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ABBREVIATIONS

ABD	Area Based Development Programme
AgriBEE	Agriculture Black Economic Empowerment
ANC	African National Congress of South Africa
AsgiSA	Accelerated and Shared Growth Initiative for South Africa
BPFA	Beijing Platform for Action
CASE	Community Agency for Social Enquiry
CASP	Comprehensive Agricultural Support Programme
CBOs	Community Based Organisations
CDE	Centre for Democracy and Enterprise
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CGE	Commission for Gender Equality
CLRA	Communal Land Rights Act
CRLR	Commission on Restitution of Land Rights
CONTRALESA	Congress of Traditional Leaders of South Africa
CRDP	Comprehensive Rural Development Programme
CSI	Corporate Social Investment
CPA	Community Property Association
DAFF	Department of Agriculture, Forestry and Fisheries
DRDLR	Department of Rural Development and Land Reform
DSC	District Screening Committees
DPSA	Department of Public Service and Administration
EC	Eastern Cape
EE	Employment Equity
ESTA	Extension of Security of Tenure Act
FHHs	Female-headed Households
FS	Free State
GAD	Gender and Development
GFP	Gender Focal Person
GNU	Government of National Unity
GEAR	Growth Employment and Redistribution
GP	Gauteng
Ha	Hectares
IDPs	Integrated Development Plans
IFSNP	Integrated Food Security and Nutrition Programme
ISRDP	Integrated Sustainable Rural Development Program
IPILRA	Interim Protection of Land Rights Act (South Africa)
KZN	Kwazulu-Natal
LARP	Land and Agrarian Reform Project
LCC	Land Claims Court

LRAD	Land Reform for Agricultural Development
LRC	Legal Resources Centre
LRP	Land Reform Programme
LP	Limpopo
LTA	Land Reform (Labour Tenants) (Act 3 of 1996)
M & E	Monitoring and Evaluation
MP	Mpumalanga
MoU	Memorandum of Understanding
NC	Northern Cape
NCPLRO	Northern Cape Provincial Land Reform Office
NCYR	Northern Cape Fifteen Year Review
NDA	Nkuzi Development Association
NGO	Non-Governmental Organisation
NHTL	National House of Traditional Leaders
NW	North West
OECD	Organisation for Economic Cooperation and Development
PGC	Provincial Grants Committee
PLAS	Proactive Land Acquisition Strategy
PTO	Permission to Occupy
RDP	Reconstruction and Development Programme
RLCC	Regional Land Claims Commission
SA	South Africa
SADT	South African Development Trust
SAHRC	South African Human Rights Commission
SALGA	South African Local Government Association
SETA	Sector Education and Training Authority
SDI	Spatial Development Initiatives
SLAG	Settlement Land and Acquisition Grant
SPP	Surplus People's Project
SPFS	Special Programme on Food Security
SMS	Senior Staff Members
TLGFB	Traditional Authority and Governance Framework Bill
WAD	Women and Development
WARD	Women in Agriculture and Rural Development
WID	Women in Development
WB	World Bank

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Foreword: Gender and the Land Report

The Commission for Gender Equality is one of the six state institutions set up in terms of the Constitution to promote democracy and a culture of human rights in the country. Section 187 of Chapter 9 of the Constitution of South Africa, Act 108 of 1996, directs the CGE's mandate, while the powers and functions of the CGE are detailed in the Commission for Gender Equality Act 39 of 1996 (CGE Act of 1996). The CGE Act stipulates that the object of the Commission shall be to promote gender equality and to advise and make recommendations to Parliament or any other legislature with regard to any laws or proposed legislation that affects gender equality and the status of women. Furthermore the Act provides the CGE with the express power to report to the President at least once every year on its activities and the achievement of its objectives, and the President shall cause such a report to be tabled promptly in Parliament. The Commission may at any time approach the President or Parliament with regard to any matter relating to the exercise of its powers or the performance of its functions (Section 15, CGE Act 39 of 1996). Section 11(a) of the CGE Act mandates the CGE to monitor and evaluate policies, programmes and practices of both public and private sector institutions and enterprises in order to promote gender equality and make the necessary recommendations.

The research on gendered analysis of the land reform policy and implementation outcome in South Africa draws largely on the Commission for Gender Equality's thematic areas of Gender and Poverty. Land is a very important resource in poverty alleviation because people depend on it for cultivation, food production and their livelihoods. Unequal access to land remains one of the most important forms of economic inequality, which has dire consequences for women, both as social and political actors in society. Land reform, redistribution and access are therefore key issues that still need attention in South Africa. The objective of this study was to assess the extent to which land reform policy and implementation programmes have incorporated gender consideration at policy and implementation levels between 2006-2008/2009. Furthermore the study looked at the impact of land reform policy and implementation on female beneficiaries and employment equity profiles in both the Departments mandated with implementing the land reform process.

While the official land reform programme aims to redress past inequalities resulting from systematic racial discrimination, the implementation of a gender equality approach requires a change in the social structures, beliefs and divisions of labour as they manifest themselves within the work of these departments as well. Major issues here concern the advancement of women's rights in communal, family and household land, as well as the recognition of women's right to participate on equal terms with men as individuals in land reform projects.

The Commission for Gender Equality recognises that legislation and policy alone cannot guarantee equitable access to land for women because of the patriarchal nature of the South African society. Proper monitoring and evaluation systems with clear indicators, inclusive of gender disaggregated data should be put in place to ensure that there is a gender equitable land reform process and employment equity practices. The Commission for Gender Equality trusts that the findings of the report will be regarded as implementation challenges that need to be addressed. We hope that this report will serve as a catalyst for change and that it will sensitise the Department of Rural Development and Land Reform (DRDLR) and the Department of Agriculture and Fisheries (DAFF) and other stakeholders in order to address the challenges that have been identified. ***Furthermore we hope it will serve as an important resource for these departments.***



Mfanozelwa Mhokozi
Acting Chairperson – Commission for Gender Equality

EXECUTIVE SUMMARY

Objectives of the Study

The overall objective of the study is to assess the extent to which land reform policy and implementation programmes have incorporated gender interest both at policy level and in implementation practice during the period 2006 – 2008/2009. The latter concern, i.e. policy practice, is aimed at investigating the impact the programme has had on female beneficiaries, and the extent to which the departments in charge of the implementation (Department of Rural Development and Land Reform, and the Department of Agriculture, Fisheries and Forestry) have transformed their staffing profile along the prescribed equity provisions provided for in the legislation for effective implementation of gender equality practices. The gendered nature of policy and practice links closely to institutions and their orientation; hence, the crucial link between gendered outcomes in land reform and the extent to which these organisations have transformed in compliance to legislation governing equality. This latter concern is addressed in depth in the national report of the respective departments which is presented as a separate document from this. In pursuit of these broad questions, a number of specific secondary objectives governed the assessment conducted:

- *Ascertaining the extent and number of women who have benefited from the three programmes of land reform – restitution, tenure and redistribution;*
- *Compiling a gendered analysis of the extent to which the three pillars of land reform, namely redistribution, restitution and tenure reform, as defined in the 1997 White Paper provisions, acknowledge gender incorporation into their programmes and, linked to this, the impact of the respective programmes (redistribution, restitution and tenure) on women;*
- *How well the land reform implementation processes and subsequent outcomes have been carried out;*
- *Ascertaining quantitatively, from a human resource staffing perspective, the extent to which the Department of Rural Development and Land Reform (DRDLR) and the Department of Agriculture, Forestry and Fisheries (DAFF) have attained Employment Equity (EE) as defined by law, and*
- *To establish the extent to which the Department of Rural Development and Land Reform, and the Department of Agriculture, Fisheries and Forestry have taken measures to develop a gender-disaggregated database on women and land.*

Methodology and Limitations of the Study

This study was undertaken by the Commission for Gender Equality (CGE)¹, a constitutional body established in terms of the Commission for Gender Equality Act no. 39 of 1996, to support democracy. Its constitutional mandate is to promote, monitor and evaluate all gender equality issues in all spheres of society. One of the thematic focus areas of the CGE is Gender and Poverty. Land reform has been identified as critical in the fight against poverty and more recently (post-2009) as a core constituent facet of rural development. Studying the interface between gender and poverty as experienced, and the extent to which development policies espouse a “gendered” awareness both in policy conception, practice, and evaluation thereof, is a key theme that forms the work of the thematic focus areas as currently manifested in this review.

In pursuit of the study questions, a suite of methodological strategies were employed, namely quantitative and qualitative research. This was to maximise the validity/quality and reliability of data required for the study. More specifically, the documentary analysis technique was used as the primary means of data collection along with key informant interviews with relevant government officials. A critical review of government policies and programmes from a gendered perspective was undertaken. The process of documentary review was supplemented with primary information generated from a series of informant interviews. In particular, key personnel from the Department of Rural Development and Land Reform (DRDLR) and the Department of Agriculture, Forestry and Fisheries (DAFF) directly involved with gender mainstreaming in land reform, were involved. The use of key informant interviews with documentary reviews aided in the generation of information for a critical analysis of land reform policies from a gendered perspective. The interviews were conducted by the Commission for Gender Equality (CGE) researchers in the seven provincial offices and by the CGE Head Office researcher. All interviews were recorded and later transcribed. The sample of this study consisted of the following national departments and institutions: DRDLR, DAFF, the National House of Traditional Leaders (NHTL) and South African Local Government Association (SALGA).

However, the execution of the study was met with fieldwork and capacity challenges which potentially compromised the quality and quantity of data generated. The first major challenge the study faced was based on the type of gendered data the two core departments under review collect and processes for its Monitoring and Evaluation functions. The impact of land reform, the measures of success of land reform as traditionally understood and reflected in the government documentation (e.g. annual reports) is one which hinges on hectares transferred, and the number of

beneficiaries affected by the programme. The latter is frequently manifested as “un-gendered”, making it difficult to consistently disaggregate the number of women and men that have benefited from these programmes over time. Hence the first challenge relates to how data is collected, analysed and presented by the respective government departments. Though in principle, the two core departments are to be commended in acknowledging the need to mainstream gender interests into land reform, in policy practice, this was found lacking. Paucity of data in this regard compromised the richness of data one could have expected to retrieve from the primary research exercise undertaken.

The Monitoring and Evaluation unit, DRDLR, was able to generate gender-disaggregated data on the various programmes of land reform in response to a request made by the CGE. However, statistical outputs in this regard without a clear analysis of their implication reveal limited insights as to whether the broader goals of gender equality (e.g. changing power relations, cultural practices, agro-support regimes, etc. needed to bolster female participation in the agricultural value chain) are actualised. This to some extent compromised the expectations of the review due to the lack of comprehensive quantitative and qualitative data, a limitation noted by most officials interviewed in this study (as noted in the provincial reports).

Another significant challenge of this study was that of access. The two core departments targeted for this study (the then Department of Land Affairs and Department of Agriculture) were in a period of transition during 2009, hence the researchers experienced a high level of anxiety in these departments. Some departments were preparing for the new political administration to take over. This culminated in delays in securing appointments to conduct the study. Due to the problem of access and non-response, researchers were requested to document their experiences, of which these are included in the endnotes noted in each of the respective provincial reports. One notable case of capacity and research constraints faced was the lack of empirical data from two provinces, namely Eastern Cape and Gauteng. Consequently, annual reports and departments’ strategic plans were used to generate the provincial data for Eastern Cape and Gauteng presented in this report.

Broad Literature Review

Chapter 1

A broad scan of the relevant literature review is made in chapters 1, 2 and 3 of the study. In chapter 1, a brief outline of the historical justification for land reform is given, with emphasis on the impact of colonial and apartheid land dispossession processes in perpetuating gender inequality in land tenure regimes. The Land Acts of 1913, 1936 and the associated Group Area Acts of the 1950s formed the foundation

of racial land dispossession to ensure that the bulk of the land was inaccessible to the black population. A key argument in chapter 1 is that the imprint of colonialism and apartheid on inequality of land ownership with the attendant poverty patterns 16 years into the post-democratic (1994-2010) South Africa is a stark reminder of the colossal task land reform must achieve in advancing the ideals of a prosperous, equitable and non-racial democratic South Africa.

Chapter 2

This chapter broadly discusses the national and international legal frameworks that enjoin the South African government to meet its obligations on gender equality. Foremost, the South African Constitution, widely recognized as the most progressive in the world, clearly outlines gender equality as a basic principle. The Constitution confers the right to equality before the law and the right to equal protection and benefit from the law. The Constitution marked a welcome departure from the past by re-conceptualising access to land for the previously disadvantaged as a basic human right. Other key documents preceding the constitutional pronouncements included the Reconstruction and Development Programme (RDP) which was drafted in 1994 as a blueprint for making the principles of the Constitution into real targets for growth. In furtherance of the principles of equality within land reform, the RDP acknowledged the need to address gender inequities and provide government assistance for agricultural production. The constitutional principles were given legislative effect with the commencement of the South African White Paper on Land Reform Policy (1997). The 1997 White Paper views land reform as a process that should contribute to reconciliation, stability, growth and development in an equitable and sustainable way. The 1997 White Paper on South African Land Policy places considerable emphasis on gender equity in land access and effective participation of women in decision-making procedures. In pursuit of these principles, a "Land Reform Gender Policy" was approved in 1997. Land reform legislation has subsequently sought to give effect to the vision outlined in both the White Paper and the Gender Policy. In addition to the national legislative framework, South Africa has ratified several international legal instruments on gender equality.

One of these is the Beijing Platform for Action (BPFA). The Beijing Platform for Action recognises that women face barriers to full equality and advancement because of such factors as their race, age, language, ethnicity, culture, religion or disability, because they are indigenous women or because of other statuses. Consequently, governments must ensure that all barriers are being removed with regard to access and that special measures are put in place in order to meet the needs of women, especially those living in poverty, and female headed households. Another key treaty is the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) which South Africa has also ratified. CEDAW aims to eliminate discrimination made on the basis of sex, which undermines women. CEDAW obliges

state parties to establish equal property rights for women in relation to marriage, divorce and death. At the continental level, South Africa has also ratified the African Charter on Human and People's Rights. This Charter sought to address the gap in existing international human rights instruments when it came to addressing human rights from an African perspective. With regard to economic, social and cultural rights, this regional instrument upholds the right to own property, to work under equitable conditions and to receive equal work for equal pay.

On the basis of the legislative review undertaken in this study, it is commendable that the South African government has clearly articulated the centrality of gender equality as a core value and principle underpinning its constitutional and legislative mandate. This is further affirmed in the treaties that it has ratified in this regard. The extent to which the state has committed itself to these legal obligations is the subject of scrutiny in this report, with special attention to land reform as discussed in Chapter 3 of the study.

Chapter 3

This chapter discusses some of the consensual debates underpinning land reform in relation to the core challenges encumbering its success. This is discussed with special reference to gender. In the discussion, two levels of analysis are undertaken. Firstly, a gendered discussion of the three-pronged sub-programmes of land reform (namely redistribution, restitution and tenure programmes) is undertaken. This level of analysis seeks to demonstrate whether the policies as conceived make any special mention of gender, what impact this has in terms of mainstreaming procedures on implementation thereof, and evaluation of the programme performance. The second level of analysis seeks to ascertain the outcome of land reform implementation as documented by the respective departments. This will reflect whether land reform is impacting on women, and if so, what the evidence is of that, and how it is presented.

As noted earlier, paucity of gender-disaggregated data compromised the reliability and quality of the envisaged outcome in this regard. These observations are made on the basis that recognition of rights of access, use, and ownership provided for in the legislation governing land reform must be actualised in practice. However, in many instances, there is a disconnection between the outcomes of land reforms with respect to gender interests, and the stated vision and targets provided for in the policy and legislative framework. It is argued in this chapter that there is a stark contrast in the extent to which the principle on gender equity is effectively translated in programme implementation. The overall thrust of the programme of land reform has been to deal with the historical inequities such as poverty alleviation, social justice, stimulation of economic growth, and engendering reconciliation whilst creating equitable outcomes in ascertaining female benefit from the programme. Achieving an equitable gendered outcome is broadly acknowledged across the policy

programme. However, since its inception in 1994, achievement of these multiple objectives has proved to be a daunting task.

The limitations of the reforms are two-pronged, namely: quantitative (inability to meet targets), and qualitative (inability to create a sustainable livelihood impact). Almost since its inception in 1994, the programme of land reform has been criticised for failing to reach its targets or deliver on its multiple objectives of historical redress, redistribution of wealth, equity in distribution of tenure rights and economic growth. A dominant focus on targets has tended to conceal the need to transform social relations at the micro-level which impede women's ability to independently access, use and own land. In order to assess whether the DLA is meeting its legal and constitutional obligations and its own commitments to gender equity, it is important to know how the changes are to be measured in order to determine the impact of a gendered land reform. A review of the departmental resources, such as programme review reports and annual reports, reveals that it is not (yet) certain that the department has developed a clear set of indicators that demonstrates whether such an approach has been undertaken.

This broad approach to policy targets as a key lever of measurement of success has the tendency to gloss over the actual targets of land reform beneficiaries. A broad scan of the policy framework indicates that "marginalised groups" variously noted as farm workers, the disabled, the youth and women must also be included in the targeted land reform programme. Government discourse on land reform performance has tended to give precedence to attainment of the target of 30% of redistributed land. A review of the annual reports (2006/7, 2007/8 and 2008/9) corroborates the observations made herein with regard to gender rights in land reform programmes as discussed in the study.

However, currently (in 2010), it is worth noting a considerable shift in government's stance on land reform with regard to setting broad targets as key primary measures of ascertaining land reform progress. The Department of Rural Development and Land Reform (DRDLR) has admitted that 90% of the earmarked 5.9 million hectares of redistributed farm land has failed. This has prompted DRDLR to commit itself to guarantee R 207 million as part of a rehabilitation grant to unlock the productive potential of these farms. It is worth noting that the government also indicated that it had given up on its transfer target of 30 % of land by 2014, given the fact that it would require about R 80 billion to achieve the target. Despite this shift in Government's approach towards land reform, the assessment on failure of the reform is broadly conceived of as "un-gendered". Hence, whether the shift from targets to sustainability and rehabilitation of farms is acknowledged or not, implicit in this approach is a replication of the use of the concept of beneficiaries without necessarily acknowledging gender as a core principle to guiding the new approach. A

discussion of the various programmes of land reform are undertaken to qualify these broad assertions made in this chapter:

Redistribution Programme

The Land Reform for Agricultural Development (LRAD), which aims to generate black commercial farmers, makes explicit mention of gender in its programme. LRAD aims to “expand opportunities for women and youth in rural areas”, as well as to “overcome the legacy of past racial and gender discrimination in land tenure”. The programme hopes to achieve this by encouraging women-only projects and by ensuring that at least one third of transferred land resources accrue to women. A review of the statistics during the review period indicates that a total of 18 284 women benefited from the redistribution and tenure reform throughout the review period against a backdrop of 50 877 beneficiaries in total. It is worth noting that women constitute about 36% of the total beneficiaries of land reform during the review period. However, this figure is yet to be verified by the Monitoring and Evaluation Unit, DRDLR, Pretoria, as duly acknowledged in the course of the research project.

Comprehensive Agricultural Support Programme

An intervention to complement LRAD has been the development of the Comprehensive Agriculture Support Programme (CASP) in 2004, which aims to improve the quality of post-settlement support services as well as bridging the policy gap between land reform and agricultural development. CASP does not make any specific provisions with regard to women as a category of beneficiaries to benefit. However, in a generic sense, it lists its beneficiaries as: the hungry, subsistence and household food producers, farmers and agricultural macro-systems within the consumer environment. These broad categories as indicated above would implicitly mean that women as a specific group are included though not explicitly stated. However, no specific mechanisms are defined to allow targeting of its listed beneficiaries. As will be noted in the report, reviews undertaken for CASP do not focus on the programme’s impact on women, further denoting the secondary status gender receives in policy practice.

Restitution Policy

Land restitution, as mandated by the Constitution, seeks to restore land to those who were forcefully removed from it, provided the dispossession can be proven to have occurred no earlier than 19 June 1913. Claimants, as conceived in this policy, are viewed as largely “un-gendered” despite the fact that the denial of land rights for black women was only a part of a broad legacy of centuries of land dispossession through racially discriminatory laws. The programme has thus failed to acknowledge the specific gender-based experiences that underpinned much of colonial and

apartheid land dispossession experiences. The overarching concern of the restitution programme is on the claimants, who are seen as “victims” of a brutal and violent past, of which land dispossession was a key feature. The programme was broadly conceived as rights-based, and has in the past been evaluated on the basis of the number of claimants who have received compensation.

As at 2009, just fewer than 5 000 rural claims were outstanding, the majority of which are complex and subject to disputation from the established farming community. As per DRDLR statistics, the restitution programme has benefited about 91% males and 9% females during the 2005/6 to 2008/9 financial years. In 2005/6 the programme benefited about 92% males and only 8% females. In the following year (2006/7), only 9% of women benefited from the programme compared to 91% of their male counterparts. Although the restitution programme is criticised for failing to prioritise women in the way compensation is granted, it is, however, commendable that the Monitoring and Evaluation unit has disaggregated data on restitution based on gender, as will be illustrated in the report.

Land Tenure Program

Land tenure is defined as the terms and conditions on which land is held, used and transacted or transferred. Tenure Reform is the most complex area of land reform. It aims to bring all people occupying land under a unitary, legally validated system of landholding. A discussion on the impact of the Extension of Security of Tenure Act (ESTA) and Labour Tenants Act (LTA) aptly reveals that women have borne a disproportionate burden of evictions due to the poor enforcement of the legislation. The Nkuzi Development Association (NDA) undertook an eviction survey to establish baseline data for the prevalence of evictions over a 20-year period from 1984 to 2004. This survey, amongst others, found out that in the periods between 1994 and 2004, a total of about a million people were evicted and only 1% received some form of legal or court representation. Just over three quarters of those evicted from farms are women and children and they are more likely to be evicted than men.

One of the potential areas where tenure reform can make a meaningful impact on women is in the ex-homelands, constituting 13% of the country. Unfortunately, in the last 16 years (1994–2010), the legislation and implementation of these key reforms in South Africa’s ex-homelands have proven a daunting task. These areas carry a disproportionate burden of poverty and under-development. Given this context, the Communal Land Rights Act (2004) was legislated with the sole aim of according statutory recognition to tenure rights in the ex-homelands. The core of the Act is to provide for legally secure tenure in communal areas, and accord comparable redress where necessary. Its overall aim is to enable the registration and transfer of communal land to communities to occur and be recognised under statutory law. The extent of the existing land that will be affected by the new legislation is just over 16

million hectares, containing an estimated resident population of close to 21 million people. However, contention emerged during and after the promulgation of the Act. Despite the Act having been legislated, its implementation was not possible due to a pending court case. On the 6th of November 2009, The North Gauteng High Court Judge, Aubrey Ledwaba, declared 14 sections of the Act as unconstitutional in that it gave unelected traditional leaders and the Minister of Land Reform and Rural Development powers to impose decisions that undermined existing property and tenure rights instead of protecting them as required by the Constitution. Tenure reform in the ex-homelands has therefore effectively not commenced. Beyond the core traditional programmes of land reform reviewed hitherto, a number of other programme innovations have been developed. A cursory review of these programmes illustrates continuity in the way in which gender is accorded a peripheral status both in policy conception and practice.

Proactive Land Acquisition Strategy (PLAS)

This policy enables the Departments of Land Affairs, Agriculture and Provincial and Local Government to work together to pro-actively acquire agricultural land in terms of Act 126 (Section 10 (a)). This policy allows DLA to acquire land based on the market or through expropriation with or without prior identification of beneficiaries. With respect to gender concerns, no specific acknowledgement is made on the policy other than to include gender concerns in its skills development strategy, as will be noted in the study.

Area Based Development Programme (ABD)

ABD serves as a fundamental tool for the integration and alignment of land reform with the strategic priorities of the Provinces and Municipalities. Given the aforementioned, the Area Based Development Programme (ABD) is a tool for the sustainable delivery and integration of land and agrarian reform programmes within the strategic priorities of municipalities (as expressed in IDPs), national programmes and provincial imperatives. A review of this programme indicates that it does not make any specific provisions with regard to gender equality.

The Land and Agrarian Reform Project (LARP)

The Land and Agrarian Reform Project (LARP) provides a new Framework for delivery and collaboration on land reform and agricultural support to accelerate the rate and sustainability of transformation through aligned and joint action by all involved stakeholders. It creates a delivery paradigm for agricultural and other support services based upon the concept of "One-Stop-Shop" service centres located close to farming and rural beneficiaries. LARP takes into account the need to incorporate gender concerns as one of its core focus areas. In this regard, "women

and the youth” are mentioned as key beneficiaries to be targeted by the programme. These focus areas will be defined in each province based on existing surveys of opportunities, agricultural comparative advantage, and the needs of the target populations to be served.

South African Agriculture Black Economic Empowerment (AgriBEE)

The AgriBEE policy is a policy framework whose main objective is to set guidelines that promote an environment that is conducive to the participation of previously disadvantaged black producers in the mainstream agricultural economy. In other words, the aim of the AgriBEE policy is the re-distribution of economic opportunity among the farmers. With respect to gender concerns, this policy does not make any specific provisions for how female interests will be taken into account both from a policy and implementation perspective.

The Comprehensive Rural Development Programme (CRDP)

The strategic objective of the CRDP is to facilitate integrated development and social cohesion through participatory approaches in partnership with all sectors of society. With respect to beneficiary targeting, the CRDP identifies women as a special group of beneficiaries in its discussion of the three-pronged programmes that define the CRDP: “The CRDP must seek to bridge the false dichotomy between the urban and rural space. The CRDP also seeks to empower vulnerable groups (women, youth, unemployed, people living with HIV/AIDS, people living with disabilities, child-headed households, and older persons.” To achieve the broad objectives of rural development, the CRDP uses a three-pronged strategy, namely agrarian transformation, rural development and reform programme. As far as gender interests are concerned, the CRDP does not make explicit acknowledgement of the need to target women as a preferential category, both in policy and in the operational plans the programme proposes. The CRDP clearly delineates “women” as some of the primary beneficiaries it seeks to target with respect to its three-pronged programme, namely agrarian transformation, rural development and land reform. Specific mention is made of women with regard to discussing the vision of the CRDP and the aims of its three-pronged programme. However, no gender specific strategies are made with regard to implementation of the programme or evaluation thereof.

In summary, the review of the various programmes of land reform clearly vindicates the view that gender mainstreaming within land reform is yet to be achieved. As understood in policy and implementation outcomes, gender is seen as an adjunct to the policy programme and not a core foundation that should underpin the programme of reform as a whole. This secondary treatment of gender is evident in the ways in which statistical data is compiled across the various provinces and at national level. Despite encouraging efforts by the respective departments to collect gender disaggregated data, questions of reliability and consistency still remain.

Gender-disaggregated databases should include the number of youth, disabled, and the racial dimension of these categories to ascertain which women have benefited from the land reform programmes. Thus far this level of disaggregation has not been achieved across the provinces in the way in which beneficiary data is collected.

Provincial Overview Reports (Chapter 5) and Conclusion (Chapter 6)

As noted across all nine provincial reports in chapter 5, the scope, depth, and structure of the reports are relatively different. This was largely due to the methodological limitations noted in Chapter 4 of the study, namely around access to sampled Directorates and capacity constraints on the part of the executing authority (CGE). This problem was overtly manifested in provinces such as Limpopo and KwaZulu-Natal. In most of the provincial reports, researchers documented their experiences with regard to access as opposed to analysis of data which was not forthcoming. To augment the quality and reliability of the provincial reports, attempts were made to retrieve additional information from the annual reports of the respective departments (DAFF and DRDLR) and from the National Director of Gender, National Office (Pretoria, DRDLR). The latter was particularly helpful in providing the available data they had. Irrespective of the limitations noted hereto, the discussions of the various provincial reports centred on the following themes:

- Gender profiling data of human resources for DAFF and DRDLR, depending on which department provided this data. Most of the data presented here is 2009 data;
- Initiatives of the departments in mainstreaming gender across land reform programmes;
- Outputs of the three-pronged programme of land reform indicating number of female beneficiaries;
- Challenges departments face in gender mainstreaming, and
- Recommendations to augment gender mainstreaming.

In the concluding chapter (Chapter 6), these discussions were made against the backdrop of the stated objectives outlined in the National Policy Framework on Women's Empowerment and Gender Equality. The framework calls for the institutionalisation of a gender perspective in the sectoral policies, programmes and practices of national and provincial departments. In the short term, this will involve the development of structures to co-ordinate and monitor the implementation of the national policy for gender equality and the evolution of gender sensitive policies and institutions. By doing so, it is envisaged that equality in terms of resources, opportunities, rewards and services will be achieved. Intertwined in these outputs is the expectation that cultural values, practices and norms that encumber full realisation of basic rights women are entitled to, will undergo progressive reforms. In the concluding chapter, it is argued that these expected outputs and levels of

reforms envisaged in the National Policy Framework on Women's Empowerment and Gender Equality are yet to be fully realised within the ambit of land and agrarian reform. However, credible efforts by both departments, DRDLR and DAFF, towards the realisation of these objectives are noted in the report. For instance, there are several key focus points that national departments should have implemented as part of their gender mainstreaming across their mandated programmes. These areas range from capacity building, staff recruitment, terms and conditions of service, women's increased access to management, transformation in programmes, allocation of resources, data collection and utilisation. From the analysis of the provincial reports undertaken, core themes were analysed, namely: gender staffing profile, human resource capacity development, gender-disaggregated data of land reform outcomes, training, terms and conditions of service of Gender Focal Person, allocation of resources and capacity issues in the Department.

Training of staff to ensure gender that awareness and mainstreaming is achieved, was conducted across the various provinces. However, with regard to the need to recruit women at top management levels, most provinces decried the fact that the Gender Focal Person employed was employed at a deputy director level and did not in most instances wield the necessary influence or resources to ensure that their mandate is fulfilled. The lack of a standard integrated and coordinated strategy towards gender mainstreaming was found in most of the provinces. It was also established that gender sensitive budgeting frameworks have not been actualised in most of the provinces. In most provinces, the lack of resources to match the asking price of land in the free land market was decried as a major limitation of the land reform in general.

As noted in the provincial reports, there is no overarching framework that seems to define and guide how data is collected, analysed and presented for consummation. Most provinces, by their own admission, (e.g. Northern Cape) are unsure of the reliability of the data that they collect. This indicates that it is difficult to monitor and evaluate the extent to which land reform targets female beneficiaries. Beyond the limitations noted in data collection, the DRDLR needs to develop a comprehensive list of "agreed set of gender indicators", which practitioners of land reform must work with to ensure gender mainstreaming. So far, a quantitative approach that seeks to discern the number of female beneficiaries seems the most accessible criterion. However, this on its own fails to extrapolate other sets of criteria that are needed to develop assessment of gender mainstreaming in land reform. These include power relations, cultural practices, production regimes women are involved in (e.g. cash crop, livestock), credit access, farmer support regimes and many other factors. These various elements articulate the extent of female empowerment as economically independent land owners. Hence, documenting the number of beneficiaries is a narrow approach that does not exemplify the extent of gendered outcomes in land reform. A cardinal conclusion arrived at in this study is that there is

a notable gap in what the legislative and policy regimes stipulate with regard to gender equality (e.g. constitution, white paper on land reform, RDP, international legal regimes) on the one hand, and what is effectively implemented on the other.

The gulf between policy and practice/outcome with regard to gendered outcome hinges on a range of factors, ranging from lack of an effective institutionalised system on data capture, assessment, inability to mainstream gender across all policy programmes, budgetary limitations, staff capacity, to overarching problems bedevilling land reform such as land markets, governance and production failures that have collectively marginalised the centrality of gender mainstreaming as a core policy foundation. In summary, some of the recurring challenges that encumbered gender mainstreaming in land reform across the provinces were noted as follows:

- Institutional biases that contribute to the unequal representation of women in decision-making in all fields and at all levels;
- Lack of institutional arrangements to implement a gender perspective, in policy formulation, programming and implementation in all fields and on all levels of the programme;
- An institutional environment that is more compatible with men's gender roles than those of women;
- Lack of sufficient institutional changes (such as affirmative action policies, employment equity plans) to facilitate an increase in female representation in decision-making in all areas of the mainstream;
- Lack of sufficient institutionalisation of gender analysis, gender statistics and other techniques of gender mainstreaming in all facets of gender mainstreaming, and
- The "willing buyer, willing seller" process which restricts effective participation of rural people due to land price prohibitions. Women do not show interest in the acquisition of land.

Despite the problems outlined, there are notable administrative attempts to overcome these gaps, e.g. staff training, employment of Gender Focal Persons, employment equity, gender-based project assessment (applicants), women-only projects, WARD, targeted support to women-only projects but overall, it is evident that a systematic and standardised approach to gender mainstreaming is yet to bear fruit.

CHAPTER 1

LAND REFORM STUDY: AN ASSESSMENT OF GENDERED OUTCOMES (2006-2008)

1.1 Overview

This chapter briefly outlines the historical context of land reform and the impact this has had on accentuating gender inequality in land ownership patterns. The broad constitutional pronouncements and institutional systems will be outlined with regard to addressing gender concerns. A key argument of this chapter is that the imprint of colonialism and apartheid on inequality of land ownership, with the attendant poverty patterns 16 years into the post-1994 democratic South Africa, is a stark reminder of the colossal task land reform must achieve in advancing the ideals of a prosperous, equitable and democratic South Africa - in particular, the gendered nature of poverty patterns (i.e. women bearing a disproportionate amount of suffering due to the effects of poverty) in rural South Africa. Therefore, land reform must attend to the unequal gender issues in line with the broad constitutional and policy framework the South African government has adopted and the international legal treaties on equality it has ratified.

1.2 Historical Rationale for the Study

The central process of modern South African history has been how unequal access to land, ratified by statute, has underpinned settler colonial domination of the majority of South Africans². However, there is also a recognition that the effects of apartheid have been structured by skewed gender relations, which have led to higher levels of impoverishment amongst black women in South Africa³. This denial of land rights to black women was only a part of a broad legacy of centuries of land dispossession through racially discriminatory laws. The Native Land Act (No 27 of 1913) forced black women to work as labourers on white farms under labour tenancies that were easily subject to terminations. This made them more vulnerable to evictions than their male colleagues⁴. Historically, land dispossession began in South Africa more than 300 years ago due to both colonial and tribal wars but reached its peak during apartheid, with the promulgation of the Land Native Act of 1913.

The Land Acts of 1913, 1936 and the associated Group Area Acts of the 1950s formed the foundation of racial land dispossession to ensure that the bulk of the land was inaccessible to the black population. Consequently, 13% of the area in South Africa was set aside as so-called "homelands", "bantustans" or "reserves" for the black African majority.⁵ Apartheid clearly left a legacy characterised by severe inequalities and injustices, which are clearly evident in the distribution of land as well as in the *dualistic* nature of the agriculture sector.⁶ The established white commercial agricultural sector was an important political constituent of the apartheid state. In

the past, government departments and associated institutional structures protected and subsidised production and made available large tracts of land, ample water supply and cheap labour⁷ whilst denying small-scale subsistence agriculture the required support regimes within the former homelands. It is estimated that more than 3.5 million people were forcibly removed in the period 1960 to 1983 alone, through homeland consolidation, removals from “black spots” and the Group Areas Act.⁸ Dispossession of communal/tribal land represented the loss of one of the most significant freedoms and for this reason, for many South Africans, “land” signifies much more than the physical production of crops. The struggle over “land” is a potent symbol of oppression experienced by disenfranchised black communities in SA.

Land policies were therefore inextricably intertwined with policies concerned with the supply and regulation of labour, as well as those focused on political control⁹. As a result of land dispossession processes, it was estimated that in 1996, less than 1% of the population owned and controlled over 80% of farmland. This 1% constituted 10,9% of the population classified as “white”¹⁰ whilst 76,7% of the population that is classified as African had restricted access to less than 15% of agricultural land, with less secure tenure rights to land. Added to this, an estimated 5.3 million black South Africans lived with almost no security (of ownership/equity) on commercial farms owned by white farmers¹¹. One of the other results of this massive dispossession of land is the concentration of poverty in South Africa’s agriculturally unproductive rural areas, where about 70% of the population lives below the poverty line.¹²

In South Africa’s rural areas, female access to land was limited by their gender and social position in the community. Although women make up the majority of the population in these areas, their rights to land are restricted to only a small proportion of the land.¹³ This is despite the fact that most rural women in rural South Africa are agricultural producers, who are skilful at cultivating subsistence crops for their family. The Apartheid policies forced many women to take over the running of rural property while their husbands and sons were forced into wage labour on the mines and in the cities. Women worked on agricultural production in addition to being heads of households, caring for children and maintaining the household. Customary laws also prevented women from owning land. For many years, a woman was not able to get effective land rights without the permission of her husband or guardian.¹⁴

The predominantly male right to direct land allocation also coincides with and defines a wider set of primary rights within the community. Only male heads of household who have been formally allocated land rights hold full citizenship rights within their communities, including the right to build a house, plant a crop, control their productive earnings from the land, access public resources and participate in public debates. Women held secondary rights to land that similarly corresponded to their secondary rights in respect of other community activities, rendering them as

subjects, or minors, rather than as full citizens (both within their households and within the wider community) as dependants of the formal rights holder. A similar dichotomy exists within other rural settlements, including missions, informal settlements and the former “black spots”, where land tenure and other rights are mediated through the landowner.¹⁵ This observation is corroborated by the General Household Survey of 2003 undertaken by Statistics SA, indicating that 41% of rural women over 18 years old were neither the household head, nor married to the household head. In other words, 41% of rural women had no rights to own land.¹⁶

As a result of the vulnerabilities experienced by women with regard to tenure insecurity, poverty bears a disproportionately female face. The proportion of female-headed households has increased, with female-headed households accounting for a larger share of poverty than their share in the population. In 2005, more than half of the individuals considered “poor” in terms of both the R322 and the R174 line, lived in female-headed households. In contrast, only about 43% of the population lived in female-headed households.¹⁷ Data from the 1996 census reveals that 46% of South Africa’s population of 40.6 million people lived in rural areas in 1996 – the areas where 70% of the country’s poor live. Despite the dramatic, political and social reforms that have taken place in SA, rural areas seem to have benefited less than urban areas from the policy changes introduced after 1994.¹⁸ A recent Organisation for Economic Cooperation and Development (OECD) report (2010)¹⁹ using the poverty line of R515 per capita per month, noted that the decline in poverty incidence is made up mostly among the African population, particularly males. The results show a meagre 1% change in poverty share, which moved 1% upwards for African women, and moved 1% downwards for African men. In contrast, poverty incidence of Coloured people, both male and female, actually increases over the period, although this does not have a large effect on overall poverty due to their combined share of the population being only about 9%.

Hence, the effects of apartheid-era policies impacted significantly on the South African agrarian landscape. Debates in support of a wide ranging programme of social and economic support in rural areas has increasingly centred on the need to institute significant land and agrarian reforms in these areas. This was also manifested in the post-1994 policy on land reform, which largely acknowledges land reform as a “liberationist programme” aimed at restoring historic injustices and inequities of the past²⁰ that would accord secure land rights to victims of dispossession, in particular the previously landless, labour tenants, marginalised farm labourers, youth, disabled and women. This principle of equality/equity in relation to land rights is broadly acknowledged in the White Paper on Land Reform (1997). Addressing the effects of gender discrimination and inequality is thus regarded, at the level of policy, as a necessary component of the social project of transformation.²¹ Women are therefore noted as a special category of beneficiaries that have borne a disproportionate burden of rural poverty and landlessness

emanating from apartheid, social engineering and the patriarchal culture that discriminates against women having independent access to land. This recognition was commendably anchored in South Africa's constitution and aptly acknowledged in the land and agrarian policies and legislation that ensued thereafter, including some of the annual reports emanating from the Department of Rural Development and Land Reform:

“Freedom in all its manifestations will remain meaningless unless we ensure that women of South Africa, particularly in our impoverished rural areas, are free from oppression; are empowered to access the means of production; are empowered to fight poverty and are empowered to participate in the economic life of our country. It is therefore, fundamental that we create a political and economic space for women, for the success of our land and agrarian revolution will not be guaranteed unless we ensure the active participation and the enlisting of women and the youth as active cadres in our war on poverty.”^{22a}

Given the aforementioned, and as part of the commissioning institution (Commission for Gender Equality) mandate, this study aims to document the extent to which land reform has achieved its gender equity objectives as stipulated in policy and implementation outcomes as discussed in the ensuing section.

1.3 Commissioning Institution: The Commission for Gender Equality

The Commission for Gender Equality (CGE)²³ is a constitutional body established in terms of the Commission for Gender Equality Act no. 39 of 1996 to support democracy. Its constitutional mandate is to promote, monitor and evaluate all gender equality issues in all spheres of society. The CGE is committed to creating a society free from gender discrimination and any other forms of oppression, a society where people shall have the opportunities and means to realize their potential regardless of gender, race, class, religion, disability or geographic location. There is still a need to redress the imbalances of the past through continuous monitoring and evaluation in order to establish a less divided society in which constitutional democracy can survive and flourish. One of the thematic focus areas of the CGE is Gender and Poverty. Land reform has been identified as critical in the fight against poverty and more recently, as an impetus to rural development. Women are often referred to as the poorest of the poor. Women's place in society is crucial for any aspect of development, from quality of life to economic growth and sustainability. Studying the interface between gender and poverty as experienced, and the extent to which development policies espouse a “gendered” awareness both in policy conception, practice, and the evaluation thereof, is a key theme that informs the work of the thematic focus areas.

1.4 The Primary Objectives of the Study

The overall objective of the study is to assess the extent to which land reform policy and implementation programmes have incorporated gender interest, both at policy level and in implementation practice. The latter concern, i.e. policy practice, is aimed at investigating the impact the programme has had on female beneficiaries, and the extent to which the departments in charge of the implementation (Department of Rural Development and Land Reform, and the Department of Agriculture, Fisheries and Forestry) have transformed their staffing profile along the prescribed equity provisions provided for in the legislation for effective implementation of gender equality practices. The gendered nature of policy and practice links closely to institutions and their orientation and it was, therefore, felt by the researcher/team of researchers to be important to link gendered outcomes in land reform with two key organisations namely the Department of Rural Development and Land Reform, and the Department of Agriculture, Forestry and Fisheries. The period under review is 2006–2008. A number of secondary questions also guided this review:

- Ascertaining the extent and number of women who have benefited from the three programmes of land reform – restitution, tenure and redistribution;
- Compiling a gendered analysis of the extent to which the three pillars of land reform, namely redistribution, restitution and tenure reform, as defined in the 1997 *White Paper* provisions, acknowledge gender incorporation into their programmes; and linked to this, the impact of the respective programmes (redistribution, restitution and tenure) on women;
- How well have the implementation processes and subsequent outcomes been carried out? What procedures are in place and undertaken to ensure that women benefit from land reform? Are there any specific provisions made (e.g. Gender Focal Person) to ensure compliance in this regard? What happens in the provinces in terms of a “gendered implementation” of land reform? How is screening of beneficiaries done? How is the participation in the implementation and governance of land reform projects carried out? Has gender responsive budgeting been achieved across the two departments (DRDLR and DAFF);
- Ascertaining quantitatively from a human resource staffing perspective, the extent to which the Department of Rural Development and Land Reform (DRDLR) and the Department of Agriculture, Forestry and Fisheries (DAFF) have attained Employment Equity (EE) as defined by law, and
- To establish the extent to which DRDLR and DAFF, have taken measures to develop a gender-disaggregated database on women and land.

Gender-disaggregated data as used in this report means information subdivided in terms of female and male and in addition, race and age distribution in terms of youth. Ideally, gender-disaggregated data should consist of these variants – race,

age (youth) and male and female distribution in terms of beneficiaries of land reform. Race is crucial in the sense that a distinction should be made in terms of black and white women in computing equality statistics to clearly discern the differentials often made with respect to benefitting from these programmes across the variables noted herein. Therefore a discussion of gender mainstreaming in these programmes implicitly entails investigating the youth, racial and male/female differentiation. However, traditional use of gender-disaggregated data as reflected in this report has often been narrowly used to entail only male/female differentiation with regard to benefitting from land reform. Other variants such as disability, youth and race with respect to female differentiation have received peripheral mention in the reporting system used in the department.

Gender Responsive Budgeting as understood in this study refers to the allocation of financial resources in a manner that not only ensures that women and men benefit equally from all resources, but also reduces existing patterns of female systemic inequality. *Gender Responsive Budgeting* is the responsibility of all senior managers involved in the budget process or expenditure control. It is important that people involved in financial planning and control understand the power of budgeting to create or undo inequality. They are strategically placed to use such knowledge effectively, and to redirect resources to redress gender and other historical imbalances.²⁴ Gender responsive budgeting would entail several possible approaches:

- Female Empowerment or Women's Programmes refers to special programme funding or preferential measures that exclusively target women to empower them in order to equalize opportunities and access to resources between women and men;
- Pro-female Programmes refers to programme funding or resources that are spent on services or activities that mostly benefit women or actively contribute towards the promotion of gender equality.
- Ensuring Women's Equal Benefit from General Programmes refers to the extent to which women and men benefit from resources spent on general services or activities, and action taken to equalize female benefits from general programmes. This includes inquiring into resources allocated towards equalizing female and male benefits from mainstream services and related budget allocations.²⁵

Even though some gender responsive budgeting questions were included in the survey instrument, it became apparent that no clear answer emerged with regard to gender responsive budgeting, how it is conducted and what percentage of the total budget is dedicated to gender responsive budgeting. However, it is commendable that Women in Agriculture and Rural Development (WARD) and women-only projects implemented across the provinces are indicative of attempts made towards gender responsive budgeting.

CHAPTER 2

BROAD NATIONAL AND INTERNATIONAL LEGAL FRAMEWORKS UNDERPINNING LAND REFORM and GENDER EQUALITY OBJECTIVES IN SOUTH AFRICA

2.1 Broad Legislative Framework – Constitution

South Africa's 1996 Constitution is widely regarded as among the most progressive in the world in terms of its emphasis on human, social and economic rights. In this Constitution, gender equality is established as a basic principle in the first clause of Chapter One (Founding Provisions), which states that:

“non-racialism and non-sexism are founding values, along with human dignity, equality, the advancement of human rights, the rule of law, universal adult suffrage and a multiparty and democratic system of government.”²⁶

Similarly, Section 9 of the Constitution confers the right to equality before the law and the right to equal protection and benefit from the law. It states further that equality includes *the full and equal enjoyment of all rights and freedoms*. In relation to land matters, like many other matters, this requires proactive action by government. The Constitution also provides for a Commission on Gender Equality to promote respect for gender equality and the protection, development and attainment of gender equality (Clause 187). Upon further reflection on the formal recognition of gender equality as a major societal goal, an Office on the Status of Women has been established in the President's Office. The mandate of the Office is to play a vital role as the principal co-ordinating structure for the National Machinery on gender equality. It aims to develop and co-ordinate national gender policy across government departments while ensuring that gender employment equity targets are reached at all levels of employment.²⁷

Section 25 of the 1996 Constitution marked a welcome departure from the past by re-conceptualising access to land for the previously disadvantaged as a basic human right. By mandating the State to take reasonable legislative and other measures “to foster conditions which enable citizens to gain access to land on an equitable basis” it makes equity and fairness the new spirit that should underpin the rules of accessing land. The non-discrimination prohibitions in Sections 9(3) of this Constitution prohibit unfair discrimination on the basis of race, gender, sex; all of which reflect the primary focus of the Constitution as an instrument that provides appropriate response to the complex customary obstacles that have historically militated against black women's rights to own land.²⁸ More specifically, the Constitution sets out the following framework for land reform²⁹:

"The State must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on equitable basis (Section 25(5)).

A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress (Section 25 (6)).

A person or community dispossessed of property after June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress (Section 25 (7))."

Preceding the Constitutional pronouncements on land issues, the Reconstruction and Development Programme (RDP) was drafted in 1994 as a blueprint for making the principles of the Constitution into real targets for growth. The RDP clearly set out the scope and content of the land reform programme which the country needed to adopt:

A national land reform programme is the central and driving force of a programme of rural development. Such a programme aims to redress effectively the injustices of forced removals and the historical denial of access to land.³⁰

In furtherance to the principles of equality within land reform, the RDP states that the national land reform programme should address gender inequities (section 2.4.2) and that support services and government assistance for agricultural production should benefit women (section 4.5.2.4).³¹ In essence, the Reconstruction and Development Programme provided a set of guidelines and principles that gave direction to the initial process of formulating the land reform policy and programme. Armed with the Constitution and the RDP, the formulation of policies and laws on land reform were consolidated in April 1997. As a result of this consolidation, the South African White Paper (1997) on Land Reform Policy was published in the Government Gazette.

2.2 The 1997 White Paper on Land Reform

The South African White Paper on Land Reform Policy (1997) views land reform as a process that should contribute to reconciliation, stability, growth and development in an equitable and sustainable way. As stipulated in the White Paper³², the land reform programme is geared towards addressing the following set of issues:

- The injustices of racially based land dispossession of the past;
- The need for a more equitable distribution of land ownership;
- The need for land reform to reduce poverty and contribute to economic growth and provide security of tenure for all, and
- A system of land management that will support sustainable land use patterns and rapid land release for development.

Land reform aims to contribute to economic development, both by giving households the opportunity to engage in productive land use, and by increasing employment opportunities through encouraging greater investment. The primary reason for the government's land reform measures is to redress the injustices of apartheid and to alleviate the impoverishment and suffering that these prior policies of inequality have caused. The primary target of land reform is the "historically disadvantaged" - those who have been denied access to land and those who have been disinherited of their land rights. Land reform is therefore viewed as an important element of restoring justice. Within the framework of the new democratic government, the resolution of the land and agrarian issues was seen as part of a broader project of forging a national consensus through national reconciliation and generating equitable outcomes in the distribution of land rights in so far as gendered outcomes were concerned. There are three key pillars in South Africa's post-1994 Land Reform Policy that reflect the constitutional pronouncement around land matters: land redistribution, land tenure reform and land restitution. The broad aims of the policy are to: (i) redress the injustices of apartheid, (ii) foster national reconciliation and stability, (iii) underpin economic growth and (iv) to improve household welfare by alleviating poverty.³³

The 1997 White Paper on South African Land Policy places considerable emphasis on gender equity in land access and effective participation of women in decision-making procedures. The paper acknowledges that, "A key contributing factor to female inability to overcome poverty is lack of access to, and rights in, land. Discriminatory customary and social practices are largely responsible for these inequities. Power relations that impede women's attainment of productive and fulfilling lives operate from the domestic to the highest public level. Legal restrictions also impede women's access to land and the financial services to develop it³⁴".

The White Paper further notes:

"The most widely recognised form of discrimination is that practised under tribal and communal tenure...under private tenure women are discriminated against in terms of family law and inheritance provisions.³⁵

The White Paper on Land Policy further states,

"... it is essential that gender equity be ensured in the land redistribution and land reform programme so that women achieve a fair and equitable benefit.³⁶

This consideration of gender is applicable to all three pillars of the land reform programme. Some of the interventions proposed by the White Paper to ensure that gender equality is incorporated in land reform are the following³⁷:

1. The removal of all legal restrictions on participation of women in land reform. This includes reform of marriage, inheritance and customary law, which favour men and contain obstacles to women receiving rights to land ownership/tenure.
2. Clear mechanisms in project planning, beneficiary selection and project appraisal to ensure equitable benefits from the programme for women and men. The Department of Land Affairs will promote the use of gender-sensitive participatory methodologies in project identification and planning. Planners and facilitators will be required to assist the women in the communities with which they work to identify their priorities and act on them.
3. Specific provision for women to enable them to access financial and support services. The Ministry for Agriculture and Land Affairs will develop policy and mechanisms that will enable women to gain access to opportunities in agricultural production.
4. Specific mechanisms to provide security of tenure for women, including the registration of assets gained through land reform in the name of women as direct beneficiaries.
5. Training in gender awareness and participatory gender planning for all officials and organisations involved in implementing the land reform programme.
6. Developing a partnership with NGOs/CBOs who are often a key source of support to women. This partnership can strengthen community-based women's groups who are engaged in campaigns to increase female awareness of their rights in land as well as assist the Department to build the necessary capacity to implement land reform which is gender equitable.
7. Ensuring that those involved in land reform are equipped to undertake an analysis of the gender profile which involves systematically examining the roles, relations and processes with a focus on power imbalances and access to resources.
8. Ensuring that the monitoring and evaluation system for the land reform programme provides the information necessary to monitor female participation.

Given the aforementioned, the main emphasis, which traverses the White Paper Policy on Land reform (1997), is one of women participating equally and achieving equal rights in land.³⁸ It is evident that the White Paper has placed explicit commitment on the attainment of gender equity. However, some analysts³⁹ have noted the lack of consistency in the manner in which the White Paper has dealt with the concept of gender in its entirety. For instance, gender issues are clustered in the

first sections of policy, largely in the statements of the vision for and objectives of land policy. Gender is mentioned in relation to the redistribution and tenure reform programmes, and not in relation to restitution.⁴⁰ There is often a disjuncture between what is said in formal policy documents about promoting gender equity in and through land reform and what happens to gender policy “on the ground”. Also, acknowledgement of the need to incorporate gendered concerns with regard to land reform has been addressed at national level but is not implemented at grass root level.⁴¹

Other analysts have decried the conflation of the concept of gender and women in the policy, thus militating against the need to understand that reforming gender inequality entails changing power relations at the community/household level. The policy does not state what mechanisms will be required to enforce changes in the power relations which deny women access to owning their own land. Hence, the conflation of gender and women does not enable a proper analysis of gender relations or of the differences between women to occur. The policy also creates women as a “special category” rather than recognising them in the same category as farm workers, the poor, the landless and also in relationship with men. The legalistic approach proposed in the White Paper assumes that the removal of legal impediments is sufficient to achieve the objectives of gender equity whereas it is not only law that shapes gender and power relations. Though the policy acknowledges the impact of customary practice on women’s inability to independently access and own land, the policy does not set the parameters for a proper discussion about the impact of customary law and practice on gender equality.⁴²

In furtherance of these objectives, in 1997, the Department of Land Affairs approved a “Land Reform Gender Policy” document aimed at creating an enabling environment for women to access, own, control, use and manage land as well as access credit for productive use of the land. At a national level, the government is also committed to ensuring that a “gender perspective” is embedded in all its policies and programmes as aptly noted through the mission statement of the Office of the Status of Women in the Office of the President.⁴³ Land reform legislation has subsequently sought to give effect to the vision outlined in both the White Paper and the Gender Policy. A significant step has occurred with the strengthening of women’s rights to land by the removal of discrimination against women in marriage and matrimonial property under customary law and inheritance rights under this legal system. In addition to the national legislative framework, South Africa has ratified several international legal instruments on gender equality which have a direct bearing on the core mandate of the two departments under review in this study, namely the DRDLR and DAFF.

2.3 International Legal Framework: Beijing Platform for Action (BPFA) and its Protocol

The BPFA was a result of the Fourth World Conference on Women held in Beijing in 1995. This is an agenda for female empowerment which aims to accelerate earlier commitments on female rights. It incorporates the accomplishments of prior conferences, starting in the 1970s, and treaties such as CEDAW and the International Conference on Population and Development held in Cairo in 1994.⁴⁴ In September 1995, South Africa participated for the first time in the UN series of World Conferences on Women at the Fourth World Conference on Women held in Beijing, China. At this Conference the South African Government committed itself to the Beijing Platform for Action (BPFA).⁴⁵

The Beijing Platform for Action recognises that women face barriers to full equality and advancement because of such factors as their race, age, language, ethnicity, culture, religion or disability, because they are indigenous women or because of other statuses. Women encounter specific obstacles related to their family status, particularly as single parents, and to their socio-economic status, including their living conditions, in rural, isolated or impoverished areas. The BPFA recognises several strategic objectives to be attained in order to eliminate gender discrimination; and the issue of land is identifiable in Women and Poverty as a strategic objective.

The BPFA calls for a mobilization of national and international non-governmental organisations and women's groups to also play a part in terms of protecting women's full right to access to economic resources, including the right to inheritance and to ownership of land and other property, credit, natural resources and appropriate technologies. The BPFA also calls for developing gender-based methodologies and research to address the "feminisation of poverty". It also calls for national and international statistical organisations to collect gender and age-disaggregated data on poverty and all aspects of economic activity and develop qualitative and quantitative statistical indicators to facilitate the assessment of economic performance from a gender perspective.

With respect to land access, the BPFA recognises the need for women to obtain affordable housing and access to land. Consequently, governments must ensure that all barriers are being removed with regard to access, that special measures are put in place in order to meet the needs of women, especially those living in poverty, and female headed households. States must formulate and implement policies and programmes that enhance the access to and control of land in order to increase women's incomes and promote household food security, especially of those who live in rural areas.

2.4 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW):

The CEDAW was adopted in 1979 and came into force in 1981. The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was ratified by South Africa in December 1995. Article 14 of the Convention recognizes rural women as a group with special problems who should be empowered to participate in, and benefit from, rural development. It was the first legal instrument to bring together all rights that had hitherto been scattered in various instruments into the ambit of a single human rights instrument. It is known as the Bill of Rights of Women. In essence, the 30 Articles of CEDAW seek to eliminate any distinction, exclusion, or restriction made on the basis of sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise of women on a basis of equality with men, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

A series of treaties and human-rights instruments validate claims around female rights to own land. In the case of women (as a vulnerable and marginalised group), the non-discrimination principle, embedded in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) places a duty on States to take positive actions to guarantee that women's human rights are realised. Article 14 of CEDAW specifically deals with rural women and highlights the state's obligations to ensure that women have access to "agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in agrarian and land reform". This same article also highlights issues pertinent to female participation and their equal access to basic social services⁴⁶.

In addition, Article 16 of CEDAW obliges state parties to establish equal property rights for women in relation to marriage, divorce and death. Also, the General Recommendation 21 of CEDAW emphasizes that rights to property are critical for women to earn a livelihood and provide adequate housing and nutrition for themselves and their family. Finally, an indirect way to protect female rights to land has emerged with the appointment of a Special *Rapporteur* on the Right to an Adequate Living (Miloon Kothari), which is a UN Special Mechanism for the protection of the Right to an Adequate Living. In his latest report to the Human Rights Council (February 2007) Miloon Kothari made explicit reference to the need to improve the legal framework that guarantees the right to an adequate living. He also stressed how the right to land is important to realising the right to an adequate living, to eradicating poverty, and to guaranteeing food security, health and labour rights. He argued that for the majority of the world's population who depend on land for subsistence, a guarantee to the right to access to land is fundamental.⁴⁷

The states that have ratified or acceded to principles presented at the convention have legally bound themselves to effective implementation of these principles. Also the States agreed to submit national reports at least every four years on measures they have undertaken to demonstrate their compliance with their treaty obligations. States are required to:

- Incorporate the principle of equality between women and men in their legal system, abolish all discriminatory laws, and adopt appropriate measures to prohibit discrimination against women, and
- Establish tribunals and other public institutions to ensure effective protection of women against discrimination⁴⁸

Similarly, the South African Government acceded to the CEDAW principles, without reservations. In terms of the levels of compliance with CEDAW provisions as of 2008, the Government introduced two major changes to facilitate access to credit. The first is the new Apex fund institution. The second involves Government's commitment of R 1 billion to a new loan fund for agricultural development. This is significant because women constitute one of the targeted beneficiaries and the equalisation of benefits between women and men is one of the issues to be addressed by the new institution. The Land Bank also recently introduced a Step-Up loan facility to provide short-term micro-credit to individuals from vulnerable groups.⁴⁹ It is of significance to note that the DRDLR has addressed the under-representation of designated groups in all occupational categories and levels. The Department has a National Employment Equity Committee that monitors the implementation of the employment equity plans and ensures the achievement of targets.

Land reform legislation has subsequently sought to give effect to the vision outlined in both the White Paper and the Gender Policy. Female rights to land have been strengthened by the removal of discrimination against women in marriage and matrimonial property under customary law and in inheritance rights under this legal system. It is estimated that approximately 13,3% of the total number of households that benefited from the Land Redistribution and Tenure Reform Programmes during the period 1994 to December 2007 were female-headed households. This marked an increase from 1 016 households recorded at the beginning of the programme in 1994, where only 1,2% of the beneficiaries were female-headed households. The Government's efforts to address gender imbalances are mainly targeted at land reform as this presents more meaningful opportunities for women for sustainable development⁵⁰. A detailed reporting of these figures and their explanations is made in Chapter 5 of this report.

2.5 Continental Legal Framework: Southern African Developing Countries (SADC) Level

2.5.1 The African Charter on Human and People's Rights

The African Charter was adopted in Nairobi in 1981. It only came into force five years later in 1986. This Charter sought to address the gap in existing international human rights instruments when it came to addressing human rights from an African perspective. It attempts to combine African values and traditions with international norms. The African Charter promotes individual duties and collective rights in addition to individual rights. Specific mention is made of the elimination of any forms of discrimination against women and the protection of the rights of the woman and child, as stipulated in other international declarations and conventions provided in the African Charter on Human and People's Rights.⁵¹

With regard to economic, social and cultural rights, this regional instrument upholds the right to own property, to work under equitable conditions and to receive equal pay for equal work. Article 2 of the Charter provides for non-discrimination and includes gender as one of the grounds on which the individual's rights spelt out in the Charter shall not be impaired. Article 3 provides for equality and equal protection before the law. Article 18.3 of the Charter requires governments to ensure the elimination of any discrimination against women and to ensure the protection of women and children.

2.5.2 The African Charter on Human and Peoples' Rights Protocol on Women's' Rights

Women's rights are an integral component of the African system on human and peoples' rights. The African Charter on Human and Peoples' Rights⁵² (hereafter "the Charter" or "the African Charter") was the first normative instrument under the system to provide for the protection and promotion of these rights. It imputes an obligation on states to "ensure the elimination of any discrimination against women and also ensure the protection of the rights of the woman ... as stipulated in international declarations and conventions."⁵³ However, this provision has attracted mixed reactions from scholars and female rights activists, a majority of them stressing its inadequacy in protecting the rights of women on the continent.⁵⁴ Following this disquiet, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa⁵⁵ (hereafter "the Women's Protocol" or "the Protocol") was subsequently adopted. The Protocol is the first regional human rights treaty to specifically and comprehensively respond to the need for the protection and promotion of women's rights.⁵⁶

On 11 July 2003 the Heads of States and Government of the African Union adopted the Protocol to the African Charter on Human and People's Rights on the Rights of

Women. It seeks to promote and protect the rights of African Women by reinforcing international human rights standards and adopting them to address specific violations against African Women. Then, nearly a year later, on 8 July 2004, Heads of States and government adopted a Solemn Declaration on Gender Equality in Africa in which they undertook to sign and ratify the African Women's Protocol by the end of 2004. South Africa is one of the ten (out of fifteen) African countries who ratified the African Women's Protocol. This Protocol is the first regional legally binding instrument on female rights elaborated by Africans heads of States for African Women. It attempts to combine international standards with African values. The Protocol promotes equality in marriage by addressing inequalities with regard to decision-making, property and children. As indicated in the aforementioned section, South Africa has ratified a number of international legal regimes that seek to promote gender equality, and this is also recognised in the constitution and legislative regimes enacted to bring about redress and equality that had been previously been undermined in the pre-1994 apartheid era. The extent to which the state has committed itself to these legal obligations is the subject of scrutiny of this report with special attention to land reform.

CHAPTER 3: LITERATURE REVIEW

A GENDERED ANALYSIS OF LAND REFORM POLICIES

3.1 Overview of Land Reform in South Africa

Experience with land reform elsewhere in Africa has shown that efforts to redistribute rural land to “the disadvantaged” or to the “rural landless”, have tended to reinforce existing forms, and given rise to new dimensions of inequality within beneficiary communities. The gap between vision and reality is a regular and patterned trend in rural development and land reform programmes⁵⁷.

Without an effective process for monitoring land reform, this appears to be a systemic problem⁵⁸ despite the fact that one of the principal visions underpinning programmes of land reform is that of equitable distribution of land rights to women and men. A gendered land reform programme should in principle be able to grant women effective rights, not just in law, but also in practice. Independent rights to land provide women with access to economic and social resources needed for basic survival and with fallback positions in cases of domestic violence or marital breakdown.

Gender equitable land reform requires the establishment of structures for governance and local institutions that promote women’s active participation in decision-making and management structures that challenge long standing institutional power relations⁵⁹. Recognition of rights of access, use, and ownership provided for in legislation governing land reform must be actualised in practice. However, in many instances, there is a disconnection in the outcomes of land reforms with respect to gender interests and the stated vision and targets provided for in the policy and legislative framework. It is also worth noting that many of the barriers to gender equity lie at other institutional levels: the market which continues to exclude and limit access for poor people, and in particular poor rural women, the community level, where entrenched patriarchal systems, rules and practices undermine the State’s pursuit of gender equity in land reform projects and processes; finally, the household or family, in terms of skewed institutional relations also determines who exercises control and stands to benefit from household resources.⁶⁰

As noted earlier in the report, South African legislation with regard to gender equity is laudable. This is evident in the constitutional pronouncements, and the series of other land-related legislations that will be critically reviewed in this chapter. However, there is a stark contrast in the extent to which this principle on gender

equity is effectively translated in programme implementation. The overall thrust of the programme of land reform has been to deal with the historical inequities of the past, poverty alleviation, social justice, stimulating economic growth and engendering reconciliation whilst creating equitable outcomes in ascertaining women's benefit from the programme. Achieving an equitable gendered outcome is broadly acknowledged across its three-pronged policy approach. However, since its inception in 1994, achievement of these multiple objectives has proven to be a daunting task. In the last 16 years, a key feature that marks land reform implementation is the disjuncture between policy objectives, institutional framework, fiscal and human resources, and the support infrastructure in place. The limitations of the reforms are two-pronged, namely: quantitative (inability to meet targets), and qualitative (inability to create sustainable livelihood impact, and multiple effects on local and national economy).

The programme of land reform has been criticised for failing to reach its targets or deliver on its multiple objectives of historical redress, redistribution of wealth, equitable outcomes and economic growth. A dominant focus on targets has tended to conceal the need to transform social relations at the micro-level which impede female ability to independently access, use and own land. Instead, the government's land reform programme has tended to prioritise national-level delivery goals over practical household level anti-poverty interventions and social processes to meet these challenges. The majority of the country's landless population are poor rural women, so an effective land reform programme must recognise the urgency of women's needs and interests. In these former homelands, which comprise of predominantly female-headed households, women bear the additional burdens of domestic and reproductive responsibilities. As a result, both national and household level objectives depend on the improvement of female access to and control over resources, including land. If the access and control of land of women can be increased through land reform, and if this can be supported to become an effective anti-poverty programme for poor rural women in particular, then rural development can begin to occur from the bottom up.⁶¹

In essence, the development of a clear set of indicators to measure whether poor, rural women are getting better access to resources, including land, is important if gender equity in land reform is to be achieved. This is both an important lesson arising from redistribution and an opportunity for women wanting to access land through land reform. In order to assess whether the DRDLR is meeting its legal and constitutional obligations and its own commitments to gender equity, it is important to know how the changes are to be measured in order to determine the impact of a gendered land reform. A review of the departmental resources such as programme review reports and annual reports reveals it is not (yet) certain that the department has developed a clear set of indicators that exemplify if such an approach has been undertaken. The use of hectares of land transferred expressed against the backdrop

of the targeted 30% does not aid in our understanding on how women are impacted upon by land reform⁶², in particular from a sustainability perspective.

In 1994, the target for land reform was the transfer of 30% of agricultural land within the first five years. However, by 1999, less than 1% of agricultural land had been transferred through all land reform programmes. In 2000, following a comprehensive review of land reform, the government adopted a revised and more realistic target of transferring 30% over an extended time frame of an additional 15 years, by 2015.⁶³ Redistributing 30% of land by the year 2014 translates to approximately 25 million hectares. As of 30 June 2008, land reform had delivered 4.9 million hectares since 1994. This means that approximately 5% of land has been redistributed. This disjuncture is evident in the rate of land delivery (approximately 5,2% of arable land as at March 2009⁶⁴) achieved since the inception of the programmes, and the subsequent impact of these programmes on meeting their key developmental outcomes; these being the attainment of tenure security, equity in redistribution of land rights, and sustainable livelihood outcomes.

This broad approach to policy targets as a key lever of measurement of success has the tendency to gloss over the actual targets of land reform beneficiaries. A broad scan of the policy framework indicates that “marginalised groups” variously noted as farm workers, the disabled, the youth and women, must also be included in the targeted land reform programme. This means that only 30% of the LRAD projects are allocated to “women-only projects”. However, government discourse on land reform performance has tended to give precedence to attainment of the target of 30% of land that has been redistributed. A review of the annual reports (2006/7, 2007/8 and 2008/9) for the period under review corroborates the observations made herein with regard to gender rights in land reform programmes.

For instance, during the period 2006/07, the Department of Land Affairs is reported to have distributed only 4,3% of the redistribution target of 30%. Between 2006/07, the redistribution program delivered 258 890 hectares of land to 9 405 beneficiaries during the year under review. The Redistribution sub-programme together with the Commission had cumulatively delivered 4 211 140 hectares since 1994. In addition, 494 hectares of land was acquired for housing, industrial and economic development. The Commission for Restitution of Land Rights had set a target to verify, gazette and settle 3 243 claims. It successfully settled 2 772 of these claims, most of which were complex rural claims that had dragged on for a long time. By 31 March 2007, 93,8% of claims representing 74 417 claims had been settled out of a total of 79 696 claims that were logged by the cut-off date of 31 December 1998. A figure of 5 279 representing 6,62% remains to be settled, of which the majority are rural claims. In summary a total of more than 1.5 million hectares of land had been restored to claimants at a cost of over R 5,3 billion.⁶⁵

During the 2007/08 reporting year, the Land Redistribution Programme delivered 347 011,4967 ha of white-owned Commercial Agricultural Land benefiting 8 574 beneficiaries. Under the Land Restitution Programme the Department delivered 432 226 ha through the settlement of Land Claims. The hectares delivered benefited 142 766 beneficiaries. The Programme targeted to settle 3 590 rural land claims in the year under review; 415 were approved, and of these 330 were settled. To this end, about 4 900 Land Claims are still outstanding. The challenge for Restitution has been the complex processes involved in settling outstanding rural claims and the cost of acquiring the land. In total, the Department delivered 773 106 hectares to about 151 340 beneficiaries of the previously disadvantaged groups.⁶⁶

For the period 2008/09, the Land Redistribution Programme delivered 443 601 hectares of white-owned commercial agricultural land as part of its contribution to the broader Departmental core objective of redistributing 30% of commercial agricultural land by 2014. A total of 501 projects were finalised and 14 457 beneficiaries were reached through these projects. The annual target for 2008/2009 was 1 500 000 hectares; however it had to be reduced to 608 060 hectares in order to align it with the actual budget allocation. This resulted in approximately 394 000 hectares of land being approved for restoration, affecting approximately 30 000 households. The annual target for 2008/2009 was 1 034 000 hectares and 2 585 claims. These targets were reviewed when it became known that the tenure of the Commission was to be extended.⁶⁷

With regard to gender outcomes, the 2007/08 report outlines some of the gender objectives set for its Gender Unit, namely: creating guidelines for Women-only projects, facilitating WARD processes, establishing appropriate implementation structures and recruiting gender expertise, facilitation of gender mainstreaming and promotion of advocacy programmes both internally and externally. The report states that these outputs contributed to the creation of an enabling environment for female and gender issues in the Department to be undertaken, further enhancing its commitment to female empowerment and attainment of gender equality. In addition, the Department adopted the Women in Development (WID)/ Women and Development (WAD) and Gender and Development (GAD) approaches in advancing women's needs and interests in land. Guidelines that promoted women-only projects were developed in the context of a checklist for projects, comprehensive Gender Monitoring and Evaluation. In this period (2007/08), work with WARD focused mainly on consulting with the stakeholders who constituted the WARD structure, and coordination protocols were settled with the Ministry and DAFF. The Gender Unit actively participated in the activities of this structure by assisting with strategic planning and in advocacy programmes countrywide.⁶⁸ What is evident for this period (2007/08), is that programmatic areas dealing with gender mainstreaming were established and consolidated in practice.

Unlike the earlier previous annual report (i.e. 2006/07), the 2008/09 annual report makes explicit mention of gender from an organisational perspective. This annual report notes that during this period, the Gender Unit focused on two critical outputs in its endeavor to facilitate gender awareness and mainstreaming. These outputs were the development of operational tools to fast-track mainstreaming and the management of advocacy programmes which are to be observed within the Department as well as externally with clients. In respect of the mainstreaming target, the Gender Responsive Budgeting Framework was approved in the second quarter of 2008. In addition, the Unit managed to coordinate five programmes, namely the National Women's Day, the World Rural Women's Day, the International Women's Day, the Southern African Women Innovators and Inventors Symposium and the 16 Days of Activism for No Violence against Women and Children.⁶⁹

Another key issue acknowledged in the report with regard to gender interests is bursary programmes focused on areas of scarce skills that are difficult to find through the normal recruitment process. During the period 2008/09, a total of 214 bursary holders were participating in the programme. Specific emphasis is placed on attracting women and black youth from disadvantaged and rural communities⁷⁰. In summary, the reviews noted in the three respective annual reports, clearly articulate a peripheral and uneven concern on the way in which gender issues are reported in the department's annual reports. Figures that are presented are not disaggregated along gender lines in a consistent manner throughout the respective years.

In pursuit of mainstreaming gender in land reform, DRDLR in collaboration with DAFF jointly facilitated the launching and establishment of provincial and national structures of WARD. This structure is aimed at providing an organized discussion forum for women to participate in land reform programmes.⁷¹ The purpose of WARD is to mainstream gender issues in agriculture and land policies, programmes and projects locally and nationally, to raise the profile of rural women and their communities and to ensure the sustainable growth of agriculture. Women, especially in rural areas, still experience problems in accessing finance and land, the transfer of relevant information, lack of knowledge regarding agriculture and land reform rights. The programme was launched in 2006 and data on the outcome of this programme is yet to be generated by the programme.

However, currently (in 2010), it is worth noting a notable shift in government's stance on land reform with regard to setting broad targets as key primary measures of ascertaining progress of reforms, with the expectation that sustainable land use patterns will emerge thereafter with the support of line departments such as DAFF. DRDLR has admitted that 90% of the earmarked 5,9 million hectares of redistributed farm land had failed. This has prompted DRDLR to commit itself to guaranteeing R 207 million as part of a rehabilitation grant to unlock the productive potential of these farms. It is worth noting that the government also indicated that it had given

up on its transfer target of 30% of land by 2014, given the fact that it would require about R 80 billion to achieve the target. The Comprehensive Rural Development to be discussed later in this chapter aptly manifests the sustainable developmental goals that land and agrarian reform must achieve. Despite this shift in Government's approach towards land reform, the assessment on the failure of the reform rarely acknowledges the limited impact the reform has had on livelihood enhancement of rural women. Hence, while the shift from targets to sustainability and rehabilitation of farms is acknowledged, implicit in this approach is a replication of the use of the concept of beneficiaries without necessarily acknowledging gender as a core principle to guide the new approach. A discussion of the specific programmes of land reform highlights the disjuncture that exists in terms of policy acknowledgement on gender concerns and the actual implementation process.

3.2 Redistribution Programme: The Land Redistribution for Agricultural Development Sub-Programme (LRAD)

As stated in the White Paper on Land Reform, the purpose of the land redistribution programme is to provide the poor with access to land for residential and productive uses, in order to improve their income and quality of life. The programme aims to assist the poor, labour tenants, farm workers, women, as well as emergent farmers. Redistributive land reform will be largely based on "willing buyer, willing seller" arrangements. Government will assist in the purchase of land, but in general will not be the buyer or owner. Rather, it will make land acquisition grants available and will support and finance the required planning process as expressed through LRAD, a sub-programme of the redistribution policy.

The LRAD aims to contribute towards the transfer of 30% of the nation's medium and high-quality agricultural land - a total area of 24,66 million hectares - to blacks over the next 15 years. The programme aims to be a single, integrated facility for redistribution and is designed to provide grants to black South African citizens to access land specifically for agricultural purposes. The strategic objectives of the sub-programme include improving nutrition and incomes of the rural poor who want to farm on any scale, de-congesting of overcrowded former homeland areas, and expanding opportunities for women and young people who stay in the rural areas.⁷² One of LRAD's key aspects is that it is demand-driven in the sense that beneficiaries define the project type and size they want to pursue and the implementation of the projects will be decentralised at the district level. LRAD encourages participants to design what works best for them and the target beneficiaries are supposed to make at least a contribution (in kind or in cash) based on their abilities. Beneficiaries can access grants under LRAD on a sliding scale, depending on the amount of their own contribution in kind, labour and/or cash.⁷³

With respect to gender, LRAD aims to "expand opportunities for women and youth in rural areas", as well as to "overcome the legacy of past racial and gender discrimination in land tenure". The programme hopes to achieve this by

“encouraging women-only projects” and by ensuring that at least one-third of transferred land resources accrue to women. As far as gender issues are concerned, LRAD notes that the new initiatives provide an excellent vehicle for redressing gender imbalances in land access and land ownership, and thus, in improving the status of rural women. Under the Agricultural Development sub-programme, adult individuals can apply for grants in their own right, rather than as members of households. This means that women can apply for grants to acquire land individually, or can pool their grants with whomever they choose, thus augmenting their control over the manner in which they benefit from the sub-programme.⁷⁴

However, for the sub-programme to accomplish its overall goals in respect of women, it must ensure that women are able to participate on an equal footing with men in all aspects of implementation. For instance, women-only projects are to be encouraged and in terms of targets, not less than one-third of the transferred land resources must accrue to women.⁷⁵ LRAD provides an excellent vehicle for redressing gender imbalances in land access and land ownership, and therefore, in improving the lives of rural women and the households they may support. The sub-programme will serve as a means of creating opportunities to enable women to develop in numerous spheres of life, therefore giving them security against poverty and providing them independent economic status.⁷⁶

The LRAD sub-programme is flexible enough to accommodate a number of types of projects. Moreover, residential projects would not be supported under LRAD unless beneficiaries sought to establish household gardens at their new residences, and unless funds for top-structure were sourced from elsewhere, e.g. Department of Housing. Under LRAD, four broad sub-programmes were initiated. The first programme is the food safety-net projects that will give the participants the opportunity to access land for food crops and/or livestock production to improve household food security. The second programme of equity schemes is aimed at aiding the participants in receiving equity in an agricultural enterprise equivalent to the value of the grant plus their own contribution. Agricultural initiatives in the communal areas are the fourth sub-programme of LRAD. These programmes are meant for people living in the communal areas that have access to agricultural land but may not have the means to make productive use of that land.⁷⁷ A review of the statistical data retrieved from the Monitoring and Evaluation Unit, DRDLR, indicates the following with regard to beneficiaries’ profiles in the redistribution and tenure reform:

Table 1: Number of Beneficiaries for Redistribution and Tenure Programme by province

Number of Beneficiaries for Redistribution and Tenure Programme by province from 2005/2006 to 2009/2010						
PROVINCE	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	Total No. Beneficiaries
EC	1 472	1 092	548	772	1 033	4 917
FS	586	477	218	144	338	1 763
GP	203	252	169	54	70	748
KZN	5 745	1 729	4 442	4 589	2 810	19 315
LP	334	354	82	550	509	1 829
MP	620	91	505	1 243	1 053	3 512
NC	362	474	188	164	94	1 282
NW	966	7 805	638	238	3 078	12 725
WC	747	320	1 966	1 463	290	4 786
TOTAL	11 035	12 594	8 756	9 217	9 275	50 877

As indicated in table 1, the total number of beneficiaries that have benefited from redistribution and tenure reform is 50 877. Across the provinces, NW province recorded the highest number of beneficiaries (12 725), with GP recording the lowest (748) for the period under review. An interesting trend to note is that since 2005/06, the number of beneficiaries per year has consistently decreased from 11 035 in 2005/06 to 9 275 (2009/10). This could be attributed to the department's preference to limiting the number of grant applicants per project which has in the past created group dynamics that have tended to impact on governance of these projects.

Table 2: Number of Women for Redistribution and Tenure Programme by province

PROVINCE	2005/2006 to 2009/2010					Total No. Women
	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	
EC	658	429	219	195	175	1 676
FS	268	234	104	53	173	832
GP	110	80	90	37	23	340
KZN	2 184	901	1 152	2 239	1 539	8 015
LP	162	142	36	293	284	917
MP	0	5	110	474	411	1 000
NC	148	218	30	48	36	480
NW	153	61	249	113	1 846	2 422
WC	276	1 347	224	578	177	2 602
TOTAL	3 959	3 417	2 214	4 030	4 664	18 284

As indicated in table 2, a total of 18 284 women benefited from the redistribution and tenure reform during the review period. If this is read together with table 1, where the total number of beneficiaries is noted at 50 877, then it is worth noting that women constitute about 36% of the total beneficiaries of land reform during the review period. However, this figure is yet to be verified by the Monitoring and Evaluation Unit of the DRDLR. Notwithstanding this limitation, as noted in table 1, there is progress in developing a database of beneficiaries for land redistribution per province; however, what is missing is a holistic picture of the total beneficiaries of the land distribution programme because it focuses on the female beneficiaries only. Attempts were made to consolidate table 1 and 2, but due to inconsistency of statistical outputs, caution was taken to leave the two tables as distinct. It is nevertheless worth noting that KZN (8 015), Western Cape (2 602), North West (2 422) and Eastern Cape (1 676) are among the leading provinces in terms of female beneficiaries in their land redistribution and tenure policy programmes.

3.3 Comprehensive Agricultural Support Programme

An intervention to complement LRAD has been the development of the Comprehensive Agriculture Support Programme (CASP) in 2004, which aims to improve the quality of post-settlement support services as well as bridging the policy gap between land reform and agricultural development. CASP, as with the main LRAD programme, targets beneficiaries of land reform but also includes other producers who have acquired land through private means, as long as they are currently engaged in value adding agricultural enterprises domestically or involved in export of agricultural products. The main priority areas under the CASP programme include the following⁷⁸:

- Information and knowledge management;
- Technical and advisory assistance;
- Financial support;
- Training and capacity building;
- Marketing and business development, and
- On- and off-farm infrastructure.

The programme is based on the concept of public-private-community cooperation for service delivery. In order to implement the CASP programme, the national DAFF has proposed a three-pronged strategy, namely: to align all support services to the six priority areas identified above, phase in the basic support services related to on- and off-farm infrastructure, and lastly to develop a policy for agricultural financing. At the same time, Provincial Departments of Agriculture have been given a mandate to implement the farmer support services within the CASP policy framework. Furthermore, provincial departments are required to develop partnerships with the

private sector in order to facilitate the implementation of the programme. A phase-in approach is envisaged and additional resources (in the form of conditional grants and through the equitable share allocation) have been made available to allow departments to gradually introduce strategic interventions as outlined under the CASP framework. CASP does not make any specific provisions with regard to women as a category of beneficiaries. However, in a generic sense, it lists its beneficiaries as: the hungry, subsistence and household food producers, farmers and agricultural macro-systems within the consumer environment. In essence, CASP is targeted to support the four different levels of clients within the farming continuum and these are⁷⁹:

- The hungry and vulnerable: Though this group is primarily the responsibility of the Department of Social Development, they are supported by the DAFF and PDAs through advice and during food emergencies and crises, through agricultural food packs and for those families who are ready, the introduction of the agriculture starter pack;
- Subsistence and household food producers: Supported through food production and include the beneficiaries of the special programme on food security (SPFS) and the Integrated Food Security and Nutrition Programme (IFSNP) with the provision of the agriculture starter pack;
- Farmers: Supported through farm level support and include the beneficiaries of the LRAD and other strategic programmes e.g. SLAG, Restitution, Redistribution, Tenure Reform, and
- Agricultural macro-system within the consumer environment: This category includes the commercial farmers to ensure that business and the regulatory environment is conducive to supporting agricultural development and food safety.

These broad categories as indicated above would implicitly mean that women as a specific group are included though this is not explicitly stated. However, no specific mechanisms are defined to allow targeting of its listed beneficiaries. The policy further states that it aims to, "Target beneficiaries ... from the previously disadvantaged group ... and enhance national and household food security⁸⁰". For instance, a recent review of CASP in 2007 found that, in most regions, infrastructure was the only form of support provided, coordination with the land reform process was inadequate and despite high levels of demand, there was under-spending due to bureaucratic procurement procedures. Support in the form of technical advice, training, marketing, production inputs and risk management had been largely ignored by implementers and, while some land reform beneficiaries had access to CASP funds, in other areas officials directed these away from land reform towards emerging farmers considered to be more commercially oriented. Contrary to its name then, CASP is far from comprehensive, both in the types of support made available, and in its reach. The review identified some of the inherent limitations of the grant-

based model of support, which appears to be based on the Land Redistribution for Agricultural Development (LRAD) programme. It concluded that CASP would need to be revised and would need to be "couched within a common vision of land and agrarian reform that is shared by agriculture and land affairs"⁸¹. However, in this review, no mention was made with regard to the programme's impact on women.

3.4 Restitution Policy

Land restitution, as mandated by the Constitution, seeks to restore land to those who were forcefully removed from it, provided the dispossession can be proved to have occurred no earlier than 19 June 1913. Restitution is an integral part of the broader land reform programme and is closely linked to the need for the redistribution of land and tenure reform. The Restitution of Land Rights Act 22 of 1994 and the Constitution provide a legal framework for the resolution of land claims against the State, where possible through negotiated settlements. Restitution policy is guided by the principles of fairness and justice. The restitution process is driven by the just demands of claimants who have been dispossessed. They have a right to restitution in one form or another⁸².

Restitution can take the following forms: restoration of the land from which claimants were dispossessed, provision of alternative land; payment of compensation; alternative relief including a package containing a combination of the above; sharing of the land, or special budgetary assistance such as services and infrastructure development where claimants presently live; or priority access to state resources in the allocation and the development of housing and land in the appropriate development programme. The principle is that preference is given to the restoration of land. Any compensation that was received at the time of removal, and any improvements to the property since dispossession, is taken into account when structuring the package for restoration⁸³.

Claims for restitution are lodged with the Commission for the Restitution of Land Rights, which according to the 1997 White Paper on Land Reform is responsible for publicising the process and providing information, investigating and mediating claims, settling claims through negotiations and assisting communities and individuals to lodge claims. Section 11 of the Act stipulates that claims should be lodged with the Land Claims Commissioner, who, if satisfied that the claim meets the legal requirements set out in the Act, must publish a notice of the claim in the Government Gazette.

Claimants, as conceived in this policy, are viewed as largely "un-gendered" despite the fact that the denial of land rights to black women was only a part of a broad legacy of centuries of land dispossession through racially discriminatory laws. The programme has thus failed to acknowledge the specific gender-based experiences that underpinned much of colonial apartheid land dispossession experiences. This is

further exemplified in the policy's broad understanding of what constitutes indicators of achievement. These are listed as follows, "if substantial numbers of claimants who were dispossessed of land...receive restitution...if the restitution process does not itself lead to major disputes..., if land restitution is achieved while maintaining public confidence in the land market..., if satisfactory frameworks and procedures are found for claims and demands which fall outside the Restitution⁸⁴". In addition, the policy has not developed any specific procedures that are targeting women as a category worth acknowledging given their historical experiences. The overarching concern of the restitution programme is on the claimants, who are seen as "victims" of a brutal and violent past, of which land dispossession was a key feature. In this regard, the programme is rights-based and primarily aims to accord historical redress to claimants perceived as a homogenous group who share a common experience of land dispossession. Whilst black South Africans suffered the brutality of colonial and apartheid experiences of land dispossession, the suffering of women was linked not only to the basis of their race (black) but also attributed to their gender, due to discriminatory, cultural and social practices and traditions relating to land ownership and access. The implications of such a limitation will become apparent when reviewing the outcomes of the programme in the ensuing section.

3.5 Has Restitution Outcome Reinforced Gender Rights?

The Restitution of Land Rights Act, 22 of 1994, and the SA Constitution of 1996, provide a legal framework for the resolution of land claims against the State, where possible through negotiated settlements. Restitution policy is guided by the principles of fairness and justice. The restitution process is driven by the just demands of claimants who have been dispossessed of their land. They have a right to restitution in one form or another.⁸⁵ The restoration of land should happen within a context that supports the vital process of reconciliation, reconstruction and development. The Land Restitution programme has generally been perceived as slow and ineffective. This is partly the result of problems ranging from policy to the practical consequences of implementation and post-restitution development. Policy related problems include issues of expropriation and compensation, the emotional nature of the process, the exclusion of large groups from the programme, the 1913 cut-off date and the legalistic nature of the programme. Problems arising from the implementation process include lack of community participation in the process, accountability of community leadership structures, lack of community cohesion, management and administrative issues in the Land Claims Commission, capacity constraints, the resuscitation of the chieftaincy and the complex nature of claims. Furthermore, the programme has been criticized for a lack of post-restitution development planning and a perceived urban bias.

The most substantial source of qualitative information on the outcomes of rural restitution claims to date is the audit conducted by the Community Agency for Social Enquiry (CASE) in 2005 and 2006. This brought together a series of provincial

reports on a total of 179 rural restitution claims that contained a development component (that is, land restoration). The CASE audit found a strong correlation between the degree of support from state and non-governmental institutions, and the livelihood outcomes of a project. Thorough facilitation of decision-making by the community around land use and management was found to be essential, as was the establishment of steering committees or sub-structures to manage land allocation and land use. A perennial problem, though, was the reliance of communal property associations (CPA) or Trust committees on representatives who might be skilled but unaccountable, or who may pursue individual rather than collective interests.⁸⁶

Another factor cited as promoting positive livelihood outcomes is strong participation by members of claimant communities in decision-making. The creation of relevant sub-committees or institutional structures with specific areas of authority and responsibility for day-to-day management was found to increase participation in, and benefits from, productive activities. The study recommended that further thought be given to how state agencies can support community decision-making processes, and suggests that there are few shortcuts to community decision-making. Where land reform projects require large groups of people to form legal entities, intensive facilitation of participatory decision-making is needed.

For the period 2008/09, the Restitution program settled 95% of the total number of claims lodged by the cut-off date of 31 December 1998. During the 2008/2009 financial year, the Commission on Restitution of Land Rights (CRLR) settled 653 claims, resulting in approximately 394 000 hectares of land restituted to claimants. Approximately 4 296 complex claims are outstanding. Cumulatively, the approved hectares of land transferred in terms of restitution since 1995 is 2,47 million hectares. This represents a significant contribution towards the overall target of redistributing 30% of white-owned agricultural land by 2014. To accelerate the pace of the settlement of claims, the Commission has concluded several agreements with stakeholders. These agreements are also intended to ensure that capacity is provided to beneficiaries once a claim has been settled and land transferred in order for such beneficiaries to actively leverage restituted land for development purposes and therefore their significant participation in the economy⁸⁷.

The restitution policy is guided by the principles of fairness and justice. The process is driven by the demands of claimants who have been dispossessed, according to the 1997 Department of Land Affairs White Paper on Land Reform Policy. A total of 79 000 claims were lodged with the Commission on Restitution of Land Rights before the 1998 cut-off date. The year 2007 marked the settlement of virtually all outstanding urban claims, and continued the recent trend of settling large community claims with the restoration of sizable areas of rural land. In the run-up to the 2008 presidential deadline for settling all restitution claims, the CRLR and the Minister of Land Affairs signaled that the deadline would not be met, and that

resolution of up to one-third of the outstanding claims, which were particularly complex or in dispute, might continue beyond the deadline.⁸⁸

These limitations are emblematic in the ways in which adversarial relations have marked South Africa's restitution programme, and the limited livelihood gains this programme has generated. Conflicting and overlapping rights to land, claims of lineage decent, and the role of traditional leaders in accentuating the problems has been evident. By 30 June 2008, the CRLR had settled 74 808 claims out of the 79 696 claims lodged. The number of outstanding claims, all of which are rural, now stands at 4 888. This suggests that all urban claims are settled. As at 2009, just fewer than 5 000 rural claims were outstanding, the majority of which are complex and subject to disputation from the established farming community. After missing the second presidential deadline in March 2008, the CRLR announced it plans to conclude the restitution process by 2011. As will be noted in the national overview report, close to 9% of beneficiaries of the programme are female.

Table 3: Number of Beneficiaries for Restitution Programme by Province

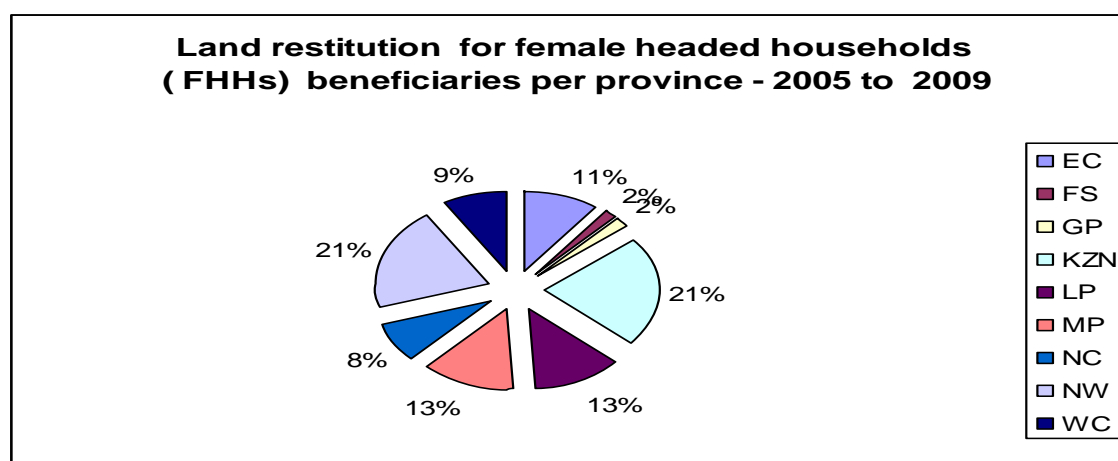
Number of Beneficiaries for Restitution Programme by province from 2005/2006 to 31 September 2009						
Province	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	Total No. Beneficiaries
EC	1 066	15 893	18 591	21 046	7 137	63 733
FS	8 907	10 279	42	3 336	269	22 833
GP	144	6 494	3 961	1 359	0	11 958
KZN	64 474	72 748	46 597	42 018	23 845	249 682
LP	25 660	47 794	11 287	7 869	4 291	96 901
MP	5 837	30 346	30 973	25 919	2 353	95 428
NC	8 520	26 195	7 444	9 329	3 075	54 563
NW	8 079	47 073	15 689	20 044	3 140	94 025
WC	12 142	11 992	8 182	3 645	1 868	37 829
TOTAL	134 829	268 814	142 766	134 565	45 978	726 952

As noted in table 3, the total number of beneficiaries from the restitution programme is 726 952. Of the nine provinces, KwaZulu-Natal recorded the highest number of beneficiaries at 249 682 compared to Gauteng province which recorded 11 958.

Table 4: Number of Female Headed Households for Restitution Programme by Province

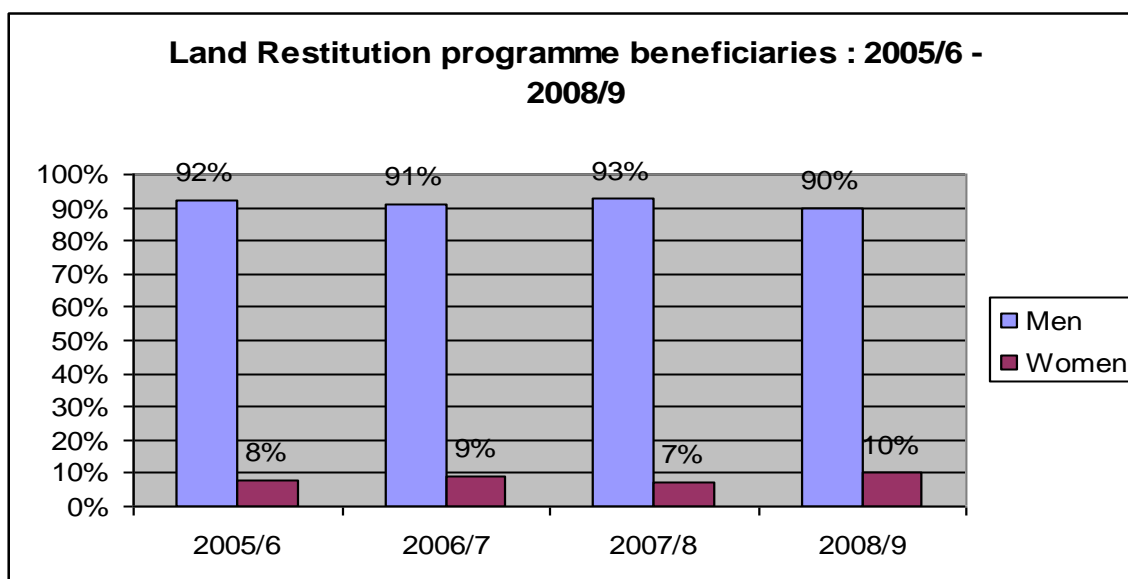
Number of Female Headed Households for Restitution Programme by province from 2005/2006 to 31 September 2009						
Province	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	Total No. Female Headed Households
EC	73	1 878	1 605	2 761	523	6 840
FS	275	252	6	425	79	1 037
GP	4	670	259	153	0	1 086
KZN	3 419	4 473	2 178	2 687	1 668	14 425
LP	2 170	2 764	1 194	1 335	669	8 132
MP	145	3 321	2 024	2 115	119	7 724
NC	700	2 343	413	1 104	46	4 606
NW	751	7 001	2 019	2 590	321	12 682
WC	2 613	1 213	740	555	424	5 545
TOTAL	10 150	23 915	10 438	13 725	3 849	62 077

Table 5: Land Restitution for Female-headed Households (FHHs) beneficiaries



When comparing the nine provinces in terms of which provinces have benefited the most, the data in table 5 reveals that both KZN and North West are leading at 21% respectively. In this hierarchy, Mpumalanga and Limpopo follow the latter at 13% each, followed by Eastern Cape at 11%, then Western Cape at 9%, Northern Cape at 8% and lastly Gauteng and Free State with 2% each. Considering that some provinces are more rural and others are less rural and more urban, this shows good progress in terms of achievement because in some categories, women have benefited almost equally. Urban based provinces like Gauteng and Western Cape have benefited little when compared to rural based provinces like KZN and Eastern Cape. It can therefore be concluded that rural women have benefited more in the land reform programmes compared to urban women.

Table 6: Land Restitution Programme Beneficiaries



As noted in table 6, the restitution programme has benefited about 91% males and 9% females during the 2005/6 to 2008/9 financial years. The table above shows the percentages broken down for each province and is summarised in the ensuing table (7). The restitution programme has been expanded to reach out to a number of beneficiaries; however, it seems as if the promotion of gender equality in the programme is fairly slow and unattainable. In 2005/6 the programme benefited about 92% males and only 8% females. In the following year (2006/7), only 9% of women benefited from the programme compared to 91% of their male counterparts. In that hierarchical order, there were 93% males and 7% females in 2007/8. Lastly, in 2008/9 there was a slight improvement in terms of reaching out to female beneficiaries. 90% of beneficiaries were males and 10% females. The figures in the ensuing table show the total percentage that compares what has been achieved from 2005 to 2009 in relation to women accessing the restitution programme.

Table 7: Number of male and female beneficiaries per province on land restitution from 2005/6 – 2008/9

Province	2005/6		2006/7		2007/8		2008/9		Total	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
EC	993 93%	73 7%	14 015 88%	1 878 12%	16 986 91%	1 605 9%	18 285 87%	2 761 13%	50 279 89%	6 317 11%
FS	8 632 97%	275 3%	10 027 98%	252 2%	36 86%	6 14%	2 911 87%	425 13%	21 606 96%	958 4%
GP	140 97%	4 3%	5 824 90%	670 10%	3 702 93%	259 7%	1 206 89%	153 11%	10 872 91%	1 086 9%
KZN	61 055 95%	3 419 5%	68 275 94%	4 473 6%	44 419 95%	2 178 5%	39 331 94%	2 687 6%	213 080 94%	12 757 6%
LP	23 490 92%	2 170 8%	45 030 94%	2 764 6%	10 093 89%	1 194 11%	6 534 83%	1 335 13%	85 147 92%	7 463 8%
MP	5 692 97%	145 3%	27 025 89%	3 321 11%	28 949 93%	2 024 7%	23 804 92%	2 115 8%	85 470 92%	7 605 8%
NC	7 820 92%	700 8%	23 852 91%	2 343 9%	7 031 94%	413 6%	8 225 88%	1 104 12%	46 928 91%	4 560 9%
NW	7 328 99%	751 1%	40 072 85%	7 001 15%	13 670 87%	2 019 13%	17 454 87%	2 590 13%	78 524 86%	12 361 14%
WC	9 529 78%	2 613 22%	10 779 90%	1 213 10%	7 442 91%	740 9%	3 090 85%	555 15%	30 840 86%	5 121 14%
Total	124 679 92%	10 150 8%	244 899 91%	23 915 9%	132 328 93%	10 438 7%	120 840 90%	13 725 10%	622 746 91%	58 228 9%

As noted in table 7, on average, 9% of the beneficiaries are female. Criticism of the restitution policy has hinged in part on the fact that its conception of claimants' communities is often viewed as "un-gendered", and that no special acknowledgement is made to prioritise women in the way that compensation is granted. Despite this limitation, it is commendable that the Monitoring and Evaluation unit has disaggregated data on restitution based on gender. Compared to the 2005/6 data, where only 8% of the claimant beneficiaries were female, this had increased slightly to 10% in 2008/09.

3.6 Land Tenure Programme

Land tenure is defined as the terms and conditions on which land is held, used and transacted or transmitted. Tenure reform deals with a planned change in the terms and conditions under which people hold, use and transact land. By its nature, tenure reform deals with people who currently occupy and use the land.⁸⁹ One of the key principles of tenure reform is to move towards rights and away from permits. This entails a commitment to the transformation of all "permit-based" and subservient forms of land rights into legally enforceable rights to land.⁹⁰ Tenure reform processes

must recognise and accommodate the *de facto* vested rights that exist on the ground, including interests which have come to exist without formal legal recognition. Tenure Reform is the most complex area of land reform. It aims to bring all people occupying land under a unitary, legally validated system of landholding. It will provide for secure forms of land tenure, help to resolve tenure disputes and make awards to provide people with a secure tenure.⁹¹ Tenure reform should also be consistent with the Constitution's commitment to basic human rights and equality. For example, group-based tenure systems must deliver the rights of equality and due process to their members⁹². Some of the pressing problems on the tenure front, including lack of secure land rights, illegal eviction, chaotic land administrative systems and the lack of investment in the rural areas, form part of the daily struggles that rural people have to endure in their struggles for social reproduction emanating from land-based livelihood provisioning strategies of which women bear a disproportionate burden.

In attempting to reform land tenure for farm workers and labour tenants within the freehold farming areas, the White Paper on Land Reform (1997) makes explicit mention of gender equity. Tenure reform often has unintended long-term consequences that could have a negative impact on the rights of women. To guard against this, the gender implications of all new tenure policy measures will have to be assessed and steps taken to guard against these consequences. The most obvious of these is that any process which formalises current rights will often formalise female exclusion from access to land. For example, the Permission to Occupy certificates have generally been allocated to male heads of households. If they were to be upgraded into ownership by the permit holder they would almost invariably be upgraded to the male head of household. It is for these reasons that the White Paper explicitly states the need to institute protections for women into the new forms of ownership and the procedures for upgrading rights. The equality clause in the Constitution makes this a requirement. Tenure reform provides key opportunities to build protection for the rights of women into the new forms of ownership which are being developed, in particular family based rights and group ownership systems.⁹³ The 1997 White Paper on South African Land Reform aptly captures the current state of insecurity of tenure in white-owned farming areas as follows:

"A major cause of instability in rural areas is the millions of people who live in insecure arrangements on land belonging to other people. They have had to do so because of structural reasons. They have simply had no alternative place to live and no alternative means of survival. This structural situation is the result of literally hundreds of land-related racially discriminatory laws introduced and enforced under colonialism and apartheid. It is the reason why current and prospective evictions are so devastating. The evicted have nowhere else to go and suffer terrible hardships. The victims swell the ranks

of the absolutely landless and the destitute. They find themselves at the mercy of other land owners for refuge. If no mercy is shown, land invasion is an unavoidable outcome. Because the root cause of the problem of insecurity of tenure under these circumstances is a structural one, it requires a structural solution. The crisis in the predominantly white commercial farming areas is particularly severe. Evictions have reached endemic proportions. They are fuelled by the current lack of certainty in respect of farm worker tenure policy and laws pertaining to land rights and security of tenure for current and long-term occupants of rural land. It is thus imperative that key interventions be made urgently and in such a manner as to contribute to a climate of certainty and stability⁹⁴.

Although the tenure reform programme has been the slowest and most difficult aspect of the South African land and agrarian reform programme to date, there are a number of laws that have been promulgated since 1994 to address the tenure insecurity of persons or communities or groups of persons in the former homelands and ex-South African Development Trust (SADT) areas, the former coloured areas, and the white commercial farming areas as well as the peri-urban areas where farm workers and farm occupiers are mainly found. A series of legislations have been promulgated in pursuance of the broader objectives of tenure reform.⁹⁵ For instance, the Extension of Security of Tenure Act, No. 62 of 1997 (ESTA), addresses the relationship between occupiers and owners, as well as the circumstances under which evictions can take place and the procedures to be followed. The Act is underpinned by the following principles: The law should prevent arbitrary and unfair evictions, existing rights of ownership should be recognised and protected, and people who live on land belonging to other people should be guaranteed basic human rights. In essence, this law promotes long-term security on the land where people are living at the moment. None of these laws, however, deal with the complex system of administering tenure in the former homelands and state-owned land that is the result of a myriad of inconsistent laws, proclamations, regulations and procedures.⁹⁶

The second piece of legislation dealing with tenure reform in the established freehold farming areas is the Land Reform (Labour Tenants Act No. 3 of 1996). This Act differs from ESTA in that it not only places restrictions on the eviction of labour tenants from farms but also gives tenants the right to claim stronger rights, including ownership of the land they use. For instance, it allows labour tenants to obtain long-term secure independent tenure rights through the purchase of the land they currently use, or alternative land. Like the ESTA, the LTA is also concerned with evictions but there is a stronger imperative to give labour tenants the right to assert stronger claims to the land on which they reside and work including ownership rights. With the LTA, there is a focus on giving labour tenants the opportunity to acquire "long-term secure and independent tenure rights through the assisted

purchase of the land they currently use, or alternative land". Labour tenants are defined as people who live, or have the right to live on a farm; who have or have had permission to use the land on the farm in return for labour, and whose parents or grandparents were labour tenants⁹⁷.

3.7 Has Tenure Reform Outcome Reinforced Gender Rights?

One of the cardinal concerns with regard to the implementation of the ESTA and the LTA is the issue of non-compliance, poor enforcement and resource endowment to allow effective implementation of the legislation in question. ESTA legislation is strong in terms of procedural rights i.e. defining the procedures one needs to follow to enforce a legal eviction but weak in defining the substantive rights of the farm workers and labour tenants. Illegal or constructive evictions have therefore proceeded unabated despite having the legislation in place to protect their rights.

This is despite the fact that farm dwellers comprise one the poorest segments of South African society: they live in destitute housing that often lacks basic amenities, illiteracy is high, average earnings are often below minimum wage, and access to wider social infrastructure is often very difficult. Due to the fact that most farm workers live on the farms on which they work, the loss of a job often entails a concurrent loss of residence. Many farm dwellers live in isolated settings receiving few services with little or no access to information or support services from government and NGOs. Difficulties of access to farms and limitations on the freedom of association for farm dwellers remain challenging despite new legislation. The Nkuzi Development Association (NDA) undertook an eviction survey to establish baseline data for the prevalence of eviction over a 20 year period from 1984 to 2004.⁹⁸ This survey, amongst others, found that in the periods between 1994 and 2004 a total of about a million people were evicted and only 1% received some form of legal representation.

The report further noted that just over three quarters of those evicted from farms are women and children and they are more likely to be evicted than men. This is because the judicial interpretation of ESTA and the attitude of many land owners has, in practice, defined women's and children's tenure rights as secondary, being acquired indirectly through their relations with employed men. The main reason for farm dwellers being evicted relates to farm workers losing their jobs and, as a direct result, the family having to leave the farm. This is at least in part due to the connection between employment and land tenure rights. The experience of the program also highlighted that, overall, the provision of farm dweller legal support has not been very successful with regard to securing tenure security for the elderly, women and children. Their long-term occupier status is rarely acknowledged by farm owners.⁹⁹ Women in these circumstances are even more vulnerable, as their tenure is often primarily via their relationship with a male head of household's tenure status. Loss of his income, job or historical agreement puts added pressure on women, as

they are seldom employed for hard labour activities on farms and, when employed, are paid lower wages.¹⁰⁰

The study indicated that despite the introduction of new legislation protecting the rights of farm workers, there has been an increase in evictions. The core cause of their vulnerability is the lack of security of tenure they experience. The systemic violation of their rights is exacerbated by the lack of access to legal resources, and an awareness of their rights as tenants, and the unequal power relations that pervade rural South Africa.¹⁰¹

3.8 Tenure Reform in the ex-homelands: The Communal Land Rights Act (2004)

South Africa's ex-homelands, which constitute 13% of the country, offer the greatest potential for a far-reaching reform that ensures gender interests in land access, ownership and use. Unfortunately, in the last 15 years (1994–2010), the legislation and implementation of these key reforms in South Africa's ex-homelands have proven a daunting task. These areas carry a disproportionate burden of poverty and under-development. The collapse of local governance systems in land administration, lack of investment due to tenure insecurity, lack of infrastructure, and an ailing smallholding sector are a stark reminder of the legacy of apartheid in rural South African communities. These challenges impose an insurmountable burden for women who are subservient to a patriarchal cultural system which denies them independent access and ownership to land for their daily survival.

Against this background, tenure reform must also grapple with overcrowding in the communal areas and overlapping land rights, as well as cases of exploitation and corrupt practices by traditional leaders, officials and politicians. As a result, poor people's land and resource rights are insecure and inadequately recognised by law, especially the rights of women, the youth, and minority groups¹⁰². This sharp divide between statutory and customary law further exacerbates inequity and vulnerability of tenants. This insecurity of tenure in the communal areas is one of the greatest threats the land reform programme is yet to tackle in its attempt to de-racialise the dual property regime South Africa inherited.

Though rights that people hold in communal areas seem secure, in reality they are often weak in terms of their jurisprudential validity. Since land is owned by the State, the people who hold these rights hold derivative or secondary rights. These forms of rights are not acquired on the basis of membership, but rather on that of occupation and use over a period of time and most of the time these rights tend to be nested, i.e. operate at different levels of social organization that cut across the community, tribe and family.¹⁰³ Rights held by women in this regard are even weaker than their male counterparts' due to customary practice that marginalises females as property holders. Hence, the prevalence of male-dominated traditional authorities restricts the

gender-fair treatment of land tenure. Most of these administrative systems tend to be corrupt and this worsens land use and allocation systems in these areas.¹⁰⁴ In addition, local government plans and service delivery interventions are thwarted or delayed by chiefs refusing to “release” land for development projects.¹⁰⁵

As a result of these sets of problems, the Communal Land Rights Act, 2004 (CLRA) was legislated with the sole aim of according statutory recognition to tenure rights in the ex-homelands. The core of the Act is to provide for legally secure tenure in communal areas, and accord comparable redress where necessary. Its overall aim is to enable the registration and transfer of communal land to communities to occur and be recognised under statutory law. This process will be preceded by a process of land rights enquiries to establish the extent/location of land to be transferred to a person or community. These processes will be facilitated through the establishment of a Land Rights Board and a Land Administration Committee/Traditional Council as stipulated under the bill. Hence the main objective of CLRA is to transfer communal land currently held by the State to communities and individuals who reside on and have rights to that land. Central to the Communal Land Rights Programme is a Rights Enquiry, through which the people and communities that have rights to the communal land will be identified.¹⁰⁶

Two permanent institutions were to be formed through the Communal Land Rights Board (CLRB). The institutions set up by the Act will undermine the attainment of gender equality, one of the constitutional rights enshrined in the Bill of Rights. Women face serious problems under communal tenure. Under customary law, only men are allocated land. In many instances women can access the rights to use land provided they are in relationships with men. The unequal and discriminatory nature of women’s access to land under customary law has been reinforced by formal law. For example, the most common record of land rights in communal areas is through Permission to Occupy¹⁰⁷ (PTO). Yet PTO regulations provide that they are issued only to men. PTOs are an example of an old order right to land tenure. However, old order rights were highly gendered in the allocation of land rights in communal areas.¹⁰⁸ So, if the basis of the Act is to transform these gendered old order rights into gender-fair new order rights, then the inherent gender inequality found in old order rights with respect to property relations will merely receive statutory recognition. However, the gendered nature of old order rights is recognised in the Act to the extent that old order rights are deemed to be held by all spouses in a marriage, and not by the husband alone. This awareness is reflected in the Act in Section 4 (2) and (3) respectively:

An old order right held by a married person is, despite any law, practice, usage or registration to the contrary, deemed to be held by all spouses in a marriage in which such person is a spouse, jointly in undivided shares irrespective of the matrimonial property regime applicable to such marriage

and must, on confirmation or conversion in terms of Section 18(3), be registered in the names of all such spouses.

A woman is entitled to the same legally secure tenure, rights in or to land and benefits from land as is a man, and no law, community or other rule, practice or usage may discriminate against any person on the ground of the gender of such person.

Irrespective of the gender awareness reflected in the Act, no explicit provision is made for securing the current use and occupation rights of single women (widows or unmarried women). Hence given the aforesaid, it will be difficult to create a balance with respect to gender inequality, especially in areas where traditional authorities have assumed authority of land matters within their respective jurisdiction. In terms of its safeguard mechanism in establishing gender parity, the Act adopts a technical approach in attaining gender parity. The CLRA states the minimum number of female representatives required in a Land Rights Board, Land Administration Committee, Traditional Council or the criteria the Minister should consider in his/her determination of the land rights conversion. These are spelt out in various sections of the Act: 14 (g), 18 (4) (b), 22 (3), and 26 (3) (b). For instance, Section 14 (g) of the Act states that a land rights enquiry must, in respect of an area, enquire into:

The measures required to ensure compliance with section 4 and to promote gender equality in the allocation, registration and exercise of new order rights.

Once the Minister has received a copy of the land rights enquiry, he/she is supposed to determine the nature of the rights conversion within a context that would promote gender equality. As stipulated in Section 18 (4) (b) the Minister could confer new order rights on a woman:

- (i) who is a spouse of a male holder of an old order right, to be held jointly with her spouse;
- (ii) who is the widow of a male holder of an old order right, or who otherwise succeeds to such right, to be held solely by such woman; or
- (iii) in her own right;

The Act requires that at least a third of the total members of the Land Administration Committee must be female¹⁰⁹. With relation to the Land Rights Board, the Act obligates the Minister to ensure that at least a third of its board members are female.¹¹⁰ One of the most contested aspects of the CLRA is Section 21 (2). It stipulates that in communities where Traditional Councils exist, these organisations

may assume the functions and responsibilities of the Land Administration Committees. Traditional Councils are structures that have been set up through the Traditional Leadership and Framework Bill (TLFB) of 2003. They are principally tasked with assisting traditional communities on areas pertaining to their developmental needs, liaising with municipalities on these matters, and administering the general affairs of the traditional community.¹¹¹

In summary, the CLRA Act was to signal the devolution of land administration to a local level. The extent of the existing land that will be affected by the new legislation is just over 16 million hectares, containing an estimated resident population of close to 21 million people. The core redistributive element of CLRA is also significant – section 18(1) (d) enjoins the Minister to have regard to the need to provide access to land on an equitable basis, as mandated by section 25(5) of the Constitution.¹¹² However, contention emerged during and after the promulgation of the Act. One of the key reservations raised was the potential of the Act to undermine gender equality – one of the constitutional rights enshrined in the Bill of rights. Women face serious problems under communal tenure. Under customary law, only men are allocated land. Women can generally access rights of use to land via relationships with men.¹¹³ The unequal and discriminatory nature of women's access to land under customary law has been reinforced by formal law. For example, the most common record of land rights in communal areas is through Permission to Occupy¹¹⁴ (PTO). Yet PTO regulations provide that they are issued only to men. PTOs are an example of an old order right. However, old order rights were highly gendered in the allocation of land rights in communal areas.¹¹⁵

However, despite the Act having been legislated, its implementation was not possible due to a pending court case. The Court challenge to the Act was launched by public interest law firm, the Legal Resources Centre (LRC) and Webber-Wentzel on behalf of four communities: Kalfontein, Makuleke, Makgobiestad and Dixie in Limpopo, Mpumalanga and North West provinces. On the 6th of November 2009 The North Gauteng High Court Judge Aubrey Ledwaba declared 14 sections of the Act as unconstitutional in that it gave unelected traditional leaders and the Minister of Land Reform and Rural Development powers to impose decisions that undermined existing property and tenure rights instead of protecting them as required by the constitution¹¹⁶. In his ruling, Judge Ledwaba strongly objected to Section 21.2 of the Communal Land Rights Act, which accords Traditional Authorities the opportunity to take over management functions of Land Administrative Committees in their respective jurisdiction,

“...in terms of section 21.1 the community has no choice when the traditional council is in existence”¹¹⁷

In furtherance to the critique of the Act, the ruling declared:

“On careful analysis of section 21(2) of CLRA, the Act conferred powers on the traditional council to do the functions of the land administration committee and that may undermine the tenure security of the other community...In my view some of the existing traditional councils have not been democratically elected and the interests of women, children, elderly and youth may not be represented in such council. For that reason provisions of section 9 of the Constitution are infringed¹¹⁸”

The proposed CLRA was going to affect 892 communities¹¹⁹ currently occupying roughly 13% of the former homelands. This therefore has delayed the much needed tenure reforms in South Africa’s former homelands and significantly limited the extent to which gender reform in so far as land access, ownership, and use can be achieved in the former homelands. Apart from CLRA, which had a direct bearing on the ability to transform social relations that underpin gendered access to land in rural South Africa, other programmes of land reform have attempted both in principle and practice to accommodate gender interests in their programmes.

3.9 Proactive Land Acquisition Strategy (PLAS)

This policy enables the Departments of Land Affairs, Agriculture and Provincial and Local Government to work together to pro-actively acquire agricultural land in terms of Act 126 (Section 10 (a)). This policy allows DRDLR to acquire land based on the market or through expropriation with or without prior identification of beneficiaries.

The Proactive Land Reform programme is a new tool used to fast-track land redistribution based on land acquisition by the State, which pre-selects beneficiaries on the basis of need, and the allocation of land for a three-year trial period occurs prior to the transfer of the title deed. The Proactive Strategy deals with two possible approaches: a needs-based approach and a supply-led approach. The focus is on the State as a lead driver in land redistribution rather than the current beneficiary-driven redistribution. This means that the State will proactively target land and match this with the demand or need for land. This approach is intended to achieve the following advantages:

- Promote redistribution in areas where the land market has failed in relation to demand-led redistribution;
- Facilitate planning of commercial redistribution projects where subdivision is necessary and desirable;
- Promote the acquisition of going concerns, and
- Ensure better quality of land for redistribution.

This approach is based on purchasing land that is purposively sampled due to its location, suitability for particular agricultural activities that government can promote through redistribution, or its amenability to subdivision. The pro-active strategy is also harmonized with the Department of Housing's various programmes linked to the fast-tracking of housing delivery. The strategy supports the concept of the agricultural development corridors and should increase economic growth and development of rural towns (developing agriculture along the major arterial routes (N1, N2, etc.), guided by the principle of exploiting agricultural potential in the rural towns scattered along these routes). The key elements of this approach are:

- State as lead driver;
- Shift from beneficiary-driven land reform;
- Matching needs with demands, and
- Purposive sampling of land for purchase.

With respect to gender concerns, no specific acknowledgement is made on the policy other than to include gender concerns in its skills development strategy which notes that, "Training programmes will also include crosscutting issues like gender and HIV/AIDS".¹²⁰ The PLAS program instead adopts an all-embracing definition of its target groups, with no indication as to which groups are to be prioritized or how the (potentially competing) needs of different groups will be met. Nothing in the *Framework* supports the contention that the approach will be "pro-poor".¹²¹

3.10 Area Based Development Programme (ABD)

ABD serves as a fundamental tool for the integration and alignment of land reform with the strategic priorities of the Provinces and Municipalities. Given the aforementioned, the ABD is a tool for the sustainable delivery and integration of land and agrarian reform programmes within the strategic priorities of municipalities (as expressed in Integrated Development Plans - IDPs), national programmes and provincial imperatives. The ABD is designed to speed up the Land and Agrarian Reform programme while at the same time providing for enhanced economic development. It is therefore an important tool in the delivery of key national policy objectives such as Accelerated and Shared Growth Initiative for South Africa. The Area Based Development Programme represents a land sector plan that will be the key vehicle for enhanced integrated planning and a platform for better inter-governmental relations and public participation.¹²²

The formulation of Area Based Development Programmes is therefore fundamental to the Department achieving its land reform targets in an integrated and sustainable manner. The ABDs will be an integral part of the IDP, and will serve as a catalyst for land related developments at a Municipal level. Area Based Plans will be aligned to the Agricultural, Local Economic Development, Sustainable Human Settlement, and Basic Service Plans, and other relevant sectors of an IDP. It allows the Department

of Land Affairs and Municipalities to formulate pro-poor strategies that will enable the rural poor greater access and participation in land and agrarian reform programmes. While the ABDs will be formulated at a District Level to indicate linkages and opportunities for economies of scale, the Area Based Plan will equally focus on each local municipality within their respective clusters.

In the context of this new Area Based Land Reform Approach, the Area Based Development Programme is seen as a sector plan of the broader municipal district IDP. ABD is thus an integral part of Integrated Development Planning and the process comprises 5 phases:

- (i) A Situational Analysis;
- (ii) Vision and Strategy Formulation;
- (iii) Project Identification and formulation;
- (iv) Integration and Prioritization, and
- (v) Approval.

These 5 planning phases are preceded by a Preparation Phase. These phases are identical to those of the broader IDP process with which ABD is aligned. However, the ABD does not make any specific provisions with regard to gender equality.

3.11 The Land and Agrarian Reform Project (LARP)

The Land and Agrarian Reform Project (LARP) provides a new Framework for delivery and collaboration on land reform and agricultural support to accelerate the rate and sustainability of transformation through aligned and joint action by all involved stakeholders. It creates a delivery paradigm for agricultural and other support services based upon the concept of "One-Stop-Shop" service centres located close to farming and rural beneficiaries. It aims to reverse the previous fragmented approach and pro-actively intervene to accelerate land reform and improve agrarian outcomes. The objectives of Apex Priority 7 (Presidential lead projects), namely the Land and Agrarian Reform Project (LARP) are the following¹²³:

- a) Redistribute 5 million hectares of white-owned agricultural land to 10 000 new agricultural producers.
- b) Increase Black entrepreneurs in the agribusiness industry by 10%.
- c) Provide universal access to agricultural support services to the target groups.
- d) Increase agricultural production by 10-15% for the target groups, under the LETSEMA-ILIMA Campaign.
- e) Increase agricultural trade by 10-15% for the target groups.

By redistributing land, increasing tenure security and black entrepreneurship, improving access to support services, and increasing production and trade, LARP will

directly contribute to the overall goals of the Agricultural Sector Plan, namely participation, global competitiveness and sustainability, and the White Paper on South African Land Policy.

In addition, the success of land reform is not only predicated on productivity outcomes envisaged from the programme but rather on a comprehensive approach that acknowledges and addresses the social and physical needs of farm and rural dwellers. These will involve health, education, and social services as key precursors to increased productivity. LARP therefore adopts a multi-dimensional approach to land and agrarian reform, and in many ways reflects the consensual view identified in numerous reviews on land reform, that the current “solo” approach to delivering land outside the context of embedding land delivery with support infrastructure is bound to continuously fail. The bottom-up integrated approach of LARP, including “One-Stop-Shop” delivery and information centres, is intended to address this shortcoming. The “One-Stop-Shop” will consist of service delivery and information centres close to the beneficiaries where initially all financing options and services, both grants and loans, private and public, will be made available to new farmers, and where a farm business planning service can be accessed. Other social and economic services to farmers will be added to the service portfolio¹²⁴.

LARP takes into account the need to incorporate gender concerns as one of its core focus areas. In this regard, “women and the youth” are mentioned as key beneficiaries to be targeted by the program. These focus areas will be defined in each province based on existing surveys of opportunities, agricultural comparative advantage, and the needs of the target populations to be served. More broadly, LARP does acknowledge specific target groups that need to be incorporated into the programme. For instance, target group for priority 1: Farm dwellers, new producers from and in rural, peri-urban and urban areas. Target groups for priorities 2-5: New primary producers, farm dwellers, communal farmers, new and existing black agribusiness entrepreneurs from and in rural, peri-urban and urban areas.¹²⁵

3.12 South African Agriculture Black Economic Empowerment (AgriBEE)

The AgriBEE policy is a policy framework whose main objective is to set guidelines that promote an environment that is conducive to the participation of previously disadvantaged Black producers in the mainstream agricultural economy. In other words, the aim of the AgriBEE policy is the re-distribution of economic opportunity among the farmers. The AgriBEE Sector Transformation Charter was gazetted in terms of Section 12 of the Broad-based Black Economic Empowerment Act (2003) on 20 March 2008. The AgriBEE Charter is the product of extended consultations and deliberations among sector and related stakeholders over a number of years. The process was initiated by the launch of the AgriBEE Framework in July 2004, followed by the AgriBEE Indaba in December 2005 and the finalization of the draft charter in

May 2006. The objectives of AgriBEE are to facilitate BEE in the Agricultural sector by implementing initiatives to include black South Africans at all levels of agricultural activity and enterprises¹²⁶.

The AgriBEE Law applies to the entire value chain in the South African agricultural sector, including all economic activities relating to the provision of agricultural inputs, services, farming, processing, distribution, logistics and allied activities that add value to agricultural producers. The AgriBEE law has four main components with the objective of correcting economic and social injustices: direct empowerment, human resource development, indirect empowerment, and corporate social investment. Direct empowerment of previously disadvantaged farmers includes equity in ownership, as well as management and control of agriculturally related enterprises. Human resource development of previously disadvantaged farmers includes employment equity and skills development. In addition, indirect empowerment includes: provisions of access to markets, finance resources, support for facilitation of BEE enterprise development, and preferential procurement. The objectives of the policy are to facilitate empowerment in the agricultural sector by:

- Promoting equitable access and participation of Black people in the entire agricultural value chain;
- De-racialising land and enterprise ownership, control, skilled occupations and management of existing and new agricultural Enterprises;
- Unlocking the full entrepreneurial skills and potential of Black people in the Sector;
- Facilitating structural changes in agricultural support systems and development initiatives to assist Black South Africans in owning, establishing, participating in and running agricultural Enterprises;
- Socially uplifting and restoring the dignity of Black South Africans within the Sector;
- Increasing the extent to which communities, workers, co-operatives and other collective Enterprises own and manage existing and new agricultural Enterprises, increasing their access to economic activities, infrastructure and skills training;
- Increasing the extent to which Black Designated Groups own and manage existing and new agricultural Enterprises, increasing their access to economic activities, infrastructure and skills training;
- Empowering rural and local communities to have access to agricultural economic activities, land, agricultural infrastructure, ownership and skills;
- The improvement of living and working conditions and promotion of decent living and working conditions of farm workers; and
- Improving protection and standards of land rights and tenure security for labour tenants, farm workers and other vulnerable farm dwellers.

Agri-BEE has seven broad elements namely:

- Ownership - The objective is to increase the participation of Black People in the Agri-Industry by increasing the level of entitlement of Black People to participate in the Economic Interest and Exercisable Voting rights of Enterprises in the Sector. Ownership in this regard is two-pronged, namely "General Ownership" and "Agricultural land Ownership".
- Management Control - The objective of this element is to increase the participation and levels of control of Black People and Black women at board and executive management levels in the Agri-Industry.
- Employment equity - Employment equity and skills development targets should be achieved within the ambit of the Employment Equity and Skills Development Acts.
- Skills Development - Enterprises should engage with the relevant Sector Education and Training Authority (SETA) for information on learning interventions which address skills shortages identified in the sector.
- Preferential Procurement - The objective of the preferential procurement element is to reward enterprises which contribute towards broad-based BEE and to promote and encourage sustainable procurement.
- Enterprise Development - Enterprise development refers to the establishment, support and integration of Black entrepreneurs in mainstream business processes e.g. CASP.
- Rural Development, Poverty Alleviation and Corporate Social Investment (CSI)- These refer to the contributions that are related to the agricultural industry and contributions actually initiated and implemented in favour of Black People with the specific objective of facilitating access to the economy.

With respect to gender concerns, this policy does not make any specific provisions on how female interests will be taken into account either from a policy or implementation perspective.

3.13 The post-2009 Land Reform Policy developments and impact on gender

The three-pronged programme of land reform, comprising restitution, tenure reform and redistribution, has distributed approximately 6 million hectares of land since its inception in 1994. This is against a backdrop of the 30% target aimed for distribution by 2014, with the current backlog of land delivery required (19 million hectares) to meet the 30% target. This being said, a significant overhaul of the policy and practice of land reform and rural development is urgently needed. Indeed, a crucial debate is whether these targets are useful as a means of measuring success or the development outcomes of attaining those targets. This view is often expressed against the backdrop of the fact that in the last 15 years, a consensual view has

emerged that the program of land reform as conceptualised and implemented, has not generated the desired effects in spurring rural development. Consequently, the noble vision of South Africa's Reconstruction and Development Programme (RDP) that aimed to use land reform as a catalyst for rural development has not materialised. The Achilles heel of this programme has been its inability to create sustainable development outcomes that are anchored in the comparative development niche of the immediate localities where these programmes are implemented within their respective jurisdictions at the local government level. Noble but often uncoordinated attempts to meet rural development outcomes have in the last 15 years been implemented by various government departments (e.g. integrated sustainable rural development program, spatial development initiatives, etc.), and sector specific programs.

Despite scattered and notable evidence of some successful programmes of land reform in the country, the general consensus is that these programmes have not been integrated into broader development goals and strategies. Issues of capacity, resource, alignment, performance assessments and ineffective bureaucracy are often cited as encumbering the broader vision of attaining a sustainable rural development programme based on agricultural and land reform. By implication, the policy model, coupled with the technical, institutional and fiscal challenges, has significantly encumbered its success. In pursuit of reducing this limitation, the National Policy Conference of the ANC held in 2007, proposed a draft resolution on economic transformation to be considered for adoption at the 52nd National Conference in December 2007. This draft resolution identified rural development, land reform and agrarian change as a critical pillar of South Africa's programme of economic transformation as discussed in the ensuing section.

3.14 The Comprehensive Rural Development Programme (CRDP)

The South African Comprehensive Rural Development Programme (CRDP) framework document envisions rural development as a process:

“...enabling rural people to take control of their destiny, thereby dealing effectively with rural poverty through the optimal use and management of natural resources¹²⁷”.

The envisaged outcome of the process is the creation of “vibrant, equitable and sustainable rural communities¹²⁸” and the expansion of opportunities for women, youth, people with disabilities and older persons who stay in rural areas. The strategic objective of the CRDP is to “facilitate integrated development and social cohesion through participatory approaches in partnership with all sectors of society.” With respect to beneficiary targeting, the CRDP identifies women as a special group of beneficiaries in its discussion of the three-pronged programmes that define the

CRDP: "The CRDP must seek to bridge the false dichotomy between the urban and rural space. The CRDP also seeks to empower vulnerable groups such as women, youth, unemployed, people living with HIV/AIDS, people living with disabilities, child-headed households, and older persons.¹²⁹"

To achieve the broad objectives of rural development, the CRDP uses a three-pronged strategy namely agrarian transformation, rural development and reform programme. The framework document stipulates a range of ambitious and very specific programme activities that make up each of the three pillars of the CRDP. The first pillar, *Agrarian transformation*, is conceptualized as the rapid fundamental change in the relations of land, livestock, cropping and community. The second pillar, namely *rural development*, is defined as increasing the capabilities of rural people's capacities to control their destiny through optimal utilization and management of natural resources. The third pillar of the CRDP is enhancement of the *land reform programme* (land tenure, restitution and tenure reform) as enshrined within the South African Constitution (Section 25, subsection 4). Within the framework of the CRDP, the land reform agenda will focus on reviewing the Restitution, Redistribution and Tenure Reform Programs. In relation to Restitution, the focus will be on expediting the processing of settled claims and the settlement of outstanding claims. The focus of the Redistribution and Tenure Reform Programmes will be to develop less costly alternative models of land redistribution while reviewing legislation and policies that apply to both programmes. The design of the programme is predicated on lessons learnt from pilot sites selected through socio-economic profiling, community participatory processes and intergovernmental co-operation.

With regard to implementation, the Department of Rural Development and Land Reform (DRDLR) is tasked with the implementation of the CRDP. The role of the DRDLR will be to serve as "initiator, facilitator, coordinator and catalyst in rural development interventions.¹³⁰" Given the multi-sectoral nature of this programme, the CRDP implementation is predicated on an effective system of governance and implementation systems across the three spheres of government. Given the wide ranging cross-sectoral initiatives outlined in the CRDP, the program will require a coordinated strategy to meet the diverse needs of the communities and, therefore, the participation of various departments across the different spheres of government, non-governmental organizations, research institutions and communities are vital.

The CRDP framework document further notes that the Minister of Rural Development and Land Reform will be the national political "champion" of the CRDP. At the Provincial level, the Premier is the CRDP champion. The Premier will appoint an MEC with a rural development function to be the driver of the CRDP in the Province. The Premier shall assist the DRDLR in getting the commitment of all Stakeholders to ensure an integrated implementation of the CRDP. In addition, a council of stakeholders will be formed. This will be made up of community-based organisations

and forums, school governing bodies, government (national, provincial and local), community policing and ward committees.

As far as gender interests are concerned, the CRDP does not make explicit acknowledgement on the need to target women as a preferential category either in policy or in the operational plans the programme proposes. The institutions proposed and the implementation models for them do not provide any specific provisions to enable women to participate in the programme. The CRDP clearly delineates “women” as some of the primary beneficiaries it seeks to target with respect to its three-pronged programme, namely agrarian transformation, rural development and land reform. Specific mention is made of women with regard to discussing the vision of the CRDP and the aims of its three-pronged programmes. However, no gender specific strategies are made with regard to implementation of the programme.

CHAPTER 4

METHODOLOGY

4.1 Research Strategy and Techniques

The study triangulated the use of qualitative and quantitative research strategies in order to maximise on the validity/quality and reliability of data required for the study. More specifically, the “documentary analysis” technique was used as the primary means of data collection along with key informant interviews with relevant government officials. This particular technique (documentary analysis) is most suited for longitudinal studies because one is able to discern trends of specific social events/processes over a period of time. The documents were retrieved with permission from archives, libraries, and government institutions such as the Department of Public Service and Administration (DPSA). A critical review of government policies and programmes from a gendered perspective was undertaken.

The review was two-pronged, namely an analysis of the actual policy programmes was undertaken to ascertain the extent to which gender rights are mainstreamed within the policies themselves, and secondly, the implementation outcomes of the projects with respect to the extent to which female beneficiaries emerge from these projects. In addition, the two core departments, namely the DRDLR and DAFF, were studied in relation to their staffing profile and equity objectives. Using documentary analysis, a clear outcome of this process was to discern the current policies/programmes and structures in place, and analyse their efficacy. Using documentary analysis, the following broad themes were probed:

- Historical overview of South Africa’s land question and its impact on gender inequality;
- National constitutional and legislative context that underpins justification for land reform and gender equality;
- International legal frameworks that South Africa has ratified which obligate compliance with ensuring that gender equality is achieved in programmes such as land reform;
- A gendered assessment of land reform policies;
- A gendered assessment of land reform implementation outcomes for the period under review (2006–2008);
- Assessment of the gender equity profile of the two core departments, namely DRDLR and DAFF. and
- Reviews of monitoring and evaluation reports such as annual reports in assessing the impact of land reform on women.

The process of documentary review was supplemented with primary information generated from a series of informant interviews. Informant interviews were used for

their ability to generate in-depth interviews of individuals who have special knowledge of the issues being probed, in particular their responses to gender mainstreaming in land reform programmes. The interviewing of key personnel within the sampled government departments and relevant stakeholders was undertaken; in particular, key personnel from DRDLR and DAFF directly involved with gender mainstreaming in land reform were involved. The use of key informant interviews with documentary reviews aided in the generation of information for a critical analysis of land reform policies from a gendered perspective. Due to the fieldwork challenges faced in Eastern Cape and Gauteng Provinces, the data generated in this report is retrieved from secondary sources, namely Annual Reports and Strategic Plans of the respective departments both at provincial and national level.

The interviews were conducted by the Commission for Gender Equality (CGE) researchers in the seven provincial offices and by the CGE Head Office researcher. The latter conducted interviews with the national departments of land, agriculture, and the House of Traditional Leaders. All interviews were recorded and later transcribed. In terms of the quantitative research technique self-administered questionnaires were given to each directorate to complete. Data was analysed through the use of tables and graphic formats to support the qualitative data generated.

4.2 Sampling

The sample of this study consisted of three national departments, i.e. DRDLR, DAFF, the National House of Traditional Leaders (NHTL) and South African Local Government Association (SALGA), as shown in the table below:

Table 8: The number of departments and the directorates that participated in the study

Departments	Directorates
DRDLR National	<ul style="list-style-type: none"> • Gender • Transformation • Finance • Monitoring and Evaluation
DAFF National	<ul style="list-style-type: none"> • Gender • Transformation • Monitoring and Evaluation
Traditional Authority	<ul style="list-style-type: none"> • National House of Traditional Leaders
SALGA	<ul style="list-style-type: none"> • No Response

Despite having targeted nine key directorates/structures, access was granted by only four directorates in DRDLR and these were Gender, Transformation, Finance and the M & E Directorates. In DAFF, access was granted by three directorates, namely Gender, Transformation and Monitoring & Evaluation. Access was not granted by the directorates that deal with the three pillars of the land reform (Land Restitution, Land Redistribution and Tenure Reform in the DRDLR). In DAFF, the Land Settlement and Finance Directorates were inaccessible. There was no response to the requests for access to these directorates.

These directorates were purposely sampled according to their functions and in relation to the aims and objectives of the study, which is to investigate the extent to which gender equality is promoted within the departments and their land reform programmes. The following are some of the core functions of the directorates purposively sampled for the study:

- The Gender Mainstreaming Directorate actively promotes the principle of gender equality in the department;
- The Transformation Directorate facilitates implementation of organisational transformational projects to achieve service excellence;
- The Monitoring and Evaluation Directorate monitors programme performance and ensures that objectives set by the department are met, and
- Land Restitution, Redistribution and Tenure Reform including Land Settlement in DAFF, are programme implementers which are key to service delivery.

4.3 Limitations of the study

The land study faced numerous challenges which have potentially limited the depth and in some instances reliability of the information retrieved. The first major challenge the study faced was based on the type of gendered data the two core departments under review collected and processed for its Monitoring and Evaluation functions. As discussed earlier in the report (Chapter 3), the impact of land reform, the measures of success of land reform as traditionally understood and reflected in the government documentation (e.g. annual reports) hinge on “hectares” transferred, and the number of beneficiaries. The latter is frequently manifested as “un-gendered”, making it difficult to disaggregate consistently the number of women and men that have benefited from these programmes over time. Hence the first challenge relates to how data is collected, analysed and presented by the government department. Though in principle the two core departments are to be commended in acknowledging the need to mainstream gender interests into land reform, in policy practice this was found wanting.

Paucity of data in this regard compromised the richness of data one could have expected to retrieve from the primary research exercise undertaken. Another significant challenge of this study was that of access. The CGE received the letter of consent from the Director-General of the Department of Rural Development and Land Reform in January 2009, and the Directorate identified critical role-players who would participate in the study. But it became difficult to secure appointments as planned because the CGE had to change focus by also preparing for monitoring of the South African National and Provincial general elections that were held on 22 April 2009. As a result, fieldwork had to be temporarily suspended.

The two core departments targeted for this study (the then Department of Land Affairs and Department of Agriculture) were in a period of transition, thus the researchers experienced a high level of anxiety in these departments. Some departments were preparing for the new political administration to take over; hence, some officials did not want to commit themselves to participating in interviews. After the elections and when the new administration was ushered in, some officials were engaged in a number of activities such as setting up new offices, and there was evidence of anxiety in terms of planning for the new administration through participating in strategic planning processes etc. All these factors culminated in delays in securing appointments to conduct the study. In addition, some directorates were reluctant to respond to the questionnaires directly; some researchers found themselves in the unfortunate situation of being referred from one directorate to another. The problem of access and non-response is evident in the fact that data from KwaZulu-Natal was received from the House of Traditional Leaders only. No data was available from the Eastern Cape despite numerous attempts to access the data. Due to the problem of access and non-response, researchers were requested to document their experiences - these are attached as fieldwork diaries in the annexure. Beyond the logistical limitations that impacted on the study, capacity constraints on the part of the CGE further contributed to the limitations faced in the execution of the study. The results of the study should therefore be read against this methodological context that underpinned the study.

CHAPTER 5

PROVINCIAL RESEARCH FINDINGS

5.1 Introduction

This chapter provides a brief overview of the state of land reform programmes across the nine provinces from a gender perspective. Irrespective of the limitations noted in the Methodology chapter (Chapter 4) with regard to access and research capacity, the discussions of the various provincial reports have the following categories of information:

- Gender profiling data of human resource for DAFF and DRDLR depending on which department provided this data. Most of the data presented here is 2009 data;
- Initiatives of the departments in mainstreaming gender across land reform programmes;
- Outputs of the three-pronged programme of land reform indicating number of female beneficiaries;
- Challenges that departments face in gender mainstreaming, and
- Recommendations to augment gender mainstreaming.

5.2 LIMPOPO PROVINCE

Unlike most of the provinces where complete access was unsuccessful for various reasons, Limpopo did not present any logistical difficulties that encumbered access of data required for the review. This is noted in the endnote.¹³¹

5.2.1 Human Resource Capacity at DRDLR

The Department appointed a female deputy director as the Gender Focal Person in the provincial office to monitor and advise on gender issues. The mandate of the official is to accord advisory services on gender mainstreaming across all the programmes and projects of the department. The appointment of the deputy director has bolstered gender mainstreaming across the departmental programmes; one of those being the implementation of the preferential procurement policy framework. In addition, the Employment Equity Act framework is also closely monitored to ensure compliance with its provision. The Gender Focal Person forms part of the selection committee and ensures that neither gender is being disadvantaged in the selection and employment process. The Gender Focal Person also ensures that invalid reasons are not advanced to the benefit of one sex over the other and must prevent violations of the Employment equity plan. The Gender Focal Person forms part of the following committees: Gender committee; Tender committee; Grant committee;

Training committee; Finance committee. Table 11 indicates the gender profiling of the department's staff.

Table 9 Gender profiling in the Department

Levels	African		Coloureds		Indian		Whites		Total
	F	M	F	M	F	M	F	M	
16									0
15									0
14	1								1
13									0
12	3	5			1		1		10
11	2	3		1					6
10									0
9									0
Total	6	8		1	1		1		17

As noted in table 9, gender equity has yet to be achieved as men dominate in most of the positions indicated. Nine (53%) of the appointed officials on levels 9-14 are male and eight (47%) are female. It was also noted that none of these employees has attended gender empowerment training. In an attempt to enhance the quality of its staffing profile, the Department developed an integrated human resource plan to ensure that there are sufficient numbers of competent and motivated employees to meet the organisation's needs especially where core functions are required, such as operational skills surveyors and town planners. Some of the undertakings of the integrated human resource plan are to ensure that career exhibitions are undertaken to raise awareness of employment opportunities in the department, bursaries are offered to students who have potential in the identified scarce skills and ensuring that employment equity is achieved. As part of skills transfer, supervisors and mentors were given mentorship training so that they will be able to manage the environment of work place training, to the benefit of learners, interns and trainees. Progress of training is monitored and support is given to the trainees.

5.2.2 Policies and plans in place to promote and protect gender equality.

The DRDLR in Limpopo has the following policies and plans in place to promote and protect gender equality and their hard copies were provided:

- DRDLR has a gender policy framework which will assist the department to comply with national, regional and international women and gender instruments;

- Land Reform Gender Analytical tool for land reform which ensures that project planners and implementers gather the relevant baseline information about the communities (needs and roles) that will be participating in the land reform projects. This is a gender-sensitive tool;
- Gender checklist document for land reform projects which assists in identifying the gender issues from the first phase to the last phase of the project;
- Desk-top gender sensitive indicators which will assist to measure the department's progress in mainstreaming gender, and
- Gender responsive budgeting framework from DRDLR. This will ensure that government allocates, spends and monitors the money in a way that promotes gender equality and addresses particular needs of men and women.

In order to harness initiatives towards gender mainstreaming, the department has planned annual advocacy projects. These include a women's month programme (Women's day), Human Rights day, International Rural Women's day, Food Security and Poverty day, etc. During these days, various internal and external stakeholders are given information on what each day entails. Awareness campaigns are organised with the aim of information sharing. DRDLR works with DAFF, which is responsible for post settlement support. After the transfer of land to the people, the Agriculture department takes over the training of beneficiaries on various aspects of land ownership and production in Limpopo. The department uses the integrated approach which involves various departments and other stakeholders at provincial level and this helps to develop mechanisms that enable women to gain access to credit for the productive use of the land. Information sharing sessions on programmes and how to mainstream gender are held across the departments involved in land reform.

5.2.3 Implementation of the existing policies in Limpopo.

According to the DRDLR annual report of 2006/7, the Department of Land Affairs committed itself to providing strategic and logistic support by ensuring that there are good governance practices for its resources. The Department, therefore, set the following strategic objectives with clearly defined indicators and targets to be achieved by the Department:

- Empowering vulnerable groups within the land and agrarian sector, especially women;
- To achieve equity, redress social injustice and sustainable development, and
- To ensure that 30% of the redistributed land goes to women.

From the aforementioned, the DRDLR Provincial Office has so far managed to have 50% representation of women and men at the Deputy Directorship level. The

Department has made remarkable progress in land redistribution in that in the past financial year (2007/08), women that accessed land peaked at more than 50%. The DRDLR has managed to align DAFF to the issues that affect service delivery in respect of land reform. It has also managed to align its programmes with DAFF to support the agrarian reform, for example: there are some programmes that are being shared by both departments.

It was further noted that the Department has set the following targets as empowerment strategies for women and people with disabilities as a means to respond to government's aims and objectives to reducing poverty and unemployment:

- Acquisition of land of which 30% are female beneficiaries;
- 5% people with disabilities;
- Employment: with 50% women at senior management and 2% people with disabilities, and
- Preferential procurement with at least 50% women and 5% people with disabilities.

While implementing the land reform projects, guidelines are set out to planners to prioritise women, youth and people with disabilities. DRDLR has set the above targets which they need to achieve; however, they have just established a Gender Unit within the department which is yet to align itself to these broad objectives.

5.2.4 Land Redistribution

The LRAD's objective in Limpopo of redistributing 30% of high potential agricultural land to Black people by 2015 is not attainable based on the discussions held in the province. For instance, only a paltry 4% of land has been distributed to men and women through LRAD in the past three years (2006-2008). Out of the 4% that was distributed, 53 are women and 47 are men, which shows that women are prioritised even if progress is very slow. The following were considered the main constraints that delayed the implementation of LRAD:

- High land prices/prices based on market rates;
- Budgetary constraints of the Department;
- Willing sellers withdrawing their property from the market due to a range of factors e.g. disagreement with valuation prices;
- Difficulty encountered by some willing buyers to obtain loans from the Land Bank;
- Land claims (other Districts, e.g. Greater Sekhukhune, have a high percentage of land under claim), and

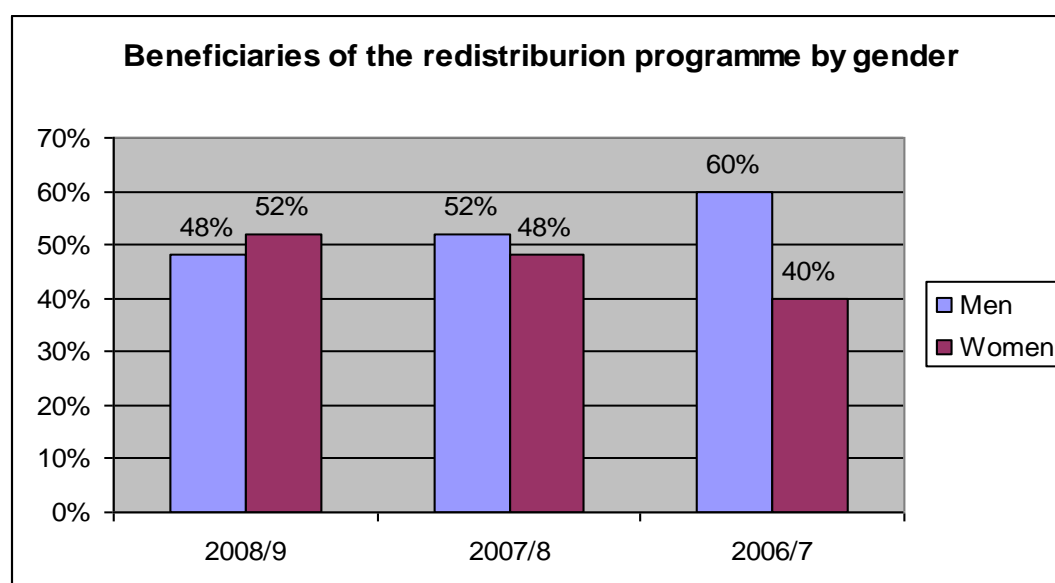
- Structural constraints that women experience in terms of acquiring grants are insufficient assets contributions.

Table 10: Land Redistribution (LRAD) beneficiaries by gender (2006-2009)

YEAR	MALE BENEFICIARIES	FEMALE BENEFICIARIES	TOTAL
2006/07	211 60%	142 40%	353
2007/08	39 52%	36 48%	75
2008/09	211 48%	297 52%	509
TOTAL	461	475	936

As noted in table 10, with the exception of 2008/09, men have benefited more from land reform compared to women. However, this margin has been decreasing since 2006/07, leading to a higher percentage of women (52%) benefiting from land reform than men (48%) in the period 2008/09. This amplifies the impact of the strategies that the department has put in place to ensure that gender mainstreaming is achieved over the years under review.

Table 11: Beneficiaries of redistribution programme by gender



As noted in table 11, the figures provided show that the redistribution Programme in its LRAD project has benefited both men and women across seven Districts, namely:

Waterberg, Mopani, Vhembe, Warmbad, Capricorn, Sekhukhune and Bela Bela. In 2006/7, the Redistribution Programme reached about 60% men compared to 40% women, with the majority of beneficiaries originating from Mopani district. In the 2007/8 financial year, the LRAD project benefited about 52% men and 48% women. Lastly, in the financial year 2008/9, the redistribution Programme under LRAD benefited about 48% men and 52% women in this province. During this financial year the majority of beneficiaries were located in the Mopani and Waterberg Districts. In summary, during the financial years 2006 to 2009, the redistribution programme benefited about 936 individuals, which can be gender disaggregated as 461 men and 475 women beneficiaries. Therefore, on aggregate, females have benefited slightly more than their male counterparts; 49% men and 51% women. The majority of beneficiaries are women from the rural areas, unemployed, intending to be self-employed and to use agriculture as business.

5.2.5 Land Tenure

In Limpopo, the Department has dealt with a number of eviction cases based on the Extension of Security of Tenure Act No. 62 of 1997 (ESTA) over the past three years. According to DRDLR, during the financial years under review (2006, 2007 and 2008) 35 cases were reported as follows: 2006 - 15, 2007 - 6 and 2008 - 14. The cases ranged from threatening evictions, denying access to graves, denying visits and denying water both for human consumption and animals. However, when these numbers are considered against the backdrop of the total family members affected by evictions, then the picture changes. For instance, the total males affected since 2006 are 91 (including children), while 149 are females (including children). These indicate that out of 240 individuals affected by 35 reported cases, 61% are female and 39% are male - which further indicates that women and children are more affected than men. In addressing the problem of tenure insecurity, the Department has purchased various land parcels for farm dwellers and farm workers so that their tenure is secured. The Department assisted the following 12 farm workers' projects with the acquisition of land for both agricultural and tenure purposes: Sebjane Makwala Project, Mabete Farming Project, Dabchick Project Makwala Project, Rietfontein Farm Workers, Phomolong Project, AltydMooi Farm Workers, Deerpark Farm Workers, Shananah Farming Project, Nwanetsi Project, Mareseke Farming Project and Lucern Farm Workers project.

According to the Department, farm workers who reside on farms are well aware of their rights as the Department embarked on a road-show campaign to conscientise them regarding their rights in terms of The Extension of Security of Tenure Act No. 62 of 1997 (ESTA). They now know their rights and can defend their own rights if they are being violated. One key challenge faced by the Department is that evictions are happening legally as farm owners approach court to request eviction orders and in most cases these orders are being granted.

The tenure rights of farm dwellers are protected under South African law, above all by the Bill of Rights in the Constitution of South Africa, which provides for the rights of basic services such as water, right to shelter, right to family life, protection from arbitrary eviction and right to practice one's culture.

5.2.6 Land Restitution

The Restitution programme has been implemented to a large extent in Limpopo because so far and 3 000 out of 4 000 claims have been finalised. It is not possible to give the number of female landowners because whenever land is returned to claimants, it is returned to groups who constitute themselves as a land holding entity in the form of a Communal Property Association or a Trust. However, there is only one land claim (New Pietersburg–Disteneng) where 54 female-headed households will be receiving individual title deeds for stands at Polokwane Extension 40.

There are also female-headed households who benefited by getting houses in the Thulamela and Greater Giyani Municipalities. These are claimants who opted for housing development instead of land restoration as the land was not feasible to restore. Furthermore, there are also women who have benefited through the electrification of some villages such as Gawula in the Greater Giyani Municipality. This has improved their livelihoods and reduced the burden of collecting firewood. Families have purchased stoves, fridges and televisions to improve their livelihoods.

Table 12: Number of women and men who have benefited from the Land Restitution Act of 1994 per project from 2003 to date

Name of Project (in case there are different projects within land restitution)	In rural areas	Men	%	Women	%	Total
Getrudesburg		772	75	258	25	1 030
Kranspoort		90	75	30	25	120
Makuleke		1 131	75	377	25	1 508
Mavungeni		150	75	50	25	200
Mundzedzi		450	75	150	25	600
Ximang		187	75	63	25	250
Manavhela		450	75	150	25	600
Dzwerani		172	75	58	25	230
Mtiti		140	33	280	67	420
Nthlaveni-Kutama/Sinthumule		225	42	305	58	530
Gumbu Mutele		682	75	227	25	909
Moddervlei		151	59	106	41	257
Levubu phase 1-5		811	72	310	28	1 121
Hlomela		391	50	389	50	780
Mamphodo Mushasha Begwa		98	75	33	25	131
Tshathogwe		51	53	46	47	97
Roszbach community		66	66	34	34	100
Rambuda territorial		93	76	30	24	123
Muananzhele phase 1-4		70	63	42	38	112
Mulambwane & Mamuhohi phase 1-2						0
Nthabalala community		103	50	104	50	207
Mapakoni community		25	37	43	63	68
Mtsetweni		114	41	165	59	279
Matshisevhe phase 1		61	57	46	43	107
Mandiwana		81	76	26	24	107
Machete phase 1						
Lishivha phase 1-2						
Tshivhula phase 1		355	72	141	28	496
Mokororwane phase 1		47	39	75	61	122
Chibase individuals		71	34	138	66	209
Mpapuli individuals		96	31	218	69	314
Mdono tribe		83	45	100	55	183
Siyandhani community		110	55	91	45	201
	TOTAL	7 326	64	4 085	36	11 411
	In urban areas	Men	%	Women	%	
Tshikota community		97	75	32	25	129
Pioneer investments		0		0		0
	TOTAL	97	75	32	25	129

Based on table 12, the number of women who have benefited from the Land Restitution (Act of 1994) per project from 2003 to date in rural area is 36%, while the number of men is 64%, which indicates that a huge inequality between men and women remains. In the urban area men benefiting still dominate, with 75% compared to 25% women. The Commission has encountered the problem of marginalisation of women in the Land Claims Committees as well as the Executive Committees of the Land Holding Entities. The marginalisation of women manifests itself vividly in communities that have traditional male leadership. This impacted negatively on the allocation of land. Financial compensation of women in rural areas is higher than that for men, while the return of land to men is higher than that for women. Secondly, the financial compensation of women in urban areas is less than that for men while there is no land return. This shows that forms of claim settlement in rural and urban areas differ. In trying to address this challenge, the Commission insisted that all leadership structures should also include women and in cases where women are not included in the leadership structure, they would not recognise such structures. This worked as there has been compliance from the communities.

5.2.7 Challenges facing the gender mainstreaming within the department of land reform and rural development

The Department of Land Reform and Rural Development faces the following challenges in mainstreaming gender:

- Institutional biases that contribute to the unequal representation of women in decision-making in all fields and at all levels;
- Lack of institutional arrangements to implement a gender perspective, in policy formulation, programming and implementation in all fields and on all levels of the programme;
- An institutional environment that is more compatible with men's gender roles than those of women;
- Institutional changes (such as affirmative action policies, employment equity plans) to facilitate an increase in female representation in decision-making in all areas of the mainstream;
- Institutionalisation of the gender analysis, gender statistics and other techniques of gender mainstreaming in all facets of gender mainstreaming;
- The "willing buyer, willing seller" process. Women do not show interest in the acquisition of land, and
- There is a lack of information about women's basic human rights because they do not exercise those rights due to societal practices; as a result they still need to be made aware of their rights.

5.2.8 The Department of Agriculture, Forestry and Fisheries (DAFF)

As per the provisions of the South Africa's National Gender Policy Framework for Women's Empowerment and Gender Equality,¹³² the Department has committed itself to gender equity in the allocation of land, and has demonstrated this by establishing a sub-directorate on land reform, gender policy, and implementation in Limpopo.

5.2.9 Human Resource Capacity

The department has appointed a number of officials in senior management. The following information indicates the ranks at which they were appointed:

Table 13: Gender Profiling of Staffing Levels

Level	Female	%	Male	%	Total
16	0	0	1 HOD	100	1
15	0	0	1 CFO	100	1
14	3	43	4	57	7
13	9	33	18	67	27
12					
10					
9					
TOTAL	12	33	24	67	36

DAFF indicated that, in terms of ensuring that policies, programs and projects of the department are compliant with the promotion of gender equality, especially the National Gender Policy Framework but the Department moves at a slower pace in addressing a 50/50 representation for decision making positions due to lack in skills in specialised fields. The department is currently at 67% male and 33% female. Table 13 clearly shows that the Department is male-dominated and this might have a negative impact on the gender mainstreaming of the land reform programmes. The difficulty experienced by the GFP in providing the CGE with data indicates that there are no powers with which to execute their mandate. In terms of gender training programmes, the department conducted training in 2007 and in 2008 they managed to conduct a Gender Audit at Head Office and District level. In 2007 two officials were trained on the Gender Audit Project which was also attended by the Gender Focal Person, who was not accredited. There was no budget specifically for gender and as a result it is not even possible to determine spending pattern. The National Gender Policy Framework for women's empowerment (2000) also stipulates that there is a need for required skills to advance towards gender equality. Such skills required by national programmes to advance the country towards the national goal

of a non-sexist society. These skills are policy, gender mainstreaming, coordination and planning, advocacy, liaison networking and capacity building. The information provided by the department still has a long way to go in terms of capacitating staff on gender; the sooner the skills audit is done, the better.

5.2.10 Challenges Facing the Gender Directorate in the Promotion of Gender Equality within the DAFF and Land Reform Programmes

- Insufficient Funds allocated specifically to the Gender Directorate, and
- Human resource capacity: the GFP is over-loaded, as she is dealing with special programmes which include gender, youth, disability and elderly. This makes it difficult for one official (GFP) appointed at assistant manager level and currently acting as manager for special programmes, to do justice to all the programs.

However, DAFF has been successful in fulfilling its commitment to ensuring that there are sustainability measures in place for individual emerging farmers; especially women and youth are benefiting more than men, because they have special programmes targeting youth and women and there is an annual budget for that. It is not clear as to which projects are targeting women and youth and their subsequent impact. This is a clear indication that monitoring is not taking place and the GFP does not have full knowledge of some programmes in the department.

5.2.11 Recommendations

- The Department of Co-operative Governance and Traditional Affairs, as well as the Department of Human Settlement, are to introduce effective monitoring of the provision of basic services in the farm communities;
- An effective communication strategy must be introduced to educate farm communities on their human rights, which are protected by law;
- Accelerate appointments of key staff to enhance gender profiling of the Department;
- Work closely with the Non Governmental Organisations (NGOs) dealing with land reform to be more informed as to the true reflection of what the farm communities experience;
- Facilitate all relevant monitoring institutions in fast-tracking their monitoring system for land reform programmes;
- Set time frames and develop a reporting format for land reform programmes, and
- Gender specialists are to be appointed at a more senior level.

5.3 NORTHERN CAPE

The challenge of access is noted in the endnote herein.¹³³

Table 14: Gender Composition in the Department of Rural Development and Land Reform

Levels	African		Coloureds		Indian		Whites	
	F	M	F	M	F	M	F	M
16	-	-	-	-	-	-	-	-
15	-	-	-	-	-	-	-	-
14	-	1	-	-	-	-	-	-
13	-	1	-	-	-	-	-	-
12	4	-	-	-	-	-	1	-
11	-	-	-	-	-	-	-	-
10	2	3	-	-	-	-	-	-
9	-	-	-	-	-	-	-	-
Total	6	5	-	-	-	-	1	-

As noted in table 14, the two most senior management positions in Land Affairs, which are levels 13 and 14, are 100% male, while on the other hand levels 11 – 12 are 100% female. On the last level (level 10) there is ratio of 60% males to 40% females.

Table 15: Gender Composition in the Department of Agriculture, Forestry and Fisheries (DAFF)

LEVELS	MALES	FEMALES
9	12	8
10	12	2
11	13	10
12	6	1
13	4	3
14	1	1
15	1	0
TOTAL	49 (66%)	25 (34%)

As noted in table 15, the senior management positions (levels 13 – 15) are dominated by males in a ratio of 60% - 40%. On the levels 12 – 12 the composition of these management positions occurs in a ratio of 63% males and 37% females while on levels 9 – 10 the ratio is 71% male and 29% female. Judging from the statistics provided, it is clear that much needs to be done by both departments to elevate women to management levels as most of the highest management posts are

occupied by men. In summary, the make-up of the general staff is such that women are generally a minority compared to men.

5.3.1 Training in Gender Mainstreaming

Information on the number of officials who have over the period under review (2006-2008) attended training on gender mainstreaming, was not available from either the provincial departments of RDLR or DAFF. DRDLR conducted one workshop on gender mainstreaming in March 2009 but due to budget constraints they cannot continue with such programmes on a frequent basis. On the 23rd of July the CGE delivered a presentation on gender mainstreaming to a Gender Forum in DAFF. The Gender Forum is comprised of employees from the various districts in the province and the purpose of the Gender Forum is to assist the GFP in achieving gender-sensitive units, budgets and programmes in all regions.

Both departments have GFPs and they are appointed at Deputy Director level. In addition to the existence of a GFP, the DAFF also has in place a Gender Forum and a draft Gender Policy. In addition, DAFF utilises an Employment Equity Plan, M & E system, the Annual Employment Equity Report and the Wintershoek Report Tool as their gender mainstreaming instruments. In the case of DRDLR, there is no provincial gender policy. Instead, they make use of the national gender policy of 1997. The GFP from DRDLR indicated that that she was a key resource in the department to ensure and monitor compliance with gender issues. However, unlike DAFF, DRDLR does not have a suite of gender mainstreaming instruments at the provincial level except the Employment Equity Plan.

5.3.2 Overview of the Land Reform Programme in Northern Cape

Of the three pillars of land reform, the Northern Cape has mostly been utilising land redistribution and land restitution. According to the Northern Cape Fifteen Year Review (NCFYR), "at the end of the third quarter of 2008 just over one million and six hundred thousand hectares had been transferred, translating into more than 4 per cent of the PGDS target of 30%.¹³⁴" However, the data provided in relation to the number of beneficiaries is not disaggregated along gender lines.

5.3.3 Land Redistribution

From 1994 to December 2008 the Northern Cape Provincial Land Reform Office (NCPLRO) delivered more than 1 061 638 hectares of land through the Land Redistribution Programmes (NCFYR, March 2009).

Table 16: Land Redistribution Statistics

1994/1999		
DISTRICT	HECTARES	BENEFICIARIES
Frances Baard	20 706	1 339
Pixley Ka Seme	4 474	98
Siyanda	14 153	483
Namakwa	44 971	58
John Taolo Gaetsewe	2 281	41
SUB TOTAL	86 585	2 019
1999-2004		
Frances Baard	10 412	742
Pixley Ka Seme	33 123	139
Siyanda	31 925	479
Namakwa	161 216	410
John Taolo Gaetsewe	3 387	50
SUB TOTAL	240 063	1 820
2004-2008		
Frances Baard	14 166	46
Pixley Ka Seme	145 650	1 693
Siyanda	317 301	2 213
Namakwa	235 564	1 134
John Taolo Gaetsewe	22 309	325
SUB TOTAL	734 990	5 411
TOTAL	1 061 638	9 250

Municipal commonage was recognized by post-1994 policy makers as a ready opportunity for land reform. It was not necessary to acquire additional land at great expense.¹³⁵ The Department of Land Affairs first became involved in municipal commonage during 1996, in Pofadder, Northern Cape Province, when the department agreed to buy out an existing commonage lease allocated to a white owner. This culminated in the approval of the municipal commonage policy on 12 June 1997.¹³⁶ This policy only dealt with municipal land and did not include tribal-owned land held in trust by the State. The policy addressed three related issues, namely:

- Assisting and encouraging municipalities to develop conditions which will enable poor residents to access existing commonage;
- Assisting provincial government to develop provincial policy, legislative frameworks and administrative systems for maintenance and use of municipal commonage, and;

- Providing funds to enable resource-poor municipalities to acquire land to extend or create the commonage. The latter has been the form of implementation to date. The Grant for the Acquisition of Municipal Commonage enables municipalities to acquire land for commonage purposes.¹³⁷

The municipalities in Northern Cape possess huge tracts of land. It is estimated that commonage land in the Northern Cape occupies over 1 640 000 ha of land. The commonage programme accounts for the greatest transfer of land attributable to any one programme within the land redistribution program.¹³⁸ With regard to land tenure, an amount of just over 11 000 hectares has been distributed through land tenure in the province.

5.3.4 Land Restitution

In the Northern Cape, around 2 883 land claims were lodged with the Land Claims Commission; of which the majority is urban (2 040 claims), with the rural claims numbering 843. While in the rural claims most have opted for land restoration, the majority of urban claimants have opted for financial compensation. As of January 2008, a total of 552 084 hectares have been transferred to beneficiaries in the province at a total restitution cost of R 195,5m.

The following table shows the land that was delivered according to the five districts in the province.

Table 17: Land delivery through restitution per district

District	Hectares	Beneficiaries
Frances Baard	73 532	16 580
Kgalagadi	77 466	1 801
Namakwa	127 300	1 557
Siyanda	139 428	1 780
Pixley Ka Seme	134 358	6 021
Total	552 084	27 739

Besides the information from the NCFYR, the provincial DRDLR office could not provide information about how many women and men had benefited from the restitution programme. They also could not provide information on whether the claims that were lodged were settled through restoration of land or through financial compensation. However, what emerged from the Poverty Dialogue held on the 30th of July 2009 by the CGE in Kimberley was that the challenge women faced in

restitution was that the programme aims to accord compensation to claimant communities who in the policy concept remain “un-gendered”. The fact that land is allocated to the community is also one of the reasons that makes it difficult to provide sex-disaggregated data on land restitution.

5.3.5 Land Tenure Reform

The only information we could obtain from the DRDLR is the number of eviction cases they had to deal with under the Extension of Security Act (ESTA) for the past three years. The information is provided in the table below.

Table 18: Eviction cases dealt with by DRDLR

YEAR	MEN	WOMEN
2006	74	25
2007	27	13
2008	26	15
TOTAL	127	53

Table 18 indicates that in 2008 the department dealt with 26 eviction cases involving males and 15 cases involving females, which is a total of 41 eviction cases. However, the statistics provided may not be a true reflection of the total number of women evicted in the said periods, due to the fact that with an eviction of a man there is likely to be a subsequent eviction of a woman as these men live with families on the farms. Therefore, the number of women evicted may be higher than shown by the statistics. This practice is in contravention of the Extension of Security of Tenure Act (ESTA) which states that “a person who has continuously and openly resided on land for a period of one year shall be presumed to have consent unless the contrary is proved”. This therefore means that the woman has received tacit consent from the farm owner to occupy the farm and should become an occupier in her own right. In practice, however, when an eviction order is issued to the husband, for whatever reasons, the woman is automatically evicted. This in turn means that the woman’s stay on the farm is essentially tied to that of the man as she is not an occupier in her own right. A woman’s eviction is embedded in the eviction of her husband which may well cover the real number of women who were evicted.

5.3.6 Post-Settlement Support

In relation to the Comprehensive Agricultural Support Programme (CASP), 30% of the annual expenditure is earmarked for women-only projects in the form of infrastructure provision. Some of these projects for females that benefited from CASP are the Wrenchville Klein Vrouboere; Noge Poultry Enterprise; Bonita Park, Eiland and Drieplotte. In addition, there is also the “Women in Agriculture and Rural Development” programme (WARD), which is a platform for encouraging a dialogue

on the continuous economic empowerment of women in agriculture and rural development. In the province, WARD currently has 388 members and there are 27 female-based projects being run. Women farmers are further encouraged to be successful farmers through the "Female Farmer of the Year" competition. This competition is also a way of recognising women's work in agriculture and the contribution they make to the sector. According to the information provided by Agriculture, land has been allocated to women in some of these areas:

- Drieplotte – 60ha (3 women)
- Eiland – 17ha (2 women)
- Patryskraal – 2 300ha (2 women)
- Carnarvon – 3 812ha (2 women)
- Massakloutjie – 994ha (1 woman)
- Vioolsdrift – 3,7ha (4 women)

There was also land redistributed for agricultural development under LRAD for women projects. Some of these projects are:

- Wrenchville Kleinboere Vrou Vereeniging – 1 310ha
- Bonita Park women – 25ha
- Noge Poultry Enterprise – 5ha
- Carnarvon women – 1,3ha
- Siyancuma women in game – 5 000ha

Agriculture seems to have been making remarkable inroads in providing support for women. However, even with the number of progressive programs that are directed at women, it is not clear what the impact of these programmes and the scale of their operations are.

5.3.7 Recommendations

- Whenever land is distributed to a certain community, the department needs to ensure that the needs and female interests will be factored into the projects that the land will be used for, and
- When scrutinising all the statistical information that was provided by both departments, especially the DRDLR, one can safely conclude that the lack of sex-disaggregated data is a major weakness in the departments and requires urgent attention. There is a need to create a sex-disaggregated database that

will be able to indicate the extent to which women have benefited from the land reform programme.

5.4 WESTERN CAPE

The challenge of access is noted in endnote.¹³⁹ The findings are based on the responses from the provincial Department of Agriculture only.

Table 19: Department of Agriculture Gender Profiling

Levels	Males	Females
15	0	1 (Head of Department)
14	4	1
13-14	5	4
TOTAL	9	6

As table 19 indicates, the majority of senior staff members are males. For the Western Cape, the Transformation Manager also performs the duties of a GFP. This person is employed at level 11. The fact that the duties of the GFP are performed by the Transformation Manager presents a limitation in that this function is conceived to be an “add-on” to his/her primary duties as the transformation manager. The strength of combining the duties of a GFP and the transformation manager is that it accords the transformation manager the privilege to make decisions that complement the functions of the GFP expectations. The Department does not have a directorate specifically for Gender Equality. This responsibility is allocated to the various programmes of the department under the very close supervision and monitoring of the Head of Department. These directorates are:

- Corporate Services, which deals specifically with human resources;
- Structured Agricultural Training, which deals with the development of youth and women in agriculture, and
- Farmer Support and Development.

It was established during the interviews that a Gender Plan has been developed for the Department. The plan is reviewed annually and forms part of the Employment Equity Plan and overall Human Resources Plan for the Department. It was noted that Progress, in terms of all designated groups, including women, is monitored monthly at the senior management meetings and at annual strategic planning sessions. In addition, employment equity is included in the performance agreements of all senior managers in the department. Gender training programmes have thus far been promoted as follows:

Table 20: Gender Training Programme Conducted in DAFF

YEAR	NUMBER OF PERSONNEL ATTENDED
2006	4 sessions (75 persons attended)
2007	4 sessions (57 persons attended), one of which was for all the farm managers Accelerated Programme for the development of Middle Managers
2008	2 sessions (60 persons attended including the SMS) 2 Women’s Day functions Accelerated Programme for the development of Middle Managers 1 Men’s Week function which included the following topics: Domestic Violence Substance Abuse Prostate cancer Financial Wellness (151 men attended the session over the period)
2009	All events scheduled for August and November 2009 were to include the following: Women’s Week and Women’s Day events (focusing on issues of work life balance and women’s health) and Gender Sensitivity workshops. Men’s week programmes focusing on domestic violence, men’s health, managing your money emotions, and dealing with issues of maintenance and divorce. A Men and Masculinity training programme is also envisaged.

Gender training is not done in isolation - it is integrated with other aspects e.g. Men’s and Women’s Health, HIV and Gender, and Domestic Violence, amongst others. Some of these training sessions have been accredited. The GFP attended gender mainstreaming training and is responsible for arrangements of all training programmes.

Table 21: Gender Mainstreaming Training conducted in DAFF

2006	2007	2008
Gender sensitivity	Mainstreaming of Gender	Gender sensitivity- (Eisenburg)
Training of officials on the necessary legislation (e.g. sexual harassment and gender discrimination)	Mainstreaming of HIV	Domestic Violence
Gender mainstreaming by the GFPs during the past year for staff and awareness-raising and communication during the 16 Days of Activism	HIV and Gender	Financial Wellness
Women's month for internal staff and external farming communities' programmes	Gender sensitivity (Eisenburg)	Prostate cancer
Foetal Alcohol training for staff	Domestic Violence	Substance Abuse
HIV Awareness and Voluntary Counselling and Testing	Financial Wellness	Breast Cancer and Screening
	Prostate cancer	TB awareness and screening
	Substance Abuse	HIV awareness training and Voluntary Counselling and Testing
		Men and Masculinity
	Life skills: Financial Wellness	Life skills: Financial Wellness
	Life skills: Assertiveness and Conflict resolution	Life skills: Assertiveness and Conflict resolution
	Compulsory Diversity Management for all staff	Compulsory Diversity Management for all staff
	Sexual Harassment training	Sexual Harassment training
	Women's month for internal staff and external farming communities' programmes	Women's month for internal staff and external farming communities' programmes
	Gender mainstreaming by the GFPs during the past year for staff and awareness-raising and communication during the 16 Days of Activism	Gender mainstreaming by the GFPs during the past year for staff and awareness-raising and communication during the 16 Days of Activism

The budget allocated to DAFF was neither overspent nor underspent. As stated before, gender is not treated as a sole item but included in the overall planning of the departmental activities and programmes. As such, there is no budget allocated specifically for gender matters. The department is faced with the following challenges in the process of promoting gender equality in its programmes:

- Language barriers: Not only is 54% of the Western Cape population Afrikaans-speaking, but it has been known to be the language predominately spoken in the agricultural sector and farming communities. Language classes are offered to staff in all three languages spoken in the Province. With transforming the agricultural sector, new farmers and employees from the historically disadvantaged groups are brought in and their first language is not Afrikaans. At the same time the Department is transforming and it is very seldom that clients or employees are fluent in all three official languages spoken in the Western Cape;
- Geographical Location and Accessibility: the Department's research is on farms that are situated far from towns and are therefore not accessible by means of public transport. Assistance with transport is given where possible;
- Scarce Skills: Qualifications required by the Department are often not "mainstream" qualifications. Some of the scarce skills occupational categories are veterinarians, agricultural engineers, agricultural scientists, soil scientists and viticulturists. However, the Department has developed its own Human Capital Development Strategy that addresses both the internal departmental needs as well as the external needs of the Agricultural sector in the Western Cape, and
- Racial and Gender imbalances: Agriculture has traditionally been seen as a white Afrikaner male-dominated sector. Women in general, as well as people from other racial groups, seldom showed an interest in agriculture or never perceived it as possible career options. Long and expensive studies in agriculture at tertiary academic institutions, as well as the historical perception of technical fields/careers requiring mathematics and science as subjects, pose a further barrier for attracting female interest to the agricultural sector. In terms of employment equity, DAFF has so far achieved a 40% gender composition in senior management. Overall, the Department increased its female staff from 25% to 37%, 10% short of the Provincial target of 47% (of the economically active population).

5.4.1 Support Regimes for Farmers

The CASP provides technical and institutional training to beneficiaries. Another project/programme in place to assist the land reform beneficiaries is the Extension Revitalisation Programme and Food Security programme. In-service focus and technical training for all Extension staff is done throughout the year. The following

training programmes are for both beneficiaries of land and officials in charge of post-settlement programmes:

- CAPRI Big Five training (Extension training);
- Tunnel Production training;
- Project Management training;
- Participatory Rural Appraisal (PRA) training;
- Computer training, etc.

Most of these training programmes are accredited. The private sector is involved in the planning and aftercare process (mentorship) as well as organising access to markets for projects.

Table 22: CASP grants have been utilised as follows in 2008/2009:

	Men	Women	TOTAL
Number	27 788	2 513	30 301
%	91.7	8.29	100

More males (91,7%) than females (8,29%) benefited from the CASP grants. On its own, this figure confirms that men still dominate in the agricultural sector. One can therefore impute that the department has not set up preferential procedures that will expedite access of grants to women. In addition, DAFF has identified the following as serious challenges to the implementation of LRAD and CASP:

- Beneficiaries not properly prepared for managing their new business;
- Grants are making people dependent on government support – Government must pay for all inputs all the time;
- Market access for produce of emerging farmers is logistically difficult;
- Provincial CASP budget does not match LRAD budget in the province;
- Cost and availability of water and electricity is a constraint to productivity;
- Theft is a challenge to some projects, and
- Repaying of loans of financial institutions is also a challenge.

5.4.2 Recommendations

- The Department of Agriculture should do more to attract women to their programmes in the Western Cape;
- There should be female-specific programmes to attract women into the agriculture field as it was previously, and still is, male-dominated through grants;

- The GFP position should be a stand-alone and managerial position for maximisation of duties, and
- The Department should put in more effort to attract and keep women in senior positions.

5.5 NORTH WEST PROVINCE

Access problems faced in this province are noted in endnote.¹⁴⁰ The Provincial Departments of Rural Development and Land Reform and Agriculture, Conservation and Environment, face two key challenges with regard to gender mainstreaming, namely capacity constraints both in human resource and financial resources. There is no specific budget allocated to gender mainstreaming work. This is despite the fact that a number of resolutions were made by different platforms to ensure that gender equality and female empowerment is achieved, but there is no programme running thus far proving the implementation of such resolutions.

It was noted that most women venture into small scale farming such as poultry, piggery, vegetables, grain production, oil seed and livestock. This clearly indicates that women have not yet ventured into high scale economic farming activities such as crop farming. Some of the challenges women face with regard to accessing land are listed as follows: access to credit, lack of skill and passion for farming, lack of agricultural assets, and providing their own contributions as required for access to increased LRAD grants. These problems are compounded by the fact that land prices have forced applicants to form large groups in order to qualify for the reduced purchase price. Post-settlement programmes such as CASP have been inadequate and have not been specifically targeted for female emerging farmers, but rather emerging farmers in general. CASP was criticised as being improperly coordinated and implemented. It therefore falls short of timeously addressing the needs of the land beneficiaries. These delays in advancing assistance to the “new land occupants” consequently have resulted in most of these aspirant entrants abandoning the farms. In this province, women venture into small scale farming such as poultry, piggery, vegetables, grain production, oil seed and livestock.

5.5.1 Mainstreaming Gender in the Provincial Department of Rural Development and Land Reform (DRDLR)

One of the key limitations noted in the provincial offices of DRDLR was the lack of commitment of the provincial department to actualise what has been agreed upon in strategic meetings concerning gender issues. Gender mainstreaming within DAFF in the province has been tasked to one individual. Given the enormity of the programmes and expectations of this mandate, capacity constraints hugely compromise the efficient functioning of this task. This gender specialist is appointed at Deputy Director level and is expected to oversee gender mainstreaming across all the programmes in the province. From the responses of the Department, it was

apparent that the implementation of the provisions of the National Policy Framework for Gender Equality and Women's Empowerment is yet to be done. The GFP in the department is appointed at a lower level and is located within the Transformation unit and reports to the Deputy Director. DRDLR does not have a quota system that helps the department to ensure equitable distribution of land. The department depends on the information received from the claimants.

5.5.2 Mainstreaming Gender in the Provincial Department of Agriculture, Conservation and Environment

Similar to DRDLR, within the Provincial Department of Agriculture, Conservation and Environment, the Departmental GFP is appointed at level 8. One of the key limitations the department faces with regard to gender mainstreaming is capacity constraints, both in human and financial resources. There is no specific budget allocated to gender mainstreaming work. Thus far, there has only been one training programme that was specifically aimed towards female development. This is despite the fact that a number of resolutions were made by different platforms to ensure that gender equality and female empowerment are achieved, but there is no programme running to date proving the implementation of such resolutions.

In the Department of Land Affairs and Rural Development (LARD), the gender specialist is appointed at Deputy Director level and is expected to oversee gender mainstreaming across all the programmes in the province. From the responses of the Department, it was apparent that the implementation of the provisions of the National Policy Framework for Gender Equality and Female Empowerment is yet to be done.

5.6 FREE STATE PROVINCE

Unlike previous provinces discussed, Free State province did not provide any serious difficulties with regard to access as noted in endnote.¹⁴¹

Table 23: Gender Composition of Management

Levels	African		Coloureds		Indian		Whites	
	F	M	F	M	F	M	F	M
15								
14	1							
13		1						
12	2	1			1		1	
11	4	5						3
10	2	4	1				3	3
9	8	7	1				1	1
8	3	3	2	2			6	1
TOTAL	20	21	4	2	1	0	11	8

Employment data as provided in the table above revealed that this department has progressed in terms of issues of gender equality in the employment levels of senior management. Females constitute 50% of staff in the levels 13 – 14 while their male counterparts make up the other 50%. For levels 11 – 12, the status of gender equality looks very progressive as well with females constituting 47% and males 53%, while at levels 9 – 10, 52% are females and 48% are males. It can be concluded that by 2015, this department is likely to achieve the 50/50 representation required in compliance with the international instruments for gender equality and the national gender policy framework.

The Department also developed an integrated human resource plan to ensure that there are sufficient numbers of competent and motivated employees to meet the organisation's needs. In addition to employment equity, outsourcing of work is carefully done to ensure that women have equal opportunities to men. This is in compliance with the supply chain management policy, which states that women and men should be given equal opportunities when services are procured from contractors. Furthermore, though the Department has no system for monitoring and evaluation, it is the standing rule that the projects which are submitted to the District Screening Committees (DSC) and the Provincial Grants Committee (PGC) must either have women participating or they must be exclusively for women. If the projects are exclusively for men, these projects will not be approved. The Provincial Land Reform Office has a database of all applications/projects approved by the DSC, projects approved by the PGC and projects where land has been transferred to the ownership of beneficiaries.

In promoting the participation of the Community, the department has held information sessions with the local radio stations and newspapers. Moreover, sessions such as public meetings and Area-Based Planning workshops are held to create gender awareness. These sessions assist women in accessing gender information and participating in the land reform process. The department has also created partnerships with other structures within the province to augment its efforts in mainstreaming gender in land reform. It has established a working relationship with the following units:

- District Screening Committees.
- District Area-Based Planning Steering Committee.
- Provincial Area-Based Planning Steering Committee.
- Provincial State Land Disposal Committee.
- Joint meeting with the Department of Human Settlement.

A Memorandum of Understanding (MoU) in which the department commits itself to prioritizing female-led projects, has been signed with WARD. The department is in the process of signing similar agreements with organizations representing farm workers/dwellers. This includes meeting with/collaborating with organizations representing people with disabilities and people living with HIV/AIDS.

Monitoring of gender equality in the land reform programme is done on an ongoing basis at every meeting of the DSC, PGC, during reporting periods to the Provincial Management meetings, and during monthly and quarterly reporting to the National Office. Key structures set up to ensure gender compliance are the Monitoring and Evaluation Unit, Gender Unit, District Screening Committees, Provincial Grants Committee, Management and the National Office. The Monitoring and Evaluation Unit provides statistics on gender issues, on land reform and other matters relating to land restitution. The District Screening Committee mandate is to assess projects at the provincial level in order to determine whether they meet policy requirements. The committee is made up of the following stakeholders:

- DRDLR.
- Provincial Department of Agriculture.
- DAFF.
- District Municipalities.
- Local Municipalities.

The Provincial Grants Committee is composed of the following bodies and their role is to assess projects at the provincial level in order to determine whether they meet policy requirements. The committee is made up of the following stakeholders:

- DRDLR.

- Provincial Department of Agriculture.
- DAFF.
- Department of Water and Environmental Affairs.
- Land Bank.

Despite the structural make-up of the department, which is aimed at ensuring that gender mainstreaming is attained in programme implementation, key problems faced by the department are:

- Land reform applications are mostly received from men;
- Special attention has to be given to women in order to assist them to apply. However, this is seen as unfair by the male applicants;
- With regard to the monitoring and evaluation of land reform programmes, some officials lack understanding of the importance of monitoring and evaluation;
- Monitoring and Evaluation is seen as policing by some officials;
- Lack of commitment by some stakeholders in the committees tasked with gender mainstreaming;
- Land shortage;
- Slow progress in upgrading of the allocated land e.g. roads, electricity, sewerage, etc;
- Inadequate access to existing financial services;
- Rural people lack knowledge about starting an SME, and lack skills in running local entrepreneurial activities, and
- Departments have no gender-disaggregated database including the number of youth, disabled, and the racial dimension of these categories, in order to ascertain which women have benefited from the land reform programmes.

5.7 MPUMALANGA

Gaining research access to the province was granted by one department (DRDLR), but with regards to DAFF, a non-response to the requests compromised the amount of data collected. Issues of access in this regard are noted in endnote.¹⁴²

5.7.1 Equity Staffing Profile

DRDLR has one Chief Director, eight deputy directors and sixty officials from level 1-10. The staff within the department sensitizes beneficiaries about gender issues in all projects, yet they have not received any gender training. In relation to the gender equity staffing profile, DRDLR has one of its senior most staff members employed at senior management level; this is a Chief Director who is a male. This person has significant influence in ensuring that policies, programmes and projects are compliant with the promotion of gender equality. The person sits in senior management

meetings where projects are reviewed from a gender perspective. As in most other provinces, the Gender Focal Person in this department is appointed at deputy director level and is female. The department does not have a gender unit, despite having a dedicated Gender Focal Person in the department. The budget allocation for the Chief Directorate for the 2008/09 financial year was R560 million for projects and land acquisition and there has been no over-spending. In relation to Land Restitution, no information was provided by the Gender Focal Person, as this rests with the Commission for the Restitution of Land Rights (CRLR).

5.7.2 Land Reform in Mpumalanga Province

With regard to Land Redistribution and the Land Reform for Agricultural Development (LRAD), the GFP indicated that this has been successful to a larger extent. Other grants within the department are household based, and LRAD is an individual-based grant, giving all individuals in a project, including females, equal rights. Some of the successes highlighted revealed that women are given individual rights within a project and they are able to apply for the grant individually. In terms of the land reform policy, projects with women are given high priority, and the GFP was able to indicate some projects aimed at empowering women and fulfilling the mandate of the department.

Access of women to land reform projects in the province is often encumbered by cultural factors which tend to accord preference to men taking the lead role in the project. Within traditional leadership, land rights are not considered or addressed, and the situation is worse concerning gender issues. A high level of occupation of land based on patriarchal beliefs that women cannot own land still persists, and allocating land to women is counter to these beliefs. It has also been revealed that there is no centralised information management system in place to determine trends regarding the delivery of land reform. It was ascertained that institutions responsible for land reform often operate solo and there is no coordination and integration of these projects. Traditional authorities constantly allocate land in unplanned settlements where Integrated Development Plans (IDP's) are not taken into account. It became clear that the perception of the traditional house is that the Department of Land Affairs is a key delivery agent of the land reform programme.

To overcome this tendency, the department has conducted numerous workshops with the beneficiaries, encouraging women to participate in decision-making with the view of overcoming those constraints. The department has also ensured that land reform affords women equal access and rights. However, the Department does not treat women in general as having secondary rights. The evaluation of the sustainability of the projects from a gender perspective lies with this unit, but indications were that no work on this front had commenced.

Other key stakeholders able to contribute towards gender equity outcomes that the department is striving towards, also face similar problems. For instance, the South African Local Government Association (SALGA) uses the 50/50 campaign as a strategy to lobby for, and ensure full participation of, women in local government. SALGA annually conducts a "Women in Local Government" Summit, which targets women in local government. One of the objectives of this summit is to review the mainstreaming of gender issues in municipalities in terms of the employment of women in strategic positions. SALGA also trained female councillors on issues of local government in order to equip them to better understand the functioning of local government.

In terms of giving priority through the budget to proposals that contribute to poverty reduction and gender equity, the GFP indicated that in some municipalities this is still a challenge as municipalities' budgets are to a large extent still not gender sensitive. Programmes contributing towards gender equity are clearly not identified in the work plans of the municipalities. In summary, it was deduced from this study that there is no gender-disaggregated data on land reform in the programmes studied. Gender-disaggregated databases should include the number of youth, disabled, and the racial dimension of these categories to ascertain which women have benefited from the land reform programmes.

This is despite the fact that the Land Reform programme has a commitment to gender equality in policy as duly acknowledged. The Land Reform programme has explicitly taken into account issues of gender, but the delivery of the programme in an integrated manner was never spelt out clearly. This has been evident in the conflict of powers or authority between the department of Land Affairs and traditional authorities. Local municipalities, on the other hand, have a significant role to play in land reform, but CGE approached an institution which is in no way involved in projects (SALGA). Furthermore, the programme did not devise or suggest mechanisms for dealing with the patriarchal social order which treats women as subservient. Government has an obligation to meet its international commitments, for example the Beijing Platform of Action (1995), to ensure that women participate fully in asset redistribution and agrarian reform. In order for the programme to accomplish its overall goal in respect of women, it should ensure that participation is on equal footing with that of their male counterparts.

Given the aforementioned, the following recommendations are made:

- Implementation strategies of the land reform should be crafted in an integrated manner;
- There is a need for a centralised information management system to determine land allocation by gender;

- Communication between all the institutions entrusted with the responsibility of delivering the Land Reform programme should be initiated and strengthened, and
- A generic monitoring and evaluation system of the Land Reform programme should be developed to determine trends, and guide policy review and implementation mechanisms.

5.8 KWAZULU-NATAL

Access to the province brought about serious challenges as noted in endnote.¹⁴³ Due to the logistical limitations noted in the endnote (130), information reported in this section is only from the House of Traditional Leaders. Access to DAFF and DRDLR was impossible during the course of the study as noted in the endnote (141).

A discussion with the House of Traditional Leaders put forward the view that it complies with the Constitution, and that all their power, functions and duties are stipulated in the Constitution. The evidence from the responses suggested that Traditional Leaders are not happy with the relationship between the House of Traditional Leaders and the government. There seems to be a distinction between the traditional leaders and the government (an “*us versus them*” relationship) as if they are in opposition, although *amaKhosi* operate within the framework of the law.

With regard to distribution of resources such as land, the traditional leaders are of the view that the government should consult with the traditional communities in defining a development trajectory for their constituencies. Traditional Leaders perceive some aspects of South Africa’s Constitution as militating against the African customs and practices.

The discussions held with HTL do not directly augment the study’s objectives. Due to this limitation, a secondary literature review was conducted to ascertain whether DAFF and DRDLR have implemented any gender mainstreaming strategies in the province. The review undertaken noted that the government planned for implementation of the National Gender Framework from April 2009. The National Gender Implementation Strategy was then implemented from April 2009, starting with advertising positions for appropriate personnel. Most positions were filled from August (KZN Land Affairs). Embedded in the national gender framework is the “monitoring and evaluation” function, which takes place on a quarterly basis and stipulates that all departments are required to submit their quarterly reports to the DPSA. On the whole, 2009 was primarily concerned with putting systems in place, namely: budget, the personnel and training for senior staff members (SMS) together with the officers in KwaZulu-Natal. During the course of the study when access was being negotiated, it was acknowledged by the departmental staff that they do not have gender-disaggregated data available to them. Gender-disaggregated databases

should include the number of youth, disabled, and the racial dimension of these categories to ascertain which women have benefited from the land reform programmes.

5.9 EASTERN CAPE¹⁴⁴

Due to fieldwork logistical problems, empirical data from Eastern Cape was unavailable. Instead, annual reports compiled by DRDRL and the provincial Department of Agriculture in Eastern Cape were used as the primary sources of information in compiling the required data for the province. As a result, the data presented for this province is relatively brief and of a different structure compared to the other provinces.

As noted in the Department of Agriculture’s Strategic Plan (2010/11 – 2014/15), out of the total population of the Eastern Cape, 52% are female and 48% are male. The Department has a target of supporting two million farmers in the Eastern Cape, which is an estimate of 33% of the total provincial population. The 2008 Official Economic Data from Stats SA shows that in 2008, the Eastern Cape agricultural sector contribution to the provincial GDP reached 2,2 %. An overall view is that the agricultural sector is underperforming compared to other sectors such as manufacturing and tourism. A census of commercial agriculture 2007 preliminary report shows that the biggest share of gross farming income in the Eastern Cape was generated from animals and animal products. Horticultural products were the third largest source of income, followed by field crops. The Department of Agriculture Strategic Plan (2006-09) has as one of its key measurable objectives to develop specific projects which engage women, youth and people with disabilities in agricultural projects.

Table 24: Gender Equity Profile at Senior Management Level as at 31 March 2009

Level	Total Staff	No of Women	% Women	Target
SMS: 13- 16	38	16	42	50
DD: 11 – 12	74	25	34	50
AD: 9 – 10	159	70	44	50
J Man: 7-8	305	168	55	50

In terms of transformation with regard to gender equity, table 24 indicates that female representation at Senior Management Level as at March 31 March 2009 was 42%, which was 8% below the 50% target. The variance was notable due to the resignation of some senior managers to pursue other career prospects.

The nature and character of challenges facing service delivery demands are:

- Need for more funding in order to meet the justifiable expectations of the people of the Eastern Cape;
- Monitoring and evaluation of projects and resources allocated to communities to enhance sustainability, and
- Attraction and retention of critical scarce skills in order to retain the competitive edge of this Province.

With respect to gender mainstreaming in land reform, the Department of Agriculture Strategic Plan 2006 – 2009 outlines the following objectives and outcomes achieved thus far:

- Ensuring that the allocation of customary land is democratised in a manner which empowers rural women and supports the building of democratic community structures at village level and that are capable of driving and co-ordinating local development processes. The ANC will further engage with Traditional Leaders, including CONTRALESA, to ensure that the disposal of land without proper consultation with communities and Local Governments is discontinued;
- In the case of the Amathole District Municipality, the Department has committed to increasing infrastructure investment and to develop over 3 000 ha linked to the Massive Food Production and Siyazondla Homestead Food Production Programmes. Revitalizing irrigation schemes is also a priority in the Amathole District and such endeavours will include a commitment to improving human resource and material capacity of extension (or seasonal) workers to respond to the agricultural needs and potential of the District. The Department and the District Municipality will collaborate towards promoting co-operative models in agricultural economic development, with special emphasis on the needs of women, youth and people with disabilities. Private sector commitment is demonstrated by a partnership arrangement between the Department and Da Gama Textiles for the production of cotton in the District, and
- The Eastern Cape produces 28% of the milk output in South Africa and has the potential to expand production even further. A modern dairy with a 600-cow capacity was established by the University of Fort Hare in partnership with a body of commercial dairy farmers. Within six months, the 600-cow potential was exceeded as a result of significantly improved forage production

capacity. The Provincial dairy industry is expected to grow significantly through the demonstration and learning that results from this first fully operational large-scale commercial dairy operated for training dairy farmers. Promoting dairy projects for women, 50 dairy cows as well as a tractor and a trailer were purchased as start-up capital for the Qamza/Platjie farm in Amathole District, being the very first dairy owned by women; currently producing 1 100 litres of milk every two days (selling at R3.00 per litre), and a new dairy parlour mainly for women was completed in the Nazi village at Port St Johns.

Some of the ongoing departmental work that has a notable impact on women in the province is listed as follows:

- Comprehensive Agricultural Support Program (CASP) Land Care projects
- Soil Conservation works
- Women in agricultural development
- Siyazondla homestead food production programme
- Siyakhula small scale food production programme
- Massive Food programme
- Livestock improvement and protection
- Mechanisation Programme
- Citrus development in or around
Umzimvubu River valley,
Port St. Johns,
Kat River valley, and
Sunday's River valley
- Sub tropical fruit development
Port St Johns
- Youth development programme
- High value crops

Table 25: Number of Beneficiaries for Redistribution and Tenure Programme in Eastern Cape Province

Number of Beneficiaries for Redistribution and Tenure Programme from 2005/2006 to 2009/2010						
	2005 /2006	2006 /2007	2007/ 2008	2008/ 2009	2009/ 2010	Total No. Beneficiaries
EC	1472	1092	548	772	1033	4 917
National Total	11 035	12 594	8 756	9 217	9 275	50 877

As indicated in table 25, a total of 4 917 beneficiaries were recorded against a national total of 50 877 beneficiaries. This represents 9,6% of the national total.

Table 26: Number of Women for Redistribution and Tenure Programme in Eastern Cape Province

2005/2006 to						2009/2010
	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	Total Women
EC	658	429	219	195	175	1 676
National Total	3 959	3 417	2 214	4 030	4 664	18 284

Table 26 shows a notable decline in the number of female beneficiaries across the review years; from 658 women in 2005/06 under redistribution and tenure reform, to 175 women in 2009/10.

Table 27: Number of Beneficiaries for Restitution Programme in Eastern Cape Province

Number of Beneficiaries for Restitution Programme from 2005/2006 to 31 September 2009						
	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	Total No. Beneficiaries
EC	1 066	15 893	18 591	21 046	7 137	63 733
TOTAL	134 829	268 814	142 766	134 565	45 978	726 952

As noted in table 27, the total number of beneficiaries from the restitution programme in the country is 726 952, of which Eastern Cape contributed 63 733. This represents 8,7% of the national total.

Table 28: Number of male vs. female beneficiaries of land restitution from 2005/6 – 2008/9

	2005/ 2006		2006/ 2007		2007/ 2008		2008/ 2009		Total	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
EC	993	73	14 015	1 878	16 986	1 605	18 285	2 761	50	6 317
	93%	7%	88%	12%	91%	9%	87%	13%	279	11%
									89%	
TOT	124 679	10 150	244 899	23 915	132 328	10 438	120 840	13 725	622 746	58 228
	92%	8%	91%	9%	93%	7%	90%	10%	91%	9%

As noted in table 28, on average, 9% of the beneficiaries are female. Criticism of the restitution policy has hinged in part on the fact that its conception of claimants' communities is often viewed as "un-gendered", and that no special acknowledgement is made to prioritise women in the way that compensation is granted. In the Eastern Cape, (compared to the 2005/06 data, where only 7% of the claimant beneficiaries were female), this had increased notably to 11% in 2008/09.

5.10 GAUTENG¹⁴⁵

Similar to the EC province, empirical data from Gauteng province was not generated due to fieldwork logistics that compromised research in this province. As per the 2006/07 annual report compiled by the Department of Agriculture, Conservation and Tourism, the following priority areas have been identified in order to drive sustainable transformation in the department:

- The mainstreaming of designated groups (women, youth, Black people and people living with disabilities) in relevant internal and external departmental projects and processes;
- The introduction of projects and processes that facilitate and promote the development of black enterprises, in particular small, medium and micro enterprises, and the transformation of the provincial agriculture sector through the implementation of the Agri-BBBEE Charter, and
- The enhancement of various social development programmes such as HIV and AIDS, and employee health and wellness.

The Transformation Branch's projects are implemented within two sub-programmes, namely Social Development and the Broad Based Black Economic Empowerment (BBBEE) Sub Programme. In advancing gender mainstreaming, the department facilitated the implementation of the WARD programme, and progress during the period under review was as follows:

- GDACE participated in the WARD provincial consultative workshop that was held in Tsakane during September 2006;
- From 12 – 15 October, GDACE participated in the National Launch of International Rural Women's Day held in the Eastern Cape;
- Five District educational and awareness WARD workshops were held throughout the Province;
- GDACE participated in the WARD National Working Group held in Kimberley during November 2006;
- GDACE launched the Provincial WARD programme in Bronkhortspruit on 12 December 2006;

- GDACE, in partnership with the Ekurhuleni Municipality, hosted the Gauteng Provincial WARD Conference and, together with Civil Society, developed the provincial report for the fourth World Congress of Rural Women, and
- GDACE made arrangements to lead a delegation of 50 rural women to the fourth World Congress of Rural Women from 22 – 25 April 2007.

Over the period April 2006 to September 2006, the gender representation in senior management was 54%; this was 4% above the national target of 50%. This status dropped due to the resignation of a few female senior managers, all of whom resigned to occupy senior positions in other organisations. As at 31 March 2007, 44% of the senior managers in the department were female.

Table 29: Gender Equity Profile at Senior Management Level as at 31 March 2009

Level	Total Staff	No of Women	% Women	Target
SMS: 13- 16	38	16	42	50
DD: 11 - 12	74	25	34	50
AD: 9 – 10	159	70	44	50
J Man: 7-8	305	168	55	50
Tech & Admin 1 - 6	210	63	30	50
TOTAL	786	342	44	50

As noted in table 29, female representation at Senior Management as at 31 March 2009 was 8% below the 50% target. The strategic objective of the Transformation Branch is to promote and facilitate the transformation of the Department. Processes within the Department are output-driven and follow a project-based approach. The Transformation Branch ensures that these processes and projects are underpinned by transformation fundamentals, thus contributing to Broad-Based Black Economic Empowerment (BBBEE). The following priority areas have been identified in order to drive sustainable transformation of the Department, as well as the Agricultural and Environmental sectors in the Province:

- The mainstreaming of designated groups (women, youth, Black people and people with disabilities) in relevant internal and external departmental projects and processes;
- The introduction of projects and processes that facilitate and promote the development of Black enterprises, in particular Small, Medium and Micro

Enterprises, and the transformation of the provincial agriculture sector through the implementation of the AgriBEE Charter and Codes of Good Practice, and

- The enhancement of various social development programmes such as HIV & AIDS, and employee health and wellness.

In order to continuously support women in agriculture, the following interventions were achieved:

- Development of the WARD Communication strategy;
- A partnership was forged with Metsweding Municipality, which resulted in a funding allocation of R 2 million for WARD support programmes;
- Provision of stipends for the WARD Provincial Executive Committee;
- Training on AgriBEE – elements of the score card;
- Institutional support, including arrangement of logistics, to attend various national and provincial exchange and best practice programmes, and
- The WARD/YARD Training and Induction Programme for the Provincial Executive Committees took place from 29-31 October 2008 at Suikerbosrand Nature Reserve.

The Department has established programmes to advance women in agriculture, the flagship of this being WARD. The vision of WARD is to raise the profile of rural women and their communities, and to ensure the sustainable growth of agriculture, the active stewardship of our environment for future generations and the recognition of social issues associated with the chosen and neglected dynamics of change. WARD is driven to ensure that women are undertaking a leadership role in Land and Agricultural programmes. Through WARD Women and Rural Development, we are looking at ways of giving recognition to rural women, in relation to land ownership, agribusinesses, access to finance and markets. On the whole, GDACE in partnership with GPLRO has performed fairly well in terms of ensuring land ownership for female beneficiaries; approximately 28 women currently own farms through PLAS/LRAD programmes and more than 22 women benefited from the CASP programme in Gauteng. GDACE fully supports the WARD Programme and has further provided the necessary resources to achieve WARD objectives in the Province:

- Transport in order to attend meetings and workshops;
- Stipends, transport needs, telephone costs, etc;
- Computers with e-mail access;
- Skills Development– Team Building workshop, Capacity Building, and
- Guidance - Mandate of the Department and protocol.

In addition, during the period 2008/09 as reported by the Department of Agriculture, Conservation and Environment, the allocation for the Comprehensive Agriculture

Support Programme (CASP) was a total of R 25 329 000. An additional amount of R 3 599 000 was given to the Province during the budget adjustment period to bring the total to R 28 928 000. Of the 162 farmers assisted through CASP funds, 22 were female farmers, demonstrating the department's commitment to gender equality and female empowerment.

To contribute towards ensuring a skilled and knowledgeable workforce, 40 young students from Gauteng institutions of higher learning were awarded bursaries of R 25 000 each by the Department. Ten students were chosen by each of four universities and the selection criteria indicated that of the ten chosen from each university, eight students must be from the previously disadvantaged background, at least five must be women and at least one must be a person with a disability. In order to continuously support women in agriculture, the following interventions were achieved:

- Development of the WARD Communication strategy;
- Forged a partnership with Metsweding Municipality which resulted in a funding allocation of R 2 million for WARD support programmes;
- Provision of stipends to the WARD Provincial Executive Committee;
- Training on Agri-BEE – elements of the score card;
- Institutional support, including arrangement of logistics, to attend various national and provincial exchange and best practice programmes, and
- The WARD/YARD Training and Induction Programme for the Provincial Executive Committees took place from 29-31 October 2008 at Suikerbosrand Nature Reserve.

The vision of WARD is to raise the profile of rural women and their communities, to ensure the sustainable growth of agriculture, the active stewardship of our environment for future generations, and the recognition of social issues associated with the chosen and neglected dynamics of change. WARD is driven to ensure that women are undertaking a leadership role in Land and Agricultural programmes. Through WARD Women and Rural Development, we are looking at ways of giving recognition to rural women, in relation to land ownership, agribusinesses, access to finance and markets. On the whole, GDACE in partnership with GPLRO has performed fairly well in terms of ensuring land ownership to female beneficiaries; approximately 28 women currently own farms through PLAS/LRAD programme and more than 22 women benefited from the CASP programme in Gauteng.

Table 30: Number of Beneficiaries for Redistribution and Tenure Programme

Number of Beneficiaries for Redistribution and Tenure Programme from 2005/2006 to 2009/2010						
	2005 /2006	2006 /2007	2007 /2008	2008 / 2009	2009 / 2010	Total No. Beneficiaries
GP	203	252	169	54	70	748
TOTAL	11 035	12 594	8 756	9 217	9 275	50 877

As indicated in table 30, a total of 748 beneficiaries were recorded against a national total of 50 877 beneficiaries. This represents 1.5% of the national total.

Table 31: Number of Women for Redistribution and Tenure Programme

Number of Beneficiaries for Redistribution and Tenure Programme from 2005/2006 to 2009/2010						
	2005 / 2006	2006 / 2007	2007 / 2008	2008 / 2009	2009 / 2010	Total No. Women
GP	110	80	90	37	23	340
TOTAL	3 959	3 417	2 214	4 030	4 664	18 284

Table 31 shows a notable decline in the number of female beneficiaries across the review years, from 110 women in 2005/06 under redistribution and tenure reform, to 23 women in 2009/10.

Table 32: Number of Beneficiaries for Restitution Programme

Number of Beneficiaries for Restitution Programme from 2005/2006 to 31 September 2009						
	2005 /2006	2006 / 2007	2007 / 2008	2008 / 2009	2009 / 2010	Total No. Beneficiaries
GP	144	6 494	3 961	1 359	0	11 958
TOTAL	134 829	268 814	142 766	134 565	45 978	726 952

As noted in table 32, the total number of beneficiaries from restitution programmes in the country is 726 952.

Table 33: Number of male vs. female beneficiaries on land restitution from 2005/6 – 2008/9

	2005 / 2006		2006 / 2007		2007 / 2008		2008 / 2009		Total	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
GP	140 97%	4 3%	5 824 90%	670 10%	3 702 93%	259 7%	1 206 89%	153 11%	10 872 91%	1 086 9%
Total	124 679 92%	10 150 8%	244 899 91%	23 915 9%	132 328 93%	10 438 7%	120 840 90%	13 725 10%	622 746 91%	58 228 9%

As noted in table 33, on average, 9% of the beneficiaries are female. In Gauteng province, compared to the 2005/6 data, where only 3% of the claimant beneficiaries were female, this had increased notably to 11% during 2008/09.

CHAPTER 6

CONCLUSION

6.1 PROVINCIAL OVERVIEWS

As noted across all nine provincial reports, the scope, depth, quality and content of the reports presented are noticeably uneven. The expected standard of reporting as reflected in the Limpopo province report was not achieved in the other eight provinces. As noted in the Methodology chapter, this was largely due to staff capacity constraints on the side of the Gender Commission and the insurmountable logistical problems fieldworkers faced in the field. The latter significantly compromised on the quality, quantity and reliability of the data collected in the various provinces. Attempts to standardise this information was very difficult as in most provinces not all the primary stakeholders (e.g. DAFF, DRDLR, HTL, and SALGA) responded with the information. In KwaZulu-Natal, for example, only the House of Traditional Leaders responded, significantly compromising the quality, quantity and reliability of the report in this regard. To augment the quality and reliability of the provincial reports, attempts were made to retrieve additional information from the annual reports of the respective departments (DAFF and DRDLR) and from the National Director of Gender, National Office (Pretoria, DRDLR). The latter was particularly helpful and a prompt reply aided our request with regard to data limitation. Irrespective of the limitations noted hereto, the discussions of the various provincial reports had the following categories of information:

- Gender profiling data of human resources for DAFF and DRDLR, depending on which department provided this data. Most of the data presented here is 2009 data;
- Initiatives by the departments in mainstreaming gender across land reform programmes;
- Outputs of the three-pronged programme of land reform, indicating the number of female beneficiaries;
- Challenges departments face in gender mainstreaming, and
- Recommendations to augment gender mainstreaming.

6.2 Overview of the Provincial Reviews within the context of the National Gender Policy on Female Empowerment and Gender Equality.

The Gender Policy Framework establishes guidelines for South Africa as a nation to take action to remedy the historical legacy by defining new terms of reference for interacting with each other in the private and public spheres, and by proposing and recommending an institutional framework that facilitates equal access to goods and services for both women and men. The Gender Policy Framework is a process that

proposes a move away from treating gender issues as “something at the end-of-the-day” business. The Gender Policy Framework attempts to ensure that the process of achieving gender equality is central to the transformation process in South Africa within all the structures, institutions, policies, procedures, practices and programmes of government.¹⁴⁶

In the short term, the success of the *National Policy Framework on Women’s Empowerment and Gender Equality* will be measured by the extent to which the State incorporates a gender perspective in the way it conducts its business as part of the process of internal transformation. In the long term, its success will be measured by the actual transformation in society, from the current state of gender inequality to the gender equality envisaged in this policy document and by the Constitution.¹⁴⁷ The institutionalisation of a gender perspective in the sectoral policies, programmes and practices of national and provincial departments will be measured as short-term outcomes of the implementation of the national policy. The assessment of these short term outcomes will focus, *inter alia*, on:

- The effectiveness of the structures which have been put in place to coordinate and monitor the implementation of the national policy for gender equality, and
- The gender sensitivity of the policies, procedures, practices and structures of government as well as private and non-governmental institutions.

The long term impact of the implementation of this policy on gender equality will also be measured according to a number of criteria including the extent to which women have achieved:

- Equality of access to the means of developing basic human capabilities;
- Equality of access to basic needs and services;
- Equality of opportunity to participate in all aspects of economic, social and political decision-making, and
- Equality of rewards and benefits.¹⁴⁸

A second level of assessment as per the *National Policy Framework on Women’s Empowerment and Gender Equality* is to measure the extent to which women and men have changed their cultural beliefs, values, norms and practices that subordinate, exclude and prevent women from upholding their basic rights and realising their full potential. Flowing from the provisions of the National Gender Policy Framework, the Monitoring and Evaluation tool is regarded by Government as a major step in the process of social, political and economic transformation of South Africa.

Therefore, all departmental programmes ought to incorporate gender equality as part of their transformation initiatives. It also proposed that there should be an annual national reporting mechanism to ensure that there is regular follow-up and review of progress in the implementation of the National Gender Policy and the impacts of programmes thereof. These indicators can broadly be transferred to land reform by assessing the extent to which women gain access to land ownership rights, support services accorded to them, and open up opportunities for women to participate as equals alongside their male counterparts within the agrarian economy.

Table 34: Key Short-term Indicators to be measured¹⁴⁹

FOCUS POINT	INDICATOR
Capacity Building	<ul style="list-style-type: none"> the number and quality of gender training programmes introduced to develop staff gender programming capacity, and the number and categories of people trained, and the number and quality of in-house programmes (including affirmative action programmes) introduced to enhance female participation in decision-making structures and the number of women benefiting from such programmes.
Gender Sensitive Staff Recruitment and Discipline	<ul style="list-style-type: none"> the existence of appropriate guidelines for recruitment committees indicating the desired gender mix; the existence of appropriate guidelines for gender awareness training for all staff responsible for recruitment and selection, as well as for newly recruited staff; the number and effectiveness of national, provincial and local level institutions which have developed and utilised gender sensitive policies and guidelines for reporting and disciplining cases of sexual harassment, and the number and effectiveness of internal structures established to deal with gender-based discrimination and sexual harassment.
Gender Sensitive Terms and Conditions of Service which address Practical Gender Needs	<ul style="list-style-type: none"> the extent to which gender sensitive and responsive programmes have been established to enhance the roles of both male and female employees as parents and professionals; e.g. day care centres in the work place.
Increased Female Access to Management and Leadership	<ul style="list-style-type: none"> Increased proportions of female managers into positions in senior government posts and other public and private institutions (a 50:50 male-to-female ratio is desirable, but in the short term, an increase to 30% prescribed by the White Paper on Affirmative Action in the Public Service will be a major indicator of commitment to gender equality), and Increased levels of skills in gender sensitivity and analysis among all managers.

Table 35 continued: Key Short-term Indicators to be measured¹⁵⁰

FOCUS POINT	INDICATOR
Transformation in Programmes	<ul style="list-style-type: none"> • the number and quality of sector-related gender analysis training programmes in place and the number of professional staff who have undergone the training; • the extent to which sector-based gender analysis and gender-disaggregated data are being used effectively in programme design, and • the extent of technical support and guidelines provided for gender responsive reviews of sector programmes.
Transformation in the Allocation of Resources	<ul style="list-style-type: none"> • the level of human and financial resources allocated to programmes to advance female empowerment and gender equality; • specifically identified, gender-based expenditure by national and provincial departments (for example, on women’s health programmes or special education programmes for girls); • equal employment opportunity expenditure by such departments on their employees (for example, the training for female managers, and job descriptions which reflect equal employment opportunities), and • gender mainstreaming of budget allocations and expenditures (for example, allocations to support rural women agriculturists).
Data Collection and Utilisation	<ul style="list-style-type: none"> • effective process of production and utilisation of gender-disaggregated data and statistics; • gender-disaggregated data collection that reflects the relevant situation, problems and concerns of women and men; • gender-disaggregated data and statistics reviewed and updated regularly for use in programme development, planning and implementation, and • adequate capacity (human and financial) for the collection, analysis and dissemination of gender-related statistics (particularly by Statistics SA).

As noted in Table 35, there are several key focus points that national departments should have implemented as part of their short-term indicators in monitoring gender mainstreaming across their mandated programmes. The key focus areas range from capacity building, staff recruitment, terms and conditions of service, women’s increased access to management, transformation in programs and allocation of resources to data collection and utilisation. With each of the focus areas, primary indicators are noted in the adjacent column of table 15. From the analysis of the provincial reports undertaken, core themes were analysed, namely: gender-staffing profile, human resource capacity development, gender-disaggregated data of land

reform outcomes, training, terms and conditions of service of Gender Focal Person, allocation of resources and capacity issues in the Department. A common trend noted in most of the provinces is that there have been explicit attempts to ensure gender profiling of the various departments aim to reach the "50/50 male-to-female ratio". Despite the fact that most departments are still inordinately represented by males, the margin of difference between male-female ratios is increasingly on the decline.

Training of staff to ensure gender awareness and mainstreaming is achieved, was conducted across the various provinces in the country. However, with regard to the need to recruit women at top management levels, most provinces decried the fact that the Gender Focal Person employed in most of the provinces was employed at a deputy director level and did not in most instances wield the necessary influence or resources to ensure that their mandate is fulfilled. The lack of an integrated and coordinated strategy towards gender mainstreaming was found in most of the provinces. It was also established that gender sensitive budgeting frameworks have not been actualised in the majority of the provinces. Resource allocation was not done solely on the basis of mainstreaming gender in land reform programmes. In most provinces, the lack of resources to match the asking price of land in the free land market was decried as a major limitation of land reform in general.

As noted in the provincial reports, there is no overarching framework that seems to define and guide how data is collected, analysed and presented for consummation. Most provinces, by their own admission, (e.g. Northern Cape) are unsure of the reliability of the data that they collect. This indicates that it is difficult to monitor and evaluate the extent to which land reform targets female beneficiaries. Beyond the limitations noted in data collection, the DRDLR needs to develop a comprehensive list of "agreed set of gender indicators", which practitioners of land reform must work with to ensure gender mainstreaming. Thus far, a quantitative approach that seeks to discern the number of female beneficiaries seems the most accessible criterion. However, this on its own fails to extrapolate other much needed sets of criteria that are needed to develop assessment of gender mainstreaming in land reform. These include: power relations, cultural practices, production regimes women are involved in (e.g. cash crop, livestock), credit access, farmer support regimes and any other factors. These various elements articulate the extent of female empowerment as economically independent land owners. Hence documenting the number of beneficiaries is a narrow approach that does not exemplify extent of gendered outcomes in land reform. As noted earlier in the report, some of the recurring challenges that encumbered gender mainstreaming in land reform across the provinces were noted as follows:

- Institutional biases that contribute to the unequal representation of women in decision-making in all fields and at all levels;

- Lack of institutional arrangements to implement a gender perspective in policy formulation, programming and implementation, in all fields and in all levels of the program;
- An institutional environment that is more compatible with men's gender roles than those of women;
- Lack of sufficient institutional changes (such as affirmative action policies, employment equity plans) to facilitate an increase in female representation in decision-making in all areas of the mainstream;
- Lack of a sufficient institutionalisation of the gender analysis, gender statistics and other techniques of gender mainstreaming in all facets of gender mainstreaming, and
- The "willing buyer, willing seller" process, which restricts the effective participation of rural people due to land price prohibitions. Women do not show interest in the acquisition of land.

It was noted that despite the problems outlined, there are notable administrative attempts to overcome this gap e.g. staff training, employment of Gender Focal Persons, employment equity, gender-based project assessment (applicants), women-only projects, WARD and targeted support to women-only projects. Despite these noble initiatives, the outcome of these programmes has not fully actualised the targets of equity-based transformation in the land and agrarian sector due to a range of factors explored in this report. Given the recommendations made across the provinces where data was collected, the study wishes to consolidate these recommendations as noted in the ensuing section.

6.3 Overall Recommendations

- Develop a comprehensive Gender Policy that is mainstreamed into the Strategic plans of the respective national and provincial departments;
- Accelerate appointments of key staff that enhances gender profiling of the Department; this is urgently noted in Western Cape as reported in the report. Efforts towards this are commendable but require further acceleration in terms of employment and retention of women across the two departments;
- Facilitate relevant stakeholders within the land and agrarian sector to fast-track their monitoring system for land reform programmes;
- Set up standard time frames and develop a reporting format for land reform programmes across the provincial and national levels. There should also be a centralised information management system accessible to stakeholders across the land and agrarian sector, with information on land allocation/use by gender and across discernable time frames, for monitoring;
- Recommend that Gender specialists be appointed at a more senior level and granted relevant resources to execute their mandate;

- Redistribution of land to communities should ensure that the needs and interests of women are factored into the projects with respect to governance structures and what the land will be used for;
- When scrutinising all the statistical information that was provided by both Departments, especially the DRDLR, one can safely conclude that the lack of gender-disaggregated data is a major weakness in the departments and requires urgent attention. There is a need to create a gender-disaggregated database that will be able to indicate the extent to which women have benefited from the land reform programme across all programmes of land reform. This gender-disaggregated database should include the number of youth, disabled, and the racial dimension of these categories to ascertain which women have benefited from the land reform programmes;
- There should be an increase in female-specific programmes to attract women into the agriculture field as it was previously and still is male-dominated;
- The GFP position should be a senior level appointment, i.e. managerial position, for maximisation of duties in accordance with the GFP functions as outlined in the National Gender Policy Framework;
- Implementation strategies of the land reform should be crafted in an integrated manner to ensure that sustainable livelihood outcomes are realized by women;
- Communication between all the institutions entrusted with the responsibility of delivering the land reform program should be initiated and strengthened. This will allow the seamless delivery of an integrated land reform programme where beneficiaries receive the required developmental support needed for their livelihoods/sustenance;
- A comprehensive and standard monitoring and evaluation system of the land reform programme should be developed to determine trends, and guide policy review and implementation mechanisms across the provincial and national levels;
- DAFF and DRDLR should work closely with the Non Governmental Organisations (NGOs) dealing with land reform, to have a true reflection of what the farm communities experience;
- The Department of Co-operative Governance and Traditional Affairs as well as the Department of Human Settlement are to institute an effective communication strategy to inform farm communities of their human rights, which are protected by law, and
- The core requirements of the National Gender Policy Framework (NGPF) with regard to gender equity transformation should be incorporated into the national plans of the respective national and provincial departments.

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⁴⁶ The Beijing Platform of Action. Prepared for technical Committee Meetings 24-01-2000. Final Draft Document at: <http://www.info.gov.za/view/DownloadFileAction?id=70483> (Retrieved 02/03/2010)

⁴⁷ (ReportA/HRC/4/18(5February2007) www.ohrc.org/english/issues/housing/index.htm)

⁴⁸ Westhuizen, C. 2005. Gender Instruments in Africa Critical Perspectives, future strategies. Institute for Global Dialogue, Midrand, South Africa.

⁴⁹ PROGRESS MADE ON THE IMPLEMENTATION OF THE CONVENTION FOR THE PERIOD 1998 TO 2008

⁵⁰ PROGRESS MADE ON THE IMPLEMENTATION OF THE CONVENTION FOR THE PERIOD 1998 TO 2008

⁵¹ Westhuizen, C. 2005. Gender Instruments in Africa Critical Perspectives, future strategies. Institute for Global Dialogue, Midrand, South Africa.

⁵² See the African Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986.

⁵³ *Ibid.*, Art 18 (3).

⁵⁴ See, for example, Elmadmad K, "The rights of women under the African Charter on Human and Peoples' Rights", in Benedek, W & Heinz, W (eds.), *Regional systems of human rights in Africa, America and Europe: Proceedings of the conference* (1992), p. 17; Butengwa F, "Using the African Charter on Human and Peoples' Rights to secure women's access to land in Africa," in Cook R, (ed), *Human right*

of women: National and international perspective (1996), p, 503; Kois L, "Article 18 of The African Charter on Human and Peoples" Rights: a progressive approach to the women's human rights", (1997) *3 East African Journal of Peace and Human rights*, p. 92.

⁵⁵ Protocol to the African Charter on Human and Peoples" Rights on the Rights of Women in Africa, adopted by the 2nd Ordinary Session of the Assembly of the Union Maputo, 11 July 2003

⁵⁶ Banderin M, "Recent developments in the African Regional Human Rights System" (2005) 5/1 *Human Rights Law Review*, p. 118.

⁵⁷ Hall, R. 1998. "Design for Equity: Linking Policy with Objectives in South Africa's Land Reform." *Review of African Political Economy* 77: 451-462

⁵⁸ Hall, R. 1998. "Design for Equity: Linking Policy with Objectives in South Africa's Land Reform." *Review of African Political Economy* 77: 451-462.

⁵⁹ Wanyeki M L, (ed.) 2003. *Women and Land in Africa: Culture Religion and realising women's Rights*. David Phillips Publishers, South Africa.

⁶⁰ Hargreaves, S and Shamim, M. 2000. "Out of the Margins and into the Centre: gendered and institutional Change" in Cousins B. 2000. *At the Crossroads. Land and Agrarian Reform in South Africa into the 21st Century*. Cape Town: Programme for Land and Agrarian Studies (PLAAS), University of the Western Cape.

⁶¹ Cross, C and Hornby, D. 2002. Opportunities and Obstacles to Women's land Access in South Africa. A Research Report for the Promoting Women's Access to Land program.

⁶² See for example; Hargreaves, S and Shamim, M. 2000. "Out of the Margins and into the Centre: gendered and institutional Change" in Cousins B. 2000. *At the Crossroads. Land and Agrarian Reform in South Africa into the 21st Century*. Cape Town: Programme for Land and Agrarian Studies (PLAAS), University of the Western Cape.

⁶³ Hall, R. 2004. "A Political Economy of Land Reform in South Africa" *Review of African Political Economy*. Volume 31, Number 100

⁶⁴ Programme for Land and Agrarian Studies (PLAAS), 2009 "Umhlaba Wethu 7" A Quarterly bulletin tracking land reform in South Africa.

⁶⁵ Department of Rural Development and Land Reform (DRDLR) Annual Report 2006/07

⁶⁶ Department of Rural Development and Land Reform (DRDLR) Annual Report 2007/08

⁶⁷ Department of Rural Development and Land Reform (DRDLR) Annual Report 2008/09

⁶⁸ Department of Rural Development and Land Reform (DRDLR) Annual Report 2008/09

⁶⁹ Department of Rural Development and Land Reform (DRDLR) Annual Report 2008/09

⁷⁰ Department of Rural Development and Land Reform (DRDLR) Annual Report 2008/09

⁷¹ Department of Rural Development and Land Reform (DRDLR) Annual Report 2006/07

⁷² South Africa, Ministry of Land and Agriculture. 2000. *Land Redistribution for Agricultural Development*. Pretoria: Government. Pp. 5.

⁷³ South Africa, Ministry of Land and Agriculture. 2000. *Land Redistribution for Agricultural Development*. Pretoria: Government. Pp. 6

⁷⁴ South Africa, Ministry of Land and Agriculture. 2000. *Land Redistribution for Agricultural Development*. Pretoria: Government. Pp. 5

⁷⁵ South Africa, Ministry of Land and Agriculture. 2000. *Land Redistribution for Agricultural Development*. Pretoria: Government. Pp. 5

⁷⁶ *Ibid.*, pp.5

⁷⁷ South Africa, Ministry of Land and Agriculture. 2000. *Land Redistribution for Agricultural Development*. Pretoria: Government. Pp. 5-11

⁷⁸ Bulk of this material is retrieved from: Department of Agriculture. 2004. Progress Report on the Implementation of the Comprehensive Agricultural Support Program. Pretoria

⁷⁹ *Ibid.*

⁸⁰ Department of Agriculture. 2004. Progress Report on the Implementation of the Comprehensive Agricultural Support Program. Pretoria.

⁸¹ Hall, R. 2009. Another Countryside? Policy Options for Land and Agrarian Reform in Southern Africa. Cape Town: Programme for Land and Agrarian Studies (PLAAS), University of the Western Cape.

⁸² South Africa, Department of Land Affairs. 1997. *White Paper on South African Land Reform Policy*. Pretoria: Government Printer

⁸³ *Ibid.*

⁸⁴ *Ibid. Section 4.14.1*

⁸⁵ South Africa, Department of Land Affairs. 1997. *White Paper on South African Land Reform Policy*. Pretoria: Government Printer

⁸⁶ This section is derived in its entirety from the following report: Hall, R. 2007. "The Impact of Land Restitution and Land Reform on Livelihoods" Research Report No. 33. Programme of Land and Agrarian Reform (PLAAS), Cape Town 24 – 25 October 2007 Lord Charles Hotel, Somerset West

⁸⁷ Department of Rural Development and Land Reform (DRDLR) Annual Report 2008/09

⁸⁸ Lahiff, E..2008. Land Reform in South Africa. A Status Report, Research Report 38, PLAAS, Bellville.

⁸⁹ Makopi, S. 1999. "Awards To Provide Security of Tenure and Comparable Redress." in *At the Crossroads. Land and Agrarian Reform in South Africa into the 21st Century*, edited by B. Cousins. Cape Town: Programme for Land and Agrarian Studies (PLAAS), University of the Western Cape.

⁹⁰ South Africa, Department of Land Affairs. 1997. *White Paper on South African Land Reform Policy*. Pretoria: Government Printer

⁹¹ *Ibid.* pp. 66

⁹² *Ibid.* pp. 66

⁹³ *Ibid.*, pp. 120 - 121

⁹⁴ South Africa, Department of Land Affairs. 1997. *White Paper on South African Land Reform Policy*. Pretoria: Government Printer. Pp. 33

⁹⁵ Ministry for Agriculture and Land Affairs, South Africa. 2005. "Land and Agrarian reform in South Africa: An Overview in Preparation for the Land Summit, 27 – 31 July 2005" Paper Prepared by the Department of Land Affairs and Department of Agriculture. Version 5. 20 July 2005

⁹⁶ Hornby, D. 2000. "Tenure Rights and Practices on a State-Owned Farm: The Community of Ekuthuleni." in *At the Crossroads. Land and Agrarian Reform in South Africa into the 21st Century*, edited by B. Cousins. Cape Town: Programme for Land and Agrarian Studies (PLAAS), University of the Western Cape. Pp. 312

⁹⁷ Hall, R. 2003. *Evaluating Land and Agrarian Reform in South Africa: Farm Tenure*. Cape Town: Programme for Land and Agrarian Studies (PLAAS), University of the Western Cape. Pp. 24

⁹⁸ Wegerif, M., Russel, B., and Grundling, I (2005). Still searching for security: The reality of farm dweller eviction in South Africa, Chapter 3, Nkuzi Development Association, South Africa.

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid.*

¹⁰¹ South Africa, Department of Land Affairs. 1997. *White Paper on South African Land Reform Polity*. Pretoria: Government Printer. Pp. 33

¹⁰² Cousins, B. 2003. "Submission to the Portfolio Committee on Agriculture and Land Affairs. Comments on the Communal Land Rights Act". Unpublished Paper.

¹⁰³ Cousins, B. 2003. "Submission to the Portfolio Committee on Agriculture and Land Affairs. Comments on the Communal Land Rights Act". Unpublished Paper.

¹⁰⁴ see Ntebeza (2004: 10) He argues that in the early 1990s, corruption was its zenith in these institutions. For example, along the Wild Coast in the Old Transkei, "whites", were illegally allocated cottage sites in exchange for a bottle of Brandy. These sites were termed as "brandy sites" because it was imperative that applications were accompanied by a bottle of brandy.

¹⁰⁵ Adams, M., Cousins, B. and Manona, S. 2000. "Land Tenure and Economic Development in Rural South Africa: Constraints and Opportunities." in *At the Crossroads. Land and Agrarian Reform in South Africa into the 21st Century*, edited by B. Cousins. Cape Town: Programme for Land and Agrarian Studies (PLAAS), University of the Western Cape.

¹⁰⁶ South Africa, Department of Land Affairs. 2004. *Communal Land Rights Act 11*. Pretoria: Department of Land Affairs

¹⁰⁷ Permission to Occupy or PTOs as they are commonly termed was the main method of establishing rights under the regulations that governed land rights in communal areas. These regulations were the Black Areas Regulations. R 188 of 1969, which were made under the Black Administration Act 38 of 1927 and the Development Trust and Land Act of 1936. The National Land Committee noted that by 1997, approximately 32% (12.7 million people or 2.4 million households) of South Africa's population lived in the former homeland areas with 63.6% having PTO, 26.8% lacked PTO, and the remaining 9.6% were uncertain whether they had PTOs or not.

¹⁰⁸ This provision has been repealed through the Recognition of Customary Marriages Act No 120 of 1998 but its legacy remains in most rural areas.

¹⁰⁹ Section 22 (3) elaborates on this issue

¹¹⁰ Section 26 (3)(b) elaborates on this point

¹¹¹ Section 4 of the Traditional Leadership and Governance Framework Bill elaborates further on the functions of the Traditional Council. These functions and responsibilities are subject to customary law and practice and most critics are skeptical whether these structures will be gender sensitive in executing their role in traditional community.

¹¹²South Africa, Department of Land Affairs. 2004. *Communal Land Rights Act 11*. Pretoria: Department of Land Affairs.

¹¹³Programme for Land and Agrarian Studies (PLAAS) and the National Land Committee (NLC). 2003. "Submission to the Portfolio Committee for Land and Agriculture: The Communal Land Rights Bill. Unpublished Document.

¹¹⁴ Permission to Occupy or PTOs as they are commonly termed was the main method of establishing rights under the regulations that governed land rights in communal areas. These regulations were the Black Areas Regulations R 188 of 1969, which were made under the Black Administration Act 38 of 1927 and the Development Trust and Land Act of 1936. The National Land Committee noted that by 1997, approximately 32% (12.7 million people or 2.4 million households) of South Africa's population lived in the former homeland areas with 63.6% having PTO, 26.8% lacked PTO, and the remaining 9.6% were uncertain whether they had PTOs or not.

¹¹⁵ This provision has been repealed through the Recognition of Customary Marriages Act No 120 of 1998 but its legacy remains in most rural areas.

¹¹⁶ Business Day, 2009/11/02 "Law on land reform struck down" available at: <http://www.businessday.co.za/articles/Content.aspx?id=85654>

¹¹⁷ In the High Court of South Africa (North Gauteng High Court, Pretoria) Case No. 11678/2006. Section 34 of the Ruling.

¹¹⁸ In the High Court of South Africa (North Gauteng High Court, Pretoria) Case No. 11678/2006. Section 42 of the Ruling.

¹¹⁹ This figure was acknowledged in the High Court of South Africa (North Gauteng High Court, Pretoria) Case No. 11678/2006. Section 44 of the Ruling on 6 November 2009

¹²⁰Department of Land Affairs, 2006. "Republic of South Africa Implementation Plan For The Proactive Land Acquisition Strategy Version 1, May 2006. Pp. 25.

¹²¹Lahiff, E.. 2008. Land Reform in South Africa. A Status Report, Research Report 38, Programme for Land and Agrarian Studies, University of the Western Cape, South Africa. Pp. 34

¹²² *Ibid.*

¹²³This section is a summary version retrieved from the following document: Department of Agriculture (DoA), 2008. The Land and Agrarian Reform Programme (LARP). The Concept Document.

¹²⁴ *Ibid.*

¹²⁵ For more elaboration see also: Lahiff, E.. (2008). Land Reform in South Africa. A Status Report, Research Report 38, Programme for Land and Agrarian Studies, University of the Western Cape, South Africa.

¹²⁶Department of Agriculture. 20 March 2008. Broad-Based Black Economic Empowerment. Transformation Charter for Agriculture. Government Notice, No. 314.

¹²⁷DRDLR (Department of Rural Development and Land Reform) (2009) Comprehensive Rural Development Programme, Framework Document. Pretoria: DRDLR. Pp. 5

¹²⁸ *Ibid. pp. 3*

¹²⁹ *Ibid. pp.9*

¹³⁰ *Ibid. pp12*

¹³¹ Data for Limpopo was collected from the Department of Rural Development and Land Reform, the commission for restitution and the Department of Agriculture on the extent to which these departments have progressed in the promotion of gender on the land reform programme. The department of land reform and rural development managed to respond to both qualitative and quantitative questionnaire and also attached the supporting documents. The commission for land restitution was also able to give information on progress made. The department of Agriculture only managed to respond to one directorate.

¹³² Republic of South Africa, 2000. South Africa's National Policy Framework for Women's Empowerment and Gender Equality. Pp. 48 – 49.

¹³³ Four request letters were sent to the Department of Land Reform and Rural Development (formerly Land Affairs), Department of Agriculture and Land Reform, South African Local Government Association (SALGA) and the House of Traditional Leadership (HTL) respectively. The only responses that were received were from DRDLR and Agriculture. Both HTL and SALGA promised to respond in due course, however nothing has come to the fore up to thus far despite numerous follow-ups.

¹³⁴ Northern Cape Fifteen Year Review, March 2009

¹³⁵ Pienaar, K (2000) Communal Property Arrangements: A second bite, in Cousins, B (eds) *At the Crossroads: Land and agrarian reform in 144 South Africa into the 21st century*. Programme for Land and Agrarian Studies/National Land Committee. Cape Town/Johannesburg.

¹³⁶ DLA (Department of Land Affairs). 2002. Commonage Program, Section 1: Policy legislative framework and delivery mechanism. <http://land.pwv.gov.za/redistribution>

¹³⁷ *Ibid.*

¹³⁸ Atkinson, D. 2007. People Centred Environmental Management and Municipal Commonage in the Nama Karoo. *Development Southern Africa*, 24: 5, 707 – 724

¹³⁹ Three letters for requisition for access to collect data were sent to the following sections on 05th June 2009: The Chief Director, Land Tenure and Redistribution; The head of Department, department of Agriculture; and The head Commissioner, Commission on Restitution of Land Rights. Of the three recipients of the letters, only two responded, namely the Head of Department in Agriculture and the head Commissioner in the Commission on Restitution of Land Rights. The Chief Directorate in the section: Land Redistribution and Land Restitution never responded despite several follow-ups. The time frames for the project were never realised because of the delay in getting this access, and secondly the delay in getting the responses. In the time of writing this report, only the responses from Agriculture were available. The Commission on Restitution of Land Rights was still working on the responses at the time of writing this report. The responses from the department of Agriculture were received on the 19th August 2009. The further dilemma was that the responses from the department of Agriculture were said to be provisional as the Head of Department and other officers were still making inputs and as such I had to wait for that to happen (on 15th September 2009) to be sure about the data supplied. Given the account of how this project unfolded, it was tedious and frustrating to produce a report. (A field diary for this project is available on request)

¹⁴⁰ Similar to the other provinces, obtaining data from the Northwest Province posed some challenges and this compromised the quality of the data. Officials from these government departments were reluctant to provide responses to questionnaires despite the period accorded to them to do so.

¹⁴¹ The departments from which information was required were Department of Rural Development and Land Reform (LDRR) formerly known as Land Affairs, Agriculture Fisheries and Forestry (AFF) formerly known as Agriculture and House of Traditional Leaders (HTL) and South African Local Government Association (SALGA). The Officer who assisted the Commission in responding to the questions was the Senior Manager in monitoring and evaluation unit since the Gender Focal Person (GFP) was new in the department. In the department of agriculture the finance officer assisted the Commission with the information which was required from their department. Sadly, the other units never furnished the Commission with any information.

¹⁴² The study retrieved information from the Department Rural Development and Land Reform, Department of Agriculture, House of Traditional Leaders and South African Local Government Association. Three sections were targeted from this department to provide information on gender equality in the Land Reform Programme which are the Gender Focal Person, Finance and Monitoring and evaluation. The report will be solely based on information furnished to the CGE, and all attempts to get information will be reflected on the report. With the department of Agriculture, Forestry and Fisheries, access was a problem. A letter of access was submitted to the Head of the Department and access was granted with the names of the Managers to be interviewed. Once more the questionnaire was submitted to the relevant people prior to the interviews. Several attempts and follow-ups were made to get the required information but to no success. The provincial office did not receive any information from the targeted units which are Gender Focal Person, Finance and Monitoring and Evaluation. A letter requesting intervention was submitted to the office of the Head of the Department, and no positive response was received from Agriculture. Promises were made by the Managers to provide the information, but this was in vain.

¹⁴³ With regard to the DAFF, access to conduct the study in the provincial offices was gained via the head office that negotiated with national departments. Relevant details and letters informing that access was granted were sent to the relevant departments in the province. These electronic submissions were followed up by telephone calls to confirm receipt of the questionnaires. This department responded from the first electronic communication confirming receipt and granting access. The request was forwarded to the official who is in the level of the DDG to assist in coordinating the collection of data within the department. Due to the busy schedule of the official data collection proved to be impossible. After waiting for a month and a half (July) a letter was sent requesting a meeting with the official, a date was scheduled for the meeting. We had a very good response, on the 4th August, day of the interview the provincial manager and I received a phone call halfway to Pietermaritzburg to inform us that the meeting has been cancelled due to an urgent commitment of the DDG with the Premier. A further meeting was supposed to be planned between the provincial manager and the DDG due to the fact that on this week researchers were in Johannesburg for Gender Barometer training, this meeting never materialised. With regard to DRDLR, telephone calls were made to establish the relevant person to forward the questionnaires to; instruments were further sent and followed up by the telephone call to confirm receipt. After a number of telephonic enquires with the relevant person, he admitted that they do not have a provincial department instead they are a national office although they are situated in the province. On further request of the data the official admitted that the department is waiting for the gender specialist to assume duty on the 4th of August, otherwise the department did not have the personnel to ensure coordination of the data. On the assumption of duty of the gender specialist we had several conversations, at the time she did not even have access to the e-mail, she was more than willing to assist. Questionnaires were further sent to her, she tried to coordinate this project despite limited resources to her. A deadline was set by the CGE for the submission of the report while she was struggling to coordinate with her colleagues in the department in the absence of resources available to her for communication.

¹⁴⁴ This data is retrieved from Annual Reports, Department of Rural Development and Land Reform and the Provincial Department's Agriculture Strategic Plan (2010/11 – 2014/15)

¹⁴⁵ This data is retrieved from Annual Reports, Provincial Department of Rural Development and Land Reform (2006/07, 2007/08 and 2008/09) and the Provincial Department's Agriculture Strategic Plans

¹⁴⁶ South Africa's National Policy Framework for Women's Empowerment and Gender Equality Prepared by: The Office on the Status of Women

¹⁴⁷ Republic of South Africa, 2000. South Africa's National Policy Framework for Women's Empowerment and Gender Equality. Pp. 48 – 49.

¹⁴⁸ *Ibid.*

¹⁴⁹ Republic of South Africa, 2000. South Africa's National Policy Framework for Women's Empowerment and Gender Equality. Pp. 51

¹⁵⁰ Republic of South Africa, 2000. South Africa's National Policy Framework for Women's Empowerment and Gender Equality. Pp. 51