

RESPONSES TO QUESTIONS PUT BY THE CERD COMMITTEE MEMBERS

COMPOSITION AND DISTRIBUTION OF THE POPULATION

Question 1:

The results of the second democratic Census (Census 2001) were released in July 2003. On the night of 10 October 2001, there were 44 819 778 people in South Africa. Of these, 79% classified themselves as African; 9,6% as White; 8,9% as Coloured; and 2,5% as Indian/Asian.

According to Statistics South Africa, there were an estimated 46 429 823 people in South Africa in 2003 (Mid-Year Estimates, 2003). Of these, 36 914 284 were Black, 4 131 096 Coloured, while some 1 140 097 classified themselves as Indian and 4 244 346 as White. Members of the Khoi and the San in South Africa, about 25 000 according to recent estimates.

Of the total number of people in South Africa in 2003, 22 150 308 were male and 24 279 515 female.

The South African population consists of the following groups: the Nguni (consisting of the Zulu, Xhosa, Ndebele and Swazi people); the Sotho-Tswana, who include the Southern, Northern and Western Sotho (Tswana people); the Tsonga; Venda; the Khoi San and the Nama; Afrikaners; English; Coloureds; Indians; and those who have immigrated to South Africa from the rest of Africa, Europe and Asia and maintain a strong cultural identity. The Constitution recognises 11 official languages, namely Afrikaans, English, isiNdebele, isiXhosa, isiZulu, Sepedi, Sesotho, Setswana, siSwati, Tshivenda and Xitsonga.

According to Census 2001, isiZulu is the mother tongue of 23,8% of the population, followed by isiXhosa (17,6%), Afrikaans (13,3%), Sepedi (9,4%), and English and Setswana (8,2% each). The least-spoken indigenous language in

South Africa is isiNdebele, which is spoken by 1,6% of the population and the language of the Khoi San. Actually since 1994 we have taken concrete steps to resuscitate languages, which were becoming extinct, through the PANSALB board.

There is a flow of immigrants into South Africa who come for various reasons and they use various permits, including study, employment and visitors permits. Currently South Africa is having approximately 100 000 asylum seekers and around 31 500 refugees. There is a number of undocumented illegal immigrants which cannot be accounted for.

Question 2:

It should be acknowledged that the Constitution of the Republic of South Africa has taken a modern and broad approach in defining the principle of equality when compared with the UN Convention. The Constitution provides a non-exhaustive list of grounds of discrimination, making the threshold of the principle of equality wider. Section 9 (3) of our constitution specifies various ground for non discrimination. Birth and origin are some of these grounds. Our understanding of descent and birth and origin is that they refer to the same meaning. The issue of descent is therefore covered in our constitution. However, if the differentiation is based on a ground not listed in S 9(3), the court will examine whether or not the ground for differentiation has to do with attributes and characteristics which, when manipulated, have the potential to degrade or dehumanize people. These grounds are often based on biological attributes or characteristics, which are outside the person's control, or with ways in which people associate express or practice religion or culture (see **Harksen case**). Everyone in South Africa, including foreigners and South Africans of any descent, are entitled to enjoy rights contained in the Bill of Rights except political rights which are meant for South African citizens.

The concept of “fair” discrimination has been eloquently outlined in the leading case of **Harksen v Lane NO 1997(11) BCLR 1489 (CC)** contained in the Report. Discrimination is fair when there is a rational connection between the differentiation and a legitimate Government purpose. This means that the differentiation must make sense when viewed against what it is aimed to be achieved with the measure in question. In the absence of a rational connection, the differentiation falls foul of section 9(1) of the Constitution and the discrimination is considered unfair and unconstitutional.

Three factors are to be determined to establish whether the discrimination is fair:-

- (1) Does it seek to address the right of a vulnerable group, i.e. a group which has suffered from unfair discrimination in the past?
- (2) Is there a good reason for discrimination?
- (3) To what extent does the measure affect the rights or interests of the complainants? Does it affect their human dignity?

If the measure is an executive act, and is found to address the plight of a vulnerable group, to be a good reason for discrimination and does not affect the human dignity of the complainants, it would be considered “fair” discrimination. However, if the measure is a legislative act, another question should be answered to determine whether such a measure amounts to “fair” discrimination, namely whether the discrimination is justified? In terms of section 36 of the Constitution, discrimination would be “fair” if it is reasonable and justified in an open and democratic society based on human dignity, equality and freedom. The test of proportionality is used, in other words the discrimination will be regarded fair if found to be proportional in achieving the desired objective.

As underscored in the **Harksen case**, the purpose of “fair” discrimination is aimed at addressing imbalances at all levels of the South African society given our history of racism and racial discrimination. There are a number of executive and legislative measures aimed at addressing the legacy of apartheid (e.g.

Affirmative Action). The Government's affirmative action policy for the Public Service is a measure of "fair" discrimination and is aimed to redress historical past injustices to previously disadvantaged groups due to the apartheid policy. The overall profile of the public Service is currently very close to achieving perfect representivity status, edging its way to matching the population profile in terms of both race and gender. However, this remains a challenge for South Africa, especially in the private sector.

Question 3:

The provisions of the ICERD cannot be directly invoked before the domestic courts. The Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) provides that "an international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces..." (Section 231(2)). Furthermore, the Constitution provides that any international agreement becomes law in the Republic when it is enacted into law by national legislation; but a self-executing provision in an agreement is law in the Republic unless it is inconsistent with the Constitution or Act of Parliament. South Africa has passed the Promotion of Equality and the Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000), which can be said to be a legislative measure to implement the Convention. However, this Act provides for civil remedies. There are moves to develop legislation which criminalize racism.

However, the domestic courts may use international treaty law to interpret domestic law. It is a common rule of interpretation and one which our Constitution allows in section 39(1) and enshrined in section 233 that "when interpreting any legislation, every court must prefer any reasonable interpretation of the legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law." In interpreting the Bill of Rights, section 39(1) provides that the court:

- (a) must promote the values that underlie an open and democratic society based on human dignity, equality and freedom,
- (b) must consider international law; and
- (c) may consider foreign law.”

Question 4:

Chapter 12 of the Constitution states that the institution, status and roles of traditional leadership, according to customary law, are recognised, subject to the Constitution. The Government of South Africa, through the Department of Provincial and Local Government provides support to traditional leaders and institutions, and is responsible for the development of policy in this regard. It renders an anthropological service, and provides advice and support to traditional leaders and institutions with regard to governance and development matters. It advises and supports the National House of Traditional Leaders and maintains a database of traditional leaders and institutions. It is also responsible for developing and implementing a regulatory framework for the protection of the rights of cultural, religious and linguistic communities.

The White Paper on Traditional Leadership and Governance, released in October 2002, dealt with the following issues:

- the identification of a role for traditional leadership, as an institution at local level, on matters affecting local communities
- the reform of the entire institution to restore the legitimacy it once enjoyed prior to the distortions introduced by the colonial and Apartheid regimes
- the transformation of the institution generally, particularly the restoration of its character as an institution founded on custom, culture and tradition of the people

- reform of the institution so that it embraces some of the basic tenets underpinning the Constitution, such as equality and democracy.

Cabinet approved the White Paper in June 2003, after which the Department embarked on the drafting of the National Framework Legislation on Traditional Leadership and Governance to put the challenges contained in the White Paper into perspective, and to guide and direct the drafting of provincial legislation.

The Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003), seeks to:

- set out a national framework, norms and standards to define the place and role of traditional leadership within the system of democratic governance transform the institution in line with constitutional imperatives
- restore the integrity and legitimacy of the institution of traditional leadership in line with customary laws and practices
- provide guidelines on the setting up of provincial legislation on traditional leadership and governance.

Provinces have embarked on provincial legislation, which was expected to be finalised in March 2005. The Constitution mandates the establishment of Houses of Traditional Leaders by means of either provincial or national legislation. The National House of Traditional Leadership was established in April 1997. Provincial houses of Traditional Leaders were established in all six provinces which have traditional leaders, namely the Eastern Cape, KwaZulu-Natal, Free State, Mpumalanga, Limpopo and North West.

In terms of the Traditional Leadership and Governance Framework Act, 2003, local Houses of Traditional Leaders will be established in accordance with provincial legislation in district municipalities where traditional leadership exists. Each provincial House of Traditional Leaders nominates three members to be represented in the National House, which then elects its own office bearers. The

National House advises national government on the role of traditional leaders and customary law. It may also conduct its own investigations and advise the President at his request. In 2003/04, the National House of Traditional Leaders contributed to the development of government policy and legislation on traditional leadership and governance, communal land rights, property rights, the National Water Resource Strategy and customary marriages. Contributions were also made at the Southern African Development Community (SADC) Annual Conference on Traditional Leaders and the Conference of African Traditional Leaders, both held in 2003.

The Traditional leaders can establish and dispense justice in their customary law courts in terms of legislation, or ordinary courts of the land can apply customary law subject to the Constitution and any legislation that specifically deals with customary law (sections 211(2) and (3) of the Constitution). The Black Administration Act, 1927 (Act 38 of 1927) provides for the courts and powers of traditional leaders in dispensing justice. There is a Bill aimed at repealing this Act and providing a traditional law court system in line with the Constitution. Sections 211 and 212 of the Constitution should be read with the Bill of Rights, especially section 31 which provides for cultural and linguistic rights of communities. This means that Traditional leaders may exercise their powers in respect of their own communities.

Question 5:

South Africa has various policies dealing with the issue of the advancement of disadvantaged groups, including indigenous groups. These policies includes:

- The Equality policy
- Affirmative Action policy
- Preferential Procurement policy

- Black Economic Empowerment policy.

We have legislation incorporating the above policies.

These policies are empowered by the Act of Parliament. We have a policy of good governance as rooted in the Public Finance Management Act.

On 31 March 2003, 72,5% of the Public Service was African; 3,6% Asian; 8,9% Coloured; and 14,7% White. With regard to gender, 52,5% was female and 7,5% male. However, at senior management level 56% was African; 8,2% Asian; 10,1% Coloured; and 25,6% White. The gender breakdown for senior management was 22,1% female and 77,9% male. The judiciary has moved away from a male dominated judiciary. We have 26% black male judges, 4% black females, 6% white females, 1% Coloured males, 1% Coloured females, 5% Indian males, and 2% Indian female judges. However we still have 54% white female judges of the total of 225 judges. This indicates that we still have a challenge to transform the judiciary at High Court level. We have more than 50% of African, Indian and Coloured magistrates, which suggests that this level of the judiciary has progressed in terms of transformation. These statistics include indigenous people. The previously disadvantaged groups are indeed participating in the design, implementation and monitoring of laws, policies and programs bearing upon their situation in the sense that the majority belong to the ruling party that is responsible for these policies. The Commission of the Promotion & Protection of the Rights of Cultural, Religious and Linguistic Communities has been established by government as provided for in the constitution. The members of the Commission are eminent public figures.

Question 6:

South Africa is a diverse country with various nationalities, including Blacks, Whites, the Khoi and San, Indians and Coloureds. The black population consists of the isiNdebele, isiXhosa, isiZulu, Sepedi, Sesotho, Setswana, siSwati,

Tshivenda and Xitsonga. The anti-discrimination laws of South Africa do not differentiate between black people and different ethnic groups, but purports to protect all peoples similarly. There are no statistics available on racial discrimination amongst different ethnic groups.

The situation in South Africa is such that since time immemorial, different ethnic groups have lived an integrated life with inter-marriages and differentiation not an issue amongst them. However, ethnic divisions were used during the Apartheid era to divide the black population, as part of "Divide and Rule" policy. This amongst other social ills resulted in the discredited ethnic based homeland system that was scrapped in 1994. It would therefore be counter-productive to bring these divisions back under the new democratic dispensation.

As already indicated in 5 above policies on AA and BEE covers all people in South Africa.

Question 7:

Guided by the Constitution the government of South Africa has amongst other things, improved the lives of those who live in extreme poverty and hunger, through the provision of houses, ensuring access to clean waters and health facilities, improving the economy and opening the doors of learning and culture. Over 10 million people have gained access to clean water. Over 2 million housing subsidies have been granted since 1994. Plans are in place to ensure that all houses have access to electricity by 2012

Over the past 10 years, the Department of Social Development has supported more than 3 500 poverty-relief income-generation projects at a cost of R560 million which target mostly unemployed rural women. Most of the projects are located in the Eastern Cape, KwaZulu-Natal and Limpopo. Total government expenditure on social grants increased from R10 billion in 1994 to R37,1 billion in 2004. Social grants have been equalised between racial groups and extended to

all in need who qualify. The number of people benefiting from social grants increased from 2,6 million in 1994 to 7,9 million by April 2004. By February 2004, over 4,4 million children were receiving social grants, with about 4,2 million receiving the Child Support Grant (CSG), 190 000 the Foster Care Grant, and 75 000 the Care Dependency Grant. Steady progress is being made with the Poverty-Relief Programme. The Department's Food Emergency Scheme, introduced by Cabinet in 2002, is aimed at distributing food parcels to the most vulnerable sections of the population. The distribution of food parcels is a temporary measure to assist poor people earning less than R300 per month. Most of the people who receive food parcels are identified by NGOs. By mid-2004, the Scheme had benefited over 1,5 million people at a cost of R360 million. Each beneficiary household received food parcels worth R300. Government allocated R1,2 billion towards the Food Emergency Scheme from 2003 to 2006.

Table 1: Amounts of grants per month as at 1 April 2004:

Grant type	Amount
Old-Age Grant	R740
Disability Grant	R740
War Veterans' Grant	R758
Foster Care Grant	R530
Care Dependency Grant	R740
Child Support Grant	R170
Grant-in-Aid	R160

Refer to the report on article 113 to 116,

Question 8:

Section 12 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000) provides that no person may (a) disseminate or broadcast information; (b) publish or display any advertisement or notice that could reasonably be construed or reasonably be understood to demonstrate clear intention to unfairly discriminate against any person provided that *bona fide* engagement in artistic creativity, academic and scientific enquiry, fair and accurate reporting in the public interest or publication of any information, advertisement or notice in accordance with section 16 of the Constitution, is not prescribed by this section. Section 14 of this Act provides a test for the determination of fairness and unfairness. Section 15 of this Act provides that in cases of hate speech and harassment section 14 does not apply. Any aggrieved party can institute a civil suit with a view to obtaining a civil remedy.

Question 9:

The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000) does not make distinction between individuals and organizations in so far as the promotion and inciting of racial discrimination, or engagement in other propaganda activities (however, these acts are not criminalised).

Question 10:

The role of Equality Courts is to enforce the provisions of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000). The Act outlaws unfair discrimination and allows for the creation of Equality Courts within the Magistrate's and High Courts, each to be presided over by an Equality Court presiding officer. These courts are still new and in their formative stages. As soon as they are fully operational we will be able to provide statistics.

There are discussions by various stakeholders on the question of criminalization of racism and racial discrimination. The government of South Africa will be informed by the outcome of these discussions as to which approach to take.

Question 11:

Currently hate speech is prohibited in terms of the s16 of the constitution and the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 under Chapter 2: Prevention, Prohibition and Elimination of Unfair Discrimination, Hate Speech and Harassment. Section 10 of this Act provides that no person may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to be hurtful, be harmful or to incite harm and promote or propagate hatred.

There is Draft Prohibition of Hate Speech Bill, 2004 in South Africa. The Ad Hoc Joint Committee on Promotion of Equality and Prevention of Unfair Discrimination Bill, in its report to Parliament on 21 January 2000, adopted a resolution in which the Minister for Justice and Constitutional Development was, among others, requested to give consideration to tabling legislation in Parliament which deals with the prohibition of hate speech. In addition, such legislation will be required to create offences relating to hate speech. The draft-working document is still in the discussion phase.

Because of the legacy of apartheid, diversity of the population and the ongoing transformation process, hate crimes and hate speech are still commonplace in society. However, no official statistics exist documenting prevalence rates because no separate crime register is kept to record the frequency of hate crimes in South Africa. These crimes are dealt with in terms of our Criminal Justice systems.

Article 5

Question 12:

As already indicated we do not have disaggregated data pointing at the advancement of ethnic groups as opposed to indigenous groups. These are regarded as disadvantaged groups whose lives are being advanced continuously. Various programmes to alleviate poverty have brought improvement in the lives of millions. Social grants, formerly allocated on a racial basis, have been equalised and extended to all who are in need and eligible. Beneficiaries have increased from 2.6 million in 1994 to 5.1 million in 2003. The poorest 20% of households receive the largest amount from grants. But the full impact will only come when all who are eligible are registered.

Various programmes to broaden access to services have improved the lives of millions:

- Electricity, water and sanitation –many more people have access to these basic services (see table below).
- Education - Adult literacy is up from 83% in 1996 to 89% in 2001, and for 15-24 year olds from 83% to 96%. The matric pass rate rose from 54% in 1996 to 69% in 2002.
- Health
 - Since 1994 the state has provided free health services for pregnant and lactating women and children below the age of six who are not beneficiaries of medical schemes. This was expanded to free primary health care services for all persons who are not medical scheme beneficiaries. In 2003 free health services for the disabled was introduced. More than 1300 clinics and health centres were built or upgraded to ensure accessible health care. The free health services together with the increase in clinics has resulted in increase use of primary health care services. In 1998 there were 67 million visits to these services. By 2002 this figure had risen to 85 million and in 2004 it exceeded 98 million.

- The integrated nutrition programme which reached 89% of the targeted learners in 1994 now reaches 94% or 4.58 million children.
- Government's comprehensive response to HIV and AIDS has expanded rapidly. Expenditure increased ten-fold from R30 million in 1994 to R342 million in 2001/02 and is set to increase ten-fold again to R2,8 billion in 2005/06. HIV infection, after rapidly increasing in the 1990s, stabilised after 1999 – 22.4% in 1999, 24.5% in 2000, 24.8% in 2001 26,5 in 2002. For pregnant women under 20 it has decreased consistently for the last few years.
- The TB control programme has increased treatment rates from 60% to 65% between 1996 and 1999, but treatment interruptions and transfers have kept cure rates below the targeted 85%.
- More dramatic has been the control of malaria. The number of malaria cases has dropped from a peak of 64000 in 1999 to 7250 in 2005. Deaths from malaria decreased from 458 in 1999 to 55 in 2005.
- Housing – Over 2 million subsidies have been approved for new houses and 480 000 houses built in the apartheid era transferred to occupants under the discount benefit scheme.
- Communication and Culture – Access to means of communication has grown rapidly – by 2001, 32% of households had cell phones, 42% access to land lines, 73% had radios in the home and 54% television. Plans are under way to fully implement the constitutional recognition of all 11 languages of South Africa as official languages.
- Addressing social exclusion – Discriminatory laws have been repealed. New measures to prevent social exclusion include tenure and land reform; and steps towards gender equality including recognition of customary marriages, employment equity, maternity benefits, recognition of surnames, attending to

sexual harassment and affirmative action. Specially targeted programmes protect the elderly, people with disabilities and children, as well as vulnerable workers like domestic and farm workers.

- Employment - Between 1995 and 2002 the number of people employed grew by 1,6 million from 9,6 million to 11,2 million. But the unemployed also grew by 2,4 million because many more people were seeking work. While many unskilled workers are unemployed, there are shortages of skilled workers in many sectors.
- Empowerment - Empowerment in the workplace is continuing, but slowly. Black people in top management grew from 12% to 13% between 2000 and 2001; and in senior management from 15% to 16%. Black ownership of public companies was 9.4% in 2002 compared with 3.9% in 1997 (and virtually non-existent before 1994). The figures for women in the workplace are not much different.
- Households – From 1996 to 2001 the South African population grew 11% from 40,4 million to 44,8 million. But the number of households grew by 30% from 9,7 million to 11,8 million, as households became smaller. “Unbundling” of households, together with freedom and improvement in the quality of life are resulting in fewer extended families.
- Economically active population – The population grew about 2% a year from 1995 to 2002 but the economically active population grew about 4% a year - from 11,5 million to 15,4 million. The number of jobs grew 12% (after accounting for jobs lost) but the economically active population grew 35%. The new job seekers are not only young adults but also older people who in the old order did not consider themselves part of the labour market, many of them African women from rural areas.
- Migration – There has been a shift from rural to big urban areas. 20% of people in the main urban areas are new migrants. This adds pressure on

urban service delivery and economic opportunities and causes loss of people and opportunities in rural areas. It affects social relations and links to authority structures, reducing potential for people to interact on a collective basis.

The impact of these trends is likely to be compounded depending on what happens with HIV and AIDS and other demographic factors. These social trends, added to the apartheid backlog, help explain the scale of the past decade's challenges and some of the limitations in progress, for example in unemployment, poverty alleviation, and combating crime. Nevertheless, there has been significant progress in dealing with the problems.

Table 2: Recent statistics on social services:

BROADENING ACCESS TO SOCIAL SERVICES			
<i>From the Census</i>	1996	2001	
Households with access to clean water	80.0%	85%	
Households using electricity for lighting	57,6%	69,7%	
People who have completed Grade 12 schooling	16,3%	20,4%	
Households in formal housing	57,5%	63,8%	
Households with chemical or flush toilets	50,5%	51,9%	
OUTPUT OF GOVERNMENT SOCIAL PROGRAMMES			
<i>From department reports</i>	1994-98	1999-2002	<i>Since 1994</i>
Water	People gaining access via community programme		
	3,0m	5,4m	8,4m
Electricity	Grid connections		
	2,3m	1,5m	3,8m
Housing	Subsidised houses built or under		
	0,74m	0,72m	1,46m

construction				
Land Redistribution	Hectares distributed	0,44m	1,36m	1,8m
	Households in transfers	30,061	107,417	137,478
Land Restitution	Claims lodged	68,878		68,878
	Claims settled	3,964	32,525	36,489
	Hectares restored	297,396	273,836	571,232

Question 13:

Section 12 of the Bill of Rights of the Constitution of South Africa provides for freedom and security of a person, which includes the right to bodily and psychological integrity.

Clause 12 of the Children's Bill, 2003 provides that every child has the right not to be subjected to social, cultural and religious practices which are detrimental to his or her well-being and genital mutilation or the circumcision of female children is prohibited.

Some form of female circumcision is practiced in certain communities in South Africa, albeit on a limited scale. However there is no practice of female genital mutilation in South Africa. There has been information indicating that some areas including Mpumalanga and the Limpopo Province are areas where this practice is found. It is further alleged that in the communities in question, young girls were abducted for this purpose. However, according to the Discussion Paper 85, Project 107 the South African Law Commission did not recommend the introduction of legislation to prohibit female genital mutilation at this stage.

The National Health Act allows for the Minister to publish regulations to protect the health and well being of persons attending initiation schools, and prescribe conditions under which circumcision as part of an initiation ceremony may be carried out.

Question 14:

The ***Domestic Violence Act of 1998*** has been largely successfully implemented. The extent of the implementation of the Act includes

- The Domestic Violence Training programme includes a social context module which is geared at broadening insight into the complex dynamics in relation to the victims and perpetrators of domestic violence. This is geared at sensitizing members to victims' needs and promoting empathy and a positive attitude towards service provision. It also provides practical skills that members can use in providing services for victims of domestic violence. During this period a total number of 1 148 SAPS members were trained.
- The Communication and Awareness programme includes a booklet explaining the role of the SAPS in dealing with domestic violence and the Domestic Violence Act, 1998 was distributed to all members of the Service. A pamphlet, produced in all the official languages, explaining rights and services available to victims of domestic violence, early intervention, prevention and the roles and responsibilities of the police was widely distributed, during community awareness programmes undertaken by police stations, specifically during women's month and the 16 Days of Activism. (These pamphlets were also published on the SAPS website). The Social Crime Prevention and Communication and Liaison Services components organized nine Imbizos for the Deputy Minister of Safety and Security to engage communities on the quality of services provided by the police to victims of rape and domestic violence. The Imbizos took place during the 16 Days of Activism with activities spread across all nine provinces of the country.

- Victim Empowerment Programme: An amount of R159 248.55 was spent on establishing and upgrading victim-friendly facilities at police stations. A database of victim facilities at police stations was compiled in April 2004, indicating that at the end of March 2004 a total of 574 police stations had already established victim-friendly facilities, 99 stations had established functioning facilities but still required some equipment, furniture or renovation and the rest of the stations (469) did not have victim-friendly facilities. During the period under review 397 members were trained in victim empowerment.

Criminologists, sociologists and other social scientists universally agree that socially determined contact crime (such as sexual offences, including rape; assault (both GBH and common); murders and attempted murders) cannot be combated by means of conventional policing alone. An integrated approach to combating these crimes has been accepted by Government as a necessary strategy. The thrust of the strategy is to combine the expertise available to the law-enforcement agencies, other relevant Government Departments (e.g. Justice, Correctional Services, Social Development, Housing, Local Authorities, etc.) and NGO's (especially those active in the campaign against the abuse of women and children). Communities also have to be mobilised in various ways to participate in initiatives such as the Moral Regeneration Campaign and 16 Days of No Violence Against Women and Children Campaign. All stakeholders have to cooperate in a concerted and systematic fashion to address the problem. This will take some time to achieve.

Report on South Africa's Response to the Trafficking of Women and Children

Law enforcement agencies and research Institutions have identified South Africa as one of the countries in the southern part of Africa that is used by organized traffickers on human beings as a destination, transit and country of origin of

victims in pursuing this abominable trade. In recognition of this, the country has signed ratified the United Nations Convention Against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children which came into operation on 29 September 2003 and 25 December 2003 respectively.

The Trafficking Protocol obliges member states to:

- Criminalise trafficking
- Investigate and prosecute traffickers
- Undertake border control measures

In accordance with the means of each country,

- Provide measures to protect and assist victims
- Train law enforcement and border officials
- Inform and educate victims, potential victims and the general public
- Cooperate with each other civil society

Parallel processes have seen the governmental line functions take the initial steps in addressing the phenomenon of trading in persons in order to further various purposes such as the investigation undertaken by the South African Law Reform Commission (SALRC), with a view to producing a comprehensive Trafficking in Persons Bill on the matter in December 2005, and the establishment of the Human Trafficking Desk within the Organised Crime Unit at the South African Police Service (SAPS).

The National Prosecuting Authority has encountered unique problems in ensuring an adequate response to the occurrences of this phenomenon, in the absence of specific legislation. Trafficking cases present a whole host of other offences in the criminal justice system, e.g. sexual exploitation, farm labour, domestic labour and murder. Prosecutions have proceeded on an ad hoc basis overly demonstrable to the facts, such as kidnapping, indecent assault and rape,

which do not individually attract as heavy sentences as a specific trafficking in persons offence would impose.

Legislation currently utilized in the prosecuting of trafficking cases include the Sexual Offences Act 23 of 1957, the Child Care Act 74 of 1983, as amended, the Prevention of Organised Crime Act 121 of 1998, the Prevention and Combating of Corrupt Activities Act 12 of 2004, the Immigration Act 13 of 2002, as amended the Films and publications Act 65 of 1996, as amended, the Corruption Act 94 of 1992, the Intimidation Act 72 of 1982 and the Riotous Assemblies Act 17 of 1956 in framing conspiracy and Incitement charges.

The absence of legislation specific to human trafficking limit prosecutors to dealing only with the perpetrator directly linked to the offences resulting from the trafficking of the victim, to the exclusion of the perpetrators behind the scene as this is often an organized crime activity. The National Prosecution Service is also not in a position to record statistics, due to lack of definition in current legal framework. As a result efforts have been put in place to address this gap.

The Sexual Offences and Community Affairs (SOCA) Unit, a special directorate within the National Prosecuting Authority, was then given the task to develop a coordinated government approach to this problem. On the 5th December 2003, a Seminar on the Trafficking of Persons was held. Out of this seminar, the following objectives were set for the country:

- Audit the strategies being implemented against human trafficking, where they existed
- Identify the stakeholders involved in the arena
- Initiate a discussion of the gaps and the mechanisms to be employed in closing those gaps
- Assess the impact of the absence of data and how this information could reliably be obtained

- What the various role-players had been able to do thus far within the limited and almost non-existent policy and legal framework
- An examination of the pros and cons of fast tracking Interim legislation, while a more comprehensive investigation was being undertaken by the South African Law Reform Commission (SALRC)
- Establishment of an Inter-sectoral Task Team to commence a process of coordination and refinement of activities towards the development of a multi-sectoral and comprehensive strategy.

In an effort to make the process as inclusive as possible, civil society organizations, United Nations Office on Drugs and Crime (UNODC), International Organisation for Migration (IOM) and government departments were coopted to form a 10-member Trafficking in Persons Inter-Sectoral Task Team. Provision was made for the ad hoc co-option of technical knowledge and expertise in various departments and organizations, such as the Department of Justice and Constitutional Development (DOJCD) and the South African Law Reform Commission (SALRC).

As its initial strategy, the Task Team has identified six pillars of a national strategy to effectively address trafficking in persons, as an instance of organized crime: Information, Capacity-Building & Development, Victim Assistance & Integration, Policy & Legislation Development, Liaison & Consultation as well as Monitoring & Evaluation. The Task Team has developed Terms of Reference and a Process Flow Chart in this regard. To date the following are some of the milestones of the Task Team:

- Interim legislation: The members of the Task Team made individual submissions to the SALRC in relation to Chapter 5 of the Criminal Law (Sexual Offences) Amendment Bill, 2003 (Working Document 24 February 2004) regulating the criminalization of trafficking in persons for sexual purposes.

- The War Against Trafficking Alliance (WATA) led by Shared Hope International, a non-governmental organization based in the United States of America, collaborated with the Task Team to convene the “Next Steps To Path Breaking Strategies In The Global Management & Prosecution Of Sex Trafficking In South Africa” Conference in Benoni, Gauteng from 22 to 24 June 2004.
- The 12 Conference participants were identified to attend the three-day session based on the instrumentality of their work in this field, and included relevant directorates within the Department of Justice & Constitutional Development, Home Affairs, the National Prosecuting Authority, Foreign Affairs, Social Development, Education, Health, the South African Police Service, civil society as well as International bodies.
- In addition to the presentations made by speakers at the gathering, the Conference provided the participants with an opportunity to work through different international cases of trafficking with South African and United States experts on the subject.

Since 1994, the current government has made many strides towards empowerment of women and gender equality is one of the critical elements of the transformation agenda in the country. Women are also beginning to regain their dignity and are taking responsibility for their lives. Patriarchal attitudes are changing, with men participating in efforts to address challenges such as violence against women.

In 1996 a Partnership for AIDS programme was initiated whose aim was to bring together the full participation of the wide range of partners in the HIV and AIDS arena. At the highest policy level a Cabinet Committee for AIDS was established to ensure the active participation of South Africa’s highest policy making body in addressing the challenge of HIV and AIDS. Currently, the Comprehensive Plan for the Management, Care, and Treatment of HIV and AIDS guides the design and implementation of programmes.

A government led healthy Lifestyle Campaign stressing the importance of good nutrition, physical activity and safe sex practices while discouraging alcohol and fight against drug use and the use of tobacco is visible in the country. Every opportunity is used for communicating these health awareness messages to the South Africans.

A broad range of programme outputs on social mobilization, IEC, life-skills education for children and the youth, condom distribution, STI management, Prevention of Mother To Child Transmission (PMTCT), Voluntary Counseling and Testing (VCT), attests to some of the achievements towards prevention of new infections. There are systems in place to reduce risk of infection through blood transfusion.

Through the implementation of the Comprehensive Plan, there are service points in every health district in the country for the provision of a range of interventions including prevention, nutrition, management of opportunistic infections and treatment with antiretrovirals. The investment in the health system through infrastructural upgrades, the improvement in commodity stock management, information management systems, the improved human resources management and capacity development, the strengthening of referral system, laboratory services has been enormous.

Question 15:

(Our redress programmes are based on redressing rights of all blacks and not based on ethnic groups)

Ethnic divisions were used to divide us during the Apartheid era. It would be counter-productive to bring these divisions back.

Question 16:

In 1995, the Commission on the Restitution of Land Rights (CRLR) was established in terms of the Restitution Act, 1994 (Act 22 of 1994), which aims to:

- provide equitable redress and restoration to victims of dispossession, particularly the landless and the poor
- contribute towards the equitable redistribution of land in South Africa
- promote reconciliation through the restitution process
- facilitate development initiatives by bringing together all relevant stakeholders, especially provincial governments and municipalities.

The Restitution of Land Rights Amendment Bill was signed by President Thabo Mbeki on 28 January 2004 and promulgated on 4 February 2004 in the Government Gazette. The purpose of the Act is to empower the Minister of Agriculture and Land Affairs to acquire, including by expropriation, land for restitution purposes or for any other related land reform purpose without a court order.

By March 2004, 48 825 claims had been settled, representing a 34% increase in the number of settled claims in 2003 (36 488). Of the 48 825 claims settled, 6 113 are rural and 42 712 urban. Some 810 292 ha of land has been approved for restoration and R1 256 227 321 has been committed for this purpose. The Commission has established a post-settlement support programme which pays special attention to development planning and facilitation. The thrust of this programme is to identify critical stakeholders for each claim, and to obtain their participation and commitment to supporting beneficiaries. This support includes conducting feasibility studies, land-use planning, business planning, project management, business development, capacity building, settlement planning, financing, monitoring and control. There have been a number of claims for forestry, protected areas and land with mining rights. In pursuit of more equitable land-ownership patterns, government allocated an additional R700 million to Land Reform and Restitution programmes in the 2004/05 financial year. Land

tenure is intended to promote, support and co-ordinate land rights of labour tenants and farm workers.

Restitution has contributed directly to poverty alleviation. Over the past 10 years, some R1,6 billion has been spent on financial compensation. Restitution beneficiaries have spent this money on home improvements, education and other livelihoods projects. These funds have boosted local economies and improved the socio-economic status of beneficiaries, thus restoring their dignity.

Table 4: SETTLED RESTITUTION CLAIMS: CUMULATIVE STATISTICS AS AT 31 AUGUST 2004

PROV	CLAIMS	HHs	BENEFICIARIES	HA	LAND COST	FIN COMP	RDG	SPG	TOTAL AWARD
EC	15886	40358	147062	45738	204,526,881.00	573,191,969.45	61,305,000.00	29,426,400.00	R868,450,250.45
FS	1674	3442	18222	45748	16,909,206.00	30,719,382.18	5,802,000.00	2,369,861.50	55,800,449.68
GALJ	11932	11748	54421	3555	62,537,367.00	547,269,448.00	5,170,000.00	1,104,000.00	16,080,815.00
KZN	10551	26307	161370	87583	487,986,253.00	438,446,586.19	50,136,000.00	20,131,045.72	998,480,348.91
MPL	1546	20973	131606	97983	377,785,091.00	43,032,317.00	51,996,000.00	24,970,080.00	514,597,858.00
NW	2498	13822	73644	71484	93,992,542.00	113,332,050.00	33,045,000.00	15,788,802.79	256,158,485.79
NC	1792	5564	33493	233634	69,753,602.00	57,328,313.60	14,020,000.00	5,462,911.68	146,564,827.28
LIM	1314	19886	105853	121466	236,061,308.00	46,199,797.96	45,581,245.00	19,836,000.00	373,350,135.96
WC	9457	12685	76709	3101	8,096,187.00	363,208,846.47	10,999,440.00	2,550,492.00	384,854,965.47
TOT	56650	154785	802380	810292	1,557,648,437.00	2,212,728,710.85	278,054,685.00	121,639,593.69	4,214,338,136.54

Abbreviations;

Prov = Province; HH = Houses; HA = Hectares; Fin comp = Financial Compensation.

Reference is made to answers under Question 12 in respect of other issues such as housing, health, accesses to water and education.

Question 17:

It is important to mention that over the decades, all South African ethnic groups integrated within and amongst themselves. This happened in spite of the discriminatory environment presented by apartheid. This has amongst other things resulted in difficulties to clearly identify indigenous groups.

The rights of indigenous people are equally protected in the Bill of Rights, not as a separate group, but as a general protection that is afforded to all the people of South Africa. This includes their protection against discrimination.

Question 18:

The Recognition of Customary Marriages Act that became law on the 15 November 2000 provides that all customary marriages entered into after the coming into operation of the Act are in community of property. This means that the husband and wife have an equal share in the assets, money and property and also means that they share all the debts. If the parties would like their marriage to be out of community of property they will have to enter into an antenuptial contract prior to getting married. If they want to change after they are already married they will have to apply to the High Court. Under this Act the wife has an equal right and status with the husband to decide what happens to the property. A customary wife has the capacity to enter into a contract without the assistance of the husband. In terms of polygamy, the husband must enter into a written agreement/contract that states what should happen to the property. The

husband must apply to court to approve the written contract. The court has to make sure that all the property interests of all wives are protected.

The above Act regulates polygamy by giving the same status to both the wives.

The ruling by Constitutional Court in **Bhe and Others v Magistrate Khayelitsha Magistrate and Others**, Case No. 49/03 handed down on 15 October 2004 declared Section 23 of the Black Administration Act 38 of 1927 and Regulation R200 as amended of the regulations published in Government Notice 10601 of 6 February 1987 unconstitutional. The decision requires that the Department of Justice design and implement a system for the supervision of the administration of deceased estates that complies with the spirit of the Constitution. The new system requires the following changes:

- The Master of the High Court will take over the powers of supervision in all deceased estates.
- All estates will be administered in terms of the Administration of Estates Act 66 of 1965, as amended.
- All intestate estates will be administered in terms of the Intestate Succession Act 81 of 1987, as amended.
- The Intestate Succession Act is supplemented by the Bhe-decision to accommodate cases where the deceased was married in terms of customary law.
- The Magistrates lose their powers to supervise and administer deceased estates. They will however be required to finalise matters reported to them on or before 15 October 2004. They must, however, finalise these estates in terms of the Intestate Succession Act.

- Magistrate offices will, however, remain designated service points of the Master with limited jurisdiction. The following estates will be transferred to the Master's office, namely:
 - Estates with wills
 - Estates with a value of more than R50 000,00
 - Insolvent estates
 - Estates where one or more of the beneficiaries are minors and is not assisted by a legal guardian and the cash assets in the estate is worth more than R20 000,00.

Question 19:

South Africa provides all basic services to documented non-nationals. The government has developed the following pieces of legislation to respond to the various needs of non-nationals:

- Immigration Act, 2002, which allows non-citizens to apply for various, permits i.e. Work, Study, Corporate, Relative, Medical Permit etc. to access a wide range of services and privileges.
- Refugees Act, 1998 – allows refugees to enjoy full legal protection, which includes rights set out in Chapter 2 of the constitution and the right to remain in the Republic according to the provisions of the Act.
- Refugees can conduct business within the laws regulating conducting of business activity in the country. These laws vary according to the scale of business, the nature of business and the place where the business is conducted. There are no special laws applicable only to refugees if they want to conduct business in the country. The anecdotal evidence is the flooding with refugees and asylum seekers of Johannesburg and other big city CBD's doing all sorts of business.
- Refugees are allowed to open bank accounts. There were few instances where banks would refuse to open bank accounts for refugees on the

basis of improper documentation. But when this was clarified to them by explaining the validity of a refugee identity document, no problems were encountered there after.

Question 20:

As part of the follow up to our programme on Roll-Back Xenophobia, Portfolio Africa day

The Republic mandated the Department of Home Affairs to administer the laws relating to matters of refugees and immigrants in the country. The department has put in place a solid base by establishing a more efficient National Immigration Branch (NIB) to deal inter-alia with these matters. The department has put in place two important units that will contribute significantly in our commitment to protect and promote the rights of non-citizens. These are Counter Corruption and Counter Xenophobia Units. These units are important particularly to prevent abuse of refugees, asylum seekers and immigrants who are in the country. In an effort to reverse perceptions around refugee affairs and related matters a Counter Xenophobia Strategy has been developed. The strategy seeks to create awareness on practices that project elements of Xenophobia. The following stakeholders have been identified and engaged:

- National Consortium on Refugee Affairs
- Forced Migration Working Group
- UNHCR NGOs
- Local communities

There are stereotypes towards immigrants that they are responsible for crime and that they are taking jobs away from our citizens or obtaining access to scarce social services, have led to a number of reports of discrimination against persons merely because they are foreigners.

SAHRC will give their report on the impact of the campaign conducted by them with National Consortium on Refugee Affairs.

Question 21:

The response to this question has been addressed partly in our response to question 19.

It is impossible to determine the number of illegal immigrants in South Africa as they enter illegally. However, in a study that was done by the Human Science Research Council in 1996 it was estimated that between 2.5 and 4.1 million persons reside in the RSA illegally.

In order to address the above, Cabinet has approved the establishment of the Border Control Operational Coordinating Committee (BCOCC) whose mandate is for the strategic management of the South African border environment in a coordinated manner. The position taken by intelligence, and reiterated by Cabinet, was that any measures taken to address problems around border security be informed by the need to balance security with the need to facilitate trade, tourism and development in South Africa and in the SADC region.

Foreigners who are in the country illegally and who are therefore guilty of an offence can be classified into three categories, namely those who entered the country illegally, failed to renew the temporary residence permits issued to them at ports of entry and breached the conditions of their temporary residence permits without permission, e.g. holiday visitors who took up employment or started their own businesses.

Depending on the circumstances, persons who are in South Africa illegally are either prosecuted, removed, or their sojourn is legalised. Officers at the various regional and district offices of the Department are in charge of tracing,

prosecuting and removing illegal foreigners from the country. Employers of illegal foreigners can also be prosecuted. In terms of legislation, the Minister of Home Affairs may order the deportation of any person (other than a South African citizen) convicted of any of the offences specified, or if such person is deemed by the Minister to be an undesirable inhabitant of or visitor to South Africa. The Minister may also order the deportation of any person (other than a South African citizen) if it is deemed to be in public interest.

Question 22:

This increased movement of people into the country with hope for a better life has put pressure on our systems, leaving gaps and allowing some applicants who would not normally qualify, to slip and achieve refugee status while also refusing some valid claims.

The greatest challenge is that there is misuse of the refugee regime in SA. It has been noted that some of these asylum applications may be abusive or fraudulent e.g. those who only claim to be asylum seekers after serving lengthy prison sentences in the Republic or whose immigration permits have elapsed. However this does not mean we have to deny an asylum seeker asylum processes. This then puts pressure on the department to process such applications as quickly as possible taking into consideration other long outstanding applications. We are striving hard to find a way to guarantee that asylum seekers and refugees benefit from our asylum procedure.

This and a lack of capacity and inadequate availability of resources has created a backlog of asylum applications that runs over 100 000. In addition, as a result, unlawful arrests, detention and deportation of legitimate applicants has become rife. As a result of all these challenges, the Ministry of Home Affairs established a Departmental Steering Committee to come up with practical sustainable solutions

that will ensure that all asylum applicants dating back to 1998 to July 2005 are immediately dealt with.

In response, the Department of Home Affairs officially launched the Refugee Backlog Project, comprising of the line function of reducing asylum application as well as relevant public awareness campaigns.

The backlog project will assist the department to determine the extent of the backlog and eradicate it. Measures will be put in place to avoid the recurrence of backlog like the integrated system, which will assist to detect those who are abusing the system

Since the launch, the Department has established temporary offices in four provinces (Gauteng – Crown Mines, Kwazulu-Natal – eThekweni, Western Cape – Cape Town and Eastern Cape – Port Elizabeth) to expedite the processing of these applications.

The Branch has appointed 178 staff to assist with the processing of asylum applications. These employees undergo training by the Department and UNHCR.

There is an ongoing effort to eradicate the backlog.

The Refugee Act, 1998 (Act 130 of 1998) and Immigration Act, 2002 (Act 13 of 2002) regulates asylum-seekers refugees and non-citizen applications. The National Immigration Board (NIB) facilitates the implementation of this Legislation.

Rights of Refugees

A Refugee is entitled to a formal written recognition of refugee status in the prescribed form; is entitled to apply for an immigration permit in terms of the Immigration Act 19 of 2004, after five years of continuous residence in the Republic from the date on which she/he was granted asylum, if the standing committee certifies that she/he will remain a refugee indefinitely; is entitled to an

Identity Document referred to in section 30 of Refugees Act; is entitled to a travel document on application as contemplated in section 31 of Refugees Act; is entitled to seek employment; and is entitled to the same basic health services and basic primary education which the inhabitants of the Republic receive from time to time

Responsibilities of Refugees

As a rule, every right has a corresponding responsibility that must be carried out with the same vigor as that of enjoying a particular right. These responsibilities must at all times be fulfilled when ever need arises.

A Refugee therefore must abide with the laws of the Republic. The fact that one is a refugee in the country does not mean she/he is exempted from the laws of the country. If a refugee commits a civil or criminal offence, she/he will be dealt with in terms of the South African Civil or Criminal Procedure act. It is therefore upon each individual refugee to respect the laws of the Republic as a reciprocal duty in being legally protected by the state; must, 90 days before the expiry of his refugee ID, present her/himself at the Refugee Reception Office for the review of her/his status;

Rights of Asylum Seekers

An asylum seeker is anyone who is in the country for purposes of seeking asylum. Every asylum seeker in the country is entitled to certain rights and has corresponding responsibilities as outlined below:

An Asylum Seeker has the right to be informed of her/his rights the right to legal protection by the state the right to access or consult with counsel during the application process; at no expense to the government. the right to be informed in

writing of any decisions affecting his/her case, the right to dignity, the right to administrative justice, the right to interpreting services where necessary, the right to appeal a decision of the Refugee Status Determination Officer or Standing Committee

Responsibilities of Asylum Seekers

As a rule, every right has a corresponding responsibility that must be carried out with the same vigor as that of enjoying a particular right. These responsibilities must at all times be fulfilled when ever need arises.

An Asylum Seeker must abide with the laws of the Republic, must present her/himself to a Refugee Reception Office within 30 days of entry into the Republic, must assist any of her/his dependents to apply for asylum, must be in possession of his/her asylum seeker permit at all times as proof for legal status when required, must notify the Refugee Reception Office of any change of residence or postal address, must renew his/her asylum seeker permit on expiry, has a burden of proof to establish his/her claim, must leave the country if his/her claim was rejected.

South Africa does not have refugee camps and as such refugees and asylum seekers in the country are not confined to any segregated compound, area or facility as this is considered to be trampling on their rights to freedom of movement and association enshrined in the 1996 Constitution of the Republic.

There are currently 31 532 recognised refugees residing in the country, the government cannot commit to this number because some refugees travel and settle in other countries without informing the authorities and others married South African nationals without withdrawing his/ her refugee status.

Question 23:

Despite the ruling of the court the government will strive to progressively realize the rights of cultural groups based on the available resources.

Question 24:

Mention: new government resuscitated dead languages and we recognize 11 official languages progressively. Government has put redresses for all languages.

Who are the indigenous, mention ILO Convention

In 2003, the Cabinet approved the National Language Policy Framework (NLPF), which is guided by the following principles:

- promoting and protecting linguistic and cultural diversity
- supporting democracy through the entrenchment of language equity and language rights
- asserting the view that multilingualism is a resource.
- encouraging the learning of other South African languages.

Where government is required to communicate comprehensive information, documents will be published in all 11 official languages; otherwise national government departments will publish documents simultaneously in at least six languages on a rotational basis. Provinces will formulate their own policies according to regional circumstances. The NLPF will be phased in progressively.

The National Language Service (NLS) received a once-off amount of R11,9 million in 2004/05 to implement the NLPF.

The implementation of the NLPF will increase the demand for translation and editing work and interpreting services, especially in the African languages.

The Pan South African Language Board (PanSALB) was created in terms of Section 6 of the Constitution and defined by the PanSALB Act, 1995 (Act 59 of 1995). Section 4 sets out the organisation's independence and impartiality, and also provides that no organ of State or any other person is allowed to interfere with the Board or its staff's activities. The Board provides for the recognition, implementation and furtherance of multilingualism in South Africa, and the development of previously marginalised languages. This is based on PanSALB's vision, which is to achieve equal status and use of all official languages, including Khoi, Nama, San and South African Sign Language.

The Board promotes multilingualism in South Africa by:

- creating conditions for the development and equal use of all official languages
- fostering respect for and encouraging the use of other languages in the country
- encouraging the best use of the country's linguistic resources to enable South Africans to free themselves from all forms of linguistic discrimination, domination and division.

The Board may also make recommendations on language legislation, practice and policy, and render advice on the co-ordination of language planning in South Africa. PanSALB may investigate the alleged violation of any language right, policy or practice. It may also summon any person, body or State organ to give evidence. PanSALB is furthermore empowered to negotiate or mediate in cases of language conflict and attempt to achieve conciliation. From its inception until the end of March 2004, 344 written complaints were lodged with PanSALB.

During the 2003/04 financial year, 22 complaints were lodged, compared with 87 complaints in the previous year.

National language bodies have been established for all 11 official languages.

The Khoi and San national language bodies were officially launched in October 1999 in Upington, Northern Cape, to promote and develop the Khoi and San languages. They conduct surveys in communities where the Khoi and San languages are spoken to record and standardise new terminology and words, and liaise closely with other professional bodies that can help to enrich and expand the Khoi and San languages. These advisory bodies assist PanSALB in its endeavours to promote multilingualism as a national resource, and to take meaningful decisions regarding the standardisation, orthography, and terminology and literature issues of each language.

Question 25:

- In 2002, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act, 2002 (Act 19 of 2002), was passed. President Thabo Mbeki appointed the 18-member Commission in September 2003.

Question 26:

Statistics on the ethnic composition of the different wings of the judicial system are not applicable.

Question 27:

The poor and vulnerable groups have limited access to justice, and this is due to systemic and Structural problems which government is addressing. Over the years there has been qualitative improvement in accessing justice. The country is developing a core of progressive judges faced with the challenge of advancing human rights. There is regular sensitivity training for judges.

Legal Aid Board and other Non Governmental Organization also play a role in ensuring access to justice.

Question 28

No statistical data on racial discrimination cases is available. However, as indicated under question 29, they are still in their formative stages.

Currently there is the Criminal Procedure Act 77 of 1957 which is available for recourse with respect to offences, including those motivated by racism.

Question 29:

One of the objectives of the Equality Courts is to capacitate all Magistrates Courts to adjudicate over Equality matters.

Question 30:

The SAHRC, inaugurated on 2 October 1995, comprises a Commission and Secretariat. The aim of the Commission is to promote a culture of respect for human rights; to enhance the protection, development and attainment of human rights; and to monitor and assess the observance of human rights in South Africa.

According to the Constitution, the SAHRC has the power to:

- investigate and report on the observance of human rights
- take steps to secure appropriate redress where human rights have been violated
- carry out research and educate
- require relevant State organs to provide the Commission with information on measures that they have taken towards realising the rights set out in the Bill of Rights concerning housing, healthcare, food, water, social security, education and the environment.

The Secretariat implements the programmes of the Commission and ensures the promotion and protection of rights by handling complaints of human rights

violations; monitoring observance of human rights; and through education, training and the dissemination of public information.

Some 9 464 complaints were received in 2003/04. The 78% increase in complaints received can be attributed to sustained education and training initiatives. In response to thematic complaints, the Commission has conducted inquiries into:

- sexual offences against children
- human-rights violations in farming communities
- the accessibility of the built environment for people living with disabilities
- practices of financial institutions in relation to HIV and AIDS
- healthcare services in the Eastern Cape.

Question 31:

The SAPS has a training college and a programme on education around human rights. Government hosted a regional meeting which produced the Robben Island Guideline on human rights used to train police.

Furthermore, the Justice College is providing training for the Judges and Magistrates on human rights, especially the question of sensitivity towards the cultural and literacy background of litigants.

Immigration officials are also trained on human rights and the international conventions.

Question 32:

The ICERD is an ancillary instrument to the Civil and Political Rights Convention which has been incorporated into our Constitution. Our constitution has in turn been translated into all 11 languages and is widely available in public places. School syllabuses have also incorporated human rights education, particularly the bill of rights.

Question 33:

The Public hearings were held on the role of the media.

Question 34:

According to the Citizenship Act, 1995 a person acquires citizenship by birth, and naturalization. A child who has one of the parents who is not a South African will be regarded as a South African by virtue of one parent being a South African.