

# Needs Assessment Report

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*“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.

**Mrs B S Mabandla**

*Minister of Justice and Constitutional Development*

*Pretoria, August 2005*

# Acknowledgements

The *Gender Mainstreaming Reporting Protocol* 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 *Needs Assessment* 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 DoJCD.

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* materials. 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>AF</b>	African Female
<b>AM</b>	African Male
<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>CF</b>	Coloured Female
<b>CM</b>	Coloured Male
<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>IF</b>	Indian Female
<b>IM</b>	Indian Male
<b>IPOA</b>	Integrated Plan of Action
<b>MAGCOM</b>	Magistrates 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>SALRC</b>	South African Law Review Commission
<b>SMME</b>	Small Medium and Micro Enterprises
<b>UPP</b>	Unfunded Priority Project
<b>VAW</b>	Violence Against Women
<b>WF</b>	White Female
<b>WM</b>	White Male

# Needs Assessment Report

## EXECUTIVE SUMMARY

### Purpose

The *Needs Assessment* was conducted as an integral part of the *Gender Budget Analysis* of the Ministry/Department of Justice and Constitutional Development (herein after referred to as the DoJCD or the Department). The process formed part of a drive to develop *Gender Budgeting Guidelines* to help the Ministry/Department to mainstream gender in all aspects of the budget and expenditure activities.

### Process

The process involved a policy and best practices scan, followed by the development of a *Service Feedback Questionnaire*, which formed the basis for interviewing 130 randomly selected women and men from various walks of life.

### Summary of Findings

The feedback received confirmed that women and men experience life differently in many respects and that responsive service delivery to women requires the acknowledgement and accommodation of material gender differences.

## Summary of Recommendations

The *Needs Assessment* led to the following summary of recommendations:

- (a) There is an urgent need for implementation of a massive communication strategy covering the role and functions of the DoJCD, rights arising from new laws (legislation and court jurisprudence), and information on how to access such rights;
- (b) The Department and its components should apply targeted budgeting, based on periodic needs assessments that clearly reflect the diverse needs of customers, including women from different walks of life;
- (c) Gender considerations need to be mainstreamed into all aspects of the Department budget and women's priorities are to be clearly spelt out and integrated in organisational priorities, as reflected in the strategic plans and annual objectives, with implementation that is enforced and monitored;
- (d) Serious consideration should be given to a review of the Civil Procedure System, particularly process serving and exploring the use of Alternative Dispute Resolution (ARD) for consumer issues;
- (e) Consideration should be given to a review of the divorce system, particularly the process serving therein;
- (f) Consideration to be given to extending legal aid, educating service providers about service excellence and involving the public a lot more in the monitoring and evaluation of the legal aid system;
- (g) Serious consideration should be given to the role of paralegals in expanding access to legal advice, particularly in respect of civil matters in Magistrates Courts;
- (h) Specific funding needs to be allocated towards women empowerment and mainstreaming gender into all aspects of the budget;
- (i) Access to the legal profession needs to be restructured along the lines of other professions with the main feature being state provided or supervised and unhampered entry into the profession. This means the removal of labour market competition prior to entry to the profession;
- (j) Special measures to enhance women's involvement at all levels of decision-making within the Department should be introduced;
- (k) There is a need for a review of procurement processes and outcomes relating to distribution of state contracts within the Department and the implementation of special measures to remove barriers that prevent equal access to contract opportunities for historically disadvantaged groups, accelerate the leveling the playing field;
- (l) A more elaborate Needs Assessment is to be conducted for gender and targeted budgeting; and
- (m) A policy and legal *Compliance Map* is to be developed and used to inform choices.

## 1. INTRODUCTION

This report provides a summary of the findings of a *Needs Assessment* that was conducted with members of the public in respect of the services provided by the DoJCD and forms part of a gender budget analysis process. This is an integral part of the *Gender Mainstreaming* programme that has been embarked upon in the Ministry/ Department. The *Needs Assessment* covered 130 respondents from both genders and drawn from the major demographic categories in South Africa, namely:

- Africans;
- Coloureds;
- Indians; and
- Whites.

Each category was further disaggregated by gender. The purpose of the *Needs Assessment* was to get some idea of what the differential needs of women and men from various walks of life are with regard to services delivered by the DoJCD.

The objective of the gender budget exercise is to review expenditure patterns within the Ministry and Department, and align departmental budgets and expenditure with the actual and differential needs of women from different walks of life.

The ultimate goal is to ensure that all women and men benefit equally from all public finances spent by the Department, regardless of difference or systemic disadvantage. The findings of the needs assessment were ultimately be integrated in the Assessment Tool that was developed for use to analyse the budget of the Department/Ministry.

In addition to supporting gender budgeting, a *Needs Assessment* will foster targeted and responsive budgeting and expenditure patterns within all aspects of the Department. Targeted and disaggregated budgeting is rapidly becoming a common feature of the South African governance landscape. For example, when the Minister of Finance announces the national budget, he outlines the features of the budget that seek to address specific needs of historically marginalized sections of society such as women and the poor.

The Department of Trade and Industry (DTI) also disaggregates the communities it serves into various categories, including micro enterprises, small and medium enterprises and big business. It also has a specific budget and related programmes that target women in business. The idea of special programmes and budgets for women in business has become common. Pioneers in this regard include the Departments of Trade and Industry, Minerals and Energy, Agriculture and Public Works.

## 2. BACKGROUND

As one of its National Commitments with regard to the implementation of the Beijing Platform for Action (BPA), South Africa committed itself to implement a gender budget as part of its national strategies to empower women and promote equality between women and men. The Department formally aligned itself with this national undertaking. This is reflected in amongst others, its Gender Policy Statement.

The idea of a *Needs Assessment* is also anchored in the government policy of *Batho Pele*, articulated in the *White Paper on the Transformation of Public Service Delivery*. Among other things, the Batho Pele White Paper requires that customers be consulted on their service needs and that a concerted effort is made to redirect services to historically marginalized areas in order to equalize access to government services and contribute to societal transformation. The results of the needs assessment are to provide an indication of the pressing needs of women and men. This information has been incorporated into the Gender Budget Assessment tool to ensure that gender budget assessment is informed by an accurate understanding of the differential needs of women and men from different walks of life.

The project is part of the *Gender Mainstreaming Programme* within the Gender Directorate, mandated by the Department's Gender Policy Statement. *Gender Mainstreaming* is about:

*Integrating gender equality considerations in all policy, laws, plans, programmes, administrative and financial activities, organisational procedures, processes and decision making, in order to effect profound organisational and ultimately, societal transformation towards the realization 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.*

### 3. METHODOLOGY AND PROCESS

The process involved the development of a *Service Feedback Questionnaire*. The questionnaire was used as a basis for conducting interviews with about 130 randomly selected respondents in Gauteng. Respondents were approached in courts (Pretoria Central and Protea, Soweto), malls (Pretoria), bus stops (Johannesburg and Pretoria) and meetings. The questionnaires were then analysed. Although the interviews took place between Pretoria and Johannesburg in Gauteng, some of the respondents happened to be visiting from other parts of the country. As a result, a number of the residential areas reflected under 'Profile of Respondents' include other provinces and cities. The original plan also anticipated focus groups, but these were subsequently abandoned in the light of time and resource considerations.

Participants were asked questions that included services known to them and/or used by someone known to them. They were also asked to explain the nature of their experiences in interfacing with the DoJCD and to indicate areas where they would like to see improvements. A *Service Map* was created to summarise all the key services offered under the DoJCD. The DoJCD Service Map is attached to this report as *Annexure B*. The feedback from respondents was analysed and summarised in the tables numbered 4.3 - 4.9 below. The tables cover the following headings:

- Services known to respondent;
- Services previously used by respondent;
- Services used by someone known to respondent;
- Services where respondent experienced problems;
- Services where respondent's family/friend experienced problems;
- Nature of problems experienced in respect of each service; and
- Recommendations by respondents.

#### 3.1 Limitations

Limitations of the study included the following:

- Limited timeframe and resources. Thus the survey was confined to Gauteng over a period of approximately six weeks;
- Unequal numbers of women and men, with respondents being mostly women; and
- Respondents were mainly educated people living in urban areas.

## 4. FINDINGS

The findings of the Service Feedback Survey are categorized in the following manner:

- General Observations;
- Summary of Findings on Public Service Users; and
- Summary of Findings on State Contracts/Business Opportunities.

### 4.1 General Observations

4.1.1 The *Needs Assessment* established that although there are a lot of common justice needs amongst women and men, diverse culture, race, class, gender and other dynamics such as income level, occupation and standard of education, play a major role in determining a person's needs, in respect of services offered by the DoJCD or any service agency. For example, most women's brush with the justice system is either in respect of family law (including domestic violence) or consumer issues. With regard to consumer issues, most women who had been to court had been dragged to court, usually by major retail entities, as respondents.

In the few instances where women had been initiators, they tended to abandon the process before completion due to frustration caused by delays, uncooperative and rude court officials, lack of knowledge and resources, as well as lack of legal advice and/or representation. Most women were also respondents in divorce matters, often indicating that they would have preferred to be initiators had they had resources for engaging a lawyer. Women tended to be process initiators in maintenance and domestic violence cases.

4.1.2 Lack of knowledge emerged as the key source of inequality between women and men with regard to understanding and using the justice system to vindicate one's rights. Women, whether interviewed in court or in other public places, generally had no idea what the DoJCD offers and how they could use its services to better their lives. People generally, and women in particular, interviewed in court, seemed to be lost with no idea what to expect and where to go. Many indicated that they had had to stand in long queues for long periods of time only to be told they were at the wrong place or to come back the following day. The position of African people, particularly women within this group, was compounded by language limitations.

4.1.3 In addition to ignorance, there appeared to be a stigma attached to any association with the justice system and difficulty in relating the concept of "service" to the work of the DoJCD.

While the stigma attached to any brush with the justice system applied to both women and men, this phenomenon was more acute amongst women, particularly Indian and White women above the age of 35.

- 4.1.4 Clerks and volunteers at the entrance and Information Desk did not seem to be of much help in alleviating confusion. In fact most respondents specifically indicated that they were unhelpful. It was alleged that there was no useful information offered and that volunteers at the desk were generally ignorant and not particularly enthusiastic to help. The clerks were said to be down right rude and lacking knowledge about the general operations of the court. This was confirmed by some of the lawyers and court regulars, such as interpreters, who claimed that they often ended up assisting people in the lobby, who had been sent from pillar to post with no idea what to do or where to go.

The interviewers also experienced the Information Desk to be lacking in user friendliness. The positioning of the Information Desk, away from the entrance, also did not help matters. A number of Clerks of Court were also found to be rather ignorant about the general operations of the court. Some did not even know that there was an Equality Court in their building and/or what services were offered by such a court.

- 4.1.5 There was much more ignorance and confusion regarding the general operations and services offered by the DOJCD as a whole. The respondents including professional women, associated the services of the DoJCD with the police and correctional processes. One respondent associated the regulation of domestic workers' contracts and conditions of service with the DoJCD. Many of the services of the DoJCD had never been heard of, amongst these, the constitutional development function.

Some services were virtually unknown with only one or two respondents, usually lawyers, having some vague idea of their existence. This includes the Commission for Gender Equality, Access to Information, Administrative Justice and Law Reform Service. Not even lawyers were aware, at the time of the interview, that the Equality Courts are now functional. Only two respondents, both lawyers, knew that the Labour Court fell under the DOJCD.

## 4.2 Profile of Respondents

### (a) Gender and Race Breakdown

The survey covered a hundred and thirty (130) respondents comprising the following race and gender breakdown:



	Women	Men
Africans	56	19
Coloureds	9	8
Indians	6	3
Whites	19	10
Total	90	40

(b) Age Groups

LEVEL	AF	AM	CF	CM	IF	IM	WF	WM	TOTAL
Under 30	8	5	2	1	1	0	6	1	24
30-59	43	13	7	7	4	3	12	9	98
60+	5	1	0	0	1	0	1	0	8
TOTAL	56	19	9	8	6	3	19	10	130

(c) Education Qualifications

LEVEL	AF	AM	CF	CM	IF	IM	WF	WM	TOTAL
Tertiary	28	6	4	6	3	1	8	7	63
Matric	18	7	4	1	2	1	7	3	43
Grade 9	3	4	0	1	0	0	4	0	12
Grade 9	4	0	1	0	0	0	0	0	5
Primary	3	2			1	1			7
Total	56	19	9	8	6	3	19	10	130

(d) Occupational Levels

LEVEL	AF	AM	CF	CM	IF	IM	WF	WM	TOTAL
Senior Management	3	4	0	1	0	0	0	2	10
Professional and Middle Management	30	6	6	7	4	1	11	7	72
Elementary	14	8	3	0	0	2	4	1	32
Unemployed	7	1	0	0	2	0	2	0	12
Learner	4	0	0	0	0	0	2	0	06
Total	56	19	9	8	6	3	19	10	130

**(e) Business Categories**

LEVEL	AF	AM	CF	CM	IF	IM	WF	WM	TOTAL
Big Business		3						1	4
SMME	6	2			1	2	1	1	13
Micro									
Total	6	5	0	0	1	2	1	2	17

**(f) Residential Areas**

PROVINCE	AF	AM	CF	CM	IF	IM	WF	WM	TOTAL
Gauteng Province	54	18	9	7	5	2	13	10	126
KZN	0	1	0	0	1	1	0	0	2
W Cape	0	0	0	1	0	0	1	0	2
Limpopo	2	0	0	0	0	0	0	0	2
Other	0	0	0	0	0	0	0	0	0
Total	56	12	9	8	6	3	6	10	130

**Cities**

CITY	AF	AM	CF	CM	IF	IM	WF	WM	TOTAL
PTA	38	12	7	5	3	1	15	7	87
JHB	16	6	2	1	2	1	4	3	35
CT				1					1
Midrand				1					2
DBN		1			1	1			3
Other PKN	2								2
Total	56	12	9	8	6	3	19	10	130

**Areas**

AREA	AF	AM	CF	CM	IF	IM	WF	WM	TOTAL
Township	20	10	2	0	0	0	0	0	32
Suburb/City	18	7	4	4	5	1	19	7	65
Other	18	2	3	4	1	2		3	33
<b>TOTAL</b>	<b>56</b>	<b>19</b>	<b>9</b>	<b>8</b>	<b>6</b>	<b>3</b>	<b>19</b>	<b>10</b>	<b>130</b>

**Notes for the tables**

Dbn – Durban  
 KZN – KwaZulu Natal  
 CT – Cape Town  
 Jhb – Johannesburg  
 PKN - Polokwane

**4.3 Services Known by Respondent**

CATEGORY	NO	SERVICE	AF	AM	CF	CM	IF	IM	WF	WM	TOTAL
COURTS	1	Family/Divorce	38	13	7	4	6	2	15	8	93
	2	Custody/Access	26	6	6	3	3	1	4	5	54
	3	Domestic Violence	44	12	7	4	3	1	11	8	90
	4	Sexual Offences	31	6	7	6	6	1	16	5	71
	5	Maintenance	46	16	7	6	6	3	19	9	112
	6	Admin of Deceased Estates	18	11	5	5	2	2	5	8	56
	7	Admin of Estates	10	6	8	3	2	3	5	6	43
	8	Child Justice	29	9	4	2	3	0	15	7	69
	9	Other VAW	12	4		3	1	3	1	4	28
	10	Criminal	40	17	4	8	4	3	19	9	104
	11	Civil	18	11	2	6	2	3	4	6	47

CATEGORY	NO	SERVICE	AF	AM	CF	CM	IF	IM	WF	WM	TOTAL
COURTS	12	Small Claims	14	7	4	5	1	3	2	8	12
	13	Equality Court	5	3		1	1	0	0	2	12
	14	Administrative Justice	2	2		1	1	0	0	1	7
	15	Labour	0	3	3	1	1	0	6	4	18
	16	Land Claims	0	0		0	1	0	0	1	2
	17	Inquests	0	1		1	1	0	0	1	4
	18	Access to Information	0	1		1	1	0	0	1	4
COURT SUPPORT	19	Legal Aid	20	9	2	4	1	2	3	7	48
	20	Administration/ Information	8	2		1	1		0	4	16
	21	Victim Support	3	5		0	1		1	3	13
	22	Prosecutorial	13	12		6	3		5	7	46
	23.	Family Advocate	0	0		0	1		1	1	3
	24	Other	1	0		0	1		0	1	3
POLICY FRAME WORK	25	Constitutional Development	2	2		3	1		2	3	13
	26	Law Reform	1	0		2	1		1	1	6
	27	Admin Policies	0	0		0	1		0	1	2
ADMINISTRATIVE MEASURES	28	Communication/ Public Education	12	4		2	1		2	2	23
	29	Consultation	1	0		0	1		1	2	5
	30	Business Opportunities	3	4		3	1		2	4	17











CATEGORY	NO	SERVICE	AF	AM	CF	CM	IF	IM	WF	WM	TOTAL	
ADMINISTRATIVE MEASURES	28	Communication/ Public Education					1				1	
	29	Consultation					1				1	
	30	Business Opportunities		3			1				4	
	31	Public Complaints Mechanisms					1				1	
CHAPTER 9 AND OTHER GOVERNMENTAL BODIES	32	SAHRC					1				1	
	33	CGE					1				1	
	34	Public Protector	1								1	
	35	SALRC					1				1	
	36	ERC									0	
	37	JSC									0	
	38	MAGCOM									0	
	39	Other									0	

#### 4.6 Services Where Respondents Experienced Problems

CATEGORY	NO	SERVICE	AF	AM	CF	CM	IF	IM	WF	WM	TOTAL
COURTS	1	Family /Divorce				1	1				2
	2	Custody/Access									-
	3	Domestic Violence	5								5
	4	Sexual Offences					1				1
	5	Maintenance	6		2	1	1				10









## 4.8 Nature of Problem Experienced in Respect of Each Service

CATEGORY	NO	SERVICE	NATURE OF PROBLEM EXPERIENCED IN RESPECT OF SERVICE
COURTS	1	Family /Divorce	Fraud in respect of process, lack of legal advice/representation, legal illiteracy, control and division of property and customary law problems.
	2	Custody/Access	A few men complained about custody and access.
	3	Domestic Violence	Protection orders ineffective to deal with socio-psychological causes underlying violence against women. Lack of resources/support services for victims. Furthermore, protection orders are usually not enforced and in some cases failure or tardiness leading to client's death (femicide).
	4	Sexual Offences	Poor investigation particularly in respect of child abuse. Lack of facilities and support services for victims. Release of recidivist offenders without effective rehabilitation or community warnings.
	5	Maintenance	Tracing failures, including tracing of teachers, police and other public servants. Poor enforcement of orders. Difficulty getting increase in pay.
	6	Administration of Deceased Estates	Process takes too long. Lack of knowledge of the system among users and unnecessary bureaucratic requirements. One woman mentioned the pain of being sent from pillar to post in trying to claim maintenance from the child's father's estate.
	7	Administration of Estates	Most respondents had no knowledge of this service. The one female lawyer interviewed was concerned about women's access to liquidation contracts.
	8	Child Justice	Problems were expressed about lack of a systematic child justice system that keeps young people involved in non violent crimes and without criminal records, and that sees to their effective rehabilitation.
	9	Other VAW	Lack of an integrated multidisciplinary response to violence against women, including the absence of victim empowerment and reparation.

CATEGORY	NO	SERVICE	NATURE OF PROBLEM EXPERIENCED IN RESPECT OF SERVICE
COURTS	10	Criminal	Poor investigations, poor advocacy and in some cases, disappearance of files. Restorative justice needed.
	11	Civil	Expense involved in hiring compulsory lawyers is too high for low-income brackets, particularly women. As a result most of them are only exposed to the service as respondents sued by retail companies. The position of women, particularly African women, is compounded by lack of knowledge of the system, further complicated by language and the Eurocentric cultural paradigm from which courts operate. Feeling of being taken advantage of by those able to hire expensive lawyers. Need for leveling the playing field and improving efficiency as well as user friendliness for low-income bracket people. Another complaint was that people often queue for a whole day or days without much progress and those queuing are from low income groups who stand to lose their salary for the day or even their jobs.
	12	Small Claims	Lack of knowledge about the service, poor enforcement of court orders and low threshold (R3 000.00) Too much time wasted in queues.
	13	Equality Court	Only referred to by a few lawyers who had no idea that these courts were now operational. Some interviewed in Pretoria court had only seen the court sign.
	14	Administrative Justice	No knowledge or usage of this service.
	15	Labour	No idea that this service is part of Justice.
	16	Land Claims	No idea that this service is part of Justice.
	17	Inquests	No idea that this service is part of Justice.
	18	Access to Information	Virtually unknown. Only one person had used it.
COURT SUPPORT	19	Legal Aid	Distrust of this service, which was labeled as involving "useless lawyers" by at least two respondents.
	20	Administration and Information Desk	Perceived as "useless" by many respondents interviewed in one of the courts. Key problems are said to include demotivated volunteers who do not know

CATEGORY	NO	SERVICE	NATURE OF PROBLEM EXPERIENCED IN RESPECT OF SERVICE
COURTS	20		much about what's happening in court. The one found by the interviewers was unfriendly, inattentive and ignorant.
	21	Victim Support	Mostly voluntary in nature and therefore not consistent or systematic or present in all courts.
	22	Prosecutorial	Poor investigative standards and advocacy on matters relating to violence against women and children.
	23.	Family Advocate	Virtually unknown
	24	Other	A lot of concerns were raised about the court environment, including the slackness and rudeness of service providers such as Clerks of Court and Magistrates. Issues of gender and racial representation in some courts or areas of the court were also raised.
POLICY FRAMEWORK	25.	Constitutional Development	Virtually unknown.
	26	Law Reform	Virtually unknown.
	27	Admin Policies	Virtually unknown.
ADMINISTRATIVE MEASURES	28	Communication/ Public Education	Virtually unknown.
	29	Consultation	Virtually unknown.
	30	Business Opportunities	Virtually unknown.
	31	Public Complaints Mechanisms	Virtually unknown.
CHAPTER 9 and OTHER GOVERNMENTAL BODIES	32	SAHRC	Known by a few witnesses with no clarity on service.
	33	CGE	Virtually unknown. Even less known than SAHRC.
	34	Public Protector	Virtually unknown.



CATEGORY	NO	SERVICE	NATURE OF PROBLEM EXPERIENCED IN RESPECT OF SERVICE
	35	SALRC	Virtually unknown.
	36	ERC	Completely unknown.
	37	JSC	Virtually unknown (Only known by lawyers).
	38	MAGCOM	Virtually unknown (Only known by lawyers).
	39	Other	One respondent complained about being unable to have her case heard at the Jali Commission (a Correctional Services ad hoc structure).

#### 4.9 Recommendations by Respondents

CATEGORY	NO	SERVICE	NATURE OF PROBLEM EXPERIENCED IN RESPECT OF SERVICE
COURTS	1	Family /Divorce	Access to Legal Aid. Review of process rules. Public education on nature of services and how to access them.
	2	Custody/Access	More information required about this service.
	3	Domestic Violence	Integrated response required and review of current process to include mediation and offender rehabilitation as formal aspects of the Domestic Violence Act. Victim Support to be formalised and provided throughout the country. Follow up on cases to ensure there is no recidivism in domestic violence cases or take appropriate action where necessary.
	4	Sexual Offences	Victim support, integrated multidisciplinary approach and retraining of service providers, including prosecutors. Strengthen measures aimed at eliminating corruption. Involve more women as service providers, including prosecutors and judicial officers. Many judgments reflect lack of understanding of women and children's circumstances and life experiences.
	5.	Maintenance	Improve tracing, criteria for determining pay, policy on pay points and legal assistance. Prioritize cases for unemployed mothers. Customer service training and sanctions for service providers. Legal assistance required.

CATEGORY	NO	SERVICE	NATURE OF PROBLEM EXPERIENCED IN RESPECT OF SERVICE
COURTS	6	Administration of Deceased Estates	Legal aid and review of procedures to ensure affordability, expediency and responsiveness to low- income groups. Massive public education.
	7	Administration of Estates	Public education.
	8	Child Justice	Education required about nature of services. Acquittal of offenders on technicalities has left many disillusioned with the justice system, particularly with regard to sexual offences.
	9	Other VAW	Integrate restorative justice as formal aspect of justice system.
	10	Criminal	Integrate restorative justice as formal aspect of justice system. Improve mechanisms for reporting corruption and ensure that feedback is regularly provided to victims at all stages of legal process. Introduce Jury.
	11	Civil	Legal aid, review of procedure, and need to simplify procedures, including ADR. Introduce Jury for public participation.
	12	Small Claims	Education on and lifting of ceiling.
	13	Equality Court	Massive ongoing public education through all modes of communication, taking into account diverse socio-economic circumstances of potential court users.
	14	Administrative Justice	Massive education about rights and related services.
	15	Labour	Education about place in justice system and services.
	16	Land Claims	Education about place in justice system and services.
	17	Inquests	Education about place in justice system and services.
	18	Access to Information	Massive education needed.
COURT SUPPORT	19	Legal Aid	Public education to build trust, re-skilling of service providers and improved quality management with internal and independent lawyers. Massive education needed.

CATEGORY	NO	SERVICE	NATURE OF PROBLEM EXPERIENCED IN RESPECT OF SERVICE
COURT SUPPORT	20	Administration and Information Desk	Integrate fully into court system and budget. Employ full time public relations professionals and consider relocation to entrance. Consideration to be given to an additional digital service involving a big screen audio service that welcomes people to the court and tells them upfront where to go for what.
	21	Victim Support	Integrate victim support resources into Department's budget and plan and execute, in cooperation with civil society and justice partners, such as SAPS and Social Development.
	22	Prosecutorial	Improve investigative methods (including police supervision) and advocacy training incorporating gender mainstreaming, in order to improve responsiveness to gender violence and child abuse.
	23	Family Advocate	Public Education about role and services and improve cultural inclusiveness.
	24	Other	Customer service training for all to improve professionalism, courtesy and social context awareness. Address women's access to the legal profession and participation at all levels of decision making in DoJCD.
POLICY FRAMEWORK	25	Constitutional Development	Public education and consultation with the public generally, and women in particular, about constitutional review needs.
	26	Law Reform	Fast-track the reform of customary and Muslim laws dealing with succession, and address the gap in marriage laws, focusing in particular on marriage and succession in respect of religious marriages, pre-2000 customary marriages and domestic partnerships.
	27	Admin Policies	Implement public education on role and services offered by DoJCD and prioritise development and implementation of policies responding to women's needs.

CATEGORY	NO	SERVICE	NATURE OF PROBLEM EXPERIENCED IN RESPECT OF SERVICE
ADMINISTRATIVE MEASURES	28	Communication/ Public Education	Employ as many strategies as possible to educate the public on all aspects of the DoJCD's work and ensure that communication is always targeted, taking into account diverse circumstances of women and men from various walks of life.
	29	Consultation	Involve women and employ consultative means that respond to women's lived out experiences.
	30	Business Opportunities	Information is required regarding what opportunities are available and how to access them. Special measures should be implemented to accelerate women's access to state contracts awarded by the DoJCD.
	31	Public Complaints Mechanisms	User-friendliness and effectiveness of mechanisms for complaining and obtaining redress against service providers to be improved.
CHAPTER 9 AND OTHER GOVERNMENTAL BODIES	32	SAHRC	Improve communication about role.
	33	CGE	Communicate effectively about role and services.
	34	Public Protector	Communicate effectively about role.
	35	SALRC	Communicate effectively about role, prioritise law reform addressing women's critical needs and consult women on mainstream issues.
	36	ERC	Communicate role to public.
	37	JSC	Communicate role and services to public.
	38	MAGCOM	Communicate role and services to public.
	39	Other	Communicate effectively about all aspects of the DOJ and demarcations between its role and that of fellow justice partners such as correctional services, South African Police Services and Social Development. Also clarify independence of the judiciary.

#### 4.10 Interviewer's Impressions

- 4.10.1 Interaction with the respondents, comprising women and men from diverse backgrounds, over a period of about two months, confirmed that gender differences exist in the way women and men experience life and respond to life challenges. Responses to the Service Feedback Survey clearly established that women, more than men, experience the justice system as not being user friendly.
- 4.10.2 The researchers were struck by the general fear and stigma attached to involvement with the justice system. The DoJCD is generally associated with criminality, shameful behavior and punishment, and respondents displayed discomfort with the idea of having been involved with the Department. The stigma attached to any association with the justice system was particularly acute amongst women, and as such, most of them were initially reluctant to be interviewed on justice matters. Those interviewed in court, particularly women, appeared to be even more petrified.
- 4.10.3 A curious discovery was that the DoJCD is not perceived as a "service provider" respondents generally appeared to have difficulty with relating the word "service" to the Department's work. It was clear that most respondents, particularly women, did not perceive the justice system as a place to be approached for help, except in respect of limited matters such as maintenance and domestic violence. The concept of "service" seemed to be commonly associated with Departments such as Social Development, Health and Labour.
- 4.10.4 There was widespread lack of knowledge and understanding regarding what the DoJCD does and what help was to be sought from its components. The position was particularly acute amongst black women, including educated black women in fairly high-income categories. There seemed to be a virtual blackout with regard to knowledge of some of the services, particularly amongst women. Strangely enough, respondents, including women, seemed to know far more about the South African Human Rights Commission than the Commission for Gender Equality. Services that were virtually unknown, included:
- Equality Courts;
  - Administrative Justice;
  - Public Protector;
  - Access to Information;
  - Inquests; and
  - Administration of Estates (Other than Deceased Estates).
- 4.10.5 There is generally a lack of understanding regarding the demarcation between the different roles played by the DoJCD, Correctional Services, South African Police Services and Social

Development in the justice process. For example, a lot of the complaints regarding the handling of domestic and sexual violence related to the conduct of the police. A number of complaints were also raised regarding the non-involvement of victims from parole processes, particularly in matters relating to sexual violence. There were also concerns regarding ineffective prisoner rehabilitation.

- 4.10.6 There was also confusion regarding the services themselves. For example, Violence Against Women (VAW) tends to be seen as synonymous with domestic violence. Some of the respondents confused sexual harassment with child abuse. Where English was not a first or fluently spoken language, the problem was more acute. This problem mostly affected black women with less than matric education.
- 4.10.7 In most instances, respondents professing knowledge of services, only had a vague idea of those services with no understanding of how to use them to vindicate their rights. This seemed to be the case for women and men within lower levels of education and income brackets. The problem was more acute amongst women. Many women, even professional women, tended to have a vague idea of their rights and the processes involved in the vindication of their rights in regard to:
- The Civil Justice System, including Small Claims Court;
  - Administration of Estates;
  - Family Court Services; and
  - Administrative Justice.
- 4.10.8 The Information Desks were found not to be functioning as intended. Many respondents interviewed in the courts confirmed that there were major problems with the effectiveness of Information Desks. The problems included complaints that the Desk in some courts was not strategically located at a place where it would be the "first port of call". The personnel who are meant to provide information did not appear user friendly and were not knowledgeable. As a result a lot of court users ended up queuing in the wrong queue or waiting in the wrong court until the end of the day. Interviewers came across a number of victims in this regard during their court visits.
- 4.10.9 There were serious concerns regarding the quality of services, particularly regarding the conduct of service providers such as clerks, magistrates, prosecutors and legal aid lawyers. Some respondents, particularly women, also complained about the conduct of private lawyers, and the lack of effective avenues for addressing complaints against state employed service providers and independent legal professionals.

- 4.10.10 The efficacy of current arrangements regarding domestic violence was brought to question time and again. Apart from the common problems regarding obtaining protection orders and having these properly served expeditiously, respondents raised the fact that the relevant "piece of paper" without any socio-psychological intervention to deal with causal factors, often left victims in aggravated circumstances.
- 4.10.11 Inefficiency and responsiveness emerged as major problem areas. Respondents complained about long waiting hours and postponements. The affected people were low- income litigants or witnesses. This is mainly because in the case of represented civil court users, it is their lawyers who go to court and they only call their client at the appropriate time whenever personal appearance was necessary. There were also various complaints regarding bureaucracy with two respondents complaining that it took more than two years for them to get help in respect of small (deceased) estates. One Respondent also complained that she was compelled to engage an attorney for an estate comprising only non-liquid assets and worth less than Fifty Thousand Rand (R50,000-00), while the other, whose estate reported in 2001 had not been finalized at the time of the interview, complained that she had "been sent from pillar to post". She also complained that she had not even received maintenance against the estate as yet, even though she had applied for it.
- 4.10.12 Most interviewees had been respondents in cases, and not initiators. This was particularly the case for women, and black people, in virtually all civil cases reported during the interviews. As indicated earlier, women only tended to be initiators in maintenance and domestic violence cases. However, most of the interviewed women had had civil disputes that they would have brought to the system if they had known how and had the resources to do so.
- 4.10.13 A number of respondents, mainly women, remarked about the inadequate representation of women in decision-making, including in the judicial process. They felt that the court environment would be less intimidating if women from all races were equally represented in all aspects of the courts, including the prosecution, private lawyers and the judiciary.
- 4.10.14 There was extreme distrust associated with some services, particularly legal aid, referred to by a number of respondents as "useless lawyers". One of the respondents reported that he had opted to pay for his own lawyer even though he was unemployed at the time, because he did not have confidence in the legal aid lawyers.
- 4.10.15 Other issues that surfaced a number of times during the interviews included:
- Harmful racial, cultural and gender blindness of the processes, including language used;

- Poor information dissemination and information resources in courts;
- Complaints regarding the conduct of service providers, including judicial officers;
- Inadequacy of legal aid coverage and lack of knowledge regarding what is currently covered;
- Poor maintenance administration;
- Unsatisfactory divorce administration, which includes wives being divorced without their knowledge even though living with their "husbands";
- Serving of process in civil matters, with many claiming they only got to know about the process when the ITC informed them they were blacklisted due to a default judgment against them; and
- Poor information dissemination in respect of deceased estates, which encourages exclusion of some of the lawful beneficiaries.

#### **4.11 Summary of Findings on State Contracts/Business Opportunities**

- 4.11.1 Responses to the procurement section of the Service Feedback Questionnaire revealed that while there was generally a lot of ignorance regarding contract opportunities within the DoJCD, the position was more acute among women, including women professionals. Even those who had a vague idea that the same business opportunities available in other government departments were possibly available in the DoJCD, they had no idea what was available in concrete terms and how to access it.
- 4.11.2 A striking observation was that even legal professionals, particularly black and female professionals, seemed to be unaware that there were contract opportunities relating to their field.
- 4.11.3 The position of women was generally worse with not a single one of the interviewed women having received any business contract from the DoJCD despite the fact that women, especially African women, were disproportionately represented in the sample.
- 4.11.4 One of the few white men interviewed co-owned a major construction company that had been a beneficiary of a multimillion construction contract, which included the construction of courts in historically black residential areas. Two other white male respondents reported that the companies they worked for had received major contracts from the DoJCD. The one involved multimillion construction projects in the courts and the other involved professional services relating to legal advice and representation for the Department. One black male respondent reported that his micro business had benefited from a small contract involving maintenance work at a court in one of the historically black townships.
- 4.11.5 Not much seemed to be known with regard to contract opportunities in areas such as legal research within the scope of governmental bodies falling under the Ministry and



Department, including the work of the South African Law Reform Commission. Questions regarding opportunities in respect of administration of estates also generally drew a blank, including amongst women legal professionals.

4.11.6 Women generally had no idea what contract opportunities were available under the DoJCD. This was the case whether the respondents were poorly educated elementary workers or highly educated professional women. The position was worse with respondents from outside Gauteng. A number of the women professionals in the sample offered services that the DoJCD regularly procures, and yet these women had no idea that such opportunities existed and much less how to access them. The services currently offered by women covered in the survey include:

- Legal services;
- Socio-legal research;
- Recruitment and related human resources services;
- Education and Training;
- Organisational Development;
- Events Management;
- Communication and Marketing;
- Catering; and
- Cleaning.

## 5 CONCLUSIONS AND RECOMMENDATIONS

### 5.1 Conclusions

5.1.1 A lot has been done to transform the justice system and other services offered by the DoJCD to ensure responsiveness to the needs of ordinary women and men, including those from historically marginalized communities. However, the culture, systems and processes involved in the operations of the DoJCD remains Eurocentric, male centred and generally oriented towards the affluent.

5.1.2 The most chronic area of need is information and knowledge. While this seems to be a general need, the survey established that women's access to justice and to business opportunities offered under the DoJCD, are particularly undermined by lack of appropriate information and knowledge. It also established that current public education and communication is inadequate to reach the rest of the public. It is not targeted or

continuous, and the content is not accessible to all groups, including historically marginalised communities whose language and culture do not resonate with the nomenclature of the legal system.

- 5.1.3 The survey confirmed that the historical disadvantages that undermine women's equal access to justice and opportunities within the DoJCD were not necessarily created by the justice system or DoJCD. They are, however, reinforced by the identical treatment of clients as customers, which results in failure to respond to the systemic social, economic and cultural disparities in society caused by centuries of unfair discrimination against women, black people and other historically oppressed groups.
- 5.1.4 The survey further confirmed that the position of women who are subject to the intersection of oppression based on gender, race, class, culture, language and other factors, are worse off with regard to access to justice and equal enjoyment of all services and opportunities offered under the DoJCD.
- 5.1.5 The survey revealed that there is growing sensitivity to pro-women services, such as those relating to maintenance, violence against women and family disputes. However, there is no appreciation of gender dynamics in respect of general services such as civil justice, including the Small Claims Court, legal aid, administration of estates (particularly deceased estates), prosecution (particularly in respect of matters involving gender violence), administrative justice, access to information, and knowledge.
- 5.1.6 It was further established that aspects of the pro-women laws had been ill conceived with inadequate appreciation of real life experiences of targeted beneficiaries of the law, resulting in legal and administrative gaps. Key issues in this regard included the Recognition of Customary Marriages Act, where in fact most problems relate to pre-2000 marriages or succession issues, and both are not dealt with in current legislation. Administrative gaps in maintenance and domestic violence also featured prominently amongst concerns raised by respondents.
- 5.1.7 Failure to prioritise pro-women legislation also emerged as a major sore point with the issue of succession under customary law recurrently mentioned to illustrate this point. A woman lawyer pointed out that the *Customary Law of Succession Amendment Bill*, which had been referred back by parliament for further consultation, at the behest of traditional leaders in November 1998, was still not back on the legislative schedule, five years later.
- 5.1.8 The survey established that there had not been much consultation of women on general aspects of the work of the DoJCD, including law reform, constitutional development and administrative aspects of the Department.
- 5.1.9 The need for equal representation between women and men at all levels of decision making, including decisions relating to determining service priorities and resource within the Department, was highlighted as an area needing accelerated attention.
- 5.1.10 Except for ad hoc interventions, involving the empowerment of women judges, and a once off women's leadership development event, no systematic women empowerment or special programmes seeking to level the field between women and men were discovered during the

service feed back survey. This is despite commitments in this regard, reflected in the Department's *Gender Policy Statement, Commitments with regard to the implementation of the Beijing Platform for Action*, and government commitments articulated in the *National Gender Policy Framework*, the *Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA)* and the *Broad Based Black Economic Empowerment Act (BBBEEA)*, the *Employment Equity Act (EEA)* and the *Preferential Procurement Policy Framework Act (PPPFA)*.

## 5.2. Recommendations

### 5.2.1 Information

- (a) There is a need to dedicate massive amounts of resources towards sustained, targeted and effective public education, particularly on new laws such as equality legislation, family laws and administration of estates. This means that content and communication avenues should be different and responsive to each of the diverse circumstances. The concomitant needs of the groups should be reached through such communication. Television and radio were highly recommended.
- (b) Information services in courts need to be rethought with consideration given to immediate accessibility in terms of location, user friendliness and effectiveness. As indicated earlier, users complained that many of the current volunteers are not very helpful, due in the main, to their ignorance on court issues and processes. Paid professional employees, such as public relations officers and Information Desk employees, also taking care of community liaison, and audio-visual information at the entrance in courts, were recommended.
- (c) Regular service feed back through short questionnaires handed out, preferably by the public relations officer in court, is recommended. Snap surveys through other avenues such as bus stops, malls, radio and television, could also be included.

### 5.2.2 Targeted Budgeting and Gender Mainstreaming

- (a) Overall budgeting needs to be based on zero budgeting and preceded by some needs assessment, as required in terms of *Batho Pele*, to ensure that the resultant budget is targeted. *Targeted budgeting* entails a budget that reflects what services and money is assigned to each section of users. Elements of this approach can be gleaned from the budgets of the *National Treasury* and Departments such as Trade and Industry and Minerals and Energy.

Critical categories should include:-

- Income Brackets;
  - Men and Women;
  - Business and Community Services;
  - Various Categories of Business, for example, Small Medium and Micro Enterprises (SMMEs), as well as big business; and
  - Different geographic, cultural and language groups.
- (b) Gender needs to be mainstreamed into budgeting. The actual practice is called *Gender Budgeting* and involves making special allocations towards services for women's exclusive use. It also includes making budget allocations towards services that are mainly used by women or that empower them, for example maintenance, domestic violence, family court services and the implementation of the *Equality Act* and the *Access to Information Act*. Gender budgeting also incorporates allocating a budget towards measures to ensure that women benefit equally from mainstream services such as civil justice, legal aid, administration of estates and administrative justice.
- (c) Women's priorities should be understood and mainstreamed, particularly into policy priorities, strategic plans and annual organisational objectives. This would eliminate the possibility of a critical area of concern for women such as succession rights, being forgotten for a decade (counting from 1994).

### 5.2.3 Specific Recommendations

- (a) A review of the Civil Procedure System, particularly process serving and exploring the use of ADR for consumer issues, should be given serious consideration;
- (b) Serious consideration must be given to a review of the divorce system, particularly process serving therein;
- (c) Extending legal aid to all should be given attention. Attention should also be given to educating service providers about service excellence and involving the public a lot more in the monitoring and evaluation of the legal aid system;
- (d) Serious consideration needs to be given to the role of paralegals in expanding access to legal advice, particularly in respect of civil matters in Magistrates Courts;
- (e) Specific funding should be allocated towards women empowerment and mainstreaming gender into all aspects of the budget;
- (f) Restructuring of access to the legal profession along lines of other professions, with the main feature being state provided or supervised unhampered entry into profession. The removal of labour market competition prior to entry to the profession should be considered;

- (g) Special measures to enhance women's involvement at all levels of decision-making within the Department should be implemented;
- (h) There must be a review of procurement processes and outcomes relating to distribution of state contracts within the Department, and the implementation of special measures to remove barriers preventing equal access to contract opportunities and other historically disadvantaged groups, should be accelerated to level the playing field;
- (i) A more elaborate Needs Assessment is to be conducted for gender and targeted budgeting; and
- (j) A policy and legal *Compliance Map* is to be developed and used to inform choice of priorities.

## 6 ANNEXURES

### Annexure A: Department of Justice and Constitutional Development: Service Feedback Survey

PURPOSE :

To:

- Establish women's needs in relation to justice and constitutional development services;
- Determine how far current forms of public service delivery meet women's needs; and
- Determine how far current patterns of public expenditure (within the Department) accord with women's priorities.

**A. QUESTIONNAIRE FOR THE PUBLIC.**

Area: \_\_\_\_\_

Race: \_\_\_\_\_ Sex: \_\_\_\_\_

Highest level of education attained: \_\_\_\_\_

Occupation: \_\_\_\_\_

Age: (a) Under 20 (b) 20-29 (c) 30-39 (d) 40-49 (e) 50-59 (f) 60 and above

1. Which services offered by the Departmental of Justice and Constitutional Development are you aware of? \_\_\_\_\_  
 \_\_\_\_\_

2. Have you ever used any of these services? \_\_\_\_\_  
 Which Ones? \_\_\_\_\_  
 \_\_\_\_\_

3. Did you get any assistance or help? \_\_\_\_\_  
 If not, why? \_\_\_\_\_  
 \_\_\_\_\_  
 If yes where? How? \_\_\_\_\_  
 \_\_\_\_\_

4. Were you happy with the service/s? \_\_\_\_\_  
 Elaborate \_\_\_\_\_  
 \_\_\_\_\_

5. Do you know another person (Friend/ Relative/Colleague) who has used any of the above services? \_\_\_\_\_  
 How was their experience? \_\_\_\_\_  
 \_\_\_\_\_

6. Would you confidently attempt to access these services if you had to? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

7. What improvements or other services would you like added? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**B. SERVICE FEEDBACK SURVEY (CONTINUED) : PROCUREMENT**

1. What contract opportunities are you aware of in the Department of Justice and Constitutional Development Services? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. If you are aware of some, which of these have you accessed? \_\_\_\_\_  
\_\_\_\_\_  
What was the total value? \_\_\_\_\_

3. Were you happy about the outcome? \_\_\_\_\_  
If NOT, elaborate \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Do you know anyone who has accessed these opportunities? \_\_\_\_\_  
\_\_\_\_\_

5. Were they happy about outcome? \_\_\_\_\_  
If NOT, elaborate \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Are you planning to use or access opportunities in the future? \_\_\_\_\_  
If NO why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Annexure B: Department of Justice and Constitutional Development Service Map

CATEGORY	No.	SERVICE	COMMENTS
COURTS	1	Family /Divorce	
	2	Custody/Access	
	3	Domestic Violence	
	4	Sexual Offences	
	5	Maintenance	
	6	Admin of Deceased Estates	
	7	Admin of Estates	
	8	Child Justice	
	9	Other VAW	
	10	Criminal	
	11	Civil	
	12	Small Claims	
	13	Equality Court	
	14	Administrative Justice	
	15	Labour	
	16	Land Claims	
	17	Inquests	
	18	Access to Information	
COURT SUPPORT	19	Legal Aid	
	20	Admin and Info Desk	
	21	Victim Support	
	22	Prosecutorial	
	23	Family Advocate	
	24	Other	
POLICY FRAMEWORK	25	Constitutional Development	
	26	Law Reform	
	27	Admin Policies	
ADMINISTRATIVE MEASURES	28	Communication/Public Education	
	29	Consultation	
	30	Business Opportunities	
	31	Public Complaints Mechanisms	
CHAPTER 9 AND OTHER GOVERNMENTAL BODIES	32	SAHRC	
	33	CGE	
	34	Public Protector	
	35	SALRC	
	36	ERC	
	37	JSC	
	38	MAGCOM	
	39	Other	