10. Procurement		<ul style="list-style-type: none"> <li>No evidence that procurement of services for tenders identify women as a preferential group in terms of legislative requirements;</li> <li>No evidence that the Unit includes gender sensitivity and inclusiveness in contracting practices as criteria; and</li> <li>It appears that the Unit does not actively seek women with appropriate skills and ensure they are aware of tenders.</li> </ul>	<ul style="list-style-type: none"> <li>Incorporate gender criteria into the procurement policies and practices of the Unit;</li> <li>Familiarise all managers and staff with compliance requirements regarding preferential procurement in respect of women;</li> <li>Implement gender disaggregated reporting covering service employment equity, procurement and decision-making structures to be tabled to management meetings, including the board, with questions raised on non-performance;</li> <li>Ensure that there are gender disaggregated regular reports on procurement for tracking gender progress and planning corrective action;</li> <li>Develop a gender disaggregated profile (including race, gender and disability) of contractors. A report on and outsourcing trends over the last year should be prepared;</li> <li>Set targets and standards for remedial action directed at improving women's representation;</li> <li>Prepare implementation protocol to be and ensure that it is enforced through decision-making channels such as approval of memoranda;</li> <li>Implement special measures to ensure that women benefit equally with men from all contractual opportunities;</li> <li>Communicate and advertise tender in places friendly to women; and</li> <li>Incorporate gender criteria into the procurement policies and practices of the Unit.</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
11. Monitoring and Evaluation		<ul style="list-style-type: none"> <li>No monitoring and evaluation system to track the progress on gender issues;</li> <li>Activities do not have baseline data on gender; and</li> <li>No systematic capturing of data on a gender disaggregated basis and the impact of programmes on women and men, is evident.</li> </ul>	<ul style="list-style-type: none"> <li>Develop a monitoring and evaluation system for the Unit that incorporates goal, targets and KPI's for women;</li> <li>Develop gender sensitive instruments that would track progress on the key target areas; and</li> <li>Use the monitoring and evaluation information obtained from the collection of gender disaggregated data to analyse the impact on attaining gender equality.</li> </ul>
12. Reporting		<ul style="list-style-type: none"> <li>No indication of gender sensitive reporting that provides data on how information and communication affects women and men differently;</li> <li>No indication of reporting on compliance with international and national human rights instruments; and</li> <li>No reporting on service delivery.</li> </ul>	<ul style="list-style-type: none"> <li>Keep records on data disaggregated by gender;</li> <li>Ensure that data is stored in accordance with gender goals, targets and indicators for the Unit;</li> <li>Structure reports in such a way that each report speaks specifically to the goals, targets and indicators on gender and other matters; and</li> <li>Ensure that all senior managers report on gender indicators as part of the performance management system.</li> </ul>

#### 4.2.8 Information Management Systems

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
1. Awareness		<ul style="list-style-type: none"> <li>While there is an acknowledgment that information technology can be a 'strategic enabler' there is no conscious mention of programmes and activities that would address the diverse needs of women and men where such differ;</li> <li>No mention of the Gender Policy Statement and national as well as international policy framework with compliance obligations on gender; and</li> </ul>	<ul style="list-style-type: none"> <li>Raise the level of awareness on gender by constantly engaging in debates and discussions on those issues;</li> <li>Brief all managers and staff about all key policy frameworks (international, national and departmental) regarding their accountability with regard to gender mainstreaming;</li> <li>Provide literacy on gender issues;</li> <li>Ensure that all managers are fully informed of their accountability with regard to gender mainstreaming;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
1. Awareness continued ...		<ul style="list-style-type: none"> <li>There is no indication that measures are implemented to make it clear to all managers what their accountability is with regard to <i>Gender Mainstreaming</i>.</li> </ul>	<ul style="list-style-type: none"> <li>Incorporate references to the Gender Policy Statement of the department and other international instruments on gender;</li> <li>Incorporate relevance of gender in strategy formulation using gender disaggregated data for both internal and external customers and factor gender into continuing dialogue on IT;</li> <li>Raise the level of gender awareness in the Unit through training and related capacity building interventions; and</li> <li>Read and discuss the Departmental gender policy statement and national and international instruments (SADC and UN).</li> </ul>
2. Commitment	<ul style="list-style-type: none"> <li>Fair representation of women in decision-making at least at senior management.</li> </ul>	<ul style="list-style-type: none"> <li>No conscious commitment to incorporating gender issues into the operational procedures, for example the Business Unit mentions its challenges such as:  <i>Increased incidence of crime in an increased population</i></li> <li>What is the nature of the crimes against women?</li> <li>How many women are affected?</li> <li>How does the justice system deal with those women?  <i>Increased number of cases withdrawn from courts</i></li> <li>What impact does withdrawal have for women?</li> </ul>	<ul style="list-style-type: none"> <li>Make it a specific requirement that gender concerns are integrated in all Unit activities from planning through implementation to monitoring and reporting. (This entails making it mandatory for an assessment of the effect and likely impact of all policies, projects, plans and activities on women and men and the adoption of measures to ensure that such policies, projects and activities respond meaningfully to the circumstances of women and men and reduce existing inequalities);</li> <li>Insist on equitable representation of at least 40% of women in decision-making in all areas and at all levels;</li> <li>Conduct an audit to establish a gender profile of the Unit and targeted users and ensure that results are integrated in planning, implementation and monitoring with specific targets and progress in factors agreed to and submitted to EXCO and Departmental Board;</li> <li>Ensure that the issue of gender impact is always raised in all Information Technology dialogue and that achievements of gender targets is celebrated and revisited while non-compliance is openly questioned; and</li> <li>Give a high profile to gender advocacy in all communication, including speeches, press releases and newsletters. Ensure that the full spectrum of issues on the advancement of women and women's human rights beyond gender violence and maintenance is regularly covered in communication.</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
3. Planning		<ul style="list-style-type: none"> <li>• There is no gender disaggregated data of employees emigrating from the Unit – thus reflecting on the loss of experience and institutional memory;</li> <li>• No <i>Gender Mainstreaming</i> strategy or plan;</li> <li>• Plan does not reflect awareness of and attempt to deal with gender differences and consequence in the use of IT and information management services by women and men;</li> <li>• No integration of the engendering the e-justice plan;</li> <li>• The Business Plan does not give an indication of relevant identification and prioritisation of technological needs of women in the Unit;</li> <li>• Lack of recognition in the planning that links gender to objectives like infrastructure development, management and the court process and project information system; and</li> <li>• Since intellectual capital is the most valuable asset to the department, this Unit does not appear to collect data on:</li> <li>• Gender disaggregation of IT skills, needs and utilisation.</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct research to identify women's circumstances and needs with regard to finance and disaggregating women in terms of various categories including occupational categories (Judges, Magistrates, Managers, Clerks of Courts, Secretaries, etc). Also consider court users. This should be done taking social factors such as race, class, disability, etc, into account;</li> <li>• Develop a <i>Gender Mainstreaming</i> strategy and plan and ensure that this is integrated in the operational and project plans of all components of Business Unit and collaborate activities with other stakeholders;</li> <li>• Ensure that the Business Plan, all sub-plans and future plans should be subjected to a gender analysis (being an assessment of the likely differential impact on women and men taking into account all material differences in the circumstances of women and men from diverse backgrounds). Data relied on for planning should be disaggregated by gender and its intersection with race, disability, HIV status and other forms of difference;</li> <li>• Subject all plans to compliance test regarding key international and national and departmental policies, targets and benchmarks;</li> <li>• Request comment of gender directorate, experts and Gender Forum on plans before they are finalised;</li> <li>• Implement measures to ensure that gender equality considerations are integrated in all communication processes, including digital communication; and</li> <li>• Ensure that women committed to women's emancipation are involved in all stages of planning especially in policy formulation.</li> </ul>
4. Policy and Decision-making	<ul style="list-style-type: none"> <li>• Lack of recognition in the planning that links gender to objectives like infrastructure development, management and the court process and project information system.</li> </ul>	<ul style="list-style-type: none"> <li>• The plan clearly identifies decision-makers in the Unit – system managers, chief users, strategic planners, but deals with them in a gender neutral manner, that is it does not identify key roles for women as decision-makers or experts in a particular area.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that the mandatory requirement (as in Chapter 5 of Gender Policy) to subject all policies, plans, activities and decision-making processes to a gender equality analysis to ascertain current or likely impact on women and men and opt for an approach which promotes (substantive) equality is adhered to and enforced always;</li> </ul> <p>continued ...</p>



KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
4. Policy and Decision-making continued ...			<ul style="list-style-type: none"> <li>• Require that organisational memoranda and other decision-making processes always includes a clause indicating gender impact, also taking into account the diversity of women's circumstances and needs;</li> <li>• Institute measures to affirm women and accelerate their equal representation in all aspects of the Information Technology and information management processes in response to an audit of the current gender profile and trends and identification of obstacles;</li> <li>• Make it mandatory that women and men are equally represented in all committees, conferences and decision-making processes, including representation in international structures and processes;</li> <li>• Make it a mandatory requirement that the Gender Directorate and organisations that work for gender equality are consulted and participate fully and equally with men in decision-making within and regarding the Unit;</li> <li>• Ensure that women's needs are established and reflected to the Top 5 organisational priorities and that this is also reflected in budgeting and all other processes; and</li> <li>• Develop gender policy covering all aspects of the ISM and incorporating aspects relating to generic needs of women as employees, contractors and customers. Incorporate gender policy provisions in all strategic and operational documents relating to ISM and familiarise all role players on such policy.</li> </ul>
5. Implementation	<ul style="list-style-type: none"> <li>• Acknowledgement in plan that women should be targeted in implementation.</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of the Unit's vision does not refer to the empowerment of women and men as customers of the justice system, for example provide Information Technology infrastructure, what are the specific needs on women in the Judiciary with regard to accessing information and developing their administration capacity; and</li> </ul>	<ul style="list-style-type: none"> <li>• Review current plans and ensure that these and future plans have implementation provisions for indicators which consciously address different circumstances and needs of women and men with regard to all aspects of plan and project through provisions of special measures to accommodate difference and eradicate inequality between women and men;</li> <li>• Consider a requirement that all memoranda should stipulate implications for equality and compliance with relevant international and national and legal and policy obligations of the Ministry and Department; and</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
5. Implementation continued ...		<ul style="list-style-type: none"> <li>Financial Administration System for minor children and poor women' while there is an acknowledgement that women should be targeted, the systems, processes and benefits are not clearly defined.</li> </ul>	<ul style="list-style-type: none"> <li>Require and enforce that all implementation structures/processes should involve at least 40% of either gender using special measures to boost women's participation as employees, contractors and as customers/users.</li> </ul>
6. Resources		<ul style="list-style-type: none"> <li>No resources allocated to gender specific programmes and addressing historical imbalances; and</li> <li>Resources for personnel are generalised and without a proactive policy on women empowerment, the resource allocation can perpetuate gender inequality.</li> </ul>	<ul style="list-style-type: none"> <li>Allocate specific resources towards gender programming, including special programmes to empower women (incorporating skills development) interventions directed at improving access for women users of information management services and special interventions directed at altering male behaviour and organisational culture.</li> </ul>
7. Capacity Building		<ul style="list-style-type: none"> <li>Expenditure on Information Technology and management systems does not appear to be conscious of or to address existing systemic imbalances between women and men and those relating to race, geographic disparities, disability and other factors;</li> <li>No indication of executed or planned training relating to gender mainstreaming capacity building for management and employees; and</li> <li>No indication of regular consultation with or use of gender specialists/experts;</li> <li>No indication of planned or executed diversity awareness and management programme to assist personnel to value and manage difference at work, in decision-making and service delivery.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that all Unit members, starting with management, are exposed to an induction course and thereafter regular exposure to <i>Gender Mainstreaming</i> training and related materials;</li> <li>Integrate <i>Gender Mainstreaming</i> training in all general training and communication activities, including induction courses, information booklets and regular newsletters;</li> <li>Include representation of gender Unit and if possible and other specialists, in Unit's board and consult regularly with these on gender dimensions of issues under consideration;</li> <li>Implement special measures to accelerate the professional and management/leadership development of women (of all races and sub-racial categories) to ensure their absorption, advancement and retention at all levels of decision-making.</li> <li>Organise ongoing diversity awareness and management training for all staff, starting with management. Ensure that diversity is a regular element of planning, implementation and monitoring dialogue.</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
8. Communications		<ul style="list-style-type: none"> <li>• The core business of this Unit is to address the information and systems development needs of the department; and</li> <li>• The objective of transforming the business Unit from its current state of low technology utilisation to one that effectively recognises information technology as a strategic enabler does not specify how women will become consumers of high technology utilisation.</li> </ul>	<ul style="list-style-type: none"> <li>• Collect, maintain and regularly publicise gender disaggregated data on all aspects of the Unit with special attention paid to employment, procurement, service (usage and per capita expenditure) and decision-making systems;</li> <li>• Allocate some of the budget to research and knowledge generation on women and men, focussing on women's circumstances and diverse needs;</li> <li>• Establish the ability of communication to reach, address and prioritise the needs of women, taking into account the diverse social contexts that different women and men live under;</li> <li>• Prepare a gender profile of those consulted on ISM in the past year and develop strategy to enhance consultation with women and women's NGOs;</li> <li>• Align all systems with gender objectives and monitoring of progress against targets;</li> <li>• Make it mandatory for all written decisions and memos to advise on implications for compliance with gender related international and national standards as well as departmental policies and plans on gender equality;</li> <li>• Mainstream equality in all communication and information systems and processes;</li> <li>• Ensure that Information Technology as a 'strategic enabler' clearly identifies its target groups and that different communication strategies are developed for women and men in terms of their diverse needs; and</li> <li>• Ensure that Information Technology is repositioned as a support function that is to be exploited maximally to support gender transformation and other organisational transformation objectives.</li> </ul>
9. Employment		<ul style="list-style-type: none"> <li>• There appears to be no plan or activity that seeks to create an employment environment which validates women and men equally while responding meaningfully to their different needs;</li> </ul>	<ul style="list-style-type: none"> <li>• Be uncompromising on compliance with the Employment Equity Act and related instruments including display of Employment Equity Plan and progress reports as prescribed by law;</li> </ul>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
9. Employment continued ...		<ul style="list-style-type: none"> <li>• Inadequate efforts appear to enhance women's representation in the judiciary generally and the decision-making structures therein;</li> <li>• There appears to be no institutional policies to address gender concerns such as sexual harassment, parental rights and value transformation; and</li> <li>• There appears to be no programmes specifically for accelerating women's entry, development, advancement and retention in the Unit while creating an environment, which affirms them.</li> </ul>	<ul style="list-style-type: none"> <li>• Mainstream employment equity in Unit's plan and sub-plans and consider development and enforcement of a policy statement on ensuring an environment that validates women and men equally through out the Unit;</li> <li>• Ensure that policy includes women's empowerment to eradicate existing inequalities and unfair discrimination;</li> <li>• Conduct an audit to establish profile of the ISM, including obstacles to women's entry, development, advancement and retention, and develop implementation policy to address women's diversity and targets which should take national and international benchmarks and commitments into account;</li> <li>• Review Unit's employment equity plan and ensure that there is a specific programme to accelerate the entry, development, advancement and retention of women from all racial, sub-racial disability and other diverse backgrounds, while transforming work relations to affirm women's human dignity and respond to gender impact of HIV/AIDS;</li> <li>• Ensure that the board, mini-boards and other meetings regularly ask questions on employment equity with regard to gender, including questions relating to planned or recent appointments;</li> <li>• Ensure that milestones achieved are celebrated and publicised in newsletters and meetings, and that a gender disaggregated employment report, including changes in the profile of the Unit, and contractors engaged by Unit, are regularly presented in all key meetings and discussed as well as pasted on bulletin boards.</li> </ul>
10. Procurement		<ul style="list-style-type: none"> <li>• The Unit awarded several tenders, for example the Body Shop tender, as well as programme management services. However, the procurement of services for these tenders do not identify women as a preferential group in terms of legislative requirements;</li> </ul>	<ul style="list-style-type: none"> <li>• Familiarise all managers and staff with compliance requirements regarding preferential procurement in respect of women;</li> <li>• Implement gender disaggregated reporting covering service employment equity, procurement and decision-making structures. These should be tabled to management meetings, including the board, with questions raised on non-performance;</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
10. Procurement continued ...		<ul style="list-style-type: none"> <li>No evidence that the Unit includes gender sensitivity and inclusiveness in its criteria for selection; and</li> <li>It appears that the Unit does not actively seek women with appropriate skills, and thus does not attempt to make women aware of tenders.</li> </ul>	<ul style="list-style-type: none"> <li>Require gender disaggregated reports on procurement regularly for tracking gender progress, and planning corrective action;</li> <li>Develop a gender disaggregated profile (including race, gender and disability) of contractors and outsourcing trends;</li> <li>Set targets for remedial action directed at improving women's representation. Protocol should be prepared and enforced through decision-making channels, such as approval of memoranda;</li> <li>Implement special measures to ensure that women benefit equally with men from all contractual opportunities;</li> <li>Consider special programmes to empower women through knowledge on availability of contract opportunities and procedures; and</li> <li>Take special measures to involve women and women's NGO's in public and private partnership initiatives. Avoid limiting those opportunities to historically advantaged groups such as BAC. Promote skills transfer.</li> </ul>
11. Monitoring and Evaluation		<ul style="list-style-type: none"> <li>No monitoring and evaluation of system in place to track progress on issues of gender;</li> <li>No specific targets set for achieving gender equity;</li> <li>No baseline data on activities;</li> <li>No systematic capturing of data on a gender disaggregated basis and the impact the services have on women and men;</li> </ul>	<ul style="list-style-type: none"> <li>Gender disaggregated indicators, benchmarks and milestones to be stipulated in Unit's plan and sub-plans for tracking gender progress;</li> <li>Specific gender indicators, including milestones, to be integrated in performance agreements of all in the Business Unit;</li> <li>Specific gender targets and benchmarks drawn from international instruments such as the Beijing Platform for Action and SADC Declaration on Gender and Development should be included in Unit's plans and monitored rigorously;</li> <li>Consideration should be given to the development and implementation of a risk management tool to limit departmental non-compliance with international, national and its own policy and legal frameworks on gender equality matters; and</li> </ul> <p>continued ...</p>

KEY RESULT AREA	INDICATORS		RECOMMENDATIONS
	PROGRESS	GAPS	
11. Monitoring and Evaluation continued ...			<ul style="list-style-type: none"> <li>Unit to use opportunity presented by the <i>Promotion of Equality Act</i> and black empowerment initiatives to strengthen its monitoring of transformation, relating to equalising opportunities between women and men, taking into account women's diversity in terms of race, disability, impact of HIV/AIDS and other factors.</li> </ul>
12. Reporting		<ul style="list-style-type: none"> <li>No indication of gender sensitive reporting or providing of information on how an integrated information management system will impact on women specifically.</li> </ul>	<ul style="list-style-type: none"> <li>Make it a mandatory requirement for all components, including the structure responsible for managing the judiciary and judicial system, to maintain in an easily retrievable form, gender disaggregated data, to facilitate all human resources issues;</li> <li>Ensure that all managers and governing bodies are made aware that they are accountable with regard to <i>Mainstreaming Gender</i> in their human resource matters, and that all their reports in this regard should indicate progress made;</li> <li>Make it a mandatory requirement for all reports in the Unit to indicate progress made on gender and gender implications of all other activities and challenges and that reports are always against plans;</li> <li>Reorganise reporting requirements to ensure that all statistics indicate race, gender and disability and that gender based crimes such as rape and domestic violence are labelled as such.</li> <li>Ensure that reports against gender objectives and targets are regularly prepared and discussed at decision-making level, and disseminated as widely as possible;</li> <li>Ensure that data collection, storage and retrieval supports planning, implementation and monitoring of all critical aspects of gender transformation.</li> </ul>

## 5. CONCLUSION & RECOMMENDATIONS

*Although in our society discrimination on the grounds of sex has not been as visible, nor as widely condemned as discrimination on the grounds of race, it has non the less resulted in deep patterns of disadvantage. These patterns of disadvantage are particularly acute in the case of black women, as race and gender discrimination overlap. That all such discrimination needs to be eradicated is a key message of the Constitution.*

O'Reagan J  
Brink v Kitshof

### 5.1. Progress Indicators

The study revealed that significant progress has been made with regard to embracing gender equality and implementing related transformation processes within the DOJCD and affiliated institutions such as the Judiciary.

In particular, visible progress can be noted in the following areas:

- The existence of a general sense that something needs to be done to affirm women is exhibited in most Business Plans, communication and general practices;
- A degree of representation of women in top management and decision-making level is evident. For example one of the eight Managing Directors is a woman, the Head of CGE is a woman, equally, the head of SALC, as well as one Deputy Judge President and two Regional Court Presidents;
- There is also an increase within the judiciary (judges and magistrates), prosecutorial services, masters division, state attorneys and state legal advisors;
- Attention has also been given to improving service delivery in areas addressing women's practical needs. These include:
  - Maintenance;
  - Family Court Services, including racial unification;
  - Domestic Violence;
  - Improvement of court infrastructure to enhance user friendliness, which includes information services, waiting rooms and victims support services in some of the courts;
  - Law reform to ensure recognition of Customary Marriages;
  - Race unification of Administration of Interstate Estates (Substantive law not changed);
  - General transformation interventions, which are likely to enhance the position of women or address their gender related disadvantages;

- Judicial Education particularly on equality, social context awareness and specialised areas of the law such as administrative justice, domestic violence and human rights;
- Interventions seeking to improve court management and case flow management;
- Interventions relating to anti-corruption, access to information and administrative justice; and
- Policies on Employment Equity, HIV/AIDS, disability and human resources.

## 5.2 Key Weaknesses

The study revealed a number of areas where corrective action needs to be taken to enhance *Gender Mainstreaming*. This includes accelerating the progress made in improving the position of women in the Department and the representation of women at the highest levels of decision-making.

The achievements made in the Department contribute to the broader transformation of society, and to achieving the constitutional vision of a non-sexist and non-racial society based on human dignity. This includes the achievement of equality and the equal enjoyment of all human rights and freedoms by all women and men without limitations based on race, disability and other factors, which have combined with gender oppression to inflict multiple injustices on women.

The key weaknesses regarding *Gender Mainstreaming* within the Department are outlined under the heading of general observations and the tables presented in Chapter 3 of this report.

The key elements of identified weaknesses revealed that *Gender Mainstreaming* could be accelerated through:

- Ensuring that there is adequate awareness of the relevant international and national legal and policy frameworks and related compliance obligations for the Ministry and Department and their components;
- Securing agreement on an overall strategic plan which clearly indicates key performance areas and targets for the department, within which gender is mainstreamed, and against which all leaders of Business Units are measured. This would ensure synergy in the Department's activities regarding *Gender Mainstreaming*, while facilitating effective monitoring. This should include a review of the *Mission and Vision* and the development of core values to support fundamental *gender transformation and mainstreaming* in the Ministry and Department and all its components;
- Reviewing the current organisational structure and decision-making model to eliminate elements that undermine the achievement of meaningful progress on women's participation at all levels of decision-making. The rank based representation in key decision-making structures should be evaluated in terms of its impact on equitable representation of women in all structures and at the highest level of decision-making, and corrective measures should be implemented;



- Implementing the Department's Commitment on Gender Budgeting, a commitment noted by SADC and the United Nations. No meaningful measures are being taken towards gender budgeting. There is a need to review the Department's budget and budget processes, the MTEF and annual objectives, as well as expenditure patterns, incorporating gender budgeting;
- Institutionalising international and national compliance obligations and commitments, and ensure purposeful alignment of organisational goals, systems and processes with these. Examples in this regard include commitments regarding the implementation of the BPA and Gender Benchmarks in international instruments such as the SADC Declaration on Gender and Development;
- Ensuring a common approach to crosscutting issues such as Planning templates and matrixes, human resource strategies, policy guidelines on budgeting, including priorities and guidelines on procurement equity based on applicable law. Uncoordinated approaches undermine *Gender Mainstreaming* by making it impossible to have an integrated approach;
- Strengthening policy implementation processes and monitoring systems to support gender mainstreaming. This includes giving consideration to amending the current format for memoranda to include a provision on gender equality impact, and similar requirements in respect of decision-making at meetings as a measure that strengthens checks and balances on the implementation of *Gender Mainstreaming*, to make all role players accountable. This should also include capacity building to strengthen change management effectiveness;
- Agreeing on a uniform definition of transformation generally, and gender transformation in particular, to clarify the vision of the Department that is being created. Ideally the Mission Statement of the Department should incorporate the constitutional values of the achievement of equality, human dignity and equal enjoyment of all human rights by all persons regardless of gender race or any other factor or combination thereof. These values should be binding on the entire department and also integrated in the Department's vision and value statements;
- Strengthening co-ordination of strategy development and implementation to minimise gaps in *Gender Mainstreaming*. Some of the issues currently end up with nobody taking responsibility for them. For example there is no clarity on responsibility regarding *mainstreaming gender*, including the achievement of employment equity in respect of women within the judiciary;
- Implementing measures to *mainstream gender* into the transformation of the legal profession which should include giving effect to the specific provisions of the Departmental Gender Policy Statement in this regard and those of the Beijing Platform for Action, including the Beijing Plus 5 Platform and declaration;
- Ensuring that gender programme implementation is adequately broad and detailed to ensure that all Critical Areas of Concern regarding the advancement of women, women's human rights and gender equality are covered and that key issues under each Critical Area of Concern Area are addressed. This should also involve ensuring that all of the 12 critical dimensions of effective *Gender Mainstreaming* are dealt with in respect of each key issue under each Critical Area of Concern;

- The provision of adequate resources towards gender programming, including budget allocations to special projects on each of the issues dealt with under identified Critical Areas of Concern. Measures in this regard should also include providing an adequate budget to the Gender Unit and related coordinating and technical support machinery;
- Providing capacity building to all role players commencing with the highest decision-making levels. This should cover education and training on issues such as international and national legal and policy compliance obligations, social context and diversity awareness, and skills for conducting gender equality analysis, change management and leadership and diversity management. Capacity building should also be provided to internal gender specialists in the form of an adequate budget, operational space, specialist skills and adequate information resources. Capacity building should also address accelerated leadership and professional development for women and success planning to speed up their absorption into, advancement and retention at all levels and in all structures.
- Implementing measures to ensure that gender is mainstreamed in all advocacy and training activities. This should be supported by an integrated training strategy for the department which addresses issues such as institutional transformation and the role of training in fostering broader transformation in the Department and the justice system;
- Agreeing on standard guidelines on consultations with and ensuring participation by the public in the justice system, to ensure inclusiveness and discard practices that favour the consultation of the historically advantaged as they have means to lobby;
- Clarifying various levels of responsibility and accountability regarding managing and achieving gender transformation in the judiciary and judicial process. The current situation leaves gaps that pose serious impediments to the pursuit of *Gender Mainstreaming* within the judiciary and judicial process;
- Ensuring that there is strict accountability for *Gender Mainstreaming* by Business Units and Components, and all decision-making structures. This requires that reports against own predetermined and organisationally agreed goals to ensure effective enforcement of gender mainstreaming commitments, including those in the Departmental Gender Policy Statement be submitted by managers;
- Providing effective research support and data management systems and skills in the generation and management of gender disaggregated data for *Gender Mainstreaming* and tracking progress on all aspects of the Department's work. For example, it is impossible to obtain readily available data on issues such as domestic violence protection orders and rape. It is also impossible to get general *per capita* expenditure on services and accordingly, not easy to implement gender budgeting. A similar problem exists with regard to ascertaining inequality between women and men in employment benefits and access to and distribution of Departmental contracts;
- Enforcing compliance with all own policy and external policies and law on gender, women's empowerment and other issues in decision-making and practice. Special attention should be given to laws and policies that facilitate mainstreaming equality and other human rights in government operations.

Examples in this regard include the Department's policies on:

- Employment Equity;
- HIV/AIDS;
- Gender; and
- Equality and the Eradication of Discrimination in General.

Examples of the Department's positive response to government policies include, its response to:

- *Batho Pele*;
- White Paper on Transforming the Public Service;
- NEDLAC Sexual Harassment Policy;
- National Policy Framework;
- National Action Plan on Human Rights; and
- National Skills Development Strategy.

Other Departmental commitments include:

- Implementation of the Beijing Platform for Action (1996);
  - Implementation of the SADC Addendum on the Prevention; and
  - Eradication of Violence Against Women.
- Ensuring strict compliance with internal and external reporting obligations. This includes ensuring that all reports are against relevant policy/legal compliance obligations and agreed targets/Goals relating to Critical Areas of Concern arising from the BPA, CEDAW and other relevant instruments, the various issues that arise and gender mainstreaming dimensions to be attended to in respect of each Critical Area of Concern.

### 5.3 Recommendations: Taking the Process Forward

It is clear from the findings of this study that although there is a lot of movement in the Ministry and Department with regard to issues on women, the absence of a clear vision, direction and decisive systematic, sustained action on *mainstreaming gender* into all organisational aspects undermines the achievement of meaningful progress on fundamental organisational transformation to advance and deliver to all women.

This generally means that there is adequate movement towards the realisation of both *de jure* and *de facto* equality between the sexes as envisaged in the Constitution and international human rights instruments such as law the Universal Declaration of Human Rights and the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW)<sup>16</sup>.

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16. CEDAW was ratified by South Africa in 1996 without a single reservation. Reservations are usually made by States Parties who wish to retain the superiority of their culture, customs and related laws over CEDAW provisions on women's human rights and the promotion of equality between women and men. By ratifying without reservations, South Africa, accordingly, excluded this limitation on its compliance obligations.

A recurring theme in the findings is the need for conscious alignment of all organisational and component plans, decisions and practices with international, national and departmental policy, legal frameworks and related compliance obligations. For *Gender Mainstreaming* to succeed, alignment of decisions and practices with legal and policy obligations must be a central aspect of organisational culture and related practices. It is also important that plans and policies across the department be integrated with each other. This is a critical element of systems approach to organisational change. Appropriate knowledge, values and skills is also critical for effective *Gender Mainstreaming*.

It is recommended that opportunities presented by developments such as the establishment of a Chief Directorate to coordinate strategic planning through the Office of the Director General, be utilised. This should include aligning general Departmental and Component plans, systems, policy, laws and activities with binding international and national laws and policies and related compliance obligations for the Ministry and Department, as well as mainstreaming gender equality considerations into everything that the Ministry and Department does.

Furthermore, this is an opportune moment for the Department to consolidate the progress it has made and address the gaps with regard to *mainstreaming gender* in its transformation and day to day activities. With South Africa having postponed its second CEDAW Country Report to 2004<sup>17</sup>, this gives the Department at least another full year to consolidate its work so as to have a meaningful country report in 2004 and SADC Country Report on the Declaration on Gender and Development in 2005. Such consolidation would also enhance the Ministry and Department's capacity to comply with the Provisions of the Promotion of Equality and Prevention of Unfair Discrimination Act, particularly those relating to women, including the girl child and the promotion of gender equality.

The benefit to the Ministry and Department will not be limited to the achievement of visible progress, with minimum effort, on the advancement of women, realisation of equal enjoyment of all human rights and freedoms by all women and men from all walks of life and general achievement of gender equality as envisaged in the Constitution and other national and international policy frameworks on equality and the eradication of discrimination. The benefits will also include reduced risk of non-compliance with international/national law and policy in the Ministry and Department as a component of the South African state.

The recommended course of action will also place the Ministry and Department in an excellent position to respond meaningfully to the president's call for the acceleration of the emancipation of women in his *State of the Nation Address, February 2002* and *ANC Newsletter, August 2002* and further call for accelerated action with regard to women's empowerment and the mainstreaming of gender in all aspects of governance in his *State of the Nation Address* in February 2003.

It is proposed that advocacy and leadership with regard to taking the process forwarded must come from

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17. This will be the first subsequent report. The CEDAW Committee will expect the country to have dealt with issues raised in the Committee's Concluding Comments in 1998.

the most senior decision-making levels in the Ministry and Department and Components within. This should be done in partnership and the technical support of the Gender Directorate. Specific recommendations on measures to be implemented immediately are captured in the findings outlined in Chapter 3 of this report and measures recommended in Chapters 4.

It is further proposed that the Department's leadership implement the following:

- All Business Units to review their policies, plans and implementation strategies in the light of this report, the Department's Gender Policy Statement, the Department's commitments regarding the implementation of the BPA and SADC Addendum on Violence Against Women, as well as the Recommendations of the CEDAW Committee at the recalling of South Africa's first report in 2000 and the outcomes government of WCAR;
- All Business Units to use Gender *Mainstreaming Guidelines* to be submitted by the Gender Directorate to amend plans, procedures, policies and processes;
- The Departmental Board and EXCO to require New Plans with full integration of *gender considerations* in all aspects review with the help of the Gender Directorate;
- The Board to set clear Annual and MTEF Targets on Gender Transformation backed by an adequate budget and integrate these in general annual objective and targets for 2004/5 and goals and targets for the next MTEF cycle on all aspects of departmental work This to be rigorously reviewed quarterly and relevant aspects included in performance contracts of all managers as envisaged in the *President's State of the Nation Address* – February 2003. The integration should ideally be done at a *Strategic Planning Seminar on Gender Mainstreaming and Transformation* attended by the middle and senior leadership of the Ministry/Department and affiliated institutions and consolidated in a *Gender Mainstreaming Strategy*<sup>18</sup> for the Ministry/Strategy for the Ministry/Department of Justice and Constitutional Development;
- Departmental budget, speeches, newsletters, press releases and annual reports to highlight gender equality, including non-sexism in all its manifestations, as a key institutional value alongside values such as anti-corruption, fiscal discipline and responsive service delivery.

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18. This is a similar instrument to the Plan of Action envisaged in the *National Gender Policy Framework* and should be a consolidation of *Gender Mainstreaming Programmes of Action* of all the Business Plans/Components as envisaged in the *Gender Mainstreaming Guidelines*.