

New Visitor? [Take a Tour](#) ▶ Need Help? [Contacts](#) ▶ What's New? [Recent Uploads](#) ▶



Contents

- ✘ [Site Index](#)
- ✘ [Labour Legislation](#)
- ✘ [Briefing Papers](#)
- ✘ [Job Descriptions](#)
- ✘ [Recruitment](#)
- Subscription Content 
- ✘ [Complete Index](#)
- ✘ [Employment Equity](#)
- ✘ [Human Resources](#)
- ✘ [Industrial Relations](#)
- ✘ [Training & Development](#)
- General Interest
- ✘ [Web Links](#)
- ✘ [Newsletters](#)
- Consulting Services
- ✘ [Consulting Services](#)
- ✘ [Training Courses](#)
- ✘ [Contact Us](#)
- ✘ [About Workinfo.com](#)
- ✘ [Affiliate Programme](#)

Gender Links

[Gender Links Home Page](#)

Gender Equality Policy and Code of Practice

[Gender Equality Policy and Code of Practice *](#)

[Draft Gender Policy and Code of Practice *](#)

- [Introduction *](#)
- [References to Acts *](#)
- [Applicable Codes of Good Practice *](#)
- [ILO Conventions and Recommendations *](#)
- [Statutory Bodies supporting Constitutional Democracy *](#)
- [Definitions *](#)
- [Meaning of Gender *](#)
- [Gender Terminology *](#)
- [Discrimination *](#)
- [Types of Discrimination *](#)
- [Policy formulation *](#)
- [Stand-alone policy *](#)
- [Mainstreaming *](#)

[Gender Policy - Addressing Gender Equality in the Workplace *](#)

- [Guiding principles *](#)
- [Elimination of unfair discrimination *](#)
- [Gender Policy Statement *](#)
- [General Principles *](#)
- [Procedures for lodging complaints relating to sex or gender discrimination *](#)

[Commission on Gender Equality](#)

[South African Human Rights Commission](#)

[Office of the United Nations High Commissioner for Human Rights](#)

[Equal Employment Opportunities in the European Union](#)

[ILO and UN Instruments for Equal Employment Opportunities](#)

[Company Policies for Equal Employment Opportunities](#)

[ILO Employment Sitemap](#)

[UNIFEM](#)

[WomenWatch - The UN Internet Gateway to the Advancement and Empowerment of Women](#)

[Business and Social Initiatives Database \(BASI\)](#)

[An information base on Equal Employment Opportunities](#)

[EU Useful Links](#)

[Gender Equality - Information on Gender Related Community Policies](#)

[EU Gender Equality Resources](#)

- [Advice and Assistance](#)
- [Options to resolve a problem](#)
- [Informal procedure](#)
- [Formal procedure](#)
- [Investigation and disciplinary action](#)
- [Remedial Action](#)
- [Employment Systems Review](#)
- [Dispute resolution](#)
- [Criminal and civil charges](#)
- [Lodging Claims with the Commission for Gender Equality](#)
- [Affirmative Action Measures](#)
- [Specific Actions](#)
- [Advancement of Women](#)
- [Equality of Pay and Provision of Employment Benefits](#)
- [Family Friendly Workplace Practices](#)
- [Accommodation of Workload](#)
- [Balanced Board level representation](#)
- [Additional Measures designed to promote Gender Equality](#)
- [Recruitment - Person specification](#)
- [Advertising](#)
- [Selection](#)
- [Remuneration and grading](#)
- [Promotion and advancement](#)
- [Training and development](#)
- [Family friendly practices](#)
- [Working Environment, culture and practices](#)
- [Affirmative Action](#)

[Appendix](#)

- [Good Practices in Gender Policy Formulation and Implementation](#)
- [Establishment of a Gender Committee](#)
- [Gender - the problem of terminology](#)

[Women's Day](#)

[Beijing Declaration](#)

[Commission for Gender Equality - Complaints Unit](#)

Confidential Request for Assistance *

Examples of Gender Policies on the Internet *

Mission Statements *

Draft Gender Policy and Code of Practice

Using this gender policy as a guide, employers are encouraged to design, implement and monitor, with the full participation of women, effective, efficient and mutually reinforcing gender-sensitive policies and programmes, including development policies and programmes that will foster the empowerment and advancement of women.

Introduction

The increased participation of women in the labour market and economy in general is essential in developing a strong and broad skills base for the economy. The challenge is to ensure this leads to women's economic empowerment and does not further exacerbate inequalities between women and men. Ensuring gender equality is a social and constitutional imperative for individuals and business entities alike. The purpose of this policy and code of practice is to:-

- advance the goals of equality, development and peace for all women;
- acknowledge the voices of all women everywhere, taking note of the diversity of women and their roles and circumstances;
- recognize that the status of women has advanced in some important respects in the past decade but that progress has been uneven, inequalities between women and men have persisted and major obstacles remain;
- reaffirm our commitment to the equal rights and inherent human dignity of women and men and other purposes and principles enshrined in the Bill of Rights, employment laws and international conventions and recommendations;

References to Acts

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)

"Bill of Rights" means Chapter of the Constitution

Promotion of Equality and Prevention of Unfair Discrimination Act (Act 4 of 2000)

Labour Relations Act (Act No. 66 of 1995 as amended)

Employment Equity Act, 1998 (Act No. 55 of 1998)

Public Holidays Act 1994 (Act No. 36 of 1994)

Applicable Codes of Good Practice

In terms of the Labour Relations Act

- [Code of Good Practice - Dismissal](#)
- [Code of Good Practice- Sexual Harassment](#)

In terms of the Basic Conditions of Employment Act

- [Code of Good Practice on Protection of Employees during Pregnancy and after Birth of a Child](#)
- [Code of Good Practice on the Arrangement of Working Time](#)

In terms of Employment Equity Act

- [Code of Good Practice on AIDS / HIV - December 2000](#) [The Code is published in terms of section 54 (1)(a) of the Employment Equity Act, 1998 (Act No. 55 of 1998)]
- [Employment Equity Code of Good Practice](#)

ILO Conventions and Recommendations

Convention on the Elimination of All Forms of Racial Discrimination

Convention on the Elimination of All Forms of Discrimination against Women.

Beijing Declaration (1995)

Charter of the United Nations

The Universal Declaration of Human Rights

Convention on the Rights of the Child

Declaration on the Elimination of Violence against Women

Declaration on the Right to Development

Statutory Bodies supporting Constitutional Democracy

South African Human Rights Commission [SAHRC] means the South African Human Rights Commission referred to in Chapter 9 of the Constitution.

The South African Human Rights Commission must -

- promote respect for human rights and a culture of human rights;
- promote the protection, development and attainment of human rights; and
- monitor and assess the observance of human rights in the Republic.

Commission for Gender Equality [CGE] means the Commission for Gender Equality referred to in Chapter 9 of the Constitution.

The Commission for Gender Equality must promote respect for gender

equality and the protection, development and attainment of gender equality.

The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities established in terms of Chapter 9 of the Constitution.

The primary objects of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities are -

- to promote respect for the rights of cultural, religious and linguistic communities;
- to promote and develop peace, friendship, humanity, tolerance and national unity among cultural, religious and linguistic communities, on the basis of equality, non-discrimination and free association; and
- to recommend the establishment or recognition, in accordance with national legislation, of a cultural or other council or councils for a community or communities in South Africa.

Definitions

"designated groups" means women, disabled persons, and blacks.

“discrimination” means any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly—

- (a) imposes burdens, obligations or disadvantage on; or
 - (b) withholds benefits, opportunities or advantages from,
- any person on one or more of the prohibited grounds.

[Promotion of equality and prevention of unfair discrimination Act, 4 of 2000]

“equality” includes the full and equal enjoyment of rights and freedoms as contemplated in the Constitution and includes de jure and de facto equality and also equality in terms of outcomes. [Promotion of equality and prevention of unfair discrimination Act, 4 of 2000]

"employment policy or practice" includes, but is not limited to---

- (a) recruitment procedures, advertising and selection criteria;
- (b) appointments and the appointment process;
- (c) job classification and grading;
- (d) remuneration, employment benefits and terms and conditions of employment;
- (e) job assignments;
- (f) the working environment and facilities;
- (g) training and development;
- (h) performance evaluation systems;
- (i) promotion;
- (j) transfer;

- (k) demotion;
- (l) disciplinary measures other than dismissal; and
- (m) dismissal.

"family responsibility" means the responsibility of employees in relation to their spouse or partner, their dependent children or other members of their immediate family who need their care or support;

"gender" The term "gender" is not defined in any statutes, although in various statutory enactments, it is distinguished from "sex". In more general terms, depending on the context, gender may include the meaning often ascribed to sex. When it used / ascribed a more specific meaning, gender refers to the attributes and opportunities associated with being male and female and the socio-cultural relationships between women and men. These attributes, opportunities and relationships are socially constructed and are learned through socialization processes. They are context specific and changeable. In most societies there are differences and inequalities between women and men in activities undertaken, access to and control over resources as well as decision-making opportunities. Gender is part of the broader socio-cultural context which also takes into consideration factors such as class, race, economic status, ethnic group and age. In this document the term gender includes the meaning ascribed to sex unless the context indicates otherwise.

Strictly speaking, gender is distinguished from sex, which is biologically determined.

"harassment" means unwanted conduct which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and which is related to—

- (a) sex, gender or sexual orientation; or
- (b) a person's membership or presumed membership of a group identified by one or more of the prohibited grounds or a characteristic associated with such group. [Promotion of equality and prevention of unfair discrimination Act, 4 of 2000]

“marital status” includes the status or condition of being single, married, divorced, widowed or in a relationship, whether with a person of the same or the opposite sex, involving a commitment to reciprocal support in a relationship. [Promotion of equality and prevention of unfair discrimination Act, 4 of 2000]

"prohibited grounds" means (a) race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth; or

- (b) any other ground where discrimination based on that other ground—
 - (i) causes or perpetuates systemic disadvantage;

(ii) undermines human dignity; or

(iii) adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on a ground in paragraph (a) [Promotion of equality and prevention of unfair discrimination Act, 4 of 2000]

"sex" Refers to the biological and physical differences between men and women. Sex discrimination refers to discrimination based on the physical or biological differences between men and women.

Meaning of Gender

Gender Terminology

Gender equality entails that the underlying causes of discrimination are systematically identified and removed in order to give women and men equal opportunities in every sphere of life. However, we must remember that same treatment does not always lead to equal results. Therefore sometimes there may be need to treat women and men differently, to achieve sameness in results.

Discussions on gender equality have given rise to a number of specific concepts which need to be understood to ensure that there is a common understanding on gender issues. These are some of the common concepts that are employed.

"Gender analysis" Refers to the systematic process of identifying the differences in, and examining the related needs of, the roles, status, positions and privileges of women and men.

"Gender and Development" (GAD) Refers to a planning process which is based on an analysis of the different situations and needs of women and men. In empowering women to their position relative to men in a way that will benefit and transform society, the GAD approach seeks to base interventions on an analysis of women's and men's roles and needs - including a focus on women to address inequity.

"Gender awareness" Refers to a state of knowledge of the differences in roles and relations of women and men, and how this results in differences in power relations, status, privileges and needs.

"Gender equality" Gender equality or equality between women and men means the equal employment by men and women of socially valued goods, opportunities, resources and rewards. Because what is valued differs among societies, a crucial aspect of equality is the empowerment of women to influence what is valued and share in decision making about societal priorities. Gender equality entails that the underlying causes of discrimination are systematically identified and removed in order to give men and women equal opportunities. The concept of gender equality recognises women's subordinate position within social relations and aims at

the restructuring of society so as to eradicate male domination. Therefore, equality is understood to include both formal equality and substantive equality, not merely simple equality to men.

"Gender issues" Are revealed when the relationships between men and women, their roles, privileges, status and positions, are identified and analysed. Gender issues arise where inequalities and inequities are shown to exist between people purely on the basis of their being female or male. The fact that gender and gender differences are socially constructed is itself a primary issue to deal with.

"Gender mainstreaming" involves the incorporation of gender considerations into all policies, programmes and practices so that at every stage, an analysis is made of the effects for women and men. There is no area of work, which is gender-neutral.

"Gender pay gap" Closing the gender pay gap is an investment in a productive factor. Not only does it address a major source of inequality between women and men, but it improves motivation for women workers, which can lead to increased labour productivity. It also helps desegregate the labour market and change traditional roles. The reasons for gender pay gaps can be occupational and sectorial segregation (women and men doing different jobs in different sectors), education, age or factors such as discrimination, glass ceilings, or other.

"Gender perspective" Refers to an approach in which the ultimate goal is to create equity and equality between women and men. Such an approach has a set of tools for and guidelines on how to identify the impact of the relations and roles of women and men on development.

"Gender profiling" Includes the practice of ascribing criteria or characteristics (usually discriminatory) to a person solely based on his or her membership of a particular class or category of people. Other forms of profiling (stereotyping) are equally discriminatory (all black people are naturally prone to criminal activity, all people over 65 years of age are mentally and physically incapable).

"Gender Responsive" Refers to a planning process in which programmes and policy actions are developed to deal with and counteract problems which arise if the needs arising out are socially constructed differences between women and men are not adequately met.

"Gender sensitive" Refers to the state of knowledge of the socially constructed differences between women and men, including their different needs, and use of such knowledge to identify and understand the problems arising from these differences and to act purposefully to address them.

Gender-sensitive indicators" Refers to those pointers that help point out the extent and manner in which development programmes have met their (gender) objectives and achieved results that advance gender equity

"Transgender" Transgender is a term used to describe anyone who lives or wishes to live as a member of the opposite gender to their birth gender. It may also encompass, under a broad definition, anyone who presents or behaves ambiguously in relation to commonly accepted male/female gender expectations.

Discrimination

A gender sensitive approach is not a goal in itself but a means to achieve equal rights between women and men, and to promote women's rights in particular through appropriate workplace interventions.

Section 9(3) of The Constitution sets out rights to equality. In doing so, it lists prohibited grounds of discrimination (race, *gender*, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, and birth). Differentiation based on any of these listed grounds by individuals or the State will be presumed to be unfair.

The Constitutional Court has held that differentiation on grounds analogous to those listed in s 9(3) will also constitute discrimination. The Promotion of equality and prevention of unfair discrimination Act, 4 of 2000 has reinforced this Constitutional Court principle by providing that prohibited grounds of discrimination includes any grounds where discrimination based on that other ground -

- causes or perpetuates systemic disadvantage;
- undermines human dignity; or
- adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to the listed grounds of discrimination. [Definitions: "*prohibited grounds*", Promotion of Equality and Prevention of Unfair Discrimination Act]

Analogous (or comparable) grounds of differentiation which may give rise to a claim of discrimination could include physical characteristics such as weight, height, or even "looks".

Types of Discrimination

Discrimination is differentiation based on illegitimate grounds. Not all types of discrimination are necessarily unfair. The Constitution, as well as, for example, the Employment Equity Act provides for legitimate grounds for differentiation, namely, to promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken [s 9(2), The Constitution].

Section 15 of The Employment Equity Act exhorts employers in general and compels designated employers in particular to adopt affirmative action measures which must include:-

- measures to identify and eliminate employment barriers, including

unfair discrimination, which adversely affect people from designated groups;

- measures designed to further diversity in the workplace based on equal dignity and respect of all people.

Discrimination based on an inherent requirement of the job does not constitute unfair discrimination.

At the outset it is important to realise that employee behaviours are equally important in ensuring a fair and equitable workplace. No matter how fair an organization's policies may be, if individual managers do not apply them consistently and fairly, the organization will not be equally accessible to everyone. Attitudes are one factor in shaping behaviour, and the attitudes and behaviours of individual employees help form the organizational climate as a positive or negative experience for designated group members. That fact that an employer has identified and removed employment barriers to the selection, promotion and development of employees from designated groups may not be sufficient to prevent unfair discrimination claims. The discriminatory behaviour of individual managers, unless addressed by the employer through its grievance and disciplinary procedures, may still give rise to discrimination claims by employees.

Discrimination may take many forms

Discrimination is to make a choice, a distinction, or some of differentiation. We all make choices, and this, every day. Discrimination becomes illegal when choices, based on prohibited grounds, limit possibilities of some groups or some individuals.

- **Intentional discrimination** is open or conscious behaviour which is intended to be, or to result in, unfair or inequitable treatment based on the prohibited grounds. It may include harassment. Some examples are:
 - *intimidation, name-calling, slurs, jokes, threats, graffiti, social exclusion, physical assault, refusing service, repeated "teasing", materials that degrade, humiliate, or exclude.*
- **Unequal or differential treatment** is treating individuals differently on the basis of the prohibited grounds. For example:
 - *asking women (but not men) about family status and childcare arrangements; requiring only people with physical disabilities to have employment medicals; automatically requiring language proficiency tests for members of designated groups.*
- **Systemic discrimination**, on the basis of the prohibited grounds, is built into the policies and practices of an organization so that it is perpetuated automatically. It is consciously or unconsciously carried out and it unintentionally or intentionally excludes individuals or groups of individuals. Examples are:
 - *inflated educational requirements (credentialism) for positions; tests which do not measure real job skills but have the effect of screening*

out women and members of other disadvantaged groups; lack of appropriate transportation; physical barriers; excessively lengthy experience requirements; etc.

Direct discrimination

Direct discrimination refers to situations or treatment that is obviously unfair or unequal. For example, if an employer won't hire someone just because they are a woman.

Indirect discrimination

Indirect discrimination refers to differentiation on grounds which on the face of it, may be innocent, yet the impact of such differentiation is discriminatory. This may occur where the effect of certain requirements, conditions or practices imposed by an employer has an adverse impact disproportionately on one group or other.

For example, an employer who says that they need a person over 6 feet tall to do a job is likely to end up discriminating against women and some ethnic groups. This is because women and people from some ethnic groups are less likely to be this height than men or people from other ethnic groups. If it is possible to show that the job does not need someone 6 feet tall, or that it could easily be adapted to suit people who aren't that tall, then they could claim indirect sex discrimination or indirect race discrimination.

With Indirect Discrimination an employer can argue that there may be discrimination, but that it is actually required for the job. This does not happen very often, but circumstances where it might occur are, for example, actors who are needed to play certain characters for authenticity. The same can be true for restaurants, for example an Indian restaurant will want Indian staff rather than white staff. Or where race or gender is a genuine occupational qualification for the job, for example, employing women in an all female hostel.

Systemic barriers include policies and practices which intentionally or unintentionally exclude, limit and discriminate against individuals and groups. Attitudinal barriers create an environment where people may act out their prejudices, assumptions and biases. These types of barriers may be addressed through education, training, organizational change and organizational development programs.

Systemic discrimination is much subtler. It is sometimes difficult to detect because, unlike intentional discrimination, systemic discrimination is often unintentional. Even a policy or practice that was never designed to exclude the designated groups may result in systemic barriers. Employment policies and practices which appear neutral and are applied equally may have a disparate effect on different groups. Understanding the concept of systemic discrimination, as well as other types of employment discrimination, is key in assessing the impact of systemic discrimination on your organization's employment systems.

Consider the following examples:

- Your workplace does not have ramp entrances or washrooms that are accessible to wheelchair users. Qualified candidates in wheelchairs are therefore excluded from working for your company - even though no one set up a policy to deliberately exclude them.
- Your company has weight and height requirements (in terms of physical strength) that were instituted years ago but are no longer job-related. These excessive requirements eliminate the majority of women who do not meet the height or weight requirements.

Policy formulation

Should a gender policy be a stand-alone policy or integrated into other policies?

Gender equality policies and procedures may either be integrated into existing company policies and procedures or be addressed separately in a stand-alone policy.

The Commission for Gender Equality has produced a comprehensive set of guidelines for employers, evaluating the benefits and disadvantages with either of these approaches. The following represents a summary of their recommendations.

Stand-alone policy

The positives:

- A well formulated gender policy can serve as an educational tool for employees.
- Shows a clear commitment on the part of the company to address gender equality in the workplace.
- Clear reference framework for concerted work on gender.
- More scope for challenging existing policies and practices by setting new agenda.
- Gender issues will not be lost in a plethora of other general human resource policies.
- Supplemented by a sexual harassment policy, work-family friendly policies, workplace violence awareness policies, and employment equity policies, the gender policy will represent a concerted initiative on the part of the company to address inequality in the workplace.

The negatives

- Isolation, as policy may be seen as an optional extra rather than integral part of the business plan.
- Marginalisation by other "more important" policies.
- May miss out on other areas that need to be impacted on.
- Rejection by some if seen to be unrelated to other business

objectives.

- May mean that individual persons would be saddled with responsibility of implementing and monitoring rather than diffusing throughout the company.

Mainstreaming

Mainstreaming gender principles represents an approach whereby gender issues are incorporated into other policies as part of a broad-based initiative to highlight gender equality.

The positives

- Gender issues get integrated throughout the company and in all processes.
- Implementation and monitoring becomes the responsibility of everyone/every department.
- Shows clear commitment to integrate gender in all aspects of business.

The negatives

- May end up with an "everywhere but nowhere", situation, i.e. in a situation where there is not much awareness and commitment to gender issues, "everyone" may claim to be doing something when in fact nothing is being done.
- If not enough care is taken, gender may be side-lined by other agendas under the pretext of "integration", e.g. gender issues getting lost within affirmative action.
- The ability to challenge the status quo may be limited in order to fit in with the existing, "mainstream". In other words there will be a greater tendency to go with the current situation rather than setting new agendas.

Generally acceptable forms of gender / sex discrimination

Not all forms of discrimination based on gender or sex are necessarily unlawful or pejorative. As with gender discrimination, this invariably depends on prevailing public policy and the social customs. Some acceptable forms of discrimination, include differentiation based on:-

- **Religion**

Sex discrimination on grounds of religion may not necessarily be unlawful. Each of the dominant religions discriminate to some extent on grounds of sex or gender.

- **Pregnancy**

The prohibition against female employees working before or after their confinement is an example of direct discrimination which is not unlawful.

- **Affirmative action measures**

Affirmative action measures designed to promote gender or sex equality are not unlawful.

- **Special forms of occupation**

Military - active (front-line) duty

Mining occupations

Sports e.g. boxing, wrestling etc

Gender Policy - Addressing Gender Equality in the Workplace

Guiding principles

No person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth.

It is not unfair discrimination to-

1. take affirmative action measures consistent with the purpose of the Employment Equity Act or the Company's Employment Equity Policy; or
2. distinguish, exclude or prefer any person on the basis of an inherent requirement of a job.

The objectives of this policy are:

- to advance women's equal participation with men as decision-makers in the workplace;
- to support women in the realization of their full human rights in the workplace; and
- to reduce and eliminate gender inequalities in access to and control over the resources and benefits of development.

Elimination of unfair discrimination

The Company undertakes to take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice and by promoting equality of women in the workplace.

Gender Policy Statement

The Company undertakes to create and maintain a working environment in which the dignity of employees is respected.

A climate in the workplace will be created and maintained where employees feel that grievances based on gender or sex discrimination are not ignored or trivialised, or fear reprisals.

Management and employees are required to refrain from

committing acts of discrimination based on gender or sex. This gender policy shall be read in conjunction with other policy statements relating to discrimination based on grounds of gender or sex {or "in conjunction with the Sexual Harassment Policy }.

All management and employees have a role to play in contributing towards creating and maintaining a working environment in which the dignity of all persons is upheld and respected. In particular, employers and employees have a positive duty to:-

- i. eliminate discrimination on the grounds of sex and gender;
- ii. promote equality in respect of sex and gender.

General Principles

- i. All employees, job applicants and other persons who have dealings with the business, have the right to be treated with dignity.
- ii. Gender or sex discrimination in the workplace will not be permitted or condoned.
- iii. Persons who have been subjected to discrimination in the workplace have a right to raise a grievance about it should it occur and appropriate action will be taken by the employer.
- iv. Management shall take disciplinary action against employees who do not comply with the policy.
- v. Allegations of sex or gender discrimination will be dealt with seriously, expeditiously, sensitively and confidentially.
- vi. Employees will be protected against victimisation, retaliation for lodging grievances and from false accusations.
- vii. Management shall communicate the Company's policy statements on sex or gender discrimination to all employees.

The Company recognises that:-

- a. Gender equality must be considered as an integral part of all Company policies, programs and projects.**
- b. Achieving gender equality requires the recognition that every policy, program and project affects women and men differently.** Women and men have different perspectives, needs, interests, roles and resources - and those differences may also be reinforced by class, race, ethnicity or age. Policies, programs and projects must address the differences in experiences and situations between and among women and men.
- c. Achieving gender equality does not mean that women become the same as men.** Equality means that one's rights or opportunities do not depend on being male or female.
- d. Women's empowerment is central to achieving gender equality.** Through empowerment, women become aware of unequal power

relations, gain control over their lives, and acquire a greater voice to overcome inequality in their home, workplace and community.

- e. **Promoting the equal participation of women as agents of change in economic, social and political processes is essential to achieving gender equality.** Equal participation goes beyond numbers. It involves women's equal right to articulate their needs and interests, as well as their vision of society, and to shape the decisions that affect their lives, whatever cultural context they live in. Partnership with women's organizations and other groups working for gender equality is necessary to assist this process.
- f. **Gender equality can only be achieved through partnership between women and men.** When choices for both women and men are enlarged, all society benefits. Gender equality is an issue that concerns both women and men, and achieving it will involve working with men to bring about changes in attitudes, behaviour, roles and responsibilities at home, in the workplace, in the community, and in national, donor and international institutions.
- g. **Achieving gender equality will require specific measures designed to eliminate gender inequalities.** Given ingrained disparities, equal treatment of women and men is insufficient as a strategy for gender equality. Specific measures must be developed to address the policies, laws, procedures, norms, beliefs, practices and attitudes that maintain gender inequality. These gender equity measures, developed with stakeholders, should support women's capacity to make choices about their own lives.
- h. **Company policies, programs, and projects should contribute to gender equality.** Gender equality results should be incorporated into all of the Company's co-operation initiatives although application will vary among branches, programs and projects.

Procedures for lodging complaints relating to sex or gender discrimination

Advice and Assistance

Allegations of discrimination can be a sensitive issue for the grievant, who may feel unable to approach management, lodge a formal grievance or turn to colleagues for support. As far as is practicable employers should designate a person outside of line management whom victims may approach for confidential advice.

Such a person:

- Could include persons employed by the company to perform inter alia such a function, a trade union representative or co-employee, or outside professionals.
- Should have the appropriate skills and experience or be properly trained and given adequate resources.

- Could be required to have counseling and relevant labour relations skills and be able to provide support and advice on a confidential basis.
- Should be thoroughly familiar with sex and gender related legislation, in particular, the Bill of Rights, the Promotion of Equality and Prevention of Unfair Discrimination Act, the Employment Equity Act, and the Labour Relations Act.

Ideal persons may be a designated Employment Equity Officer, or Employee Assistance Co-ordinator.

Options to resolve a problem

Employees may elect to resolve their grievance in an informal way or by way of a formal procedure. The election of the appropriate procedure lies with the employee, subject to the advice of the person designated by the company. The employee should be under no duress to accept one or the other option.

Informal procedure

It may be sufficient for the employee concerned to have an opportunity where she/he can explain to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work.

If the informal approach has not provided a satisfactory outcome, if the case is severe or if the conduct continues, it may be more appropriate to embark upon a formal procedure. Severe cases may include:

- [give examples].
- [give examples].
- [give examples].
- [give examples].
- [give examples].

In following the informal approach to resolving the grievance, the form marked Annexure ____ [use company grievance forms, an example is attached] may be used.

Formal procedure

Where a grievant elects to lodge a formal grievance, the grievant must lodge a grievance in terms of the Company's formal grievance procedure. Allegations of sexual harassment may be addressed in terms of the Company's sexual harassment policy.

[Notes: ***For company's with no written grievance procedure***

Where a formal procedure has been chosen by the aggrieved, a formal procedure for resolving the grievance should be available and should:

- Specify to whom the employee should lodge the grievance.
- Make reference to timeframes which allow the grievance to be dealt with expeditiously.
- Provide that if the case is not resolved satisfactorily, the issue can be dealt with in terms of statutory dispute procedures contained in the Employment Equity Act.]

Investigation and disciplinary action

Care should be taken during any investigation of a grievance of sex or gender discrimination that the aggrieved person is not disadvantaged, and that the position of other parties is not prejudiced if the grievance is found to be unwarranted. Above all, the dignity of the grievant must be upheld.

The Code of Good Practice regulating dismissal contained in Schedule 8 of the Labour Relations Act provides that an employee may be dismissed for serious misconduct or repeated offences. Serious incidents of sex or gender discrimination or continued harassment after warnings are dismissable offences.

In cases of persistent harassment or discrimination or single incidents of serious misconduct, employers ought to follow the procedures set out in the Code of Practice contained in Schedule 8 of this Act.

The range of disciplinary sanctions to which employees will be liable should be clearly stated, and it should also be made clear that it will be a disciplinary offence to victimise or retaliate against an employee who in good faith lodges a grievance of discrimination.

Remedial Action

Where the grievance relates to a policy, procedure or practice of the Company, management or department, and

- Such policy, procedure or practice is found to be unlawful, or
- Unfairly discriminates against employees on grounds of sex or gender,

the Company is required to implement appropriate action to remedy the discriminatory conduct. The offending policy, procedure or practice will be referred to the Gender Committee for review.

Employment Systems Review

The Company will conduct a comprehensive employment systems review to evaluate the impact of employment practices to determine whether such policies discriminate unfairly on

grounds of gender or sex.

Dispute resolution

Should a complaint of alleged gender discrimination not be satisfactorily resolved by the internal procedures set out above, either party may within 30 days of the dispute having arisen, refer the matter to the CCMA for conciliation in accordance with the provisions of section 135 of the Labour Relations Act.

[**Note:** In terms of Section 10 (2) of the Employment Equity Act, any party to a dispute concerning unfair discrimination may refer the dispute in writing to the CCMA within six months after the act or omission that allegedly constitutes unfair discrimination.]

Criminal and civil charges

A victim of sex or gender discrimination has the right to press separate criminal and/or civil charges against an alleged perpetrator, and the legal rights of the victim are in no way limited by this policy.

Lodging Claims with the Commission for Gender Equality

A gender complaint or gender-related complaint is characterised or perceived to be characterised by sex, pregnancy, marital status, sexual orientation, or socially; economically or culturally conditioned roles, abilities or expectations pertaining to any of these characteristics. It is also related to gender inequality when it has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise of fundamental freedom in political, economic, social, cultural or civil arenas. Complaints may be lodged directly with the Gender Commission. [See Appendix __]

Affirmative Action Measures

Affirmative action measures are measures designed to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the workforce of a designated employer. Affirmative action measures include-

- measures to identify and eliminate employment barriers, including unfair discrimination, which adversely affect people from designated groups;
- measures designed to further diversity in the workplace based on equal dignity and respect of all people;
- making reasonable accommodation for people from designated groups in order to ensure that they *enjoy* equal opportunities and are equitably represented in *the* workforce of a designated employer;

- ensure the equitable representation of suitably qualified people from designated groups in all occupational categories and levels in the workforce; and
- retain and develop people from designated groups and to implement appropriate training measures, including measures in terms of an Act of Parliament providing for skills development.

Management shall, on its own initiative, review its employment practices and workforce profile and implement positive measures to

- eliminate discrimination on the grounds of sex and gender;
- promote equality in respect of sex and gender.

In carrying out these duties and responsibilities, the Company shall—

- i. review its employment practices with a view to eliminating all discriminatory aspects thereof and make appropriate recommendations to relevant parties;
- ii. enact appropriate rules ("recommendations"), develop progressive policies and initiate codes of practice in order to eliminate discrimination on the grounds of race, gender and disability;
- iii. adopt viable action plans for the promotion and achievement of equality in respect of race, gender and disability; and
- iv. give priority to the elimination of unfair discrimination and the promotion of equality in respect of race, sex / gender and disability.

In reviewing its employment policies and practices for sex or gender discrimination, or determining appropriate action to ensure that women are equitably represented at all occupational categories and levels in the workforce, the Company shall ensure use of gender neutral language and have regard to-

- a. recruitment procedures, advertising and selection criteria;
- b. appointments and the appointment process;
- c. job classification and grading;
- d. remuneration, employment benefits and terms and conditions of employment;
- e. job assignments;
- f. the working environment and facilities;
- g. training and development;
- h. performance evaluation systems;
- i. promotion;
- j. transfer;
- k. demotion;
- l. disciplinary measures other than dismissal; and
- m. dismissal

The Company shall not take any decision concerning an employment policy or practice that would establish an absolute barrier to the prospective or continued employment or advancement of people who are not from designated groups.

Specific Actions

Advancement of Women

The Company acknowledges that women have been traditionally and systematically excluded from senior managerial positions. The Company undertakes to redress past discrimination against women by adopting positive employment practices to ensure the fair and equitable representation of women at all occupational levels and categories in the workforce, especially in senior managerial positions.

A person may be suitably qualified for a job as a result of any one of, or any combination of that person's -

- (a) formal qualifications;
- (b) prior learning;
- (c) relevant experience; or
- (d) capacity to acquire, within a reasonable time, the ability to do the job.

When determining whether a person is suitably qualified for a job, an employer (manager) must-

- a. review all the factors listed above; and
- b. determine whether that person has the ability to do the job in terms of any one of, or any combination of those factors.

An employer may not unfairly discriminate against a person solely on the grounds of that person's lack of relevant experience.

Equality of Pay and Provision of Employment Benefits

The Company undertakes that all persons shall be eligible for equal pay and the provision of employment benefits, having regard to the occupational levels and categories of employees. Where disproportionate income differentials exist within the company the company shall take measures to progressively reduce such differentials.

Family Friendly Workplace Practices

Where practical, the Company will adopt appropriate employment policies and practices which promote or permit the access of persons to employment opportunities which recognise the family responsibilities of existing employees or job applicants.

Such policies or practices may include:-

- Work from home opportunities
- Part-time work
- Flexi-time work
- Extended unpaid leave
- Parental leave schemes
- Accommodation of workload
- Scheduling of meetings, company events
- eliminate financial barriers to participation by reimbursing reasonable expenses including child care

Policies on career breaks, parental leave and part-time work, as well as flexible working arrangements which serve the interests of both employers and employees, are of particular importance to women and men. There must be an adequate provision of good quality care for children and other dependants in order to support women's and men's entry and continued participation in the labour market. An equal sharing of family responsibilities is crucial in this respect. Where practical, the company will design, implement and promote family-friendly policies, including affordable, accessible and high quality care services for children and other dependants, as well as parental and other leave schemes, giving specific attention to a return to the workforce of women or men after an absence based on family responsibility.

Accommodation of Workload

Work done by employees should be allocated in an equal manner. Achieving an equal workload allocation may require accommodations adapted to individuals' specific needs and situations.

A commitment to accommodate could cover specific situations that affect an individual directly. The accommodation should relate to both the workload itself and the organization of that workload, for example, the distribution of the type of work done.

The "different" treatment required by the duty to accommodate should be seen as a means of achieving equality in the workplace and as an illustration of the principle of equality rather than an exception to the rule.



Balanced Board level representation

Women's interests, experiences and concerns are often rendered invisible or inadequately voiced in decision-making, effectively excluding them from key decisions that affect their lives and the lives of their families and communities. It also means that the majority of the monetary, financial and trade policies being implemented are gender blind, resulting in serious economic costs to society as a whole. Women's under-representation in

decision-making, including economic decision-making, is not acceptable. The Company will ensure that women are equitably represented at Board or Committee level. Women should be consulted and involved in decision making at all levels.

Additional Measures designed to promote Gender Equality

[These measures may be rephrased as specific positive measures to be incorporated into a Gender Policy, for example, "include gender awareness in all job specifications" can be rewritten to state "the Company shall ensure that all job specifications are phrased in gender neutral terms".

Recruitment - Person specification

- Include gender awareness in all job specifications.
- If your company intends to employ more women, blacks etc. say so explicitly and encourage them to apply. It is not always sufficient to say that your are "an equal opportunities employer".
- Specifications that will discourage certain groups from applying are not acceptable.
- Include gender competence as a requirement in job specifications. This will enable you to recruit people who have no problems coping with diversity and women's advancement.
- Job titles and specifications that enhance gender stereotypes are not acceptable, e.g. Girl Friday, sales girl.
- Subjective and sexist language or requirements discourage women, for example, "out-going, fun-loving female wanted". Such a specification would automatically discourage some married women with children".
- In order to encourage them apply, include those areas where women have generally greater expertise. In the same vein avoid emphasising those areas where men have tended to predominate.

Advertising

- Use media that is accessible to women, black women in particular, for example, radio, community radio, magazines or newspapers that are popular among the particular group.
- Encourage women to apply through appropriately worded advertising.
- Reach out to relevant women's groups, networks, and systems to widen recruitment possibilities.

Selection

- All questions must focus on what is required for the job.
- Comparable questions must be posed to female and male incumbents.
- Ensure that gender aware and gender competent persons sit on the selection panel.

- Have some female candidates in every interview, even if the women may not meet all requirements on paper.
- Use gender awareness as criteria for selection, particularly for senior management - if you are serious about gender mainstreaming in your company.
- Subjective and sexist criteria is not acceptable, for example; marital status, dress, physical attributes. These often have no relation to the job.
- If you are using psychometric tests, ensure that these are not racially, culturally or gender biased.

Remuneration and grading

- There must be equal pay for equal work.
- There must be equal pay for work of equal value. For example male messengers tend to get paid more than female office cleaners. This is not acceptable.
- Women are income earners in their own right. So paying women so called "pin money", or lower wages on the basis that they do not really need it because their husbands will earn more, is not only discriminatory it is against the law.
- Jobs must be graded in terms of their content and value, not in terms of which sex does them.
- Women are entitled to benefits in their own right, for example a married woman can choose to be on her own medical aid, not on her husband's and she can put him on her medical aid as her spouse if she wishes.
- Performance management and appraisal must be equitable and not subtly discriminate against women.
- Job descriptions must reflect the full complexity of the job.
- Job evaluations processes and methodologies must be fair and equitable. Subjective criteria and considerations must be eliminated.
- Use evaluation criteria which reasonably reflects the range of skills in the entire work-force.
- Recognise and reward certain responsibilities and skills that women have and bring to the job. There is a tendency for example to under-value women's co-ordination role value "supervision" - because it is done by males.
- The scoring system in job evaluations must also value the skills and demands in jobs done by women.
- Recognise and reward skills that an employee gains through work, life, and informal training. Because the majority of (black), women have not had the same access to formal training as men, there is need to look at other skills that women bring to the work-place.
- Vague language, ambiguous or subjective evaluative criteria must be

eliminated.

- Have an objective way of assessing skills for example competency based assessment, rather than relying on the length of service or the "reputation", of a person.
- Acknowledge and reward women's hard work and level of responsibility particularly in what are seen as typically female jobs or in lowly paid jobs.
- Measuring levels of responsibility only in terms of supervision may obscure the amount of work involved in jobs women do. For instance, secretaries tend not to supervise anyone, yet they perform a very wide range of tasks.
- Performance evaluation should not penalise women for trying balance their social and professional responsibilities. For example judging a woman who can not work over-time less "committed" than her male colleague.

Promotion and advancement

- Promotion must be based on a valid set of clearly articulated criteria.
- Recognise women's disproportionate family responsibilities and do not use these as an excuse to down-grade them.
- You can have a deliberate policy to promote certain groups e.g. Black women to particular posts. Spell out this policy and the reasons for it.
- Where the above happens this should be accompanied by training, counselling and mentoring to avoid "tokenism".

Training and development

- Increase training expenditure on women in organisational levels where they are under-represented.
- Deliberately train women for jobs that have traditionally been men's preserve, e.g. technical fields.
- Increase expenditure on basic literacy training.
- Implement gender sensitivity and awareness workshops for all in the organisation from the shop floor to senior management.
- Ensure that training times, facilities, and opportunities are appropriate and friendly to women's participation. For example organising a three-week training away from the place where women with young families live would be a way of discouraging them from participating!

Family friendly practices

- Where possible have child and dependent care facilities.
- Ensure enough leave and benefit provisions for women and men to balance family and professional responsibilities, e.g. paid maternity/paternity leave.
- Provisions that enable both women and men to fulfil their social

responsibilities must not be touted as "women friendly", but as family friendly.

- Do not just comply with the minimum legal requirements, do what would be most beneficial to all workers and would make you attract and retain the best employees.
- Do not penalise women for trying to balance professional and social responsibilities, e.g. not promoting a woman whose child is ill or has a disability.

Working Environment, culture and practices

- Everyday working practices must not exclude anyone or make them uncomfortable. For example: long working hours, and holding meetings in drinking places.
- Do not make assumptions about what women "should do", e.g. pouring out the tea at meetings, or taking minutes.
- Do not make assumptions about what women can't do, e.g. going on over-seas trips.
- Eliminate sexist practices and cultures, for example dress codes that make women appear like sex objects, or hiring female strippers to perform at a company retreat.

Affirmative Action

There are many misconceptions about what affirmative action is and what it entails. It is therefore necessary to point out the following:

- Simply put, it is about levelling the playing field, to enable those who have been disadvantaged to come in and participate.
- It is about honestly confronting the fact that some of the privileges and powers certain groups have currently were never based on merit or any objective criteria, but simply on race and sex.
- Affirmative action is not the same as a quota system.
- It is not about tokenism or simply promoting just anyone without skills or qualifications.
- It is not the same as preferential treatment.
- Affirmative action is about supporting competency, and opening up spaces for the previously excluded.
- Collect data on the current situation and what needs to be addressed. For example; how many women are in top management? How many are black?
- Having a clear picture of the situation at the beginning will enable you to monitor the impact of your affirmative action policy.
- Set specific priorities and targets in respect of women, black women in particular.
- Monitor implementation of the policy. Address obstacles.
- Monitor women's participation in decision making processes and

address gender based problems.

- Affirmative action policies must go beyond increasing numbers, to enhancing qualitative participation.
- Avoid tokenism.

Appendix

Good Practices in Gender Policy Formulation and Implementation

Gender equality is more likely to be achieved if the following conditions exist:

At the Corporate Level

- senior management is committed to gender equality;
- there are sufficient resources and knowledgeable personnel, along with an enabling corporate environment to promote gender equality;
- there are accountability frameworks which ensure that the gender equality policy is implemented;
- qualified gender equality specialists (especially locally-based ones) are employed on a regular basis; and
- gender equality is treated as an objective in and of itself.

In the Planning Process

- gender equality is recognized as relevant to every aspect of international co-operation from macro-economic reform to infrastructure projects;
- gender analysis is carried out at the earliest stages of the project or program cycle and the findings are integrated into project or program planning;
- institutional weaknesses or cultural biases that could constrain the achievement of gender equality results are recognized in policy, program, or project design, and strategies are developed to address them;
- means are identified to ensure there is broad participation of women and men as decision-makers in the planning process;
- clear, measurable, and achievable gender equality results are developed in the earliest phases of the process;
- gender-sensitive indicators, both qualitative and quantitative, are developed (this requires the collection of baseline data disaggregated by sex, as well as by age and socio-economic and ethnic groups);
- a specific strategy and budget is provided to support the achievement of gender equality results;
- partners and implementors are selected on the basis of their commitment and capacity to promote gender equality; and
- gender equality specialists are involved from the start of the planning

process.

During Implementation

- gender equality specialists are part of project teams;
- external support is sought from women's organizations, key female and male decision-makers, leaders and allies;
- the objective of gender equality is not lost in rhetoric or in preoccupation with company processes;
- there is flexibility and openness to respond to new and innovative methods, and to opportunities for supporting gender equality that present themselves during implementation; and
- there is broad participation of women in the implementation.

Performance Measurement

- gender equality results are expressed, measured and reported on using qualitative and quantitative indicators;
- data, disaggregated by sex, as well as by age and socio-economic and ethnic groups, is collected;
- qualified gender equality specialists (especially locally-based ones) are involved in performance measurement;
- information on progress in reducing gender inequalities is collected and analyzed as an integral part of performance measurement;
- a long-term perspective is taken (i.e., social change takes time); and
- participatory approaches are used, where women and men actively take part in the planning of performance measurement frameworks, in their implementation, and in the discussion of their findings.

Appendix

Establishment of a Gender Committee

Recommendations

That a Gender Committee be established by _____ [name of company / entity] to give effect to section 27 of Promotion of Equality and Prevention of Unfair Discrimination Act.

_____ recognises that as a public interest body it has a duty and responsibility to -

- i. eliminate discrimination on the grounds of race, gender and disability;
- ii. promote equality in respect of race, gender and disability.

In carrying out these duties and responsibilities, _____ shall—

- i. audit [laws,] policies and practices with a view to eliminating all discriminatory aspects thereof and make appropriate recommendations to relevant bodies;

- ii. enact appropriate rules ("recommendations"), develop progressive policies and initiate codes of practice in order to eliminate discrimination on the grounds of race, gender and disability;
- iii. adopt viable action plans for the promotion and achievement of equality in respect of race, gender and disability; and
- iv. give priority to the elimination of unfair discrimination and the promotion of equality in respect of race, gender and disability.

Other topics to be considered in terms of proposal on Gender Committee

- Constitution of Gender Committee
- Release of Recommendations
- Effect of Recommendations
- Relationship with other Workplace Committees or Forums (Employment Equity Committees, Workplace Training Committee, Workplace Forums etc)
- Relationship with Other Public Interest Bodies

Appendices

Gender - the problem of terminology

Alexandra Russell-Bitting

Source: <http://accurapid.com/journal/11neolog.htm>

Most English speakers understand the term "gender" as synonymous with "sex." In the social sciences, however, it has a different connotation: experts in the Women in Development Unit of the IDB explained that where "sex" means the way we are born (male or female), "gender" means how we are raised. For example, in some countries, women have higher illiteracy rates than men because girls are expected to stay home to care for younger siblings. This is an example of a "gender issue."

Gender issues usually refer to women, as in the case of gender bias or gender disparities, but they can also sometimes refer to men. In El Salvador, for instance, the men who fought in the devastating civil war that the country endured for over 10 years face particular health and employment problems that women do not.

Spanish

Use of the Spanish term *género* for this socioeconomic acceptance of "gender" generated intense controversy among Spanish linguists, highlighting the conflicting perspectives of experts and translators in cases of new usage of an already existing term. The controversy culminated when Spanish terminologists at the United Nations produced a glossary for the 1996 U.N. Conference on Women in Beijing. They struggled to provide various renderings of "gender" depending on the context, such as *por sexo*,

de la mujer, etc., scrupulously avoiding *género*.

But when the Spanish-speaking delegates to the conference saw the glossary, they demanded that the term *género* be added, citing its usage in original Spanish source texts in the social sciences. A revised version of the glossary had to be published with *género* included in all the entries for "gender."

In practical terms, though, when the meaning of "gender" overlaps with that of "sex," *sexo* can still be used, as in *desglose por sexo* for "gender breakdown." If it is clear that the text only refers to women, then *de la mujer* will sometimes work, as in *promoción de la mujer* for "gender development." An interesting rendition of the term "gender bias" into Spanish is *sexismo*. In other instances, though, *género* is used, as in *análisis de género* for "gender analysis."

French

In French, the term *genre* is still only used in grammar. In the development context, there are various renditions of "gender": for "gender issues," *la problématique hommes-femmes*; for "gender disparities," *discriminations liées au sexe* or *sexospécifiques*; "gender analysis," *analyse des questions de parité*.

Portuguese

Likewise, in Portuguese, *gênero* is only used in the grammatical sense. So in cases where the meaning of "gender" overlaps with that of "sex," *sexo* is used, as in *composição por sexo* for "gender breakdown"; other examples are *desigualdades entre os sexos* for "gender disparities"; and *análise em função do sexo* for "gender analysis." If it is clear from the context that "gender" only refers to women, then *da mulher* will sometimes work, as in *promoção da mulher* for "gender development."

United Nations Human Settlements Programme

(UN-HABITAT) January 2002

The term "*gender*" refers to economic, social and cultural attributes and opportunities associated with being male or female. In almost all societies, women and men differ in their activities and undertaking, regarding access to and control over resources, and participating in decision-making. Gender roles and responsibilities, therefore, refer to the differences between women and men in societies based upon their sex. The use of the word "gender" highlights the insight that these differences are not innate or predetermined and are not the same as the biological differences between women and men. Gender differences have been built up and reinforced by socio-cultural and economic institutions, over time and are therefore different in diverse contexts and societies. *Gender roles, responsibilities and differences are not the same in different societies, but differ according to the historical development and institutions of that particular society, although there are*

similar inequalities between women and men, girls and boys, globally.

A focus on gender inequalities does not imply that all women are worse of than all men. Rather, the argument is that gender (being male or female) is an important social division characterized by inequality. *Whether you are a woman or a man will influence how people see you, the social expectations about how you should behave, people's assumptions about what you might be "good at" or what skills you might have, and your life chances.* (Sida, 1997) There is a danger, and a frequent mistake, to confuse "gender" with "women"; it is therefore important to understand the differences between these two concepts. In order to focus on gender inequalities one must have knowledge of both women and men's roles and responsibilities as it is the comparative analysis between these that will highlight the gender (in-) equalities of any society. An analysis of women or men separately can be of importance but can never replace a gender analysis or perspective as it only highlights part of the reality. *To only state that girls don't go to school adequately isn't necessarily based upon gender inequalities as boys might attend in equally low numbers, it is when you compare these two data that a gender analysis can be made and its origin further investigated.*

Appendix B

Women's Day

International Women's Day - 8 March

On 8 March 1857, in one of the first organized actions by working women anywhere in the world, hundreds of women workers in garment and textile factories in New York City staged a strike against low wages, long working hours and inhumane working conditions. Fifty-three years later, in August 1910, at a meeting in Copenhagen, the Women's Socialist International decided to commemorate the strike by observing an annual International Women's Day. In 1975, during International Women's Year, the United Nations began celebrating 8 March as International Women's Day. In December 1977, the General Assembly adopted a resolution proclaiming a United Nations Day for Women's Rights and International Peace to be observed on a date to be chosen by each Member State. In South Africa, National Women's Day is celebrated on 9 August of each year.

National Women's Day 9 August

In terms of the Public Holidays Act 36 of 1994 as amended, 9 August is National Women's Day.

16 Days of Activism

This internationally recognised campaign runs from November 25th to December 10th

Appendix C

Beijing Declaration

- Article 1 Definition of the term "discrimination against women."
- Article 2 State parties condemn discrimination against women in all its forms.
- Article 3 (*State parties*) To take all appropriate measures to ensure the full development and advancement of women in all fields, including legislation.
- Article 4 To adopt temporary measures aimed at accelerating the de facto equality between women and men.
- Article 5 To take measures to modify social and cultural conduct that discriminates women, and enforces stereotypes.
- Article 6 To take all measures, including legislative, to suppress all traffic in women.
- Article 7 To take all appropriate measures to eliminate discrimination in political and public life.
- Article 8 To take appropriate measures to ensure that women on equal term with men have the opportunity to represent their Government at the international level.
- Article 9 To grant women equal rights with men to acquire, change or retain their nationality.
- Article 10 To ensure women the equal right to education.
- Article 11 To take appropriate measures to eliminate discrimination against women in the field of employment.
- Article 12 To take all appropriate measures to eliminate discrimination in the field of health care, including those related to family planning.
- Article 13 To take appropriate measures to eliminate all discrimination against women in areas of economic and social life.
- Article 14 To take into account the particular problems faced by rural women.
- Article 15 State parties shall accord to women equality with men before the law.
- Article 16 To take appropriate measures to eliminate discrimination against women in all matters relating to marriage and family, including the right to own and acquire property.

Appendix

Commission for Gender Equality - Complaints Unit

Operating since 1998, the Complaints Unit works in terms of the CGE mandate, which stipulates that "the CGE shall investigate any gender related issues of its own accord or on receipt of a complaint". To date the Unit has received about 700 complaints from the public. 75% of these complaints are related to maintenance with the remaining 25% ranging from domestic violence, divorce, discriminatory cultural practices to gender

discrimination in the workplace.

What is a Gendered Complaint ?

A gender complaint or gender- related complaint is characterised or perceived to be characterised by sex, pregnancy, marital status, sexual orientation, or socially; economically or culturally conditioned roles, abilities or expectations pertaining to any of these characteristics. It is also related to gender inequality when it has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise of fundamental freedom in political, economic, social, cultural or civil arenas.

How to complain to the CGE

Complaints may be lodged with the CGE in writing, by phone or fax, or in person. They may be lodged in provinces where the CGE has offices (Pietersburg, Cape Town, Bloemfontein, Durban and Braamfontein).

What happens to complaints?

All complaints are investigated and those that fall within the CGE`s mandate are resolved through mediation, conciliation and arbitration. Complaints outside our mandate are referred to relevant organisations such as the Courts, other Chapter Nine Institutions, Non-governmental organisations and Advice Centres.

Contact the Complaints Unit:

P.O. Box 32175, Braamfontein 2017

Telephone number: 011 403-7182 Fax number: 011 403-5609 or any CGE provincial office. If you have access to the internet, kindly fill the Complaints Form on our website :<http://www.cge.org.za>

Examples of Discrimination being addressed by the Gender Commission

Complainants are urged to first exhaust their internal mechanisms for dispute resolution. If this has been done and the matter remains unresolved, it is then referred to the Commission for Conciliation, Mediation and Arbitration (CCMA), unless it does not fall within its ambit. The following are some examples of cases of workplace gender discrimination that the Complaints Unit is currently working on:

- A woman based at a South African High Commission alleged that the current Foreign Affairs policies relating to children`s education and after-care discriminate against single parents.
- An employee who alleged that she was discriminated against because she does not wear uniform due to her pregnancy.
- An employee who was refused access to medical aid on the grounds that she failed to disclose to the medical aid that there was a change in her state of health due to her pregnancy. This issue is of serious

concern to the CGE as it appears to be based on stereotyped notions of seeing pregnancy as some kind of illness. We have embarked on research on this issue to find out how widespread this practice is and how we can then interact with medical aid schemes to address the matter.

- A complaint was received regarding a well-known company's housing policy that discriminates against women. Correspondence has been sent to the company, and in response the company has acknowledged that they will address the discriminatory issues in the policy. The CGE will be monitoring this.
- The Unit received complaints that women farmworkers are working under harsh conditions in the Free State, where they are underpaid and ill treated. The matter has been referred to the Department of Labour in the Free State, but calls to the Department have been unsuccessful in this regard, and the matter is being pursued at other levels within the Department. This is an area where the CGE will intervene to ensure that the current developments initiated by the Minister of Labour around the improvement of working conditions for farmworkers, takes into cognisance the unique position of women, who are often employed as casual labour.

The above complaints point to a need for the Commission to be more active in addressing gender discrimination in the workplace. The advancement of women in the workplace and the successful implementation of the Employment Equity Act will not succeed unless a conscious effort is made to deal with discrimination against women by all employers.

Discrimination Against Pregnant Learners

The Commission has received three complaints on discrimination against pregnant learners in the Western Cape, Mpumalanga and the Northern Province. The first case remains unresolved due to lack of clear guidelines on this issue by the Department. The other two similar complaints are also still unresolved due to a lack of cooperation from the relevant school principals.

This issue is of major concern to the CGE as it has direct implications for the education of young women and their future career prospects. While non co-operation from principals is an issue, it appears that the bigger issue at stake is the lack of a clear policy by the Department of Education. The Schools Act is silent on the issue and there is no specific policy dealing with the matter. The CGE will intensify its advocacy with the Department of Education to ensure that there is a clear policy in place, and that it is implemented.

Gender and Advertising

The Commission receives complaints about sexist advertisements and those, which perpetuate stereotypes about women's roles in society. These complaints are forwarded to the ASA, and a response communicated to the

complainant. Further to this we have developed a good working relationship with the ASA and they call upon us to comment on complaints they have received.

The CGE's relationship with ASA will be further strengthened in the coming year, when the Gender, Advertising and Broadcasting report is published. The Report will be used to constructively engage ASA and other roleplayers including advertising companies and broadcasters, on the need to promote and protect in all media.

Femicide

The Unit is currently working on three cases of femicide. It is estimated that 70% of women are killed by their partners. To this extent femicide is closely linked to domestic violence in all its forms. While a great deal is being done by organisations around domestic violence, very little is being done to address femicide. The Commission's immediate aim is to draw public attention to femicide and encouraging the judiciary to take a more serious approach to this issue.

Gugu Dlamini: HIV/AIDS case

Gugu Dlamini was killed after making her HIV/AIDS status known publicly. The Commission received a complaint that there have been no prosecutions on this matter and no one had been arrested. The deputy director of prosecutions in KwaZulu-Natal has informed the CGE that an inquest will be conducted, and regular updates will be provided. It has also emerged that the AIDS Law Project at CALS will be appointing an attorney to represent Gugu's family on the matter.

Confidential Request for Assistance

TO: Employee Assistance Programme Coordinator

DATE:

I, _____ hereby request an interview with the Employee Assistance Programme Coordinator for the purpose of lodging an informal complaint relating to _____ .

I acknowledge that the matter I wish to address falls within the scope of the Employee Assistance Programme. I further undertake to make the necessary arrangements directly with my supervisor for time-off from work to attend the interview.

Signature of Employee Department

Date Supervisor's Name

A copy of this form is to be delivered to the departmental master personnel file maintained in a separate, confidential manner by the Human Resource Manager.

Examples of Gender Policies on the Internet

Mission Statements

GENDER MISSION STATEMENT

Within the next five years, we will take all steps necessary to:

- eradicate all obstacles to women's access to justice through researching, acknowledging and addressing the needs of women, including race and class differences and disadvantages in the administration of justice, in order to achieve substantive equality for women.

To this end we will:

- address both our internal policies as an employer, and our external policies as a service provider to the community

Department of Justice - Gender Policy Statement "Balancing the Scales of Justice Through Gender Equality"

Source: <http://www.doj.gov.za/policy/genderpolicy.htm>

Other Sources

Draft COSATU Gender Policy - Report of COSATU National Gender Conference

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We can proudly claim to be the most up-to-date and comprehensive legal and human resource website serving the South African legal and business community.

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You will have access to our comprehensive database of human resource policies and procedures covering every facet of the employment relationship and workplace practices. We have over 1000 human resource policies and procedures, links and references - whilst adding new content daily.

Our current database includes:

- Pro forma human resource policies and procedures;
- Legal guides to Workplace employment practices & procedures;
- Human Resource Index of Policies and Procedures;
- Discussion Forums on topical workplace practices or legal developments, e.g., religious expression in the workplace, family social responsibility provisions;
- Legal guides to the CCMA;
- Human Resources links and online resources;

📁 IR Policies & Procedures

We provide an extensive directory of industrial relations policies and procedures. These policies and procedures ensure compliance with the Labour Relations Act, Basic Conditions of Employment Act, Employment Equity Act, Skills Development Act as well as the host of Codes of Good Practice and other employment legislation.

- Dealing with Trade Unions
- How to conduct disciplinary hearings
- Presenting your case in the CCMA
- Conducting arbitrations
- Wage negotiations

- Retrenchment
- How to manage employees who are incapable of working.

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You will have access to our Training and Development directory of articles, references and research resources. Aside from our own content written by leading South African Instructional Designers, we also provide you with numerous links to free downloads of training programmes, ROI resources, Instructional Design programmes, job competency questionnaires and much more.

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- Supervisory and Management Training Programmes
- Workplace Aids, Smoking, Alcohol and TB Awareness
- Workplace Violence Awareness and Prevention
- Managing Employee Conduct and Performance

📁 Employment Equity Implementation Manual

Our online manual is designed to help organizations set up and self-administer an employment equity plan. Covering the Employment Equity Act, and reviewing international equity plans and diversity programmes, this extensive manual delivers solid practical advice to help you through the process.

This Manual outlines the interaction of employment equity with:-

- workplace discrimination,
- pay equity,
- employment practices and
- actual or potential workplace situations, and describes
- effective ways to involve trade unions and employee groups in developing and implementing equity programmes.

The charts, forms, workplace surveys, checklists, sample policies and detailed guidelines make this manual an indispensable and cost effective reference tool.

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