

National Plans of Action for the Promotion and Protection of Human Rights - South Africa

CONTENTS

Acknowledgments

Introduction

Background

A Brief South African Human Rights History

The Vienna Declaration and Programme of Action - 1993

Developing South Africa's National Action Plan (NAP)

The Concept of the NAP

How the NAP was Developed

Measures to Strengthen The Protection of Human Rights

The National Action Plan (NAP)

Incorporating International and Regional Human Rights Instruments into Our Law

How the NAP is Set Out

The Rights: Civil and Political Rights

Equality

Life

Freedom and Security of the Person

Privacy

Labour Rights

Political Rights

Access to Justice

Just Administrative Action

Citizenship

Aliens

Refugees

Freedom of Expression

Rights of Arrested, Detained, Convicted or Accused

Economic, Social and Cultural Rights

Employment

Housing and Shelter

Health

Food

Water
Land
Social Security
Education
Freedom of Culture, Religion and Language
Rights of Children and Young People

The Rights to Development, Self-Determination, Peace and a Protected Environment

The Right to Development Environment

The Way Forward

Implementation
Monitoring

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Introduction

This is South Africa's National Action Plan For the Protection and Promotion of Human Rights (NAP). It will be lodged with the United Nations on the 10th December 1998, International Human Rights Day and the 50th Anniversary of The Universal Declaration of Human Rights. In doing this, government responds positively to the recommendation of The Vienna Declaration and Programme of Action adopted at the World Conference in Vienna, Austria 1993.

The NAP is the product of many months of consultation and co-operation involving both government and civil society. Government is proud of having followed this participatory route. In developing a NAP that focuses on the promotion and protection of human rights, government firmly believes that the process is as important as the outcome.

In producing this document, government has also responded to the desperate call of our people for a detailed policy and legislative programme to realise the fundamental rights and freedoms provided for in our Constitution and Bill of Rights.

The Reconstruction and Development Programme (RDP) is the policy framework for the realisation of the NAP. Integral to the NAP, therefore, is government's commitment to the eradication of poverty and the end of discrimination and inequality.

The realisation of human rights, particularly socio-economic rights, requires public expenditure to meet basic needs, develop infrastructure, promote growth and stimulate job creation.

Government has moved far along the path of re-prioritising its spending to meet the needs and aspirations of the majority of our people. Social service expenditure now amounts to nearly two-thirds of non-interest expenditure of government, and most of it is targeted at the poor.

In December 1997, Government published the Medium Term Budget Policy Statement. This document sets out the economic and fiscal framework within which the budget will be finalised. The publication of a Medium Term Budget Policy Statement several months before each budget is a clear indication of our commitment to open and transparent government because it enables parliament, the public and representatives of civil society to:

- participate in the budgetary process
- be informed of the existing economic constraints that frame the budget
- be aware of the policy choices that government is considering.

The NAP is a national initiative. And, it should be seen not only as a part of the process of democratisation of our country, but as an integral and indispensable part of it.

As a human rights policy document the NAP is at once all of the following:

- A tool for evaluating our country's vision on human rights
- A tool for evaluating our performance with regard to our international human rights obligations
- A record of government's performance with regard to the promotion and protection of human rights
- A tool for setting human rights goals and priorities within achievable time frames
- A tool for planning the management of resources for the promotion and enhancement of human rights
- A statement of strategies and measurable targets with regard to the protection and promotion of human rights

While the elaboration, drafting and adoption of this document was based on extensive

consultation and active collaboration between government and civil society, the ultimate responsibility for the implementation of the NAP rests with us, the government.

Government now commits itself to this NAP and commits the NAP to our people and to the international community.

Background

A Brief South African Human Rights History

South Africa has a long and tragic history of:

- colonial conquest
- racial domination
- social injustice
- political oppression
- economic exploitation
- gender discrimination, and
- judicial repression

One of the main casualties of this history was human rights.

Previous governments, before the non-racial democratic election of April 1994, systematically violated the human rights of the entire black population. This large-scale denial of human rights reached its highest form in the system of apartheid - a policy of social engineering based on institutionalised racial discrimination. Apartheid was so thoroughgoing in its destruction of fundamental human rights and freedoms that the international community, through the United Nations, rightly declared it a crime against humanity.

But our country also has a long and proud history of struggle for:

- the protection and promotion of human rights
- social justice and
- the respect of human dignity.

This struggle was fought by ordinary women and men at great personal sacrifice, often with the loss of many lives.

The non-racial democratic elections in April 1994 brought this history to an end and ushered in the beginning of a new era - the building of a united non-racial, non-sexist South Africa founded on democratic values, social justice and fundamental human rights and freedoms.

One of the biggest challenges facing our new democracy is building a country that is fair to all of its citizens: a country in which all individuals feel and know that they are valued members of society, and that they have rights that:

- respect human dignity
- promote human development
- foster human equality and
- advance human freedom.

Until the democratic elections of April 1994, our country was not fair towards all of its

citizens. It discriminated against the vast majority of its people, black people in general and African people in particular. It systematically:

- denied them their political rights
- it took away their land
- placed huge obstacles in the way of their development
- discriminated against them in access to resources
- denied them equal access to education, training and employment and
- jailed and persecuted those who fought for justice and equality.

We still live with much of this terrible legacy. We are still a fundamentally unequal and deeply divided society where there is race privilege on the one hand, and deep-seated structural inequality on the other. Not all of our people enjoy the human rights which were fought for and which many gave their lives for. The vast majority of our people live in abject poverty and in hunger. There is:

- large-scale unemployment
- lack of access to land, property, resources, education, health care and social services

Democracy is irreconcilable with racial inequality and social injustice.

Democracy is

incompatible with poverty, crime, violence and the wanton disregard for human life.

Democracy is strengthened and entrenched when society is fully aware of its fundamental

human rights and freedoms and consciously lays claim to these.

Today our country is a constitutional democracy. The Constitution is the supreme law of the land and is adjudicated by the courts and ultimately by the Constitutional Court. The

Constitution also provides for the establishment of institutions to protect democracy and

promote human rights. Among these are:

- The Office of the Public Protector
- The South African Human Rights Commission
- The Commission for the Promotion and Protection of the Rights of Cultural,
Religious and Linguistic Communities
- The Commission for Gender Equality
- The Auditor-General
- The Electoral Commission

These institutions are independent and impartial. They are accountable to parliament and

must do their duty without interference, fear, favour or bias.

The present government is the outcome of our people's struggle for human rights and human dignity. It is committed to the promotion and protection of

human rights and to the realisation of all our peoples' aspirations. It is committed to:

- healing the divisions of the past
- establishing a society based on democratic values and social justice
- laying the foundations for a democratic and open society where
- government is based on the will of the people and where every citizen

is

- equally protected by law
- improving the quality of life of all citizens
- maximising every person's potential
- replacing a culture of violence and disregard for human life with a
- culture of human rights and respect of the right to life

We must build our new democracy fully conscious of our new regional and international human rights obligations. Having regained our place in the international community, we must now also embrace our international responsibilities.

The Constitution and the Bill of Rights incorporate fundamental international human rights as part of our law. In interpreting the Bill of Rights, our courts must consider international law. Our country has therefore given its full and unequivocal support to the Universal Declaration of Human Rights. We have signed all of the main international and regional human rights treaties.

The election of a new democratic government, the adoption of a new Constitution, the entrenchment of a Bill of Rights and our return to the international community together lay the foundation for the establishment of a society based on:

- equality
- dignity
- democratic values
- social justice
- fundamental human freedoms
- fairness to all of its citizens

We have made a lot of progress towards achieving these objectives. But there is still much more to do. Widespread poverty inhibits the full and effective enjoyment of human rights. The huge gap between the rich and the poor, between the haves and the have-nots, which coincides with race, threatens the existence and survival of our democracy. We must alleviate it immediately and eradicate it as soon as possible.

This is why this National Action Plan is so important. It is a serious effort on the part of our government to address the legacy of the past by implementing practical and attainable plans for the protection and promotion of human rights.

The Vienna Declaration and Programme of Action - 1993

The National Action Plan For the Promotion and Protection of Human Rights (NAP) is

Government's response to the recommendation of The Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in Vienna, Austria in 1993. This requested that:

"each State consider the desirability of drawing up a national action plan identifying steps whereby the State would improve the protection and promotion of human rights".

Our present government was not in existence at the time of the World Conference, but members of our present government were invited to attend as special delegates.

Since coming into office our government has fully associated itself with The Vienna Declaration and Programme of Action.

The Vienna Declaration and Programme of Action emphasises that all human rights are universal, indivisible, interdependent and interrelated and that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing.

In developing a National Action Plan, governments are called upon to:

assess the current measures in place to protect and promote human rights
identify areas that need improvement and
commit themselves to improving the protection and promotion of human rights.

Developing South Africa's National Action Plan (NAP)

The Concept of the NAP

South Africa has an appalling human rights record as a result of past:

colonial domination
racial discrimination
political oppression
economic exploitation

The challenges faced by our new democratic government are formidable on every front. The situation is made even more difficult by the fact that the former oppressed and historically disadvantaged have very high expectations of government.

Government now has to give concrete meaning to our accepted position that all human rights are universal, indivisible, interdependent and interrelated. We

must reinforce the fact that respect for, and the protection, promotion and fulfillment of human rights are interlinked.

In terms of our Constitution and Bill of Rights, government must:

- respect
- protect
- promote and
- fulfill

all human rights and freedoms equally.

This means that each of the rights in our Constitution and Bill of Rights can justly be identified as a national priority. But, depending on where one stands in terms of class, race, gender and ethnic grouping, some rights seem to be more important than others. For example, some people see crime as the national priority. Other people see unemployment, land or the right to self-determination as national priorities. Yet other people see the protection of religious, cultural or linguistic identities as the national priority. But for most people, the national priority is undoubtedly the provision of basic needs, like water, food and social security.

In making its own 'choices' about setting national priorities, government faces great difficulties and challenges. But it is nevertheless clear that we must prioritise if we are actually going to reverse the legacy we have inherited. This is bound to upset and disappoint some people, but it must be done. So, what valid criteria for prioritisation can we use?

We will prioritise the greatest needs of the most disadvantaged and vulnerable people. This will mean emphasising the realisation of socio-economic rights. And we believe that we can justify this on the basis of our country's history of systematic discrimination and racial inequality.

Central to the NAP is the socio-economic inequality and structural disparity inherited from the past. Income distribution in our country ranks among the most unequal in the world. Only a small share of the national income goes to the majority of the population. Black people are at the bottom of the income levels and generally, whites are at the top.

A report prepared by the World Bank in 1995 outlined these social and economic

- inequalities
- as follows:

- Poverty in South Africa has a strong racial dimension. Nearly 95% of South Africa's poor are African, 5% are coloured; less than 1% are Indian or white. Africans have nearly twice the unemployment (38%) of coloureds (21%), more than three times the unemployment rate of Indians (11%), and nearly ten times the unemployment rate of whites (4%).

- Poverty in South Africa has a strong rural dimension. Some 75% of South Africa's poor live in rural areas, are concentrated in the former lands and TBVC states. Compared to the poor in urban and metropolitan areas, the rural poor suffer from higher unemployment rates, lower educational attainment, much lower access to services such as water and electricity, as well as lower access to productive resources. (Ministry in the Office of the President: Reconstruction and Development Programme, Key Indicators of Poverty in South Africa).

The social and economic imbalances between black and white people do not only pertain to income distribution, but also to many other socio-economic factors like:

- employment
- housing
- education
- health
- recreation

These imbalances have deprived, and continue to deprive, many South Africans, especially black South Africans, of the full and equal enjoyment of their fundamental human rights and freedoms. They are also a constant threat to the social, economic and political stability of our new democracy.

This means that our country needs to undergo a deep and thoroughgoing structural transformation. It also needs to build a culture of human rights. The two processes are inextricably linked. Without structural change, all talk of human rights is meaningless. But without entrenching a culture of human rights, structural transformation can become another form of unfair advantage and discrimination.

The National Action Plan is an integrated and systematic national strategy to help realise the advancement of human rights in South Africa. At one and the same time it is:

- an audit of the human rights situation in our country that identifies areas in need of protection and improvement,
 - a commitment to concrete measures that can be adopted to build and entrench a culture of human rights for the enjoyment of all,
 - a framework for sustained and coordinated ways for the country as a whole to protect and promote human rights in the next three years,
- and
- a serious effort on the part of government to address the legacy of apartheid.

The NAP presents an opportunity for identifying and agreeing on areas of cooperation between government departments and with, the private sector, civil society in general and other role players, so that together we can improve the protection and promotion of human rights in the country.

It will also be used by the government and the organs of civil society to monitor and assess the observance of human rights, and to gauge the commitment of the government to the promotion and protection of human rights.

How the NAP was Developed

Government consciously chose a participatory and collaborative approach to develop the NAP. The process began in May 1997 when the South African Human Rights Commission (SAHRC) called a National Human Rights Conference. Participants at the Conference were drawn from government, NGOs and national institutions. The Conference adopted a Statement and Programme of Action, which mandated the SAHRC to 'set in motion the process leading to the adoption of a National Action Plan for Human Rights.'

Over 30-31 July 1997, the SAHRC held a further consultative workshop on the NAP at the Technikon South Africa Conference Centre at Ormonde, Johannesburg. The workshop resolved that a NAP had to:

make human rights policy, practice and advocacy more effective
help to make government, independent state institutions and NGOs mutually accountable

The workshop proposed a specific framework for the NAP. It was recommended that the NAP Framework be officially adopted after consultation government departments and civil society and presented to President Mandela.

In October 1997, the Department of Justice and the SA Human Rights Commission called a meeting at which a National Steering Committee for the NAP was formed. A process for broad consultation was mapped out, and the process for developing the NAP was started.

President Mandela officially launched the process on the 10th December 1997, International Human Rights Day, with the United Nations High Commissioner for Human Rights, Mrs Mary Robinson in attendance. On the 26th February 1998, a draft framework document on the NAP was presented to a consultative workshop at the World Trade Centre in Kempton Park, Johannesburg. On the 21st March 1998, South Africa's Human Rights Day, a draft Framework on the NAP was presented to the Minister of Foreign Affairs (standing in for the President) by the Minister of Justice. On the 29th April 1998, Cabinet approved the Draft Framework of The National Action Plan For the Protection and Promotion of Human Rights. Between April and October 1998 a series of consultative workshops were held throughout the country. In June a workshop on regional and international human rights instruments, documents and treaties was held at the Union Building in Pretoria. The workshop was organised by the Co-ordinating Committee of the National Action Plan and the Department of Foreign Affairs. Various government departments, NGOs, Constitutional Court judges and academics attended. The focus of the workshop was on key international and regional human rights instruments, documents and treaties that are in the process of ratification by South Africa. These included:

- International Covenant on Civil and Political Rights

- International Covenant on Economic, Social and

Cultural

Rights

- of
 - International Convention on the Elimination of All Forms Racial Discrimination
- Inhuman or
 - Convention Against Torture and Other Cruel and Degrading Treatment or Punishment
- Child
 - Hague Convention on the Civil Aspects of International Abduction
- Crime of
 - Convention on the Prevention and Punishment of the Genocide
- of
 - Convention of the Nationality of Married Women
 - International Convention on the Protection of the Rights Migrant Workers and Members of their Families
 - Convention Relating to the Status of Stateless Persons
 - Convention on the Political Rights of Women
- the Child
 - The African Convention on the Rights and Welfare of

In July a workshop on civil and political rights was held at the University of Durban- Westville. Given the history of political intolerance and violence in the province, and the re-emergence of these conflicts in the Richmond area, KwaZulu-Natal highlighted the need for government to protect and promote civil and political rights. The NAP workshop focused on key civil and political issues facing South Africa today. The themes that were discussed included:

- Civil Rights - the focus was on equality and discrimination. This included discussions on racism and racial discrimination, gender discrimination and the challenges faced by other marginalised groups.
- Political Rights and Freedoms - in view of the imminent elections to be held in South Africa, the focus was on political tolerance and the right to campaign freely. Discussions included issues of no-go areas. Other themes that were addressed included the right

to protest; freedom of assembly, association and movement; and the right to vote.

- Freedom of Expression - the themes explored included both the freedom and the responsibilities of the media. Other themes included access to information and issues associated with censorship and pornography.

- Administration of justice - discussions focused on equality before the law, access to justice and the impact of crime on the freedom and security of people.

In August a workshop, co-hosted by the Oliver Tambo/UNESCO Chair of Human Rights, was held in the Eastern Cape at the University of Fort Hare, Bisho Campus, on economic, social and cultural rights. The Eastern Cape is an area in South Africa that has inherited one of the worst economic legacies of apartheid. Former lands, such as the Transkei and Ciskei, suffered through economic deprivation and a lack of development. Local communities, NGOs and government structures participated in the workshop. The workshop explored the following themes:

- Socio-Economic rights in our Constitution and Bill of Rights

- Land and housing

- Health and social security

- Cultural Rights - the promotion and protection of existing cultural rights, such as language, heritage, religion, belief systems and customs

- Children were identified as a key vulnerable group whose needs must be met to ensure the future growth and development of South Africa. The National Programme of Action for Children identified areas of priority.

In September a workshop on the Right to Development, Self Determination, Peace and a Protected Environment was held in Mpumalanga. The workshop also focused on The African Charter on Human and Peoples' Rights. The themes for this workshop included:

- Self-determination and peace - the workshop discussed the conflicts that can be generated through ethnic, language and religious differences. Discussion focussed on the need to respect different cultures and promote awareness and understanding of the diversity that exists in South Africa

- The African Charter- the African Charter was seen to promote a human rights agenda that was particularly relevant to our experience in the region. The monitoring of the Charter was seen as important and should include NGOs. The report writing process was identified as important and in need of co-ordination and co-operation of the various government departments.

- Development and the Environment - discussions focused on the link between environmental protection and development. The important role of the private sector in the eradication of poverty was identified. Public awareness of environmental protection was seen as crucial, as was the need for public participation and community involvement in working towards the realisation of the right to a clean and healthy environment.

During October 1998 a document drafting team carefully studied all the contributions made by the various government ministries and departments, the NGOs and members of the public. They incorporated them all into a single document - the Draft National Action Plan for the Protection and Promotion of Human Rights (Draft NAP). On the 4th November 1998 the Draft NAP was discussed by Cabinet and then officially adopted as South Africa's National Action Plan for the Protection and

Promotion of Human Rights (NAP).

On the 5th November 1998 the NAP was introduced into Parliament by the Minister of Justice. It was discussed by the Deputy Minister of Justice, various Members of Parliament and the representatives of all the political parties. The document

received the support of Parliament without dissension.

In November and December 1998 a national public awareness campaign was

conducted to introduce the idea of the NAP for the Protection and Promotion of

Human Rights to the general public. The Campaign placed special emphasis on informing:

children and young people

elderly people

people with disabilities

rural people

poor people

other vulnerable groups

Highlights of the campaign were:

coverage in all the media, with special emphasis on community radio

a Human Rights Telephone Hotline

participatory workshops at schools, technikons and universities and

in

community centres

a wide distribution of pamphlets

On the 10th of December 1998, International Human Rights Day and the 50th

anniversary of The Universal Declaration of Human Rights, the NAP was officially

launched and presented to the nation. Copies of the document were made freely

available amidst celebrations and more awareness campaigns

On the same day, the NAP was lodged with the United Nations as South

Africa's official commitment to the protection and promotion of human rights.

THE ORGANISING STRUCTURES and the CONSULTATIVE PROCESS for DRAFTING THE NAP

NAP STEERING COMMITTEE

Convened by the Deputy Minister of Justice

Co-Convened by the SA Human Rights

Commission with the assistance of

The NAP Co-ordinator and the

NAP Assistant Co-ordinator

and with representatives from:

The National Parliament

The Department of Justice
The South African Human Rights Commission
The Department of Foreign Affairs
The Commission for Gender Equality
The NGO Sector

The Research Sub-Committee

The Strategic Sub-Committee

The Resources Sub-Committee

NAP CO-ORDINATING COMMITTEE

Convened by the Deputy Minister of Justice with the assistance of
The NAP Co-ordinator and the NAP Assistant Co-ordinator
and with representatives from:
Government departments and NGOs

The Planning Sub-Committee for the 10th December
Celebrations

The International Day Of No Violence Against
Sub-Committee

Consultation process with government departments, the private sector and the NGOs

Broad consultation process with communities and individuals in civil society

A Public Awareness Campaign via the media, a telephone hotline and
Open Participatory workshops

Measures to Strengthen The Protection of Human Rights

Our country is a sovereign, democratic state founded on values that
promote and
protect fundamental human rights and freedoms.

Key measures to strengthen the promotion and protection of human rights
include:

- The supremacy of the Constitution and the rule of law
- The separation of the powers of government
- Regular elections and a multi-party system of government
- An independent judiciary
- The establishment of state institutions to support constitutional
democracy

The following state institutions have been created to support constitutional democracy:

The Public Protector

She or he must investigate any conduct in state affairs or in public administration in any sphere of government that is alleged or suspected of being improper

The South African Human Rights Commission

It must:

promote respect for human rights
engender a culture of human rights
monitor and assess the observance of human rights in the country

The Bill of Rights provides for binding and justiciable economic and social rights on:

The environment (Section 24)
Housing (Section 26)
Health care, food, water and social security (Section 27)
Education (Section 29)

Section 184 (3) of the Constitution provides for a mechanism for monitoring the implementation of these rights. The SA Human Rights Commission is empowered to "require each relevant state organ, each year, to provide information on the measures they have taken towards the realisation of the rights concerning housing, health care, food, water, social security, education and the environment". The Commission will publish its first report under this provision in February 1999.

The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities

It must promote respect for the rights of cultural, religious and linguistic communities

The Commission for Gender Equality

It must promote respect for gender equality and the protection, development and attainment of gender equality

The Auditor General

She or he must audit and report on the accounts, financial statements and financial management of all levels of government

The Electoral Commission

It must:

manage elections of national, provincial and local legislative bodies
ensure that elections are free and fair

The Independent Authority to Regulate Broadcasting

It must regulate broadcasting in the public interest and ensure a diversity of views that broadly represent South African society

The Truth and Reconciliation Commission

It was established to:

investigate gross human rights violations of the past
make recommendations on reparations
provide for amnesty at internationally acceptable standards
contribute to healing the divisions of the past and building a culture of human rights

The National Action Plan

Incorporating International and Regional Human Rights Instruments into Our Law

Since 1994, our country has signed, ratified or acceded to the most important international and regional human rights instruments, documents and treaties. Milestones regarding the incorporation of United Nations and Regional Human Rights treaties include the following:-

- Section 231 of the Constitution gives the procedure for acceding to and ratifying international agreements and then adopting them into our domestic law.
- Section 232 of the Constitution states that customary international law is our law unless it is inconsistent with the Constitution or an Act of Parliament.

To demonstrate the effectiveness of Section 232, it may be said that The United Nations (UN) Convention on Genocide (1948) is part of the South African domestic law although South Africa has not yet acceded to it simply because this Convention forms part of Customary International Law.

We have made a determined effort to accede to and ratify a number of human rights treaties both at international and regional levels. These treaties include but are not limited to the following:-

International & Regional Instruments that South Africa has ratified:

The United Nations Convention on Elimination of all Forms of Discrimination Against Women (CEDAW)
The United Nations Convention on the Rights of the Child (CRC)
The African Charter on Human and Peoples' Rights
The Hague Convention on the Civil Aspects of International Child Abduction
The United Nations Convention on the Status of Refugees
The United Nations Protocol on the Status of Refugees
The African Charter on the Rights and Welfare of Children
Organisation of African Unity's Convention Governing the Specific Aspects of Refugee Problems in Africa

International and Regional Instruments that South Africa has signed and is in the process of ratifying or acceding to by the South African Parliament:

The International Covenant on Civil and Political Rights
The International Covenant on Economic, Social and Cultural Rights
The Convention on the Elimination of All Forms of Racial Discrimination
The Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture)
The Convention on the Political Rights of Women

Human Rights Reports that South Africa has submitted to the United Nations

The Report on The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) submitted to the UN in February 1998
The Report on The UN Convention on the Rights of the Child submitted to the UN in November 1997
The Report on The African Charter on Human and Peoples' Rights was developed. It was completed in October 1998 and has been submitted to the African Commission.

Further International and Regional Human Rights Challenges

As a matter of urgency, South Africa must:

Ratify The International Covenant on Civil and Political Rights
Ratify The International Covenant on Economic, Social and Cultural Rights
Ratify the Conventions that deal with:
 torture
 racial discrimination
Ratify the Statute that establishes the International Criminal Court
Accede to the optional protocol of The African Charter on Human and Peoples' Rights on the establishment of an African Court of Human and Peoples' Rights
Do everything that is necessary to incorporate international and regional

human
rights law into our own law

Addressing The Challenges Presented by the International and Regional Human Rights Instruments

Lead departments to present the key Covenants and Conventions to
parliament for
ratification
Parliament to proceed with ratification of the of the Covenants and
Conventions
ratified by the Cabinet
The State Law Advisers to incorporate international and regional human
rights law
into our own law
Preparation of reports to the various treaty bodies and the regional
structures
responsible for monitoring and implementation of international and regional
human rights treaties

Monitoring And Implementation of the International and Regional Human Rights Instruments

The Office of the President
The South African Parliament and its various committees
The South African Human Rights Commission
The Commission for Gender Equality
The United Nations Treaty Reporting Bodies

How the NAP is Set Out

Effective promotion of human rights needs an integrated approach. The NAP is
based on the premise that all human rights are:

universal
indivisible and
interdependent.

Nevertheless, for the sake of convenience, we have presented the rights in this
NAP under three broad headings:

Civil and Political rights
Economic, Social and Cultural rights
The Rights to Development, Self-determination, Peace and a Protected
Environment

The rights that we discuss are derived from two sources.

The Bill of Rights of the 1996 Constitution
The provisions of relevant international and regional human rights
instruments

like:

The Universal Declaration of Human Rights
The International Covenant on Civil and Political Rights
The International Covenant on Economic, Social and Cultural Rights
The African Charter of Human and Peoples' Rights
Other human rights instruments, documents and treaties that seek to advance the rights of disadvantaged and vulnerable groups such as women, children, people with disabilities, people with HIV or AIDS and refugees.

On the next page there is a list of the human rights that we deal with in this document, under the three broad headings:

Civil and Political Rights

equality
life
freedom and security of the person
privacy
labour rights
political rights
access to justice
just administrative action
citizens
aliens
refugees
expression
the rights of arrested, detained and accused people

Economic, Social and Cultural Rights

employment
housing and shelter
health
food
water
land
social security
education
freedom of culture, religion and language
rights of children and young people

The Rights to Development, Self-Determination, Peace and a Protected Environment

Framework For The Discussion of Each Right

Each right that we deal with in this document, is discussed according to the following framework:

Constitutional Obligations
International Obligations
What Has Been Done
Policy

Legislation
Administrative Steps Taken
Further Challenges
Addressing the Challenges
Evaluation and Monitoring
Resources and Budget

The Rights

Civil and Political Rights

The implementation of the following rights is discussed in this section:

equality

life

freedom and security of the person

privacy

labour rights

political rights

access to justice

just administrative action

aliens

refugees

citizens

expression

the rights of arrested, detained, convicted or accused

people

EQUALITY

CONSTITUTIONAL OBLIGATIONS

Equality includes the full and equal enjoyment of all rights and freedoms.

Everyone:

is equal before the law

has the right to equal protection and benefit of the law

is protected against any unfair discrimination, directly or indirectly,

by the

State or any person on the basis of one or more grounds,

including:

race

gender

sex

pregnancy

marital status

ethnic or social origin

colour

sexual orientation

age

disability

religion
conscience
belief
culture
language or
birth

The State must enact legislation to prevent or prohibit unfair discrimination within three years of the enactment of the Constitution

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

The Universal Declaration of Human Rights
The International Covenant on Civil and Political Rights
The International Covenant on Economic, Social and Cultural

Rights

The International Convention on the Elimination of all Forms of Racial Discrimination

The International Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

The UN Convention on the Rights of the Child

The African Charter on Human and Peoples' Rights

The International Covenants enshrine the principle of non-discrimination. This means that:

all human beings are created equal and with equal rights all their rights should be protected and promoted equally, regardless of their race, sex, language, religion, social and economic status, national and social origin

WHAT HAS BEEN DONE

POLICY

The government's equality policies are designed to prioritise the elimination of the legacy of systemic inequality, focusing on race, gender, economic status and disability through:

A National Disability
Strategy

A Draft National
Gender Policy

Departmental Gender
Policies

Implementation of the Beijing Commitments

LEGISLATION

The Employment Equity Act of 1998

This eliminates unfair discrimination in the workplace, implements affirmative action measures for black people, women and people with disabilities.

The Water Services Act of 1997

The National Water Act of 1998

The National Forest Act of 1998

These three Acts provide for equal access to water, water and sanitation services and forestry.

Equality Legislation Drafting Unit

The Department of Justice has established this unit to draft equality laws that will provide:
ways of addressing unequal treatment between individuals a framework for the prohibition of discrimination and the elimination of inequality in all sectors of life, particularly:

- employment
- health
- education
- family
- finance

The following Bills are under consideration:

The Recognition of Customary Marriages Bill (1998)

The Amendment of Customary Law of Succession Bill (1998)

ADMINISTRATIVE STEPS TAKEN

The following have been established:

National gender machinery

The Commission for Gender Equality

Office for the Status of Women

Gender focal points within government departments

The South African Human Rights Commission

The Youth Commission

A specialised unit to address disability, established in the Office of the Deputy President

FURTHER CHALLENGES

Racism is a major problem affecting the development of a human rights culture. Numerous violent acts, motivated by

racism are still taking place, especially in educational institutions, the mines and on farms.

There are deep-rooted inequalities as a result of the effects of racial discrimination

Gender discrimination

Inequality and discrimination on the basis of:

- disability

- HIV/AIDS

- sexual orientation

- age

- youth

Economic discrimination

Inadequate enforcement mechanisms

ADDRESSING THE CHALLENGES

The State should make laws and take any other possible measures to remedy the effects of unfair discrimination and to ensure the full and equal enjoyment of all rights and freedoms under the Constitution. To this end the government will:

- Pass Equality Legislation in the third quarter of 1999

- Implement the Employment Equity Act

- Draw up sectoral policies and administrative measures to ensure the realisation of the minimum standards identified in the Equality Legislation

- Strengthen enforcement mechanisms through, amongst other things, providing adequate resources and facilitating access in rural areas

- Provide public education and education for service providers on equality and awareness of diversity

- Involve all layers of government in the promotion of equality (Specific measures are addressed in relevant sections of this NAP document.)

- Investigate and eradicate discrimination within the judicial system

- Establish a Commission for the Promotion, and Protection of the Rights of Cultural, Religious and Linguistic Communities

MONITORING AND IMPLEMENTATION

BODIES

- SA Human Rights Commission

- Office on the Status of Women

- Office on the Status of Disabled People

- Youth Commission

- Equality Drafting Legislation Unit

RESOURCES AND BUDGET

The SA Human Rights Commission
The Commission for Gender Equality
The Office on the Status of Women
Office on the Status of Disabled People
The Youth Commission

LIFE

CONSTITUTIONAL OBLIGATIONS

Everyone has a right to life

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 3 of The Universal Declaration of Human Rights
Article 6 of The International Covenant on Civil and Political
Rights, and the optional protocol dealing with The Abolition of The Death
Penalty

Article 4 of The African Charter of Human and Peoples' Rights

WHAT HAS BEEN DONE

POLICY

Government policy seeks to:

Curtail the power of the state to take away human life in the
course of the administration of justice Curtail the power of private people to kill
one another Acknowledge the duty of the state to protect human life.

The Constitutional Court has interpreted the Constitution to
mean that the death penalty is unconstitutional.

LEGISLATION

National legislation has been passed to give effect to the
decision of the Constitutional Court regarding the abolition of the death penalty.
National legislation also makes provision for minimum sentences for serious
crimes.

ADMINISTRATIVE STEPS TAKEN

Government is in the process of reviewing the sections in the Criminal Procedure Act that deal with the use of lethal force in making arrests to bring them in line with the Constitution.

The Code of Conduct and the training manual for police officials specifically discourages the use of lethal force in making arrests.

FURTHER CHALLENGES

The general lack of public acceptance of the abolition of the death penalty

An urgent need to improve the effectiveness of the justice process as a deterrent to crime, particularly violent crime

ADDRESSING THE CHALLENGES

Human rights education that focuses on the right to life

Completing the review of the Criminal Procedure Act

Implementation of the National Crime Prevention Strategy

The development and implementation of a Charter of Victims'

Rights

MONITORING AND IMPLEMENTATION

BODIES

The Department of Correctional Services

The Department of Defence

The Department of Justice

The Department of Safety and Security

The Department of Welfare and Population Development

The Department of Health (Reproductive issues)

The Independent Complaints Directorate

The National Intelligence Agency

The Integrated Justice System (IJS) with data capturing and a monitoring system to address case backlogs

The Inspecting Judge to address complaints from detainees

The South African Human Rights Commission

The Commission for Gender Equality

The Youth Commission

The Office on the Status of Women

RESOURCES AND BUDGET

The National Crime Prevention Strategy funding

The budgets of:

The South African Human Rights Commission

The Commission for Gender Equality

The Youth Commission
The Office on the Status of Women
The relevant government departments and agencies
The private sector and civil society

FREEDOM AND SECURITY OF THE PERSON

CONSTITUTIONAL OBLIGATIONS

Everyone has the right not to:

be deprived of their freedom without good reasons
be detained without a fair trial
be tortured
be threatened or punished in a cruel, inhuman or degrading

way

suffer violence from public or private sources

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Articles 3 and 5 of The Universal Declaration of Human Rights
and the relevant articles of the International Covenants
The Convention Against Torture and Other Forms of Cruel, Inhuman or
Degrading Treatment
Article 6 of The African Charter

WHAT HAS BEEN DONE

POLICY

Government policies aim to:

combat crime so that everyone is safe and secure balance the
rights of victims with the rights of people who are accused of crimes enable
people to have control of their own bodies eliminate violence against women
and children

A National Crime Prevention Strategy (NCPS) document was
prepared by an inter-departmental team of the Departments of Correctional
Services, Defence, Intelligence, Justice, Safety and Security and Welfare and
Population Development. The objectives are to:

Establish a comprehensive policy framework to enable the
government to address crime in a coordinated and focused way that draws on
the resources of all government agencies, as well as civil society Promote a
shared understanding and common vision of how the whole nation will tackle
crime at national, provincial and local levels Develop a set of national

programmes to kick start and to focus the efforts of various government departments in delivering quality services and solving the problems that lead to high crime levels Maximise civil society's participation in prevention

Create a dedicated and integrated crime prevention capacity, that can conduct ongoing research and evaluation of campaigns and also facilitate effective crime prevention programmes at national, provincial and local levels

The Department of Justice's Justice Vision 2000 policy sets out nine strategies relating to crime, safety and security. It aims to develop:

Policies that promote security and safety for everyone

An efficient and effective national prosecutorial service

An appropriate bail policy

A comprehensive, uniform and flexible sentencing policy

A parole policy that reflects:

the seriousness of the crime

the nature of the sentence

A crime prevention policy that addresses serious offences effectively, working with other government departments and agencies

A policy that maximises the co-operation of witnesses and victims with the criminal justice system, and at the same time, is sensitive to their needs and safety

A system of justice that addresses the particular circumstances of vulnerable groups like:

women

children

victims of violence

and uses a multifaceted approach that addresses attitudes towards violence and the causes and the consequences of violence

A juvenile justice system that conforms to the Constitution and international human rights norms, and also takes into account the kinds of crimes that juveniles commit

The 1996 Annual Plan of the South African Police Service also outlines objectives for safety and security.

A Project Committee on Sentencing has approved two issue papers dealing with the plight of victims of crime.

Inter-sectoral policy guidelines for handling victims of sexual offences were developed in 1997.

LEGISLATION

The Investigation of Serious Economic Offences Amendment Act of 1995

The Criminal Procedure Second Amendment Act of 1995

1995 The Interception and Monitoring Prohibition Amendment Act of

The Hague Convention on the Civil Aspects of International
Child Abduction Act of 1996

The International Co-operation in Criminal Matters Act of 1996

The Proceeds of Crime Act of 1996

The Choice on the Termination of Pregnancy Act of 1996

This gives women the right to terminate pregnancy up to 12 weeks on
request, and after that under certain stipulated conditions

The State of Emergency Act of 1997

The Criminal Law Amendment Act of 1997

The Criminal Procedure Second Amendment Act of 1997

The Criminal Matters Amendment Act of 1998

The Organised Crime Act of 1998

The following Bills are under consideration:

The Witness Protection Bill (1998)

The Prevention of Crime Fund Bill (1998)

The following laws and rules have been abolished:

The criminalisation of sodomy between consenting adults

The cautionary rule which treated women's evidence in
rape cases 'with caution'

The SA Law Commission is currently investigating:

Simplifying the Criminal Procedure

Restoring the legitimacy of the criminal justice system

Improving the efficiency of the administration of justice

Witness protection

Sexually related offences like:

rape

child abuse

trafficking in women and children

protecting sexual workers from abuse

ADMINISTRATIVE STEPS TAKEN

The Southern African Development Community (SADC)
has adopted a Declaration on the Prevention and Eradication of Violence

Against Women and Children.

Inter-sectoral policy guidelines for handling victims of sexual offences are being implemented.

The Human Rights Unit of the South African Police Service is finalising a training package on Human Rights and Policing.

Various other government departments and agencies are involved in human rights training for their personnel.

Public awareness campaigns on human rights issues are being developed and implemented.

These include no violence against women and an annual children's Constitution week.

The NCPS projects include an integrated justice project on the electronic recording and management of cases.

Various government departments have introduced support services for victims of crime. These include one-way mirrors and closed circuit television in courts.

A sixteen day campaign has been launched to observe the International Day of No Violence Against Women

A workshop has been held with all stakeholders to address the issue of farm murders more effectively

A National Directorate of Public Prosecutions (NDPP) has been established

A special investigative unit has been created within the NDPP to deal with organised crime

Parliament has started the process for acceding to The United Nations Convention

Against Illicit Traffic In Narcotic Drugs and Psychotropic Substances

FURTHER CHALLENGES

Reversing the culture of violence that was systematically cultivated under apartheid
Combating the high levels of crime in our communities. The numbers of reported cases of murder are as follows:

1994 - 26 832 cases

1995 - 26 637 cases

1996 - 25 782 cases

Dealing effectively with farm murders . Since 1994, 550 farmers have been murdered

Reducing and eradicating rape. We have one of the highest rape statistics in the world. The numbers of reported cases are as follows

1994 - 42 429 cases

1995 - 47 506 cases

1996 - 50 481 cases

Strengthening measures to combat violence against women

Implementing the SADC declaration on the Elimination of Violence Against Women

Addressing sexual and other violent crimes against children
 Addressing the tendency of people to resort to self-help
 and take the law into their own hands as a result of the perceived failure of
 the criminal justice system to protect them
 Dealing effectively with vigilante groups
 Dealing effectively with farm murders
 Dealing with calls for the reinstatement of the death
 penalty, outlawed by the Constitution, through education and public
 awareness campaigns
 Create a culture of respect for human rights in South
 Africa

ADDRESSING THE CHALLENGES

Passing laws to broaden the definition of rape to deal with
 issues like sodomy, anal penetration, child abuse and the relevant evidentiary
 rules

Developing laws to stop the abuse of sex workers
 Reforming laws and administrative measures to combat
 trafficking in women and children

Strengthening public education campaigns to
 institutionalize a culture of peaceful conflict resolution
 Implementing the NCPS
 Strengthening the Child Protection Unit and child support
 services during legal processes

Developing more public awareness campaigns on the
 rights of the child, particularly the girl child
 Implementing the recommendations of the workshop on
 farm murders

Implementing the provisions of Justice Vision
 2000
 Strengthening the inter-sectoral co-ordination in the
 administration of justice
 Integrating the contents of the SADC
 Declaration on the Elimination of Violence Against Women
 and Children into the activities of relevant government departments and
 agencies

Developing and implementing a national policy on violence
 against women

Enacting the domestic violence laws
 Developing policy guidelines to support the implementation
 of the domestic violence laws

Developing and implementing inter-sectoral policies on
 victim empowerment and drawing up a victim charter

Broadening access to facilities for the termination of
 pregnancy and contraception

Expanding and intensifying public education on
 reproductive choices

MONITORING AND IMPLEMENTATION

BODIES

The Department of Correctional Services
The Department of Defence
The Department of Justice
The Department of Safety and Security
The Department of Welfare and Population Development
The Department of Health (Reproductive issues)
The Independent Complaints Directorate
The National Intelligence Agency
The Integrated Justice System (IJS) with data capturing
and a monitoring system to address case backlogs
The Inspecting Judge to address complaints from
detainees
The National Directorate of Public Prosecutions
The South African Human Rights Commission
The Commission for Gender Equality
The Youth Commission
The Office on the Status of Women

RESOURCES AND BUDGET

The National Crime Prevention Strategy
The budgets of:
The National Directorate of Public Prosecutions
The South African Human Rights Commission
The Commission for Gender Equality
The Youth Commission
The Office on the Status of Women
The relevant government departments and agencies
The private sector and civil society

PRIVACY

CONSTITUTIONAL OBLIGATIONS

Everyone has the right to privacy, which includes the right
not to have:
their person or searched
their property searched
their possessions seized
the privacy of their communications infringed

INTERNATIONAL OBLIGATIONS

Our international obligations are guided mainly by:
Article 12 of The Universal Declaration of Human Rights
Relevant articles of the International
Covenants that provide that people may not be subjected

to arbitrary:

attacks on their reputation
interference with their -
privacy
family

correspondence

WHAT HAS BEEN DONE

POLICY

The Criminal Procedure Act has been amended to prohibit the interception of mail

Legal restrictions have been placed on the National Intelligence Agency (NIA)

Guiding principles have been set out for state institutions for observing people's privacy

LEGISLATION

Legal limitations to the right of privacy are dealt with in:

The Criminal Procedure Act of 1997

The Criminal Procedure
Second Amendment Act of 1997

The Criminal Law Amendment Act of 1997

FURTHER CHALLENGES

Ensuring the implementation of laws to protect privacy
Training government officials in human rights

ADDRESSING THE CHALLENGES

Creating and implementing human rights training programmes

MONITORING AND IMPLEMENTATION

BODIES

. The Public

Protector

The South African Human Rights Commission
The Courts
Non Governmental Organisations

RESOURCES AND BUDGET

The Public Protector
The South African Human Rights Commission
The Courts

LABOUR RIGHTS

CONSTITUTIONAL OBLIGATIONS

Everyone has the right to:

Fair labour practices
Form or join a trade union
Participate in the activities and programmes of a trade union
engage in collective bargaining strike

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 23 of The Universal Declaration of Human Rights
Article 22 of The International Covenant on Civil and Political Rights
Articles 7 and 8 of The International Covenant on Economic, Social and Cultural Rights
Our membership of the The International Labour Organisation (ILO) and the obligation to consider ratification of The ILO Conventions

WHAT HAS BEEN DONE

POLICY

Government has defined its main goals as being to:

Create an enabling environment for the attainment of economic development and growth and increased efficiency, productivity and employment
Promote stable and sound labour relations
Enhance skill development
Eliminate inequalities and discrimination in the labour market
Improve working conditions

LEGISLATION

The Labour Relations Act of 1995

Amongst other things it:

- guarantees the right to form trade unions
- promotes and facilitates collective bargaining
- regulates the right to strike
- promotes employee participation in decision-making
- establishes the Labour Court and Labour Appeal Court, with exclusive jurisdiction to decide on

matters arising from the Act

(1998)

Protection of Mothers Before and After Childbirth Bill

- Provides for maternity leave
- Protects employment
- Provides for family responsibility leave

The Agricultural Labour Act of 1993

- Protects the rights of farm workers
- Applies the Labour Relations Act and the basic Conditions

of Employment Act to farm workers

The Protection of Children and Young Persons from Economic and Social Exploitation Act

- Prohibits of employment of children
- Gives special protection for employment of children of 15

years and older

The Occupational Health and Safety Act of 1993

- Defines healthy and safe working conditions in the mines
- Deals humanely with health consequences of work in the

mining industry

- Outlines programme for the rehabilitation of people with

disabilities

- Defines treatment of HIV in relation to mineworkers - research, testing, counseling, education, treatment

research, testing, counseling, education, treatment

The Basic Conditions of Employment Act of 1997

- Defines fair labour practices
- Establishes and enforces basic conditions of employment

The Employment Equity Act of 1998

- Eliminates unfair discrimination
- Implements affirmative action measures for black people,

women and people with disabilities

The Unemployment Insurance Act of 1966

This provides for:

The payment of benefits
Payments to dependents

ADMINISTRATIVE STEPS TAKEN

The Department of Labour has established organisations as part of the new system of dispute resolution:

Commission for Conciliation,
Mediation and Arbitration (CCMA)

The Labour Court

The Appeal

Court as part of the system of dispute resolution created by the new Labour Relations Act

Establishment of the National Economic Development and Labour Council (NEDLAC) to promote co-operation between the government, the private sector and the labour movement

FURTHER CHALLENGES

The system of migrant labour played a crucial part in the development of South Africa's economy and shaped much of South Africa's relations with its neighboring countries.

Under apartheid this was an inhumane, unjust and highly exploitative system. Government is committed to a radically different approach.

Addressing and overcoming the historical division between a labour force that is predominantly black and an employer echelon that is predominantly white

Redressing gender disparities in the labour force

Protecting the rights of farm workers

Protecting the rights of domestic workers

Transforming the migrant labour system into one that is just and humane

ADDRESSING THE CHALLENGES

Reforming the existing migrant labour system

. Convening of a South

African regional forum for multi-party consultation on changes to the migrant labour system in order to protect the interests of migrant mineworkers and to manage effects on neighbouring countries and on labour-supplying regions within South Africa

. Permitting citizens of the South African Customs Union countries and Mozambique to the mining labour market on an acceptable basis

. Treating foreign miners as any other potential immigrant to South Africa or temporary resident.

Employers will be required to observe the regulations and protocols of immigration law in their hiring practices. All the rights and benefits of a particular category of employment will be enjoyed by foreign miners, including the right of temporary residents to bring accompanying dependents into the country. Migrants will be eligible for permanent residence or citizenship once they have worked in the country for the required period. Years work will be considered continuous notwithstanding the annual end-of-contract breaks

. Reviewing the system of compulsory deferred pay with a view to it being phased out after consultation with affected parties. Voluntary deferred pay schemes will be permitted.

. Proposing measures regarding standards of housing and nutrition of employees accommodated at mines

. Improving housing and accommodation for workers and their families through:

· state assistance for upgrading of hostels to single accommodation

the conversion of hostels to family housing discouraging the demeaning and racist practice of using 'fanagalo' as a medium of communication in the mining industry

Implementing the Employment Equity Act

. Improving the resources of the forum on disability in the Office of the Deputy President

Implementing the Agriculture Labour Act

. Applying the provisions of the Labour Relations Act to domestic workers

MONITORING AND IMPLEMENTATION

BODIES

The Department has assisted in the establishment of the trade union training institute, DITSELA, as part of its programme to strengthen civil society.

The Commission for Conciliation Mediation and Arbitration (CCMA)

The Labour Court

- The Labour Appeal Court
- . The Department of Labour
- Council (NEDLAC)
 - . The National Economic, Development and Labour
 - . The South African Human Rights Commission
 - . The Commission for Gender Equality

RESOURCES AND BUDGET

The CCMA
The Labour Court
The Labour Appeal Court
NEDLAC

POLITICAL RIGHTS

CONSTITUTIONAL OBLIGATIONS

Every citizen has the right to make free political choices, including the right to:

- Participate in the activities of or recruit members for a political party
- Campaign for a political party or cause
- An electoral system that promotes a multiparty system of governance
- The reasonable expectation of an efficiently managed and successful election
- The delivery of a free and fair election
- Regular elections for any legislative body that has been established in terms of the Constitution
- Vote in elections for any legislative body established in terms of the Constitution, and to do so secretly
- Stand for public office and, if elected, to hold office
- Participate in any public referenda that may affect his/her rights

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 21 of The Universal Declaration of Human Rights
Article 13 of The African Charter

WHAT HAS BEEN DONE

POLICY

The government's policy is to ensure regular free and fair elections in the absence of violence or intimidation. The electoral process is to be managed by an independent, impartial and adequately-resourced institution.

LEGISLATION

The Electoral Commission Act of 1996

This makes provision for the establishment of an independent electoral commission to manage elections. It also makes provision for an electoral court.

ADMINISTRATIVE STEPS TAKEN

An Independent Electoral Commission (IEC) has been established.

The Department of Affairs has expedited the issuing of identity documents to facilitate the voting process.

Codes of conduct and regulations to guide the activities of political parties have been drawn up.

FURTHER CHALLENGES

Encouraging the public to apply for identity documents or to have their existing identity documents bar-coded

Encouraging the registration of voters

Dealing with the high level of violence and other criminal conduct to create an environment that is conducive to staging successful elections

Ensuring the independence of state institutions as guaranteed by the Constitution, by providing adequate resources

Creating a political environment of election readiness

Allocation of sufficient funds to the IEC

Building capacity in political parties so that they can refine their roles in a democracy

Examining the role of traditional leaders in the election process

Giving all political parties equal access to the public for the dissemination of information

Ensuring that people who are blind are also able to vote in secret

Ensuring that people who are semi-literate or illiterate are also able to exercise their right to vote in secret

Ensuring that people in rural areas have access to voter education and voting services within a reasonable distance

Creating an environment that affirms women who either are, or want to, participate in political activities

ADDRESSING THE CHALLENGES

Ensuring that the IEC is adequately resourced

Ensuring that all political parties have equal access to the public, the media and all political platforms

Supporting the annual Constitution Week programmes that promote the awareness of rights and responsibilities, including political rights and responsibilities

. Supporting the national Framework on Constitutional Education for elected representatives and public servants

. Supporting human rights seminars at all universities and other tertiary institutions

. Introducing civic education and political rights into the formal school curriculum

. Educating political parties on the principles of human rights and democracy

. Ensuring adequate resourcing of state institutions, and transparency in:

· daily functioning

· making appointments

. Implementing the code of conduct for political parties

. Devising, through the Government Communication and Information System (GCIS) and the Department of Education, a broad education strategy for public awareness on political rights and freedoms, especially tolerance of political choices

Devising public education on gender equality with particular reference to Article 7 of CEDAW

. Supporting organisations such as The Commission for Gender Equality to encourage all political parties to set targets for gender equality in their parties

. Encouraging traditional leaders to support and participate in the elections

MONITORING AND IMPLEMENTATION

BODIES

The Independent Electoral Commission

The Public Protector

The political parties

The South African Human Rights Commission

The Commission for Gender Equality

The Office for the Status of Women

RESOURCES AND BUDGET

The Independent Electoral Commission
The Government Communication and Information System
The Department of Affairs
The Department of Constitutional Development
The Department of Education
The Office for the Status of Women

ACCESS TO JUSTICE

CONSTITUTIONAL OBLIGATIONS

The following are fundamental rights:

Access to courts that are fair independent and impartial
An independent judiciary that is competent, representative
and human rights driven

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 10 of The Universal Declaration of Human Rights
Relevant articles of The International Covenant on Political
Rights
Article 7 of The African Charter

WHAT HAS BEEN DONE

POLICY

The government's policies are based on:

Redressing the substantive, procedural, structural and
administrative fragmentation and disarray in the administration of justice
Designing and implementing structures and processes that are:
democratic
representative
responsive
accessible
accountable
fair

The Department of Justice has drawn up a document
called Justice Vision 2000 to provide:

A new vision for the provision of justice in South Africa
A mission
Strategies for transforming and improving access to justice
for every South African

LEGISLATION

- Act of 1996 The Abolition of Restrictions on the Jurisdiction of Courts
- This amended more than one hundred Acts of Parliament to remove provisions that constituted a barrier to access to the courts.
- The Judicial Service Commission Act of 1994
- The Public Protector Act of 1994
- The Human Rights Commission Act of 1994
- The Admission of Advocates Amendment Act of 1994
- Amendment Act of 1995 The Recognition of Foreign Legal Qualifications
- 1995 The Admission of Legal Practitioners Amendment Act of
- The Right of Appearance in the Courts Act of 1995
- The Judicial Matters Amendment Act of 1995
- The Justice Laws Rationalisation Act of 1996
- The Legal Aid Amendment Act of 1996
- The Magistrates Amendment Act of 1996
- of 1996 The Special Investigating Units and Special Tribunals Act
- The Criminal Procedure Amendment Act of 1996
- Courts Act of 1996 The Abolition of Restrictions on the Jurisdiction of the
- The Magistrates Courts Amendment Act of 1998
- The following Bills are under consideration:
- The Rationalization of Legal Practitioners Bill (1998)
- The Legal Aid Amendment Bill (1998)
- The Establishment of Family Courts Bill (1998)
- The Rationalisation of Courts Bill (1998)
- The Judicial Service Commission Amendment Bill (1998)

The Maintenance Bill (1998)

ADMINISTRATIVE STEPS TAKEN

In 1994 the Minister of Justice enhanced access to the civil courts by increasing the limit of the jurisdiction of the district magistrate's courts from

R20 000,00 to R100 000,00. This means that:

More civil cases can now be decided by district magistrates' courts

They are more accessible because there are about 500 of them

The legal procedures are simpler, quicker and cheaper than in the High Courts

The Department of Justice is running pilot Family Court Centres in various areas. The courts will deal

with: divorce
maintenance
children's issues
family violence

The Family Court Centres will also provide:
counselling investigation mediation services

Comprehensive laws will be developed to establish a permanent Family Court structure.

The Department of Justice is developing a White Paper on legal aid. In January 1998, it was agreed at the National Legal Aid Forum that the definition of legal aid should be broadened to include:

giving advice by paralegal workers
providing legal aid for alternative dispute resolution
promoting an awareness of human rights
preventive legal education

FURTHER CHALLENGES

Transforming the system of justice into one that respects promotes protects and fulfills the fundamental rights of the constitution

Finding innovative and cost-effective methods of delivering legal aid services

Designing, developing, and implementing legal structures and processes that are democratic, representative, responsive, accessible and accountable

Broadening access to courts

Improving the legal infrastructure:

the availability of buildings, libraries and other facilities
renovation of offices
installation of furniture
ensuring availability of basic services

such as electricity, water and communication facilities in each office

Establishing more efficient communication lines between the courts and the Department of Justice

Building competency through sustainable and systematic training programmes to develop legal and semi-legal professionals so that they are well-trained, representative and human rights driven

Making courts more accessible for:

people with disabilities
elderly people
vulnerable women
children

Extending the Family Court Centres to the rural areas

Implementing the Maintenance Act effectively

Developing the use of inclusive processes such as:

popular participation in court proceedings, e.g. traditional courts, community courts and religious personal law
community outreach to facilitate meaningful public participation
plain language

ADDRESSING THE CHALLENGES

Implementing the Justice Vision 2000 strategies:

making legal advice and legal representation accessible to all who need it

using language that is accessible to all users of the justice system

ensuring the availability and affordability of alternative dispute resolution (ADR) mechanisms

responding to the special needs of vulnerable groups

developing a policy framework that ensures better access to justice in civil matters, including making the Small Claims Court more accessible

developing a coherent and human rights based legal system

building courts that are geographically accessible

adapting courts to ensure that they have appropriate facilities and services

making court procedures simple and understandable

providing interpreters to

ensure that people can use
their own language in courts
enacting laws to make the
justice system, including the
services of lawyers, more
affordable
making legal aid available
for indigent people

Setting in place affordable and accessible
alternative dispute resolution mechanisms
Implementing continuing human rights
training programmes for service providers in
the justice system

Developing the internal communications
strategies within the Department of Justice
Providing education programmes to develop
legal and paralegal professionals
Developing a holistic transformation policy
for the court system which must include
provision for:

- specialist courts
- transformation of the judiciary
- alternative dispute resolution
- language policy
- the needs of vulnerable groups
- alternative forms of evidence,
especially with regard to people with
disabilities

Developing and implementing training
programmes for service providers to sensitise
them to the needs of:

- people with disabilities
- elderly people
- vulnerable women
- children

MONITORING AND IMPLEMENTATION

BODIES

- The Department of Justice
- The Justice College
- The Department of Welfare
- The Department of Public Works
- The South African Human Rights Commission
- The Office of the Public Protector

RESOURCES AND BUDGET

- The Department of Justice

JUST ADMINISTRATIVE ACTION

CONSTITUTIONAL OBLIGATIONS

Everyone has the right to administrative action, (actions or decisions made by officials or statutory bodies on behalf of the State), that is:

Lawful
Reasonable
Procedurally fair

Everyone whose rights have been badly affected by administrative action has the right to be given written reasons as to why the decision was made or the action was taken.

The State is obliged to:

Make national laws to give effect these rights
Provide services impartially, fairly and without bias
Be transparent, by providing the public with timely, accessible and accurate information
Provide for reviewing administrative action by a court or an independent tribunal
Promote an efficient administration
Respond timeously and efficiently to the needs of people

There is a mandate for the State to give effect to the Constitutional rights of:

Equality
Non- racism
Non-sexism

INTERNATIONAL OBLIGATIONS

In adopting the policies and taking the action mentioned above, the government has been guided by its international obligation to promote good governance, which includes ensuring transparency, accountability and redress for harm suffered as a result of unlawful administrative action.

WHAT HAS BEEN DONE

POLICY

Government policy is guided by the promotion of good governance. This includes:

- Accountability
- Transparency
- Redress in equality
- Democratisation
- Enjoyment of other rights by everyone

The Ministry for the Public Service and Administration has published a White Paper on the Transformation of the Public Service which contains a commitment to transparency and accountability in state administration. It establishes the Batho Pele (People First) principle and:

- Sets norms and standards for public service delivery
- Establishes a complaints mechanism to enforce the standards
- Provides redress when the standards have not been met

LEGISLATION

The Public Protector Act of 1994

The Public Protector is an ombudsman, She or he is accessible to all people and communities. She or he must investigate complaints about alleged or suspected impropriety or prejudice on the part of state officials, organisations or statutory bodies in any sphere of government. After the investigation, the Public Protector must make a report and take appropriate action. The Public protector's powers include:

- the power to investigate the mal-administration of public affairs
- improper or dishonest conduct by a person in the public service
- the abuse or misappropriation of public money

The Department of Public Service and Administration has passed a number of laws to promote good and efficient government including:

The Public Service Act of 1994

This provides for the organisation and administration of the Public Service, and regulates the conditions of employment

The Public Service Amendment Act of 1996

This removes the unjust differentiation between 'officers' and employees

The Public Service Commission Act of 1997

This provides for the power to investigate, monitor and evaluate the organisation's administration and personnel practices to ensure effective and efficient performance

The Department of Justice is preparing laws on administrative justice for enactment in 1999

ADMINISTRATIVE STEPS TAKEN

The Department of Public Service and Administration has adopted disciplinary codes and procedures for the Public Service which provide for affordable and accessible mechanisms for conflict resolution

The Public Service Regulations provide a regulatory framework to ensure accountability at executive level

The Heath Special Investigating Unit was appointed to investigate corruption in the public service in respect of the use of resources.

An Anti-Corruption Summit Conference was convened, and at the Summit, a code of conduct for public officials was proposed and stern and speedy measures for prosecution were adopted.

The Office for Serious Economic Offences, which investigates crimes such as fraud and corruption in the public and private sectors, was established.

A Moral Summit was convened and at the Summit, representatives of all political parties

committed themselves to observing moral and ethical codes of behaviour.

The White Commission was appointed to investigate unlawful promotions in the former independent states as well as in South Africa. These were established by the apartheid regime and have now been re-incorporated into South Africa.

FURTHER CHALLENGES

Promoting public awareness of the right to just administrative action

The adoption of pre-emptive anti-corruption strategies

The provision of accessible and affordable mechanisms for lodging complaints and enforcing the right

Ensuring that mechanisms for the enforcement of the right are made available to poor and rural people

Enacting laws to implement the constitutional right to just administrative action which is contained in Section 33 of the Constitution

Enacting the Open Democracy Bill to promote democracy in government

ADDRESSING THE CHALLENGES

Implementing the White Paper on Affirmative Action to ensure a broad representative Public Service that is oriented towards redressing past imbalances

Creating speedy mechanisms for disciplinary and grievance procedures in the Public Service

Implementing the Open Democracy Bill
Implementing the Batho Pele (People First) principle throughout the Public

Administration to ensure courteous and efficient service delivery

Extending the electronic management of information

Extending public education and awareness of the right to just administrative action

Creating affordable and accessible complaint structures

Expanding the services of the Public Protector, especially to rural areas

Providing additional resources for the Public Protector

Implementing all the recommendations and proposals of the Anti-Corruption Summit as swiftly as possible

Implementing all the recommendations and proposals of the Moral Summit as swiftly as possible

MONITORING AND IMPLEMENTATION

BODIES

Parliament
Cabinet
The Office of the Public Protector
The Office for Serious Economic Offences
The Department of Public Service and Administration
The Public Service Commission

RESOURCES AND BUDGET

The Office of the Public Protector
The Office for Serious Economic Offences
The Department of Public Service and Administration
The Public Service Commission

CITIZENSHIP

CONSTITUTIONAL OBLIGATIONS

There is a common South African citizenship. All citizens are equally entitled to the rights, privileges and benefits of citizenship. All citizens are equally subject to the duties and responsibilities of citizenship. No citizen may be deprived of citizenship. Constitutional rights that are for the exclusive use of citizens, are:

Political rights, including the right to form political parties, the right to vote in regular elections and the right to stand for public office

The right to enter the Republic, to stay and to live anywhere in the Republic

The right to a passport

The right to freedom of trade, occupation and profession

The State must enact legislation to provide for the acquisition, loss and restoration of citizenship

Every child has the right to a name and nationality from birth

INTERNATIONAL OBLIGATIONS

Our international obligations are guided mainly by Articles 24 and 25 of The International Covenant on Civil and Political Rights. These provide for:

taking part in the conduct of public affairs
voting, by means of universal suffrage,
exercised through periodic elections and held
by secret ballot
equal access to public services
the right of every child to acquire a nationality

WHAT HAS BEEN DONE

POLICY

Government's policies are designed to ensure that all citizens:

have equal access to citizenship
enjoy full citizenship rights in South Africa

Areas of priority include:

racial and gender equality
full rights for all children
the unification of South Africa through the
integration of the former lands
protection for citizens from arbitrary denial of
their rights by the head of state

LEGISLATION

The Department of Affairs has facilitated the passing of the following laws:

The South African Passport and Travel Document Act of 1994

This act provides that every citizen has the right to obtain a passport. In addition, the

granting of a passport is no longer the privilege of the President.

The Affairs Laws Rationalisation Act of 1995

This Act repeals the laws which applied in the former 'independent' states and self-governing territories, thus doing away with the 'bantustans'.

The South African Citizenship Act of 1995

This Act enables people to acquire, lose and restore their citizenship. It also repeals some provisions of the former South African Citizenship Act of 1992 that discriminated against women.

The Births and Deaths Registration Amendment Act of 1996

This Act amends the Birth and Deaths Registration Act of 1992, so that customary unions are recognised as valid marriages. This means that children born in customary unions are legitimate children.

ADMINISTRATIVE STEPS TAKEN

Administrative reforms have been implemented in response to Batho Pele (People First), the White Paper on the Transformation of Public Service Delivery. These include, amongst other things, a statement of standards which reduces the time frames for acquiring documents such as birth certificates, identity documents and passports

Public education programmes on how to get identity documents are being implemented. This is being done particularly to expedite participation in the elections.

A help line is being established for people to access relevant information or to make complaints.

FURTHER CHALLENGES

We need to harmonise the marriage laws, and educate the public about them
Addressing the needs of migrant workers

ADDRESSING THE CHALLENGES

Enacting laws in keeping with our Constitution as well as international norms and standards

MONITORING AND IMPLEMENTATION

BODIES

Electronic data monitoring mechanisms have been installed. These monitor the timely delivery of passports, identity documents and certificates
The help line provides information on services and is also a mechanism for lodging complaints.

ALIENS

CONSTITUTIONAL OBLIGATIONS

The basic rights and freedoms in the Constitution apply to everyone, except those that are specifically restricted to citizens.

INTERNATIONAL OBLIGATIONS

Under international law, according to Article 2 of The International Covenant on Economic, Social and Cultural Rights and Article 13 of The International Covenant on Civil and Political Rights, once a state has admitted aliens into its territory (documented immigrants), it must treat them according to internationally determined standards. International human rights law gives many rights to lawful aliens. Some of these include:

the right to residence
freedom of movement
economic and social rights

This means that aliens should be given the same human rights as state nationals, with the exception of certain aspects of:

- political rights
- participation in political or public life
- ownership of property
- employment
- the right to remain in the territory

Illegal aliens are not lawfully in the territories of states other than their own. They can be removed once they are found to be illegal. However, because they are human beings, they are nevertheless entitled to some basic rights. These include the rights to:

- dignity
- freedom and security of the person
- life

South Africa has, since April 1994 ratified or acceded to several international human rights treaties that have a bearing on the treatment of aliens. These are:

- The Convention on the Rights of the Child (1989) ratified on 16th June 1995
- The Convention on the Elimination of All Forms of Discrimination Against Women (1979) ratified on 15th December 1995
- The African Charter on Human and Peoples' Rights (1981) acceded to in January 1996

South Africa has yet to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

WHAT HAS BEEN DONE

POLICY

The government's policies seek to protect and promote the basic rights of all people, while recognising the state's Constitutional commitments to its citizens.

The Department of Affairs has published a White Paper on Immigration and consultations on the issues are taking place.

LEGISLATION

The Aliens Control Amendment Act of 1995

This amends The Aliens Control Act of 1991 and promotes and protects of the rights of documented immigrants

ADMINISTRATIVE STEPS TAKEN

Language services are provided to aliens by courts where necessary

FURTHER CHALLENGES

We must sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

We need to align legislation with international instruments and treaties

South Africa is struggling with the problems of a large number of undocumented immigrants. These are currently estimated at between 2.5 and 8 million

There is a need to address the rights of undocumented immigrants especially in view of international human rights provisions, while at the same time protecting the interests and rights of South African citizens

There is increasing xenophobia, especially against other Africans

We need to create greater public awareness among service providers and law enforcement officers on the rights of aliens and undocumented immigrants/migrants

The eradication of corruption and fraud

Groups with special needs

Trading and small business documentation

ADDRESSING THE CHALLENGES

The Department of Affairs is reviewing and drafting a comprehensive migration policy

The government must conduct a public awareness campaign to promote respect for diversity

The SA Human Rights Commission is undertaking to address xenophobia

The government is considering signing and ratifying all relevant international human rights treaties on immigrants

Training for government officials:

An Immigration Training Unit should be established

The Department of Affairs is conducting internal courses and seminars on client relations, etiquette and dealing with diversity

The Airports Company is providing client-related training for immigration officers

In-depth functional training to enhance immigration officials' knowledge and understanding of the Aliens Control Act is envisaged in the curriculum of the Immigration Training School

MONITORING AND IMPLEMENTATION

BODIES

The SA Human Rights Commission

The Department of Affairs

The courts

The Public Protector

RESOURCES AND BUDGET

The SA Human Rights Commission

The Department of Affairs

The South African Police Services

External bodies eg The Airports Company

REFUGEES

CONSTITUTIONAL OBLIGATIONS

Refugees enjoy the rights set out by Chapter Two of the 1996 Constitution, except for those rights where non-citizens have been expressly excluded. In particular, refugees have a right to:

non-discrimination
administrative justice
seek employment
receive shelter

receive basic health services
access to education

INTERNATIONAL OBLIGATIONS

The right to seek asylum from persecution is contained in the 1948 Universal Declaration of Human Rights. South Africa is guided by the 1951 UN Convention Relating to the Status of Refugees and the 1969 Organisation of African Unity's Convention Governing the Specific Aspects of Refugee Problems in Africa. All refugees enjoy all human rights and fundamental freedoms. They are entitled to specific rights arising from their particular situation. These include:

- non-rejection at the border and admission to safety
- non-penalization for illegal entry into the host country
- prohibition of expulsion or return to the country of origin
- expulsion only on the grounds of national security or public order
- access to a refugee status determination procedure
- issuance of identity and travel documents to recognized refugees
- access to courts
- rights to self-employment (work)
- rights to education and housing
- freedom of movement
- legal representation
- non-discrimination among refugees

WHAT HAS BEEN DONE

POLICY

The government's refugee policies seek to ensure, as far as is practically possible, that refugees enjoy fundamental rights and freedoms without discrimination.

In the absence of domestic law, the treatment of refugees in South Africa has been based on the provisions of the 1993 Basic Agreement between government and the United Nations High Commissioner for

Refugees (UNHCR). Presently, the legal status of refugees in South Africa is determined by the Aliens Control Act of 1991.

South Africa has acceded to both 1951 UN Convention Relating to the Status of Refugees and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa in January 1996, without making any reservations.

LEGISLATION

The Refugee Bill (1998)

This bill is currently being enacted to bring domestic law in line with international obligations

ADMINISTRATIVE STEPS TAKEN

A refugee status determination procedure has been progressively developed since 1994

The Department of Affairs, in an attempt to discourage abuse of the asylum procedure by economic migrants has tightened the conditions attached to the Section 41 permit issued to asylum seekers in terms of the Aliens Control Act Under the new instructions the Section 41 permit lasts for only three months and may only be renewed in the place where the asylum application was made

Recognized refugees are issued with a Section 28 Exemption Certificate in terms of the Aliens Control Act

FURTHER CHALLENGES

The establishment of a legal regime conducive for refugees to receive adequate protection in South Africa and meaningfully exercise their rights

The integration of recent international treaties on refugees and their alignment with domestic laws

Distinguishing refugees from undocumented economic migrants and providing them with

special protection and services
Expediting the administrative process for
asylum applications
Upgrading the administration to minimise
widespread corruption and massive abuse of
the asylum procedure
Combatting xenophobia
Promoting the safety and security of refugees
Recognising the special needs of refugees
who are children, have disabilities or who
have HIV/AIDS
Issuing of refugee identity cards to enable
them to become economically active

ADDRESSING THE CHALLENGES

The National Consortium for Refugee Affairs, chaired by the South African Human Rights Commission (SAHRC), provides a forum for dialogue and cooperation between government, civil society and UNHCR, to ensure consistency of assistance policies implemented by the Regional Fora and facilitate the formulation of a comprehensive refugee policy in South Africa

Government is in the process of enacting the Refugee Bill which is expected to:

- enshrine, in domestic law, the obligations of South Africa under international refugee law
- lay the basis for a positive and comprehensive refugee policy
- make provision for a fair, impartial and effective refugee status determination procedure
- regulate the issuing of identity cards to recognised refugees and asylum seeker permits to asylum seekers

Upgrade administrative mechanisms to:

- eliminate opportunities for corruption and fraud
- speed up the processing of applications
- promote fairness

Public awareness strategy on:

- the definition of refugees
- their plight
- their rights
- the difference between refugees and undocumented economic migrants
- and the different legal provisions that apply

Sensitise service providers to the rights and

needs of refugees

MONITORING AND IMPLEMENTATION

BODIES

The SA Human Rights Commission
The Commission for Gender Equality
The United Nations High Commission for
Refugees

RESOURCES AND BUDGET

The Department of Affairs
The Department of Welfare and Population
Development
Local government
NGOs
The United Nations High Commission for
Refugees

FREEDOM OF EXPRESSION

CONSTITUTIONAL OBLIGATIONS

The Constitution provides for the right to
freedom of expression, which includes:

freedom of the press and other media
freedom to receive or impart information or
ideas
freedom of artistic creativity
academic freedom and freedom of scientific
research

The right does not extend to:

propaganda for war
incitement of imminent violence
advocacy of hatred that is based on race,
ethnicity, gender or religion, and that
constitutes incitement to cause harm

Section 32 includes a right to access to
information, held by the State or another
person, if the information is needed for the
exercise or protection of any rights. The State
is obliged to enact legislation to give effect to
this right.

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 19 of The Universal Declaration of Human Rights. This includes the rights to:
freedom of opinion and expression
holding and imparting opinions
through any media without
interference

Articles 19 and 20 of The International Covenant on Civil and Political Rights

Article 9 of The African Charter on Human and Peoples' Rights

WHAT HAS BEEN DONE

POLICY

The promotion and protection of freedom of expression in South Africa is mainly through:

the right to access of information
freedom of the media and other means of communication

The government's policy is guided by its commitment to:

supporting the process of democratisation
enhancing transparency
redressing inequalities in the access to information
redressing inequalities in access to the means of disseminating information
issuing regulations to ensure the responsible use of freedom of expression so that vulnerable people are not harmed
building an information backbone capable of giving access to the Internet to all citizens

The White Paper on Broadcasting sets out a clear separation of powers with regard to broadcasting. It puts the responsibility for developing a national policy framework into the hands of government and the responsibility for licencing new operators into the hands of an Independent Broadcasting Authority.

It outlines the following objectives:

universal access and
diversity
democratisation of the
media, especially the
airwaves
nation building
education

It introduces competition through the
licencing of new entrants in both radio and
television in all classes of licences.

LEGISLATION

The Interception and Monitoring Prohibition
Act of 1992

The Act, as amended, prohibits the
unauthorised interception and monitoring of
communications.

The Postal Act of 1995

This establishes the principle of universal
service to ensure the right of all citizens to a
basic postal service.

The Films and Publications Act of 1996

This act regulates the distribution of certain
publications and the exhibition and
distribution of certain films. Films and
publications are classified, age restrictions
can be imposed and consumer advice is
given. Distribution of any prohibited film or
publication is a criminal offence in terms of
the legislation.

The Telecommunications Act of 1996

Entrenches the idea of universal service in
law, and creates a digital backbone to build an
Internet economy.

The Independent Broadcasting Authority Act

This establishes the Independent
Broadcasting Authority (IBA), whose main task
is to regulate broadcasting activities in South
Africa and to licence new operators in such a
way that historically disadvantaged
communities can be empowered. Particular

attention is given to rural communities, women and young people.

The Broadcasting Act of 1998

This creates a new framework for building diversity in broadcasting in terms of ownership, language, culture and religion and underpins the constitutional principle of freedom of expression.

The Open Democracy Bill (1998)

This seeks to implement section 32 of the Constitution by giving all citizens access to state information, subject to certain restrictions.

ADMINISTRATIVE STEPS TAKEN

The Government Communication and Information System (GCIS) has been established. The main responsibility of GCIS is to keep the public informed about all issues that effect their daily lives. It aims to:

Provide all South African with information on their rights and how to access them
Inform people on how they can use the prevailing socio-economic conditions to improve their personal circumstances and help to build a better South Africa for all
Use community radio stations to reach the masses of illiterate people, mostly in the rural areas, and to focus particularly on those who were marginalised in the past and deprived of their rights

A Government Communicative Planning Forum has been set up to ensure cooperation between GCIS and the directorates of communications in the various other government departments.

The Film and Publications Board and a Review Board have been created to implement the Film and Publications Act.

The Department of Posts and Telecommunications has:

Licensed more than 80 community radio stations and set aside a frequency spectrum for close to 300 stations

Set up an independent, non-governmental media trust with money from government and donors to support community radio

Licensed a new free-to-air television station and fourteen new commercial radio stations

The Department of Posts and Telecommunications is also in the process of:

Building a digital, fibre optic, high speed electronic backbone to give broad access to electronic media, especially the Internet

Rolling out 3 million new telephone lines to previously disadvantaged people and communities and ensuring that every village, clinic, school, community centre, library, police station and post office is connected

Placing community obligations on the national cellular operators to ensure that rural communities are also connected

Building tele-centres in rural areas to give rural people access to telephone and Internet services

Expanding the education activities of the national public broadcaster and investigating the feasibility of a dedicated educational channel

Rolling out 5 million new postal addresses

FURTHER CHALLENGES

Broadening transparency and access to information

Diversifying ownership of the media

Access to information for poor people and rural communities

Dissemination of information by poor people and rural communities

Reforming laws to bring them into line with the Constitution

Addressing media stereotyping of women and children

Finding a balance between harmful material and freedom of expression

Creating or adapting laws to deal effectively with advances in technology such as electronic mail and the Internet

Respecting the freedom of artistic creativity

Building an electronic academic backbone to

link every school, technikon and university to the Internet

ADDRESSING THE CHALLENGES

Continuing the debate on acceptable limitations to freedom of speech in a democracy, and making appropriate laws to cover it

Enacting the Open Democracy laws and providing adequate administrative arrangements to implement them

Encouraging affirmative action measures with regard to ownership of the media, with particular attention to women

Promoting education about freedom of expression in schools

Establishing a media development agency as a statutorily recognised body to operate a recognised subsidy system for community and independent media

Strengthening the implementation of the government's communication strategy

Investigating the luxury tax on wind-up radios with a view to removing it so that rural communities can access information more easily

Promoting the expansion of community radio services

Increasing radio broadcasts to rural communities

Facilitating access to electronic information like the Internet and e-mail

Reviewing laws to ensure a balance between freedom of expression and the rights of women and children, as expressed in the CEDAW Reports, the Beijing Platform of Action and The UN Convention on the Rights of the Child

Ensuring the independence of the Film and Publications Board

MONITORING AND IMPLEMENTATION

BODIES

The SA Human Rights Commission

The Commission for Gender Equality

The Public Protector

The Independent Broadcasting Authority

The National Programme of Action for Children

The Non-Governmental Organisations
The Film and Publications Board
The Government Communication and
Information System(GCIS)

RESOURCES AND BUDGET

The Government Communication and
Information System (GCIS)
The South African Broadcasting
Corporation
The Film and Publications Board and
Review Board

ARRESTED, DETAINED, ACCUSED AND CONVICTED PEOPLE

CONSTITUTIONAL OBLIGATIONS

The Constitution entrenches the protection
and promotion of the rights of arrested,
detained and accused persons:

Arrested people have the right to:
remain silent and to be informed of
this right
be brought to court within 48 hours
in order to be charged or be
informed of the reason for continued
detention
not to be compelled to make any
confession or admission that could
be used in evidence against that
person
be released from detention on bail, if
it is in the interest of justice

Detained people have the right to:
be informed of the reason for being
detained
choose and consult with a legal
practitioner and to be informed
promptly of this right
be detained in conditions that are
consistent with human dignity

Accused people have the right to a fair trial.

This includes the right to:
be presumed innocent
have adequate time and facilities to
prepare a defence
choose to be represented by a legal

practitioner and be informed of this right promptly
to be assigned a legal practitioner by the State, at state expense, if substantial injustice would otherwise result and be informed of this right promptly
have a trial that begins and concludes without unreasonable delay
not to be tried for an offence for which the accused person has already been acquitted or convicted
be present when being tried
be tried, and to be given information, in a language that the accused person understands
Convicted people have the right to:
be treated with humanity and with respect for their inherent dignity as humans
a correctional system that is committed to reformation and social rehabilitation
Children under the age of 18 years have a right to:
be detained separately from adults
special protection and interventions that respect their age and development needs
All people in trouble with the law have the right not to be tortured or subjected to any other cruel, inhuman or degrading treatment or punishment
Evidence obtained in a way that violates any other rights is inadmissible

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Articles 9 and 11 of The Universal Declaration of Human Rights
Articles 9, 10, 14 and 15 of The International Covenant on Civil and Political Rights
The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Articles 37, 39 and 40 of The United Nations Convention on the Rights of the Child
The United Nations Rules for Juveniles Deprived of their Liberty

Articles 6 and 7 of The African Charter on Human and Peoples' Rights

WHAT HAS BEEN DONE

POLICY

Government policy is to ensure that arrested, detained and accused people:

Are guaranteed protection against abuse by police officials
Have swift access to due process of the law and legal advice

Government policy also provides guidelines to police officers on the limits of their powers.

The South African Police Service (SAPS) is developing a White Paper on Policing. In the White Paper it will recommit itself to complying with international human rights principles and the South African Constitution. The White Paper will be finalized by the end of 1998.

In view of the Constitution and our international obligations, SAPS has re-evaluated its treatment of people in its custody and its approach towards interrogation methods, conditions of detention, etc. and adopted a human rights-oriented policy.

Government is transforming the prison system and the treatment of offenders, especially the treatment of offenders who are under the age of 21, because they are regarded as extremely vulnerable.

The Inter-Ministerial Committee (IMC) on Young People at Risk has developed a policy framework and minimum standards for the Child and Youth Care (CYC) system that includes young people in trouble with the law.

The Minister of Safety and Security has launched a policy document on the Prevention of Torture and the Treatment of

Persons in Custody of the SAPS

LEGISLATION

The Criminal Procedure Second Amendment Act of 1996

This deals with the police entrapment system

The Criminal Procedure Amendment Act of 1996

This addresses, among other things, eliminating delays in finalising criminal trials

The Correctional Services Amendment Act of 1996

This provides that:

children who have been detained should be kept in separate or alternative facilities
pre-trial detention should be kept to the minimum for children
alternative custody must be found for children

The following Bills are under consideration:

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Bill

This bill facilitates the government's ratification of the Convention and its transformation into national law.

Criminal Procedure Amendment Bill

The bill focuses on further changes to the law of bail

The Abolition of Corporal Punishment Bill

The bill repeals all statutes about corporal punishment.

The Criminal Law Amendment Bill

This bill repeals all statutes about the death penalty and gives procedures for dealing with former death row prisoners

The Correctional Services Bill

This aims to ensure that:

accused people are treated with dignity
sentences of the court are carried out properly
imprisoned people are given the opportunity to develop themselves

It deals separately with:

sentenced prisoners
un-sentenced prisoners

It emphasises the rights of vulnerable prisoners like:

women
children

ADMINISTRATIVE STEPS TAKEN

The South African Police Service has finalised a training package on Human Rights and Policing.

Over 500 000 copies of an information booklet on Human Rights and Policing have been printed in English and are being distributed to SAPS members and members of the public. It will also be translated into most of the other 10 official languages.

A task team was appointed by the Department of Correctional Services to formulate policy on the health care, including HIV/AIDS care of prisoners. The Task team has recommended that:

condoms be made available to all prisoners
prisoners should not be separated on account of their HIV status

Various government departments are training service providers on the rights of arrested, detained and accused people, and other human rights.

The Independent Complaints Directorate

monitors the work of the police service and ensures it complies with human rights norms. An Inspecting Judge has been appointed to monitor the correctional system and to ensure that prisoners are kept in humane conditions and that their dignity is maintained.

Health, social and psychological services are provided to support prisoners. The programmes take the special needs of women and children into account.

The High Court has ruled that prisoners with HIV should be provided with drugs that are prescribed by a doctor.

The Department of Correctional Services provides reading material to prisoners and, where possible, opportunities to further their education.

The Child Protection Unit has been established to look after the rights of children who are victims of crime.

The Department of Correctional Services has opened the Emthonjeni Youth Development Centre, a youth facility for young people in trouble with the law that includes education and development programmes.

A working group has been set up to work on sexual offences and violence against woman and children.

Information sessions about the new SAPS policy are taking place in all nine provinces, to inform all station commissioners of the key elements of the new policy and its practical implications.

Government has started a building programme to reduce overcrowding in prisons.

The SA Law Commission has embarked on a project to simplify our criminal procedure.

The project aims to:

- restore the legitimacy of the criminal justice system
- improve legal representation for criminals
- protect the rights of arrested, detained and accused people

An IMC on Young People at Risk was established in 1995 to design a new youth justice and child care and protection system (CYC system).

Magistrates, correctional services personnel, social workers, probation officers and child and youth care workers have received specialised training to care for young people who are detained in prisons and reform

schools.

Programmes and processes have been piloted to provide models and best practices for the arrest, reception and referral of young people in trouble with the law.

Probation services for young people in trouble with the law are undergoing transformation and diversion programmes and services have been increased for young people.

The IMC undertook an investigation in 1996 into violations of children's rights in schools of industry, reform schools and places of safety. A range of recommendations were endorsed by Cabinet in September 1996.

A Secure Care programme for young people awaiting trial was initiated in 1995 and is almost complete with respect to the first ever youth secure care facilities in each province.

A range of inter-sectoral workshops for the purpose of sharing information and developing an understanding and commitment to the transformation process have been held

FURTHER CHALLENGES

Reviewing Section 49 of the Criminal Procedure Act to eliminate the use of excessive force when making an arrest

Dealing with the shortage of cell accommodation in prisons

Upgrading of sub-standard facilities in prisons

Transforming the SAPS from a police force of eleven former police agencies to a police service

Implementing human rights principles into all aspects of policing and the criminal justice system

Prohibiting the excessive and sometimes lethal use of force when arresting people and on people in detention

Improving the conditions under which prisoners are kept including:

- unacceptable overcrowding

- physical and sexual assaults

- lack of reading material

- inadequate medical treatment

Expanding diversion programmes and access to alternatives for children accused of committing crimes

Educating the public about the justice and correctional system for arrested, detained and

accused people

Protecting children from physical and sexual assaults, particularly when children are

detained in police cells and prisons

Increasing probation services and expanding early intervention work

Gaining full commitment from the Departments of Justice, Welfare and Population

Development, Correctional Services and Safety and Security for the transformation of the youth justice component of the CYC system.

Ensuring that children do not await trial in police or prisons but in effective secure care programmes

Ensuring that young people who are detained or convicted have:

- appropriate and well-trained service providers

- protection from any form of abuse

- appropriate educational and development programmes

ADDRESSING THE CHALLENGES

Developing a national policy and laws for a framework for ensuring humane and sensitive treatment of arrested, detained and accused children

The SAPS is working with the Department of Justice to establish national legislation with the aim of ratifying relevant international conventions by 1999.

Extending the work of the working group on sexual offences and violence against woman and children

Supporting the SAPS Equity Desk in its work on equality and non discrimination issues, including an affirmative action policy

Extending the SAPS human rights education programme

Building more secure places of safety for children

Extending the public awareness campaign on children in trouble with the law and the Department of Justice's Law Talk for Children education programme

MONITORING AND IMPLEMENTATION

BODIES

The Inter-Ministerial Committee on Young
People At Risk
The Independent Complaints Directorate

- . The Secretariat for Safety and Security
- . The SA Law Commission
- . The SA Human Rights Commission
- . The Office of the Public Protector
- . The Judicial Inspectorate

RESOURCES AND BUDGET

The Department of Constitutional Affairs
The Department of Welfare and Pensions
The Department of Justice
The Legal Aid Board
The South African Human Rights Commission
Justice College
The Human Rights Commission of the United
Nations
The International Committee of the Red Cross
The Human Rights Unit of the Commonwealth
Secretariat
The Royal Netherlands Embassy
The Swedish International Donor Agency
(Sida) through the Raoul Wallenberg Institute
The Swedish National Police College
Amnesty International

South Africa [cont'd, page 4] Economic, Social and Cultural Rights

The implementation of the following rights is discussed in this section:

employment
housing and shelter
health
food
water
land
social security
education
freedom of culture, religion and language
the rights of children and young people

EMPLOYMENT

CONSTITUTIONAL OBLIGATIONS

Implicit in our Constitution, especially in the preamble, is a right to work in order to improve the quality of life of South African citizens.

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 23 of The Universal Declaration of Human Rights
Article 6 of The Covenant on Economic, Social and Cultural Rights which sets out the right to work, the right to equal opportunities, the right to form trade unions and strike, the right to social security and social insurance and the right to an adequate standard of living

Article 5 of The African Charter which recognises the right to work under equitable and satisfactory conditions and the right to equal pay for equal work

Our membership of the International Labour Organisation

WHAT HAS BEEN DONE

POLICY

The government's approach to employment is guided by a report entitled Restructuring the South African Labour Market which was drafted by the President's Comprehensive Labour Market Commission in June 1996.

Government policy is guided by a background report undertaken by the International Labour Office (ILO) entitled Restructuring the Labour Market: The South African Challenge - An ILO Country Review.

The Commission recommended a framework for labour market policy that promotes economic growth, creates secure and reasonably remunerated employment and protects against unfair discrimination. It also calls for:

Harmonisation of labour-market policies with macro-economic and industrial policies
A presidential Jobs Summit to facilitate an Accord for Employment

and Growth that would commit social partners to:
stabilising prices, wages and
other economic indicators
development initiatives at the
national and regional levels

Policies that aim at strengthening
collective bargaining and protecting
workers in a manner that promotes
economic growth and job creation
Affirmative action, employment equity,
wage determination, and

productivity-enhancement based on
participatory and self-regulatory approaches

A Social Plan that will act as a safety
net and a developmental initiative to
rehabilitate communities grossly
affected by the decline in economic
activities as a consequence of restructuring

Rationalisation of migration policy in accordance
with international conventions and
recommendations and human rights norms and the
liberalisation of migration policy in accordance with
the move toward increased regional integration.
These measures should help to provide the skills
required for more rapid growth and development.

Government published a document called Creating
Jobs, Fighting Poverty - An Employment Strategy
Framework in July 1998. It was produced through
an inter-departmental process of consultation with
public participation. The key proposals include:

Short term employment creation measures such as:

- Clean Cities
- Land Care Campaign
- Working for Water
- The Municipal Infrastructure Programme
- The Community Public Works Programme
- Welfare Programmes

Sectoral programmes aimed at long term and
sustainable employment creation in:

- agriculture
- mining
- manufacturing
- tourism

Various measures targeted at

- Small Medium and Micro-enterprises
- young people
- people with disabilities
- rural people and women

Enabling policies such as adjustments to some aspects of:
labour market policies

the promotion of youth leadership
the promotion of skills development for young people

LEGISLATION

The Labour Relations Act of 1995
The Basic Conditions of Employment Act of 1998
The Employment Equity Act of 1998
The following Bill/s are under consideration:
Skills Development Bill 1998

This aims to:

improve the quality of life of workers
increase productivity in the workplace
enhance the competitiveness of enterprise

ADMINISTRATIVE STEPS TAKEN

The Job Summit, convened in October 1998 to define and implement policies, programmes and projects aimed at job creation
The Department of Water Affairs and Forestry's Working for Water Programme will create approximately 40 000 temporary jobs by the end of March 1999
The Water Supply and Sanitation Programme created 55 000 jobs from 1995 until the 1st September 1998 and will create an additional 36 000 jobs before the end of March 1999
The Department of Public Works's projects to create employment in those rural areas where people are most affected by poverty - Eastern Cape, Northern Province and KwaZulu-Natal
One hundred and eleven projects involving access to roads, water provision, sanitation and environmental conservation

FURTHER CHALLENGES

Dealing with high levels of unemployment
Stimulating job creation
Addressing the disadvantages faced by women, especially rural women
Addressing the disadvantages faced by people with disabilities
Improving the skills and training of a large unskilled labour force
Dealing with discrimination in the workplace
Addressing the large scale retrenchments in the mining and metal industries

ADDRESSING THE CHALLENGES

Implementing the recommendations of the Job Summit

Implementing the programmes of the Department of Public Works

Encouraging the use of labour intensive methods of production, particularly for women in rural areas

Promulgation and implementation of the Skills Development Bill

Expanding adult basic education and training programmes

Implementation of the Employment Equity Act

Assisting the mining industry in:

- preserving employment in mining for as long as is economically viable and socially desirable

- creating a business climate that recognises the importance of long-term profitability and thus encourages investment

- investigating whether public assistance should be available for mines and regions faced with downscaling, and, if appropriate, to formulate guidelines for such assistance

- drawing up social plans to cushion the impact of structural job losses, especially in mining sectors and geographical areas where large-scale restructuring is underway or imminent

- providing legal and institutional support for the social plans

Introducing provisions that require mining companies to notify Government in the case of retrenchments that exceed 20% of the workforce in any twelve month period

Entrusting the Advisory Board with the task of monitoring restructuring in the mining industry and providing recommendations and options for the Department of Minerals and Energy

Investigating the establishment of Social Plan Trust Funds by companies on a tax-free basis similar to that which applies to the environment rehabilitation funds established by mining companies

MONITORING AND IMPLEMENTATION

BODIES

The Department of Finance
The Department of Labour
The Department of Trade and Industry
The Department of Public Works
The Department of Water Affairs and Forestry
The Department of Transport
The Department of Health
The National Economic Development and Labour Council
The Commission for Conciliation, Mediation and Arbitration
The South African Human Rights Commission
The Commission for Gender Equality

RESOURCES AND BUDGET

Through various departments, government expenditure in terms of job creation is the following:

Department of Labour :R22 million for the programme "Labour Policy" - includes R2 million for research and development
Department of Trade and Industry:
R771 million to investment support;
R77 million to small business promotion and development; R785 million for trade facilitation
Department of Public Works: R1 665 million on land and building programmes and community-based Public Works Programme
Department of Water Affairs: R770 million on community water supply projects in the next financial year, R596 million on the Mutoti Dam in the Northern Province over the next four years; R632 million on the Skuifraam dam near Cape Town over the next four years
Department of Transport: R742 million on road construction
Department of Health: R100 million on hospital rehabilitation
Consolidated Municipal Infrastructure Programme: R583 million transferred to local governments
Government also supports and funds research and planning for labour intensive public procurement and construction

HOUSING AND SHELTER

CONSTITUTIONAL OBLIGATIONS

Every person in South Africa has the right to have access to adequate housing and every person also has a right not to be evicted from his or her or have his or her demolished without an order of the court.

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 25 of The Universal Declaration of Human Rights
Article 11 of The International Covenant on Economic, Social and Cultural Rights

The objectives, principles and recommendations contained in The UNCHS's Global Urban

Observatory Programme and Habitat Agenda which include:

- adequate shelter for all
- sustainable human settlements
- enablement and participation
- gender equality
- financing shelter and human settlements
- international co-operation
- assessing progress

WHAT HAS BEEN DONE

POLICY

Government's policies are guided by the White Paper on Housing published in December 1994.

The Department of Housing's National Housing Programme emphasises the following:

- priority for the needs of the poor
- meeting the special housing needs of marginalised women and people with disabilities
- encourage and support individuals and communities in their efforts to fulfill their own housing needs by assisting them in accessing land and services and providing information
- ensuring a sustainable housing and urbanisation process
- achieving secure housing with secure tenure within a safe and healthy environment

The Department of Housing is using the indicators for tracking progress in implementing sustainable housing programmes as set out in the Habitat Agenda

The Department of Housing released the Urban Development Framework, influenced by Habitat Agenda which:

- promotes a consistent urban development policy approach for effective urban reconstruction and development
- guides development policies, strategies and actions for all stakeholders in the urban development process

develops a collective vision
Government has repealed all discriminatory legislation

LEGISLATION

The Housing Act of 1997

It provides for:

facilitation of a sustainable housing development process general principles applicable to housing development defining the functions of national, provincial and local government financing of national housing programmes

ADMINISTRATIVE STEPS TAKEN

The National Housing Subsidy Scheme

This is the cornerstone of the government's goal of delivering housing to poor people. The scheme provides individual ownership or institutional subsidies to all households earning less than R3 500 per month. The scheme also outlines the various organisations that can direct government funding towards housing assistance to the poor.

They include bodies which provide access to finance, like the National Housing Finance Corporation, the Rural Housing Loan Fund and the Peoples Housing Partnership Process.

The Department of Housing has also instituted a number of other measures to facilitate the provision of adequate housing in South Africa:

The Housing Accord

Between March 1994 and November 1996, the department had facilitated the building of 123 139 houses. This number is far less than the projected annual delivery of 192 765. The department has a five year plan starting from March 1994 to provide 1 million houses. In the beginning of 1997 the government realised that it would not be able to provide the 1 million houses.

The Housing and Urbanisation Information System (HUIS)

This is a national management information system and tool for the design and targeting of housing and urban development policy. Nomvula has three principle components:

housing information human settlement information basic demographic information

The People's Housing Partnership Process

This addresses the needs of poor people

The Mortgage Indemnity Fund

This is a partnership between the private sector, the government and the community. It aims to encourage mortgage lenders to lend money at an affordable rate and in a sustainable way in neglected areas in the country

The Rural Housing Loan Fund
This is a rural subsidy scheme that came into effect in May 1998

Special subsidies for people with disabilities

FURTHER CHALLENGES

Redressing the disparities in housing between
black and white people

Addressing the needs of people living in rural
areas

Addressing the problem of overcrowding

Tackling the disparity in the quality of the
services, such as electricity, and sanitation

Addressing the needs of less people,
particularly less children

Addressing the backlog in the building of houses,
especially for people living in informal settlements

Addressing the question of security of tenure

ADDRESSING THE CHALLENGES

Resourcing and implementing the National Housing
Subsidy Scheme

Implementing and extending the Rural Housing
Loan Fund

Making more land available for housing
development

Implementing and extending the Department of
Water Affairs and Forestry's Water Supply and
Sanitation Infrastructure Programme

Providing shelter for less people and street
children in conjunction with the Department of
Health and Welfare

Implementing the Department of Housing's
five-year plan to provide one million houses

Implementing the provisions of the Extension of
Security of Tenure Act

Ensuring that special consideration is given to
female-headed households in the provision of
housing

MONITORING AND IMPLEMENTATION

BODIES

The Department of Housing

The Housing Development Board

The Housing Subsidy System

The Housing and Urbanisation Information
Systems (HUIS)

The Human Settlement Indicators Pilot Project
The Department of Water Affairs and Forestry
The South African Human Rights Commission
The Commission for Gender Equality
The Youth Commission

RESOURCES AND BUDGET

Housing budget as a % of national and provincial expenditure:

1995/6	1996/7	1997/8	1998/9	1999/2000	2000/01
1.9	0.9	2.21	1.9	1.96	1.8

HEALTH

CONSTITUTIONAL OBLIGATIONS

Every person in South Africa has the right to:

Access to health care services, including
reproductive health
Emergency medical treatment

The State must take reasonable legislative and
other measures within its available resources, to
achieve the progressive realisation of the right to
access to health care services.

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 25 of The Universal Declaration of
Human Rights
Article 12 of The International Covenant on
Economic, Social and Cultural Rights
Article 16 of The African Charter

We have signed and ratified:

The United Nations Convention on the Rights
of the Child
The United Nations Convention on the
Elimination of All Forms of Discrimination
Against Women (CEDAW)

WHAT HAS BEEN DONE

POLICY

Government's health policy is guided by redressing the legacy of the past. We are promoting equity, accessibility and use of our health services.

Towards a National Health System, a draft document that was published in November 1995, sets out government's objectives. They are:

- to unify the fragmented health services at all levels into an integrated and comprehensive National Health System
- to extend the availability and ensure the appropriateness of health services
- to develop health promotion activities
- to develop the human resources available to the health sector
- to transfer community participation across the health sector
- to improve planning in the health sector and the monitoring of health status and health services

The Department of Health, in consultation with the Department of Education, has formulated a draft policy document for life skill education, especially pertaining to the issues of HIV and AIDS.

The Department of Health has repealed all laws that deprived people of the right of access to health services.

LEGISLATION

The government has passed the following laws to provide basic health care services for everyone, especially for women and children who are seen as the most disadvantaged groups:

The Choice on Termination of Pregnancy Act of 1996

The Medical, Dental and Supplementary Health Professions Amendment Act of 1995

The Pharmacy Amendment Act of 1995

The Nursing Amendment Act of 1995

The Chiropractors, Opticians and Allied Professions Amendment Act of 1995

The following Bills are under consideration:

The Aged Persons Amendment Bill (1998)

This makes provision for the protection of elderly people both in the home and in the community

The National Health Bill (1998)

In terms of this bill government will provide:
free health care to pregnant and lactating women free health care to children under the age of six access to free primary health care primary school nutrition programme integrated nutrition programme

ADMINISTRATIVE STEPS TAKEN

The State has introduced the Presidential Lead Project to provide free health care services in public health care facilities for children under the age of 6 years and pregnant and lactating women. The aim of this project is:

- to improve the quality of life for women and children by reducing maternal mortality

- to improve the health of new-born infants through equitable access to primary health care, including family planning, ante-natal delivery and post-natal care for the mother and the infant; and to increase access to essential obstetrics and neo-natal care

- to provide clinics in areas, especially in rural areas, which previously did not enjoy easy access to health care services

Dissemination of information through campaigns and the media

Faces - A project that employs people living with HIV and Aids within the Department to promote the rights of HIV/Aids sufferers

The National Programme of Action for Children

The Primary Health Carefree Programme (PHCP) that deals with:

health care for primary school children
free health care for children under six
free health care for pregnant mothers

National AIDS Plan that focusses on people living with HIV/AIDS. It also promotes prevention, and education, as a means of combatting prejudice and discrimination.

FURTHER CHALLENGES

Addressing the following general problem areas:

- unequal access to basic health care
- disparities in provision of health care services
- co-operation between the private and public health services
- unequal distribution of health resources
- inadequate facilities
- the quality and service delivery of health personnel
- overcrowded public hospitals

Children:

- dealing with the unacceptably high infant mortality rate amongst African children. In 1995 there were 40,2 deaths per 1000 live births
- implementing the National Programme of Action for Children

Rural people:

- making health services accessible and more affordable for rural people

Elderly People:

- making health services accessible and more affordable for elderly people
- enacting the Aged Person Amendment Bill

People with disabilities:

- addressing the health needs of people with disabilities

HIV/AIDS

- implementing the National Aids Plan

Occupational Health

- addressing health and safety conditions in the mines
- dealing humanely with the health consequences of work in the mining

industry

ADDRESSING THE CHALLENGES

Extending public education on:
health issues
available health services
combatting ignorance, prejudice and
discrimination towards HIV/AIDS
sufferers and people with disabilities

Children:

Extending the President's Lead
Project
Continuing the Primary Health
Carefree Programme (PHCP)

Rural people:

Increasing the number of
mobile and permanent clinics

Elderly people:

providing adequate state funding
establishing s and frail care centres
providing funding for -based care

Improving the quality of care in s and frail care centres to ensure
that the rights of elderly people are not violated
monitoring the treatment of elderly people in medical aid
schemes

People with disabilities:

making health care affordable and accessible
providing aids like wheelchairs, hearing aids, white sticks and

other special aids

People with HIV/AIDS

making necessary drugs available
extending the Faces project

Implementing the National Aids Plan, focusing especially on
migrant laborers
families whose lives have been disrupted by forced
removals, political violence and the migrant labour system

women

gay men

young people

commercial sex workers

Women

extending free health care to pregnant and lactating women
providing more facilities for the termination of pregnancy
creating greater public awareness on issues
surrounding the termination of pregnancy
Extending the President's Lead Project

Occupational health

developing a comprehensive and coherent policy towards
HIV/AIDS, in the mining industry and specifically
addressing the way in which mineworkers are tested,

counseled, educated and treated
 implementing the Mines, Health and Safety Act and the
 recommendations of the Lean Commission
 developing a national data base on occupational health that
 reflects the prevalence and incidence of occupational disease among
 mineworkers and ex-mineworkers reviewing the system of implementing
 proper medical care for disabled and diseased ex-miners

MONITORING AND IMPLEMENTATION

BODIES

The Department of Health
 The Department of Welfare and
 Population Development
 The National Environmental Health
 Surveillance Programme

- . The Department of Minerals and Energy
- . The Mine Health and Safety Council
- . The Mine Health and Safety Inspectorate
- . The National Programme of Action for Children
- . The National Aids Plan
- . The Office of the Public Protector
- . The South African Human Rights Commission
- . The Commission for Gender Equality
- . The Youth Commission

RESOURCES AND BUDGET

R18 million annually for nutritional
 services
 R500 000 for drafting of the new
 health bill
 Health budget as a % of national and
 provincial expenditure:

1995/6	1996/7	1997/8	1998/9	1999/2000	2000/01
10.18	10.42	10.62	12.23	12.01	11.73

FOOD

CONSTITUTIONAL OBLIGATIONS

Every person has the right to have access to
 sufficient food. The State must take reasonable

legislative and other measures within its available resources to achieve the progressive realisation of this right.

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 25 of The United Nations Declaration
on Human Rights
Article 11 of The International Covenant on
Economic, Social and Cultural Rights

At the regional level our country is committed to working together with the other Southern African Development Community member countries (SADC) to achieve regional food security.

WHAT HAS BEEN DONE

POLICY

Government is guided by implementing policies that lead to an improvement of food production and economic development. We are committed to:

Promoting equality and
non-discrimination
Ensuring that nothing impedes a
person's right to food
Eradicating poverty
Achieving durable peace
Achieving the full and equal
participation of men and women
Achieving sustainable development of the economy
Promoting the social development of the people

We are focusing on providing food security for everybody. By this we mean that all people, at all times, should have access to enough safe and nutritious food to lead a health and productive life.

We are trying to ensure economic development and empowerment through:

agricultural research
the extension of
agricultural services
the creation of an

infrastructure
financial assistance to
the farming community

LEGISLATION

The Marketing of Agricultural Products Act of 1996

The Agriculture Research Amendment Act of 1996

The Land Bank Amendment Act of 1998

This enables previously disadvantaged people to apply to the Land Bank for loans in order to assist them in planting crops. They can apply for loans as small as R500-00 (Five hundred Rand).

ADMINISTRATIVE STEPS TAKEN

We are committed to the World Food Summit Plan of Action contained in The Rome Declaration (1996) The White Paper on Agriculture addresses both national and household food security. A Green Paper on food security has also been published. The Department of Agriculture is setting up a national steering committee on food security. This will enable it to measure the extent of food insecurity and to ensure that it targets vulnerable groups properly.

The Department of Agriculture has set up the Broadening Access to Agriculture Thrust (BATAT). The BATAT Task Team has identified 12 programmes of action:

- the development of previously disadvantaged farmers' associations
- the problems in colleges of agriculture
- a nurturing land programme
- reorientation training of agricultural extension staff
- a state guarantee scheme
- a state farmer support scheme
- a human resource development programme
- a basic agricultural glossary
- a farmer training programme
- an increasing market awareness drive
- the development of a technology

development master plan
a scheme of financial
assistance for pilot projects

The Departments of Agriculture and Health, together with the provincial departments of agriculture have set up the Primary School Feeding Scheme. The National Programme of Action for Children is addressing the provision of adequate food for children everywhere. The departments of Health and Education have launched a Primary School Nutrition Project. This aims to improve the knowledge, perceptions and attitudes about food, as well as daily eating patterns, of primary school children, their parents and teachers, through nutritional education. This will become part of the general school curriculum.

Land Care South Africa is a project that involves local communities in natural resource conservation, environmental issues and soil erosion. There are poverty alleviation programmes including:

pilot projects in rural areas in Mpumalanga, KwaZulu-Natal and the Northern Province
the anti-hunger campaign - government in cooperation with the CBO Network and Community Internship Programme of the University of Natal (Pietermaritzburg)

We have produced a Green Paper on Disaster Management. This is the first attempt by a South African government to produce a disaster policy that includes early warning systems for making people less vulnerable to disaster.

FURTHER CHALLENGES

Poor people living in rural areas and informal settlements, as well as women and children. The imbalances in the provision of food caused by the past discriminatory policies of the apartheid government. Addressing the food and nutritional needs of millions of South Africans who have been deprived of access to food, children who are

stunted by malnutrition and children who die of hunger.

Developing and strengthening food security

Addressing the food needs of the children who go to school without breakfast and those who do not have any meals during the day.

Addressing the food and nutritional needs of people living in rural areas.

Addressing the regional dimensions to food needs, particularly in poor areas such as the Eastern Cape, a province with a poverty rate of 70%

Instituting measures to support previously disadvantaged farmers

Increasing access to land for previously disadvantaged and dispossessed people

Addressing the food needs of elderly people, particularly elderly women in the rural areas

Combatting public corruption and mismanagement of feeding schemes

Reducing severe, as well as moderate, malnutrition among children under five to half of the 1990 levels

Reducing the rate of the low birth weight rate (2.5kg or less) to less than 10%

Reducing iron deficiency in women by one third of the 1990 levels

Eliminating iodine deficiency disorders

Empowering all women to breast-feed their children exclusively for four to six months

and to continue breast-feeding, with complementary foods, into the second year

Ensuring that all household members, regardless of age and gender, have enough food to cover basic nutrition needs

ADDRESSING THE CHALLENGES

Viewing the right to food in the context of food security

Implementing the national policy for sustainable use of agricultural resources

Promoting the Land Care South Africa project

Implementing the BATAT programme

Extending the poverty alleviation programmes

Extending the anti-hunger campaigns

Continuing to monitor and collect food security data and compile food balance sheets on the food security status of the country by the Food Security Division of the Department of Agriculture covering issues like:

supplies and prices

market distribution
availability of food
monitor food imports
food safety
Implementing land reform, restitution and
security of tenure
Extending social welfare services to elderly
people, particularly rural women

MONITORING AND IMPLEMENTATION

BODIES

The Food Security Working Group
The National Programme of Action for Children
The Department of Agriculture
The Department of Health
The Department of Welfare
The South African Human Rights Commission
The Commission for Gender Equality
The Youth Commission
The Office of the Public Protector

A survey on access to food in households will be undertaken on a quarterly basis

RESOURCES AND BUDGET

In relation to food security, the Department of Agriculture has set aside an amount of R2.2 million for the 1998/99 budget.

WATER

CONSTITUTIONAL OBLIGATIONS

The Constitution provides for every person in the country to have access to sufficient water. The State is obliged to take reasonable legislative and other measures within its available resources to achieve the progressive realisation and enjoyment of this right by every person in the country.

INTERNATIONAL OBLIGATIONS

We have ratified:

The Convention on the Law of the
Non-Navigational Use of International
Watercourses

The Protocol on Shared Water
Course Systems in the Southern
African Development Community (SADC)
We have further agreements on shared water
courses with Lesotho, Mozambique,
Zimbabwe, Botswana and Namibia.

WHAT HAS BEEN DONE

POLICY

Government's policy regarding water
acknowledges the need to:

Underline the public trusteeship role of national government
Remove all discriminatory water legislation
Create a basic human needs reserve
See water for basic human needs as a
priority right
Satisfy the essential needs of
individuals for drinking, food
preparation and personal hygiene

Government has initiated a number of
activities to ensure that all South
Africans have access to basic water
services. These include:

A White Paper on Water Supply and
Sanitation Policy (1994)
A White Paper on a National Water
Policy for South Africa (1997)
The Water Law Review Document, A
Framework for Regulating Water
Services

These documents set out the principles
that:

development should be
demand driven and
community based
priority should be given
to those who are
inadequately served at
present: 'some for all'
rather than 'all for
some'
the regional allocation
of development
resources must be fair

LEGISLATION

The National Water Act of 1998

The main object of the Act is to provide for the management of the nation's water resources so as to enable the achievement of sustainable use of water for the benefit of all water users. The Act has the effect that:

the national government will act as the public trustee of the nation's water resources
water for basic human needs and the protection of aquatic ecosystems of the relevant water resources will be reserved
the right to use water will no longer be tied to the ownership of land
water use allocation will not be permanent
all water in the water cycle will be treated as part of the common resource and the distinction between private and public water will be abolished
there will be fair access to water resources for all users, particularly for disadvantaged groups
to promote fair access to water for disadvantaged groups for productive purposes such as agriculture, some of the water charges may be waived for certain periods to enable them to use the water resource
to promote fair access to water for basic human needs, some or all of the water charges will be waived for certain people and groups
the quality of water resources will be protected
there will be integrated management of water resources with the delegation of powers to institutions at regional and catchment levels so as to enable everyone to participate in processes
classification of water resources
provision for the ecological sustainability of various water resources
the progressive establishment of catchment management agencies

The Water Services Act of 1997

Some of the objects of the Act are to:

set out the rights and duties of service providers and consumers

set national standards (including norms and standards for tariffs) to ensure enough continuous, affordable, and fair water services regulate contracts for the provision of water services to promote the fair and transparent provision

take reasonable measures to realise the right of access to basic water services and basic sanitation, at the calculated rate of:

25 litres per person per day

Within 200 metres from their dwelling

ADMINISTRATIVE STEPS TAKEN

The Rural Water Supply and Sanitation Programme which provides basic services to all South Africans has served 2.9 million people out of a backlog of 12 million

The Working for Water Programme uses labor-intensive methods to provide employment for previously disadvantaged and unemployed people by clearing invasive, alien vegetation. This will rehabilitate degraded land and secure the sustainable productivity of land.

The BOTT Project (Build, Operate, Train and Transfer) is one of the methods the Department of Water Affairs and Forestry is using to bring water and sanitation to communities through partnerships between the public and private sectors

The Department of Water Affairs and Forestry has made the public aware of their right to have access to sufficient water and basic sanitation by ensuring that its new laws are written in plain language and widely distributed in pamphlet form

The Department of Water Affairs and Forestry has distributed guidelines to local government on the new water laws and has held a series of workshops to inform local government officials of the implication of the laws. Similar workshops will be held with other sectors that are affected by the laws.

FURTHER CHALLENGES

Addressing the backlog in basic services
Ensuring effective, fair and sustainable water services delivery through local government by:
 establishing infrastructure
 improving management and financial systems
 empowering people socially
 establishing appropriate institutional arrangements
 giving assistance in planning processes
 giving assistance in establishing viable financial systems
Providing water to poor households in rural areas
Alleviating the burden on rural women and particularly girl children who have to walk great distances on a daily basis to fetch water
Addressing the lack of knowledge with regard to the extent of the needs
Addressing the lack of funding and resources
Bringing water closer to the people who use it
Providing basic sanitation facilities like ventilated pit toilets
Ensuring effective monitoring of water services

ADDRESSING THE CHALLENGES

Continuing the Rural Water Supply and Sanitation Programme
Continuing the Working for Water Programme
Continuing the BOTT Project
Enhancing skills and building capacity in local government

MONITORING AND IMPLEMENTATION

BODIES

The Department of Water Affairs and Forestry
The Department of Health
The Department of Environmental Affairs and Tourism
The Department of Social Security
The South African Human Rights Commission
The Commission for Gender Equality
The National Programme of Action for Children
The National HSP

RESOURCES and BUDGET

The Department of Water Affairs and Forestry's national budget for water supply and sanitation projects is:

1998/1999 - R1 069 679 000
1999/2000 - R1 245 879 000
2000/2001 - R526 277 000
2001/2002 - R308 239 000

LAND

CONSTITUTIONAL OBLIGATIONS

The State must take reasonable legislative and other measures, within its resources, to foster conditions that enable citizens to gain access to land on an equitable basis. The Constitution sets down 19 June 1913 as the date from which land restitution or compensation claims can be considered.

A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled either to tenure which is legally secure or to comparable redress

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 17 of The Universal Declaration of Human Rights
Article 14 of The African Charter

WHAT HAS BEEN DONE

POLICY

Government land policies focus on land reform issues such as:

Land restitution
Land redistribution
Security of tenure

LEGISLATION

The Abolition of Certain Racially Based Land Measures Act of 1991

Provision of Land and Assistance Act of 1993 (as amended)

This makes provision of subsidies to households earning less than a certain amount per month to enable them to purchase land. It is linked to the housing subsidy

The Restitution of Land Rights Act of 1994

This provides that all persons who were dispossessed of land as a result of racially discriminatory laws or practices are entitled to restitution through restoration of the actual land or to comparable redress.

The Interim Protection of Informal Land Rights Act of 1996

Targeted at people with informal land rights
such as communal occupants of land

The Land Reform (Labour Tenants) Act of 1996

The Extension of Security of Tenure Act of 1997

rights This provides for the protection and confirmation of insecure land

ADMINISTRATIVE STEPS TAKEN

Extension of the Security of Tenure Act
Communication Campaign. This is a
radio and print campaign targeted at
people who do not have secure tenure -
farm workers, people living on
state-owned land, people living on land
with the consent of the owner, people
living on land occupied on a tribal
communal basis

Establishment of the Commission for
the Restitution of Land Rights

Establishment of the Land Claims
Court

Establishment of a Land Panel, for
dispute resolution and arbitration in
land claim matters

Creation of public awareness
campaigns around security of tenure
and tenure reform

FURTHER CHALLENGES

Attending to the following:

- systematic land dispossession of
black people

- land redistribution

- security of land tenure - secure
ownership

- tension between customary law and
other land rights

- the land needs of women, particularly
in rural areas

Dealing with the increasing incidence of land
encroachment by many black people in order
to establish informal settlements

Dealing with the unlawful evictions of labour
tenants and farm workers are an indication of
the urgent need to address the land question
in South Africa

Reforming the magistrates courts in the area of dealing with land issues
Providing legal representation for evicted farm workers and tenants
Providing legal assistance to people seeking access to land reform
Simplifying the procedures for making land claims

ADDRESSING THE CHALLENGES

Restitution through:

- Implementing the Restitution of Land Rights Act
- Providing adequate resources for the Commission for the Restitution of Land Rights
- Simplifying the procedure for making land claims
- Strengthening the Land Claims Court
- Providing legal assistance for people making claims

Redistribution through:

- Implementing the Provision of Land and Assistance Act
- Releasing state land
- Extending and intensifying the Stake Your Claim Public Awareness Campaign

Security of land tenure through:

- implementing the Extension of Security of Tenure Act
- extending and intensifying the ESTA public awareness campaign
- educating magistrates on land reform and human rights
- providing legal assistance for people making claims
- establishing advice centres for people who want to make land claims
- simplifying legal procedures
- implementing the Communal Property Associations Act to ensure that women have equal access to land
- providing adequate resources for the Land Panel to arbitrate disputes
- Providing access to land ownership for entrepreneurial purposes for historically disadvantaged people

MONITORING AND IMPLEMENTATION

BODIES

The Department of Land Affairs
The Commission for the Restitution of Land Rights
The Land Claims Court
The Land Panel
The South African Human Rights Commission
The Commission for Gender Equality

RESOURCES AND BUDGET

R685 million (0.43% of total national expenditure) was allocated to the Department of Land Affairs in 1998/9. Of this amount, R468 million was allocated under the programmes of Land Reform Policy and Land Reform Implementation

SOCIAL SECURITY

CONSTITUTIONAL OBLIGATIONS

Every person in South Africa has the right to have access to:

Social security
Appropriate social assistance if the person cannot support himself or herself and his or her dependants.

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 22 of The Universal Declaration of Human Rights
Article 9 of The International Covenant on Economic, Social and Cultural Rights

WHAT HAS BEEN DONE

POLICY

Our government's policies are guided by the provisions in:

The White Paper for Social Welfare and the draft White Paper for a Population Policy.

These aim to:

facilitate the provision of appropriate developmental social welfare services to all South Africans, especially those living in poverty, those who are

vulnerable and those with special needs
promote and strengthen the
partnership between government, the
community and organs of civil society
promote inter-sectoral social development
ensure the implementation of relevant
international conventions ratified by
the State
implement and fulfill constitutional
provisions and the Reconstruction
and Development Programme

The White Paper for Social Services states that
'a national plan of action for the next five
years will be developed by the national and
provincial departments of welfare, in
consultation with all stakeholders. to facilitate
the shift towards a comprehensive, integrated,
equitable, multi-disciplinary and
developmental approach in the welfare field'.
This action plan will contain detail time-related
goals, strategies and benchmarks for realising
the right to social security.

Social security and welfare expenditure form
an essential part of government's programme
to address poverty. The domain of social security is:
poverty prevention
poverty alleviation
social compensation
income distribution

A Policy framework and minimum standards
have been developed for the Child and Youth
Care system of services to children, young
people and their families

LEGISLATION

The present government has unified the
administration of social security. Since March
1996 it has operationalised the Social
Assistance Act of 1992. This makes provision for:
the unification of all laws
that govern social assistance
(Non-contributory social security)
the payments of grants to, or
for the benefit of, the most
vulnerable members of our
society such as poor people,
elderly people and people with disabilities

ADMINISTRATIVE STEPS TAKEN

The Child Support Grant replaced the previous system that excluded poor black women, especially rural women from the state maintenance support system.

FURTHER CHALLENGES

Increasing the uptake rate of the child support grant to reach an estimated three million of the poorest of the poor
Providing for the social security and social assistance needs of unemployed people, people with disabilities, children and elderly people
Addressing the imbalances in the provision of social security and assistance caused by past discriminatory policies under the apartheid regime:
pensions
family and child maintenance support grants
disability related assistance
Addressing inefficiency and corruption
Eradicating the backlog in payments
Unifying the fragmented administrations
Overcoming the delays in assessing and processing applications
Promoting public awareness campaigns on benefits that can be accessed
Providing subsidised welfare housing for people who cannot care for themselves independently

ADDRESSING THE CHALLENGES

Making issues relating to pensions a national priority
Implementing the Child Support Grant which aims to reach an estimated 3 million of the poorest of the poor
Providing assistance and service to those who qualify. The department is considering affiliation with the International Social Services. This would lead to more efficient social services.
Providing subsidised welfare housing for the category of people who cannot independently care for themselves
Widening access to the Unemployment Insurance Fund (UIF)
Developing more efficient mechanisms for processing applications for and payments of:
pensions
child and family maintenance grants

Making issues related to pensions a national priority
 Developing tighter management mechanisms to discourage corruption and improve efficiency
 Developing stringent prosecution mechanisms to discourage corruption and improve efficiency
 Ensuring speedy enactment of the Aged Persons Amendment Bill which makes provision for prosecution of people, other than the pensioner, who misuse pensions
 Extending the computer system for pension applications, processing pay-outs
 Rationalising and unifying the inherited social security system
 Extending the public awareness campaigns on:
 services available to children and young people
 child abuse
 social benefits that can be accessed

MONITORING AND IMPLEMENTATION

BODIES

The Department of Welfare and Population Development
 The Department of Health
 The South African Human Rights Commission
 The Commission for Gender Equality
 The Youth Commission
 The Office of the Public Protector
 The UN Convention of the Rights of the Child
 The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

RESOURCES AND BUDGET

88% of total welfare budget allocated to social assistance (7.5% of government spending)
 Social security and welfare budget as a % of national and provincial expenditure:

1995/6	1996/7	1997/8	1998/9	1999/2000	2000/01
9.61	9.23	9.67	9.65	9.41	9.27

EDUCATION

CONSTITUTIONAL OBLIGATIONS

Every person in South Africa has the right to:

basic education
adult basic education

Where it is practical and reasonable, everyone has the right to:

further education
education in an official language of their choice
establish and maintain independent
educational institutions at their own expense under certain

conditions

INTERNATIONAL OBLIGATIONS

Our international obligations are guided mainly by the provisions in Article 26 of The Universal Declaration of Human Rights. These include:

free, compulsory, elementary education
access to technical and professional
education
equal access to higher education

Education should:

develop the human personality
strengthen respect for human rights and
fundamental freedoms
promote understanding, tolerance and
friendship among all nations, racial or
religious groups

WHAT HAS BEEN DONE

POLICY

The government's educational policies are designed to:

redress the inheritance
of race-based education
provisions
to build a new and
unified system based on
equity, redress and a
progressive increase in
quality
ensure that there is no

unfair discrimination
against anyone by
repealing all
discriminatory
education legislation
provide the educational
institutions and services
that are necessary to
ensure at least
reasonable access to
education by anyone in
the country
situate primary schools
within reach of
learners, by public
transport if necessary
ensure that lack of
resources are not a
barrier to education
ensure that no learner
is excluded from a
school because of
non-payment of fees
provide sufficient funds
for basic education
train educators

Much of this vision is contained in
Curriculum 2005, which was launched
in April 1997. Eight learning areas
have been identified:

language, literacy and communication
human and social sciences technology mathematical literacy,
mathematics
and mathematical sciences
arts and culture
economics and management science
life skills/orientation

LEGISLATION

The South African Qualifications Authority Act of 1995

It provides for the development and
implementation of a National
Qualifications Framework, and the
establishment of the South African
Qualifications Authority

The National Education Policy Act of 1996

This determines the national policy for education.

The South African School's Act of 1996

This outlines a uniform system for the organisation, governance and funding of public schools, and for independent schools, at national level. It also provides for compulsory basic education for all learners from the age of six years or Grade 1 to the age of 15 years or Grade 9.

The Higher Education Act of 1997

It regulates higher education. It provides for the establishment of the Council for Higher Education, and for the establishment of public and private higher education institutions.

The Further Education and Training Act of 1998

It regulates further education and training beyond age 15 or Grade 9, and provides for further education and training institutions

The Employment of Educators Act of 1998

It regulates the employment of educators by the State

The nine provinces have also written their own provincial laws to regulate school education.

The following Bill is under consideration:

The Bill on Adult Basic Education and Training

This is presently being drafted for 1999. It will provide basic education for persons older than 16 years, many of whom are working, or who were disadvantaged and cannot find employment. It provides for:

- lifelong learning and development
- education and a training base for further learning and career path development for workers
- the enhancement of health and safety in the workplace
- the promotion of knowledge, skills and attitudes for social, economic and political participation
- nationally recognised certificates
- a national Multi-Year Implementation Plan for Adult Basic Education and Training

FURTHER CHALLENGES

Issues of redress

- reducing the high rates of illiteracy
- upgrading inferior and unequal infrastructures, especially:
 - shortage of classrooms
 - no water within walking distance
 - no electricity
 - no telephones
 - inadequate toilet facilities
 - school buildings in a state of disrepair
 - lack of access to technological, scientific, recreational and sporting facilities
- different pass rates for different races
- reallocating resources to meet pressing needs in education
- building schools, improving existing education institutions and providing sufficient textbooks, computers and education media to schools

Cultural issues

- entrenching a culture of learning, teaching and services
- maintaining positive discipline at public schools

Institutional capacity building

Issues of access

- broadening access to schools, particularly learners with special needs
- providing transport for learners to access public schools

Special needs issues

- providing quality education to the poor, people living in rural and informal areas, women, girl-children, less children and less adults
- enhancing current initiatives to combat child labour
- strengthening and expanding the basic feeding scheme
- making provision for learners with special needs in ordinary public schools
- making provision for learners with severe disabilities in special schools
- making schools more accessible for learners with disabilities

Building a culture of human rights

- promoting a human rights culture
- educating towards a culture of human rights

- addressing violence against women in an educational context
- promoting gender equity
- educating people about HIV/AIDS

Developmental education issues

- training and educating the unskilled labour force

ADDRESSING THE CHALLENGES

Issues of redress

- implementing an Early Childhood Development programmes for all previously disadvantaged groups
- expanding the basic feeding scheme in collaboration with the Department of Health
- rationalising educators and reallocating savings on salaries to other pressing needs in the provisioning of education
- implementing norms and standards for funding of schools to address the issues of equity and redress of past inequalities
- providing financial aid to students through the National Student Financial Aid Scheme (NSFAS)
- implementing the National School Construction and Upgrading Programme
- implementing the electrification programme

Cultural issues

- Implementing COLTS - the Culture of Learning, Teaching and Service Campaign to restore culture of learning and teaching
- Implementing a Code of Conduct to maintain discipline

Institutional capacity building

- strengthening the managing capacity of governing bodies of public schools
- strengthening the institutional capacity for the implementation of lifelong learning

Issues of access

- providing transport for learners, especially rural children to attend public schools
- ensuring, through the Council on Higher Education, that the curriculum for higher education will be accessible to all students

Special needs issues

- implementing a campaign to combat child labour, in conjunction with the Department of Labour
- making provision for learners with special needs in ordinary public schools
- making learners with severe disabilities in special schools
- making schools more accessible for learners with disabilities

implementing the legislation

that will be prepared by the
National Commission on Special
Needs in Education and Training
and the National Committee for
Education Support Services

Building a culture of human rights

working with the South African Human
Rights Commission to promote human
rights in schools through a human rights
week every year

conducting an annual human rights
essay competition

compiling the document: South African
Schools Act Made Easy - that can be
published as a supplement to all major
newspapers to inform citizens of their
right to school education

drafting a memorandum on children's
rights to education

publishing a guide for educators to
protect the rights of learners and to
establish a human rights culture in all schools
ratifying The Convention on

Discrimination in Education by 2000

addressing violence against women in an
educational context

promoting gender equity in schools
among educators and learners

making every effort to educate people
about HIV/AIDS

supporting the Gender Equity Task Team

drawing up a national policy on HIV/Aids

for schools in conjunction with the SA
Law Commission

Developmental education issues

implementing Curriculum 2005 fully

establishing an institute for lifelong learning

establishing a National Education and
Training Council by 1999

implementing the National Qualifications

Framework and the registration and

monitoring of national standards and qualifications

implementing the Further Education Act

Issues of technology

implementing the Technology 2005

Project by creating pilot programmes in
20 schools in the provinces

MONITORING AND IMPLEMENTATION

BODIES

The Education Management Information System (EMIS) - national collection of data on an annual basis on which basis education can be planned and monitored
The School Register of Needs Survey (SRN) - collects information on the physical facilities at schools, conducted in 1996 and completed in 1997

The South African Post Secondary Education System (SAPSE) - information on universities and technikons

BUDGET and RESOURCES

Medium Term Expenditure Framework (MTEF)

This is a detailed analytical model of the education sector. It matches key goals with what is necessary for the delivery of these goals

R213 million (0.63% of education budget) in 1995/96 on pre-primary education
R36.7 billion for 1996/7 (19.7% of the national budget), which excludes donor funding
R40 billion for 1997/98 consolidated national and provincial budgets allocated for education - the single largest portion of the budget
R5, 559 billion on universities and technikons for 1997/98

At the beginning of 1998, the Minister of Education announced that the government's contribution to the National Student Financial Aid Scheme (NSFAS) will be R300 million, a 50% increase over the 1997 contribution of R200 million. In 1997, the total fund stood at R334 million after government's contribution was augmented by donor funds from the international community. From 1994 to 1998, public funding of the NSFAS has amounted to R860, 5 million. Also, since 1994, a total of R362, 5 million has been received in donor contributions. An overall total of over R1, 2 billion has thus been provided for the NSFAS. The government has also announced that it intends to incrementally increase its allocation to the NSFAS over the next period.

Education budget as % of national and provincial expenditure (MTEF projections):

1995/6	1996/7	1997/8	1998/9	1999/2000	2000/01
21.87	22.07	21.19	22.81	22.37	21.80

FREEDOM OF CULTURE, RELIGION AND LANGUAGE

CONSTITUTIONAL OBLIGATIONS

The Constitution provides for a South Africa where all citizens shall be able to enjoy and exercise their religious, cultural and language rights. These are contained in Sections 31, 185, 186 and 235.

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 27 of The Universal
Declaration of Human Rights
Article 15 of The International
Covenant on Economic, Social and
Cultural Rights
Article 30 of The United Nations
Convention on the Rights of the Child
Article 22 of The African Charter

WHAT HAS BEEN DONE

POLICY

Government's policies are aimed at:

Promoting and protecting the cultural rights of all people in South Africa
Promoting and protecting indigenous law and all its institutions, including recognising the status and role of traditional leaders
Prohibiting discrimination on the basis of race, religion, culture or language
Promoting and protecting the right to freedom of expression
Developing all eleven official languages, especially those that were previously marginalised

The Department of Arts, Culture, Science and Technology's White Paper on Arts, Culture and Heritage, launched in 1996, sets out various policy options for the promotion and protection of cultural rights in South Africa. It follows the principle that the right to culture is central to the enjoyment of other fundamental human rights, such as the right to equality and human dignity.

The Department is also engaged in research into The Copyright Act in order to protect the rights of creators of artistic work.

A national language policy is currently being drafted.

LEGISLATION

The Pan South African Language Board Act of 1995

The Act came into operation in October 1995. It establishes the Pan South African Language Board (PANSALB) whose main functions are to:

- develop previously marginalised languages
- promote respect for other South African languages used for communication and religious purposes

The Council of Traditional Leaders Act of 1997

This amended a previous Act of the same name. It provides for the recognition of indigenous law and its institutions, and the election of a council of traditional leaders. The Council was established on 18 April 1997.

ADMINISTRATIVE STEPS TAKEN

- The establishment of the Pan South African Language Board in 1995
- The establishment of the Council of Traditional leaders in 1997
- The establishment of the Department of

Arts, Culture, Science and Technology. In order to advance cultural rights, the Department is establishing three statutory bodies:

The National Arts Council (NAC)
The National Heritage Council (NHC) and
The National Film and Video Foundation (NFVF)

These bodies will, amongst other things, focus on the development and promotion of various art forms, heritages and cultures that were neglected and marginalised in the past. The Department believes that these structures will facilitate access and equity in arts, culture and heritage in all areas of South Africa.

The Department is represented in the National Curriculum Development Committee (NCDC), established in early 1996, to ensure that all South African children have access to arts education.

The SA Law Commission has published two issue papers impacting on indigenous law. These are:

The Harmonisation of the Common Law and Indigenous Law: Customary Marriages
The Harmonisation of the Common Law and Indigenous Law: Conflict of Personal Laws

FURTHER CHALLENGES

Continuing to create an enabling environment for the respect and protection of cultural, religious and linguistic rights

Providing adequate resources

Affirming diversity while at the same time building a common nation

Combating the problems of the domination of one language group

Addressing the problem of the dominance of

foreign and western culture
Strengthening the PANSALB
Promoting tolerance and respect
Clarifying the meaning of self-determination in the South African context
Addressing the problems of copyright to protect the rights of creators of artistic works
Clarifying the role of traditional leaders
Developing an inclusive common memory and heritage
Finding a balance between universal and customary values and practices
Applying The United Nations Convention on the Rights of The Child to the African and South African context
Protecting the rights of young people in residential care

ADDRESSING THE CHALLENGES

Establishing a Commission for the Promotion, and Protection of the Rights of Cultural, Religious and Linguistic Communities
Enabling the courts to continue playing an important role in advancing cultural rights, especially those cultural rights and practices of South Africans that were not recognised or accepted under the apartheid regime
Providing resources for public education and awareness
Giving adequate resources to the PANSALB
Enacting a National Language Bill
Establishing:
 The National Arts Council (NAC)
 The National Heritage Council (NHC) and
 The National Film and Video Foundation (NFVF)
Implementing and monitoring all IBA recommendations on local content in the media
Providing resources for the Council of Traditional Leaders
Implementing the Truth and Reconciliation Commission's recommendations on symbolic reparations such as:
 monuments
 statues
 theme parks
 renaming streets, schools, public buildings etc
Encouraging the Department of Education to develop and implement policies which will encourage mother tongue learning in primary schools

MONITORING AND IMPLEMENTATION

BODIES

The Department of Arts, Culture,
Science and Technology
The Department of Constitutional Development
The Department of Justice
The Department of Education
The Department of Welfare and
Population Development
The Inter-Ministerial Committee on
Young People at Risk
The Courts
The South African Law Commission
The South African Human Rights
Commission
The Commission for Gender Equality
The Youth Commission
The Pan South African Language
Board
The Council of Traditional Leaders
The Independent Broadcasting
Authority
The National Curriculum Development
Committee

RESOURCES AND BUDGET

The Department of Arts, Culture ,
Science and technology has accessed
R50 million from the Reconstruction
and Development Programme's funds
in order to establish cultural facilities
that are lacking in formerly black
areas. The Department plans to build
43 community art centres and libraries
in all nine provinces, and these plans
have been approved by the department
of State Expenditure.

THE RIGHTS OF CHILDREN & YOUNG PEOPLE

This section focuses on the rights of children generally.

More specific issues are dealt with under each right in this section.

CONSTITUTIONAL OBLIGATIONS

Children have the right to:

A name and a nationality from birth
Family care, the care of parents or correct
alternative care when they are removed from their families
Basic food, shelter, basic health care services and social

services

Be protected from bad treatment, neglect, abuse or shame

Be protected from abusive labour practices

Not to have to, or be allowed to, do anything that:

is wrong for a child of that age

puts the child's well-being, education,
physical health, mental health, spiritual
health, moral development or social
development at risk

not to be detained except if there is no
other way to deal with the situation, and
then:

the child may only be detained
for the shortest time

must be kept away from people
over the age of 18

must be treated in ways that
are right for a child of that age

Have a lawyer, at the state's expense in civil
cases if it would be unfair not to do so

Not be used directly in wars and to be protected
during wars

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

Article 4 of The Universal Declaration of Human Rights

Article 8 of The International Covenant on Civil and
Political Rights

The United Nations Convention of the Rights of the Child

The African Charter on the Rights and Welfare of the Child

The United Nations Rules for Juveniles Deprived of their Liberty

WHAT HAS BEEN DONE

POLICY

Government's policies are guided by
the principles in The United Nations
Convention on the Rights of the Child.

South Africa is the first country to
base its National Action Plan for the
Promotion and Protection of Human
Rights on this Convention. There are
seven priority areas:

Food

Children's health and the health of their mothers

Water and sanitation

Early childhood development and basic education

Social welfare development
Leisure and cultural activities
Ways of protecting children

Policy and minimum standards for the new Child and Youth Care (CYC) system have been drafted by the Inter-Ministerial Committee. They aim to protect young people at risk and have a special focus on young people in trouble with the law.

The following departments have started transforming the policy to make sure that our policy matches international human rights standards:

The Department of Health
The Department of Welfare and Population Development
The Department of Housing
The Department of Education
The Department of Justice
The Department of Labour
The Department of Safety and Security
The Department of Correctional Services

LEGISLATION

The National Youth Commission Act of 1996

This creates a commission to co-ordinate and develop a national policy for children and young people and a plan for development

The Hague Convention on the Civil Aspects of International Child Abduction Act of 1997

This stops people, organisations and countries from removing children across Facilitates international borders and establishes procedures for getting them back to their own countries as soon as possible

The Films and Publication Act of 1996

This sets out ways of protecting children from abuse through child pornography

The Child Care Amendment Act of 1996

This includes ways of protecting and promoting the rights of children such as:

recognising indigenous and religious marriages
regulating adoption
providing shelters for street children
providing lawyers for children who need them

The Natural Fathers of Children Born Out of Wedlock Act of 1997

This gives natural fathers a right to be told when their extramarital children are being put up for adoption

The Abolition of Corporal Punishment Act of 1998

This makes it illegal and unconstitutional to give children corporal punishment

The Maintenance Amendment Act of 1998

This improves our laws on maintenance for women and children

Domestic Violence Act of 1998

Addresses violence in the family and the

The following Bill is under consideration:

The Establishment of Family Courts Bill

This establishes Family Courts to deal with all family matters

ADMINISTRATIVE STEPS TAKEN

The establishment of the National Programme of Action for South African Children (NPA) based in the Office of the Deputy President

The establishment of the Youth Commission based in the Office of the Deputy President

The appointment by the SA Law Commission of committees to look into laws about:

the prevention of family violence

children in difficult circumstances

HIV/AIDS policy in schools

juvenile justice and the creation of a new juvenile justice system

sexual offences by and against children

and laws to protect sexually abused children

child care and the revision of the Child

Care Act

customary law and children

An IMC on Young People at Risk was established in 1995 to design a new youth justice and child care and protection system (CYC system).

Magistrates, correctional services personnel, social workers, probation officers and child and youth care workers have received specialised training to care for young people who are detained in prisons and reform schools.

Programmes and processes have been piloted to provide models and best practices for the arrest, reception and referral of young people in trouble with the law.

Probation services for young people in trouble with the law are undergoing transformation and diversion programmes and services have been increased for young people.

The IMC undertook an investigation in 1996 into violations of children's rights in schools of industry, reform schools and places of safety. A range of recommendations were endorsed by Cabinet in September 1996.

A Secure Care programme for young people awaiting trial was initiated in 1995 and is almost complete with respect to the first ever youth secure care facilities in each province.

A range of inter-sectoral workshops for the purpose of sharing information and developing an understanding and commitment to the transformation process have been held. June 16th has been proclaimed National Youth Day and specific public awareness campaigns are designed each year to mark the day.

FURTHER CHALLENGES

Transforming the Child and Youth care (CYC) system that provides services to children, young people and their families

Assuring effective quality control organisations and institutions that provide residential care for children and young people

Fighting crimes against children, especially:

sexual assaults and rape

murder

assault

neglect

Dealing with the problem of street and less children

Dealing with poverty by supporting families and helping them to stay together and to develop together

ADDRESSING THE CHALLENGES

Implementing and resourcing the National Programme of Action for Children

Prosecuting criminal offences such as:

- the sale of children
- child prostitution
- child pornography
- the exploitation of child labour
- the sexual mutilation of female children
- the use of children in armed conflicts

- Funding and providing services to assist street children and to bring them back into their families and the community.
- Changing the Correctional Services Act to provide for children awaiting trial.
- Implementing the Child Care Act properly
- Putting policy, laws and other things in place to deal with child abuse and neglect
- Implementing the Maintenance Amendment Act
- Changing funding, social security and financial policies so that we can fully support:
 - the transformation of the CYC system
 - equal and appropriate distribution of resources
- Implementing the National Aids Plan, particularly for children and young people living with HIV/AIDS
- Developing the Children's Budget Project
- Extending education on Children's Rights into schools and tertiary institutions
- Developing indicators that measure all aspects of child well-being

- Strengthening the role and contribution of NGOs about children
- Strengthening the links between NGOs and the government about children
- Encouraging young people, especially children, to know and to promote their own rights

Completing the transformation of the CYC system

MONITORING AND IMPLEMENTATION

BODIES .

Cabinet, about the progress being made at a national and provincial level on implementing the NPA

The National Children's Rights Committee (NCRC)
The Inter-ministerial Core Group (IMCG) made up of the Office of the Deputy President and the Ministers of Health, Welfare and Population Development, Education, Water Affairs and Forestry, Finance and Justice. This group is responsible for guiding the development of the NPA.

The NPA Steering Committee made up of the Director-Generals of the seven ministries on the IMCG as well as representatives from the National Children's Rights Committee (NCRC) representing NGOs and UNICEF

The NPA Monitoring Task Group which is responsible for finding ways of monitor the progress made on implementing the recommendations of the CRC and the NPA recommendations

The Communications Task Group that is responsible for making sure that everyone knows about the NPA

The Inter-ministerial Committee on Young People at Risk

The South African Human Rights Commission

The Youth Commission

The Commission for Gender Equality

The Department of Correctional Services

The Department of Justice

The Rights to Development, Self-determination, Peace and a Protected Environment

The implementation of the following rights is discussed in this section:

- development
- a protected environment

THE RIGHT TO DEVELOPMENT

INTRODUCTION

Freedom from want is a fundamental human freedom. The apartheid government deliberately denied the majority of the people sovereignty over the country's wealth and resources. It also denied them political, civil and social rights. This was a denial of the right to development of black people and it left the majority of people in debilitating poverty.

The right to development is an inalienable human right. No one can give it away. It means that every human person and all peoples, is entitled to:

participate in
contribute to, and
enjoy

economic, social, cultural and political development that gives full human rights and fundamental freedoms to every person.

According to Article 1 of the Declaration on the Right to Development that was adopted by the General Assembly of the United Nations in December 1986, development is:

a 'comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals, in which human rights and fundamental freedoms can be fully realised'

The right to development is particularly relevant to the many poor and marginalised people and groups in our society. These are the people who cannot

exercise their rights and freedoms fully because they are poor or have a low social status.

The right to development means that the State has the duty to:

'ensure full exercise and progressive enhancement of the right to development', including the 'right and duty to formulate appropriate national development policies'.

At a national level, states should do everything that they can to make the right to development real. Among other things they should make sure that all people have equal access to:

basic resources
education
health services
basic water supply and sanitation
food
housing
employment
the fair distribution of income

INTRODUCTION

(Continued) States must find effective ways of making sure that women become actively involved in the development process. They must also make economic and social reforms to abolish economic and social injustices.

States must:

Formulate appropriate national development policies. These must ensure that:

people's daily well-being improves
people take part in development in a meaningful way
the benefits of any economic, social, cultural or political development are fairly shared by everybody

Create favourable conditions for making the right to development a real thing
Abolish the huge, shameless violations of human rights from the past
Overcome the results of unequal treatment

Destroy the obstacles to development that have come from failing to observe economic, social and cultural rights, as well as civil and political rights

CONSTITUTIONAL OBLIGATIONS

Our obligations are in the Preamble to our Constitution. We must:

Improve the quality of life of all citizens
Free the potential of every person in South Africa
Respect, protect, promote and fulfill all political, civil, social, economic and cultural rights

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

The Universal Declaration of Human Rights
The UN Declaration on the Right to Development
The Vienna Declaration and Programme of Action that was adopted by the 1993 UN World Conference on Human Rights. This recognised the right to development as a universal and inalienable right and a basic human freedoms

The UN global conferences on:

- population and development (Cairo)
- women (Beijing)
- development (Copenhagen)

The African Charter on Human and Peoples' Rights. This accepts the right to development as a fundamental human right

WHAT HAS BEEN DONE

POLICY

Government's policies are guided by the following principles from Reconstruction and Development Programme (RDP) and the Growth, Economic and Redistribution Strategy (GEAR):

- An integrated and sustainable programme
- A people-driven process
- Peace and security for all
- Nation building

Reconstruction and development Democratisation of South Africa

The key programmes of the RDP and GEAR are:

- Meeting basic needs
- Developing our human resources
- Getting rid of poverty
- Building the economy
- Building a democratic state and society
- Governing well

LEGISLATION

Laws that concern right to development include:

- The Independent Electoral Commission Act
- The National Water Act
- The National Forest Act
- The Water Services Act
- The Restitution of Land Rights Act
- The Housing Act
- The Social Assistance Act
- The Employment Equity Act
- The Labour Relations Act
- The Basic Conditions of Employment Act
- The Land Bank Amendment Act

The following Bills are also under consideration:

- The Open Democracy Bill
- The National Health Bill

ADMINISTRATIVE STEPS TAKEN

The Department of Trade and Industry has established a National Empowerment Fund. Some of the funding from state-owned assets will be put into a public company that will promote development. People from historically disadvantaged communities will be allowed to invest in this company.

Organisations like Ntsika and Khula, that are involved in small, medium and micro enterprises will be helped to assist:

- people who have small businesses
- rural people

women
People with disabilities
young people

FURTHER CHALLENGES

Promoting and encouraging economic growth
Creating a culture of human rights
Implementing socio-economic rights
Meeting basic needs
Eradicating poverty
Giving everyone control of the country's wealth and resources
Making sure that economic growth goes hand in hand with development
Promoting rural development
Making sure that local communities take part in development project planning
Placing people at the centre of development
Meeting the challenges of globalisation
Providing access to information so that people can take part in development plans and projects
Making social impact assessments and environmental impact assessments an essential part of development projects
Promoting and developing small, medium and micro enterprises

ADDRESSING THE CHALLENGES

Implementing the RDP and GEAR
Resourcing the state institutions properly and supporting constitutional democracy
Implementing the recommendations of the South African Human Rights Commission on the improvement and protection of socio-economic rights
Resourcing social welfare, social security and social services
Making sure that historically disadvantaged people take part in the National Empowerment Fund
Extending black economic empowerment through ongoing affirmative action
Extending the activities and programmes of the Land Bank
Implementing the Development Facilitation Act
Fighting corruption and bad administration
Involving NGOs and members of civil society in planning and implementing development projects
Making sure that South Africa retains its independence and sets its own priorities when we deal with the International Monetary Fund (IMF), the World Bank and when we enter into other development aid agreements

Resourcing institutions that promote small, medium and micro enterprises
Extending the services, resources and expertise of the Development Bank of South Africa to those communities that need the most help

MONITORING AND IMPLEMENTATION

BODIES

(NEDLAC)
The Independent Electoral Commission (IEC)
The Commission on the Restitution of Land Rights
The National Economic Development and Labour Council
The Commission for Conciliation, Mediation and Arbitration (CCMA)
The Development Bank of South Africa (DBSA)
The Land Bank
The Office of the Public Protector
The Department of Finance
The Medium Term Economic Framework (MTEF)

RESOURCES AND BUDGET

We will need to spend public money, and to re-prioritise the way that we spend that money, in order to:
meet basic needs
develop our infrastructure
promote growth
stimulate job creation.

ENVIRONMENT

CONSTITUTIONAL OBLIGATIONS

Everyone in South Africa has the right to:

An environment that is not harmful to her or his health or well-being
Have the environment protected, for the good of present and future generations, through reasonable laws and other ways of:
preventing pollution and ecological degradation
promoting conservation
securing ecologically sustainable development and use of our natural resources while at the same time

promoting valid economic and social development

INTERNATIONAL OBLIGATIONS

Our international obligations are guided by:

The Montreal Protocol for the Protection of the Ozone Layer
The Basel Convention on the Reduction of the Production of Hazardous Wastes And Control Of Movement Of Hazardous Waste
The Convention on the Control of Trans-boundary Movements of Hazardous Waste and Disposal
The Convention on Biological Diversity
The United Nations Framework Convention on Climate Change

The government is also guided by the following non-binding instruments emanating from the United Nations Conference on Environment and Development (UNCED), also known as the Earth Summit or Rio Summit held in Rio de Janeiro in June 1992:

The Rio Declaration, which sets out the basis on which states and individuals are to co-operate and further develop international law in the field of sustainable development

Agenda 21, which is a blueprint and action plan for the whole international community linking development and environmental action for:

- the fulfillment of basic needs
- improved living standards
- better protected and managed ecosystems
- a safer and more prosperous future

The UNCED Forest Principles

WHAT HAS BEEN DONE

POLICY

Government's policies are guided by the following principles:

Protecting the environment for the benefit of current and future generations
Acting as custodian of the nation's resources
Protecting the public interest in, and ensuring fair access to such resources
Using renewable resources in a sustainable way

The Department of Environmental Affairs and Tourism has produced:

A White Paper on National Environmental Management
A White Paper on Conservation and Biodiversity that is in line with the Rio Summit proposals
A discussion policy document on Hazardous Waste Management. This looks closely at the tension between economic development and environmental protection
A draft White Paper on Integrated Pollution Control

LEGISLATION

Government has passed over 35 laws on environmental issues. The most important ones are:

The Environment Conservation Act

This mandates the Minister of Water Affairs and Forestry to control waste disposal sites

The Dumping at Sea Control Act of 1980 (Amended)

The Atmospheric Pollution Prevention Act (Amended)

The Prevention and Combating of Pollution at Sea by Oil Act (Amended)

The International Convention for the Prevention of Pollution from Ships Act of 1986

The Environmental Conservation Act of 1989 (Amended)

The National Environmental Management Act (1998)

ADMINISTRATIVE STEPS TAKEN

The Department of Environmental Affairs and Tourism participated in an International Conference on Chemical Safety (ICCS) in Stockholm in 1994. The focus of the conference was on chemical and hazardous waste. An Intergovernmental Forum for Chemical Safety (IFCS) was formed at the conference. South Africa agreed to participate in

testing the Commission on Sustainable Development's Indicators of Sustainable Development.

The Department of Water Affairs and Forestry has made people aware of their right to have access to sufficient water and basic sanitation by writing the new laws in plain language and by distributing user-friendly pamphlets

The Department of Water Affairs and Forestry has issued 314 permits for waste disposal sites.

These permits set conditions to protect people and the environment. All commercial hazardous waste disposal sites need permits and are strictly controlled.

The Department of Water Affairs and Forestry and Forestry does not allow scavenging on hazardous waste disposal sites. Scavenging on other sites is strictly controlled.

There are minimum requirements for handling, classifying and disposing of hazardous waste, for waste disposal by landfill and for monitoring waste management facilities.

Scavenging will be phased out in the longer term.

Waste disposal sites that caused serious pollution in the past will be upgraded, and badly placed sites will be closed.

In May 1994, South Africa became a party to The Basel Convention, which has, from January 1998, banned imports of toxic waste by developing countries from industrial countries.

FURTHER CHALLENGES

Making sure that all South Africans have fair access to our environmental resources

Conducting continuous public awareness campaigns on:

- sustainable development
- environmental conservation
- pollution and waste disposal

Environmental challenges include:

- addressing the tension between the need for economic development and the need to protect the environment
- addressing soil erosion
- reducing population density and overcrowding
- Promoting recycling

Pollution challenges include:

- addressing the lack of environmentally friendly sources of heat and light
- enforcing the regulations on industrial pollution

- establishing an effective body to regulate pollution
- developing a holistic policy on integrated pollution control

Waste disposal management challenges include:

- extending the regulation and control of the dumping sites
- developing more effective refuse removal
- providing suitable containers for refuse
- promoting consistency in the policies on hazardous waste
- enforcing hazardous waste disposal measures

Dealing with the inadequate water supply to most people

Dealing with the need for flush toilets

Looking at areas of environmental policy that need to be improved, and encouraging participative research to do it

Addressing the environmental needs of vulnerable people like:

- people living in rural areas
- people living close to industries and waste disposal sites
- people living in residential areas without electricity
- poor communities
- workers exposed to toxic and hazardous substances
- illiterate people
- subsistence fisherman
- people with inadequate water resources
- people in low-lying areas adjacent to rivers
- people living in informal settlements
- rural women
- people with disabilities

ADDRESSING THE CHALLENGES

Government is formulating a National Waste Management Strategy

In future, all government departments must:

- find ways to exercise good judgement in granting permits for development
- establish good environmental laws and rules
- enforce all environmental laws and rules
- draw up action plans to integrate environmental rights into all aspects of government
- have proper environmental impact assessments done before they allow any new industrial development
- enforce people's environmental rights

Encouraging inter-departmental co-operation in environmental management, for example:

- in the rehabilitation of asbestos mines (The Department of Mineral and Energy Affairs)
- when poison is sprayed on food (The Department of Agriculture)
- to control of air pollution (All departments)

- and government agencies)
- Continuing to act as custodian of the nation's environmental resources
- Instituting commissions of enquiry to investigate health and pollution problems, e.g., a chemical plant in KwaZulu-Natal
- Establishing monitoring committees at large waste disposal sites
- Developing and implementing effective education and information strategies to increase public awareness
- Taking environmental decisions that:
 - ensure greater access to land and prevent further soil erosion
 - improve the way that small farmers work, through education
 - tackle overcrowding and population density with education campaigns and greater access to land and housing
 - Setting up and promoting recycling centres
- Taking anti-pollution actions that:
 - Increase access to affordable, less-pollutant energy like electricity, especially for:
 - disadvantaged households
 - small businesses
 - small farms
 - community services
- Taking waste management and disposal actions that:
 - ensure an effective administrative system for granting permits
 - enforce standards at hazardous waste disposal sites
 - provide adequate waste containers and refuse removal services
 - increase people's access to clean water
 - increase people's access to sanitation services
 - co-ordinate waste management systems
 - establish monitoring committees for large waste disposal sites
- Auditing and reviewing environmental laws to make sure that they are always appropriate
- Increasing co-ordination between government departments

MONITORING AND IMPLEMENTATION

BODIES

- The Department of Environmental Affairs and Tourism
- The Department of Mineral Affairs and Energy
- The Department of Water Affairs and Forestry
- The National Environmental Health Surveillance Programme (This is a system for collecting and

analysing data relating to the implementation of the right to a healthy and protected environment).
The South African Human Rights Commission
The Commission for Gender Equality
The Youth Commission

RESOURCES AND BUDGET

The Department of Environmental Affairs and Tourism

It has a budget for the 1998/9 financial year of R 395 212 000 and, as at 1st September 1998, a resource base of 1 577 people

The Department of Mineral Affairs and Energy
The Department of Water Affairs and Forestry

The Way Forward

Implementation

The international and regional human rights Conventions, Covenants and treaties strengthen the rights of everyone in the South African Constitution. They also draw on a long and informative jurisprudence in the application of the rights. For these reasons, the South African Government has, within the first four years of office, approved them, and parliament is currently engaged in the process of ratifying them. They are:

The International Covenant on Civil and Political Rights (Signed in 1994)

The International Covenant on Economic, Social and Cultural Rights (Signed in 1994)

The International Convention on the Elimination of All Forms of Racial Discrimination (Signed in 1994)

The Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (Signed in 1993)

The ratification of all these instruments, documents and treaties will enjoy priority attention.

The lifetime of this National Action Plan (NAP) will be three years. After that, it will be revised and re-adopted. The Government Communication and Information

System

(GCIS) will play the key role during this time in providing all who live in South Africa with information on their rights and how to access them, in the light of this NAP.

Implementation of the NAP will be the responsibility of the government and the nine provincial governments.

In retrospect, one of the most significant achievements of the process that led to the production of the NAP document has been the development of a consultative mechanism on human rights issues. This is unique in South Africa's history. It is something that we believe should be preserved in the present, and for the future. We are therefore proposing to set up a National Consultative Forum On Human Rights, to be convened by the Minister or Deputy Minister of Justice.

The various government departments, commissions and offices that are responsible for monitoring and implementing the NAP will have to report periodically on their progress. Therefore, one of the first tasks of the National Consultative Forum On Human Rights will be to formulate:

- a strategy for implementing and monitoring the NAP
- a reporting structure

This will be done in close consultation with government departments as well as organisations in civil society.

A full review of the progress achieved in implementing the NAP will take place half way through the period of this Plan, and again near the end.

Monitoring

The various bodies, institutions and entities that are referred to in the NAP under the sections on monitoring will be invited to participate actively in monitoring the Plan. These include the following:

- The South African Human Rights Commission
- The Office of the Public Protector
- The Judicial Inspectorate
- The Courts
- Parliament
- NGOs

CBOs
The media

In order to ensure that the process of monitoring the NAP is effective, the government will take steps to strengthen its support for those bodies and institutions, and also create opportunities for wider public awareness of, and involvement in, the NAP.

With the adoption of South Africa's final Constitution in 1996 and the steps taken since then, South Africa has emerged from its apartheid past and placed itself on the road to democratisation, transformation, and respect for human rights and the rule of law.

Compared to the past, South Africa has taken a giant leap forward. But the legacy of the past remains and much still needs to be done. This National Action Plan will light the way for us.