

# **SOUTH AFRICA SURVEY**

1995/96

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## INTRODUCTION

This *Survey* brings in some new features. One of the most important is the 'human rights review' contained in the chapter on *Government, the Constitution, and Human Rights*. Each of the main rights in the bill of rights is highlighted. We then summarise any recent legislation relevant to that particular right. Next we report any court decisions giving effect to the right in question: for example, the right to be presumed innocent until proved guilty. The Constitutional Court thus overturned previous legislation in terms of which a person found in possession of more than 115 grammes of dagga was presumed to be dealing in it unless he could prove his innocence.

Also new is our use of charts and graphs to supplement material contained in tables. For example, we have drawn a graph showing changes in food prices over the past decade. Among the other illustrations we have included is a chart indicating the distances Africans have to travel between phoneless homes and the nearest telephone, and a graph depicting the rise and subsequent fall in the budget deficit as a proportion of GDP.

Information about such things as housing, transport, electrification, and water supply has been consolidated into a new *Living Conditions* chapter. This chapter carries plenty of data on progress made in the implementation of the government's reconstruction and development programme (RDP). Another important feature of the *Survey* in this and other chapters is that statistics are broken down wherever possible according to province as well as according to various other factors.

Production of the *Survey* is expensive. It would not be possible without the support of our sponsors, whose names are listed on the inside front cover. We are grateful to all of them. The Donaldson Trust, with which the Institute has a very long association, commemorated its 60th birthday by a donation of R60 000. A major grant from Mr Kenneth S Birch, an honorary life member of the Institute, has made it possible to supply a complimentary copy of the *Survey* to all 490 senators and members of Parliament, as well as to the nine provincial premiers. This has been done as a service to democracy in the belief that South Africa's elected political leadership will find it useful to have ready access to the vast range of information in this book. This year's cover is taken from a watercolour by Mr Birch.

Finally, we have changed the name from *Race Relations Survey* to *South Africa Survey*. This reflects the fact that the *Survey* covers a great deal more than racial issues.

John Kane-Berman

*Chief Executive*

*South African Institute of Race Relations*

## **ACKNOWLEDGEMENTS**

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We are also grateful to all those who provided information, including other organisations, trade unions, companies, government officials, officials of political parties, members of Parliament, academics and other researchers.

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## **NOTES**

1. The abbreviations MPL and MEC in the *Survey* refer to members of the provincial legislature and members of the executive council of a province. Although the press sometimes refers to provincial MECs as ministers, the *Survey* follows the nomenclature of the constitution.

2. Abbreviations used in the charts, graphs and tables refer to the following:

EC

—

Eastern Cape

FS

—

Free State

Gau

—

Gauteng

KN

—

KwaZulu-Natal

Mpu

—

Mpumalanga

NW

—

North West

NC

—

Northern Cape

WC

—

Western Cape

3. References to **Fast Facts** and **Frontiers of Freedom** are respectively to monthly and quarterly publications dealing with current events, published by the In

## **CONTENTS**

POPULATION

POLITICS AND SECURITY

EDUCATION

BUSINESS

HEALTH AND WELFARE

EMPLOYMENT AND INDUSTRIAL RELATIONS

LIVING CONDITIONS

GOVERNMENT, THE CONSTITUTION AND HUMAN RIGHTS

THE ECONOMY

## **DETAILED CONTENTS**

**POPULATION**

BIRD'S EYE VIEW

KEY POINTS

POLICY

Government Policy

Central Government

Abortion

Criticism and alternative proposals

Language

LEGISLATION

Central Government

Aliens Control Amendment Act of 1995

South African Citizenship Act of 1995

POPULATION STATISTICS

Census

Population Size

Population Trends

Fertility Rate

Infant Mortality

Life Expectancy

Population Growth

Population Control

Male/female Distribution

Religion

Marital Status

Language

Age

Educational Levels

Human Development

URBANISATION

Policy

EMIGRATION AND IMMIGRATION

Policy

Emigration

The 'Brain Drain'

Immigration

Legal Immigration

Citizenship

Permanent Residence

Illegal Immigration

Repatriation and Deportation

Refugees and Asylum Seekers

KEY POINTS

**POLITICS AND SECURITY**

BIRD'S EYE VIEW

KEY POINTS

POLITICAL DEVELOPMENTS

Foreign Relations

Truth and Reconciliation Commission

Paramilitary Units

Self-Defence Units

Self-Protection Units

Umkhonto We Sizwe

Unofficial Police/army Units

The Media

Legislation

Independent Broadcasting Authority Amendment Act of 1995

Ownership of the Media

Independent Broadcasting Authority

Broadcasting Licences

Political Conflict and Tension

Assassinations/murders

Assassinations of Members of the South African Police Service

Assassinations/murders of Inkatha Freedom Party Officials

Conflict Between the African National Congress and the Inkatha Freedom Party

Initiatives Against Political Violence

Racial Attacks

Attacks on Blacks by Whites



Attacks on Whites by Blacks

Intra-African Tensions and Conflict

Tensions Among Hostel Residents

Burning of Witches

People's Courts

Necklacing

Violence in the Taxi Industry

SECURITY

Policy

Legislation

Criminal Procedure Second Amendment Act

State of Emergency Act of 1995

Internal Peace Institutions Act Repeal Act of 1995

Arms and Ammunition Amendment Act of 1995

Crime

Statistics and Trends

Attacks on the Elderly

Fraud and Other White-Collar Crime

Crime Syndicates

Reported Offences and Crime of Various Types

Arms Smuggling, Caches, and Theft

Drug Smuggling

Murder

Vehicle Hijacking

Robbery

Counterfeiting of Money

Child Abuse

Initiatives to Combat Crime

Government Initiatives

Other Initiatives

South African Police Service

Policy

Legislation

South African Police Service Act of 1995

Restructuring of the Police Force

Training

Rank Structures

Inquiries into Police Misconduct

Trade Unionism in the South African Police Service

Justice

Legislation

Criminal Procedure Amendment Bill

Criminal Procedure Second Amendment Act of 1995

Trials

State V Eugene de Kock

Shell House

Prison Population Reduction and Releases

Death Sentence

South African National Defence Force

Policy

Legislation

Defence Amendment Act of 1995

Defence Special Account Amendment Act of 1995

Restructuring and Integration

Deployment of Troops

Trade Unionism in the Defence Force

Intelligence

Policy

Legislation

Committee of Members of Parliament on and Inspectors General of Intelligence Amendment Act of 1995

## **EDUCATION**

### **BIRD'S EYE VIEW**

### **KEY POINTS**

### **HUMAN RESOURCES**

#### **Qualification Profile of the Population**

#### **Level of Education**

#### **Artisans**

#### **Literacy**

#### **Types of Qualification**

#### **Education Output**

#### **Matriculation Pass Rate**

#### **University Degrees, Diplomas and Certificates Awarded**

#### **Technikon Diplomas and Certificates Awarded**

#### **Trade Tests Passed**

### **EDUCATIONAL RESOURCES**

#### **Finance**

#### **The Budget**

#### **Provincial Allocations**

#### **Allocations to Levels of Education**

#### **Allocations to the Different Forms of Education**

Per Capita Expenditure

Special Projects

Financial Assistance to Students

Schooling

Pupils

Enrolment

Provision of Schools and Classrooms

Pupil/classroom Ratios

Teachers

Teacher Numbers

Teacher Qualifications

Pupil/teacher Ratios

Conditions of Service

Disruptions to School Education

Technical Training and Apprenticeships

Enrolment at Technical Colleges

Apprenticeship

Tertiary Education

Enrolment at Teacher Training Colleges

Enrolment at Universities and Technikons

Disruptions to Tertiary Education

## EDUCATIONAL RESTRUCTURING

National Level

Policy

White Paper on Education and Training

Report of the Committee to Review the Organisation, Governance and Funding of Schools

Organisation, Governance and Funding of Schools: a Draft Policy Document for Discussion

Language Policy

Legislation

National Education Policy Bill

South African Qualifications Authority Act

University of North-West (Private) Bill

Transformation at Tertiary Institutions

Rand Afrikaans University

University of Natal

University of the Witwatersrand

Vista University

Technikon Pretoria

Vaal Triangle Technikon

Provincial Level

Legislation

Eastern Cape

Free State

Gauteng

Kwazulu/natal

Mpumalanga

North-West

Northern Cape

Northern Province

Western Cape

Developments in the Provinces

Eastern Cape

Free State

Gauteng

Kwazulu/natal

Mpumalanga

North-West

Northern Province

Western Cape

KEY PROJECTIONS

**BUSINESS**

## BIRD'S EYE VIEW

## KEY POINTS

## SMALL BUSINESS

Policy

Central Government

Provincial Government

## AFRICAN BUSINESS

Successes and Failures

Major New Ventures

Business Organisations

Finance

Foreign Aid

Constraints on Black Business

Preferential Policies

Informal Sector

Statistics

Hawkers

Shebeens and Taverns

Spaza Shopowners

Stokvels

Small Farmers



Taxis

PRIVATISATION

REGULATION OF BUSINESS

Johannesburg Stock Exchange

National Gambling Bill

Consumers Protection Bill

Legislation on Competition

Trade

Policy

General Agreement on Tariffs and Trade/world Trade Organisation

Trade Liberalisation

Clothing and Textile Industry

Motor Industry

Southern African Arrangements

Southern African Customs Union

**HEALTH AND WELFARE**

BIRD'S EYE VIEW

KEY POINTS

HEALTH INDICATORS

Infant Mortality Rates

Diseases

Aids

Policy

Statistics

Projections

New Trends

Cancer

Malaria

Malnutrition

Measles

Tuberculosis

Typhoid Fever

HEALTH RESOURCES

Finance

The Budget

Provincial Health Budgets

Medical Aid Schemes

Health Services

Medical Personnel

Doctors

Nurses

Traditional Healers

Other Health Personnel

Hospitals

Public Hospitals

Private Hospitals

Strikes

Primary Health Care

Family Planning

Medicines

Vaccination

Combating of Diseases

Termination of Pregnancy

Occupational Health

HEALTH POLICY

National Level

Policy

Primary Health Care

Providers of Primary Health Care

Medicines

Funding

The Private Sector

Criticism and Alternative Proposals

Legislation

Provincial Level

Gauteng

Northern Province

WELFARE

Finance

The Budget

Provincial Welfare Budgets

Welfare Services

Social Pensions

Old-Age Pensions and Old-Age Homes

Alcoholics and Drug Addicts

Children

Welfare Policy

National Level

Policy

Legislation

KEY PROJECTIONS

# **EMPLOYMENT AND INDUSTRIAL RELATIONS**

BIRD'S EYE VIEW

KEY POINTS

POLICY

ECONOMICALLY ACTIVE POPULATION

Structure of the Workforce

Private and Public Sectors

The Informal Sector

Male/female Breakdown

Urban/rural Breakdown

Provincial Breakdown

Immigrants and Emigrants, Migrant Workers and Illegal Workers

Immigrants and Emigrants

Migrant Workers

Illegal Workers

Unemployment

Statistics and Trends

Unemployment Insurance Fund

Affirmative Action

Restructuring of the Public Service

Private Sector

Productivity

Skills Levels

Wages and Incomes

Income Levels, Statistics and Trends

Wages

Household Subsistence Levels

THE LABOUR RELATIONS ACT OF 1995

Scope of the Act

Freedom of Association

Closed Shops

Agency Shops

Organisational Rights

Bargaining Councils

Statutory Councils

Strikes and Lockouts

Secondary Strikes

Picketing

Essential Services

Maintenance Service

Protest Action Promoting or Defending the Socio-Economic Interests of Workers

Workplace Forums

Commission for Conciliation, Mediation and Arbitration

Labour Court

Unfair Dismissal

Unfair Labour Practice

Criticisms of the Act

INDUSTRIAL RELATIONS

Trade Unions

Trade Union Membership

Union Groupings

The Public Sector

Agricultural Unions

Unionists on Company Boards

Employer Organisations

Bargaining

Collective Bargaining Institutions

Industrial Councils

Bargaining Councils

Workplace Forums

Collective Bargaining Issues

Closed Shops

Education and Training

Dispute Resolution

Conciliation Boards

Commission for Conciliation, Mediation and Arbitration

Industrial Court/labour Court

Strikes

Workplace and Union Issues

Privatisation

Reconstruction and Development Programme

Safety

Social Clauses in Trade Agreements

REGIONAL DEVELOPMENTS

KEY PROJECTIONS

**LIVING CONDITIONS**

BIRD'S EYE VIEW

KEY POINTS

DOMESTIC ENERGY

Policy

Distribution Authority



## Legislation

Mineral and Energy Laws Rationalisation Act of 1994

Electricity Amendment Act of 1995

## Statistics

Health Data

Energy Consumption

Targets

Progress

Power Stations

Finance

Non-Payment

Tariffs

Regional Co-Operation

## HOUSING

National Picture

Statistics

Hostel Upgrading

Policy

Housing Support Centre Programme

Legislation

Finance

End-User Finance

Bank and Building Society Lending

Other Lending

Defects Warranty Scheme

Provincial Developments

Eastern Cape

Policy

Statistics

Finance

Progress

Hostels

Free State

Policy

Statistics

Finance

Progress

Gauteng

Policy

Statistics

Finance

Progress

Hostels

Kwazulu/natal

Policy

Statistics

Finance

Progress

Hostels

Mpumalanga

Statistics

Finance

Progress

North-West

Policy

Statistics

Finance

Progress

Northern Cape

Statistics

Finance

Progress

Northern Province

Policy

Statistics

Finance

Progress

Western Cape

Policy

Statistics

Finance

Progress

MUNICIPAL SERVICES

Refuse Disposal

LAND

Policy

Land Restitution

Land Redistribution

Urban Land Redistribution

Rural Land Redistribution

Settlement and Land Acquisition Subsidy

Land Tenure

Labour Tenants

Constitutional Protection of Property Rights

Legislation

Development Facilitation Act of 1995

Restitution of Land Rights Act of 1994

Land Administration Act of 1995

Land Reform (Labour Tenants) Bill

Interim Protection of Informal Land Rights Bill

Communal Property Association Bill

Upgrading of Land Tenure Rights Act Amendment Bill

Land Affairs General Amendment Act of 1995

Finance

POSTAL SERVICES

Policy

Statistics

Targets

Finance

TELECOMMUNICATIONS

Policy

Privatisation and Competition

Statistics

Telkom's Target

Finance

Tariffs

Developments

Rural Telephones

Cellular Telephones

Regional Developments

ROADS AND TRANSPORT

Policy

Statistics

Finance

Subsidies

Bus Transport

Subsidies

Rail Transport

Finance and Subsidies

Roads

Policy

Statistics

Taxi Industry

Policy

Taxi Violence

Problem Resolution

WATER AND SANITATION

Policy

Legislation

Water Laws Rationalisation and Amendment Act of 1994

Statistics

Water

Sanitation

Progress

Finance

KEY PROJECTIONS

**GOVERNMENT, THE CONSTITUTION, AND HUMAN RIGHTS**

BIRD'S EYE VIEW

KEY POINTS

CONSTITUTIONAL NEGOTIATIONS

The Work of the Constitutional Assembly

Constitutional Assembly

Panel of Independent Experts

Constitutional Committee

Management Committee

Theme Committees

The Constitutional Court

The Process of Drafting and Consultation

Adoption of the New Constitution

Contentious Issues Identified in the Drafting Process

Significant Developments in the Drafting Process

International Mediation

AMENDMENTS TO THE TRANSITIONAL CONSTITUTION

CENTRAL GOVERNMENT

Government of National Unity

Divisions Within the Government of National Unity

Statutory Institutions Created by the Constitution

Financial and Fiscal Commission

Council of Traditional Leaders

Truth and Reconciliation Commission

Volkstaat Council

Public Protector

PROVINCIAL GOVERNMENT



Changes to Provincial Powers

The Drafting of Provincial Constitutions

Kwazulu/natal

Western Cape

Provincial Governments

Eastern Cape

Statutory Bodies

Boundary Disputes

Free State

Legislation

Statutory Bodies

Gauteng

Constitutional Developments

Statutory Bodies

Boundary Disputes

Kwazulu/natal

Constitutional Developments

Boundary Disputes

Mpumalanga

Statutory Bodies

Boundary Disputes

North-West

Statutory Bodies

Boundary Disputes

Northern Cape

Statutory Bodies

Boundary Disputes

Northern Province

Statutory Bodies

Boundary Disputes

Western Cape

METROPOLITAN AND LOCAL GOVERNMENT

Policy

Government

Legislation

Constitution of the Republic of South Africa Second Amendment Act of 1995

Local Government Transition Act Amendment Act of 1995

Local Government Transition Act Second Amendment Act of 1995

Local Government in Rural Areas

Traditional Leaders and Local Government

## Disputes Regarding Demarcation of Boundaries

Gauteng

Kwazulu/natal

Western Cape

Local Government Elections

Election Promises

African National Congress

Conservative Party

Democratic Party

Freedom Front

Inkatha Freedom Party

National Party

Pan-Africanist Congress

Election Date

Voter Registration

Registration of Political Parties and Candidates

Areas in Which Local Government Elections Were Delayed

Results

HUMAN RIGHTS REVIEW

Enforcement of the Bill of Rights

Human Rights Commission

Commission on Gender Equality

Public Protector

Application of the Bill of Rights

Application to the State

The Rights of Juristic Persons

Remedies for Infringement

The Right to Equality

Equality Before the Law

Prohibiting Unfair Discrimination

Racial Discrimination

Discrimination Against Women

Aids Discrimination

Authorisation for Affirmative Action

The Right to Life

The Death Penalty

Abortion

The Right to Human Dignity

Capital Punishment

Water and Basic Services

The Right to Freedom and Security of the Person

Detention Without Trial

Imprisonment of Judgement Debtors

Torture

Cruel, Inhuman or Degrading Treatment or Punishment

Freedom from Servitude and Forced Labour

The Right to Privacy

Search and Seizure by the Police

Search and Seizure by Other Bodies

Inviolability of Personal Communications

Aids and the Right to Privacy

Religion, Belief and Opinion

Freedom of Religion and Belief

Academic Freedom at Tertiary Institutions

Freedom of Expression

Media Freedom

Enhancing the Government's Image Through the Media

Defamation

Independent Broadcasting Authority

Community Radio Stations

The Iba Report on Radio and Television Services

Satellite Television Broadcasting

Rights to Assembly, Demonstration and Petition

Freedom of Association

Freedom of Association Within the Workplace

Freedom to Dissociate

Freedom of Movement

Freedom of Residence

Rights of Citizenship

Freedom to Leave and Enter the Country

Deprivation of Citizenship

Political Rights

The Right to Free Political Activity

Rights to Vote in Secret and Stand for Public Office

Right of Access to Court

Right of Access to Information

Access to the Police Docket

Access to Other Information Held by the State

Access to Information Held by the Private Sector

Right to Administrative Justice

Lawful and Procedurally Fair Administrative Action

Written Reasons for Administrative Decisions

Rights of Detained, Arrested and Accused Persons

Detention of Illegal Immigrants

Admissibility of Confessions

Right to Bail

The Right to Be Tried Within a Reasonable Time

The Rights to Be Presumed Innocent and to Remain Silent

The Right Against Self-Incrimination

The Right to Legal Representation

The Right to Free Economic Activity

The Right to Fair Labour Relations

The Right to Fair Labour Practices

Joining Trade Unions and Employer Organisations

The Right to Bargain Collectively

The Right of Employees to Strike

The Right of Employers to Lockout

The Right to Property

Rights to Property for the Rural Poor

Rights to Land for Labour Tenants

Upholding Property Rights Against Squatters

Expropriation for Land Distribution

Restitution of Land Rights

The Right to a Healthy Environment

The Environmental Impact of New Mining Operations

The Proposed Saldanha Bay Steel Mill

Importing Toxic Waste

Managing Domestic Toxic Waste

The Holfontein Site

The Margolis Site and Its Replacement

Developing Environmental Policy

The Rights of Children

Rights to Parental Care, Nutrition and Basic Health Services

The Right Not to Be Abused

Child Labour and Exploitation

Detention of Juveniles

Juvenile Whipping

Rights to Language and Culture

The Right to Use the Language of Choice

The Use of Afrikaans in Official Communications

The Status of Afrikaans on National Television

The Pan South African Language Board



The Right to Participate in the Cultural Life of One's Choice

The Right to Education

Equal Access to Educational Institutions

The Right to Instruction in the Language of Choice

The Use of Afrikaans in Schools and Universities

The Report of the Committee to Review the Organisation, Governance and Funding of Schools

The National Education Policy Bill

Transforming Education at Provincial Level

Limitations on the Rights Contained in the Bill

The Basic Limitation

The Limitation Must Sometimes Also Be 'Necessary'

The Supremacy of the Bill of Rights

The Prohibition of Unfair Discrimination by Private Persons

Suspension Under a State of Emergency

Proclaiming a State of Emergency

Suspending Some Fundamental Rights Under Emergency Rule

Rights of Detainees Under a State of Emergency

Enactment of the State of Emergency Act of 1995

Interpretation of the Bill of Rights

## **THE ECONOMY**

## BIRD'S EYE VIEW

### KEY POINTS

## MACRO-ECONOMIC PICTURE

Growth Rate

Provincial Economic Growth

Unemployment

Skills Shortages

Productivity Constraints

Poverty

Balance of Payments

The Gold Price

Exchange Rate

Abolition of the Financial Rand

Abolition of Exchange Controls

Inflation Rate

Provincial Inflation

Producer Inflation

Food Prices

Interest Rates

Investment

Trade

## FISCAL POLICY

Legislation

Main Budget

Deficit

The Budget and Social Equity

The Reconstruction and Development Programme

1996/97 Budget

Taxation

Provincial Taxation

Provincial Budgets

Eastern Cape

Free State

Gauteng

Kwazulu/natal

Mpumalanga

North-West

Northern Cape

Northern Province

Western Cape

Key Projections

# POPULATION

## BIRD'S EYE VIEW

South Africa's population was estimated at between 41,9m and 44,7m in 1995. Estimates put the country beside Poland, Spain and Zaire. Between 1990 and 1995 South Africa's population grew at 2,32% a year—a rate similar to the Philippines', Egypt's and Lebanon's, all 2,3% between 1985 and 1993. According to the Centre for Development and Enterprise (CDE), however, adjusted figures from the 1991 census showed that South Africa's population was 'not growing as rapidly as was previously thought'.

South Africa's fertility rate dropped by 15% between 1991 and 1995—from 3,3 children per woman to 2,8 more or less alongside the 1992 figures for Malaysia, Mexico and Turkey. In 1995 the infant mortality rate in South Africa was 50 deaths per 1 000 live births, comparable with Guyana, Peru, Tajikistan and Tunisia (recording between 48 and 52 deaths per 1 000 live births in 1992). South Africa had an average life expectancy of 65,5 years in 1995, similar to the 1992 figures for Brazil, El Salvador, Guatemala, Guyana, Iran, Lebanon and Peru. (More recent international figures are not available.)

In socio-economic development, measured according to the human development index (HDI), South Africa ranked among countries with a medium level of development, such as Paraguay and Iran.

South Africa has wide provincial disparities in HDI. In 1991 the Northern Province and the Eastern Cape, both with large rural populations, had low HDIs while Gauteng and the Western Cape, with large, predominantly metropolitan populations, had high HDIs. The Northern Cape and the Northern Province were among South Africa's more underdeveloped provinces both sharing the highest fertility rate and the lowest literacy rates in 1995. Despite an increase of 28% in its HDI between 1980 and 1991, the Northern was the only province still to have an HDI of less than 0,5.

Although Africans had the lowest HDI in 1980 and 1991, it increased from a low to a medium level of human development. In 1991 whites and Asians had a high level of human development. Years of schooling in South Africa increased by 26% between 1980 and 1991.

Emigration from South Africa increased by 27% between 1993 and 1994, mostly to English-speaking countries. Emigrants in professional, semi-professional and technical occupations increased by 118%. Legal immigration to South Africa increased by 54%. Most immigrants came from the United Kingdom, the Republic of China, Zimbabwe, India, and Yugoslavia.

Estimates of the number of illegal immigrants in South Africa in 1994 and 1995 varied from 3m to 9m. An increasing number were under 16 years of age, while immigrants from countries beyond South Africa's direct neighbours had also increased. Most repatriations in 1994 were to Mozambique.

Legislation to regulate immigration and citizenship was passed in September. The Aliens Control Amendment Act aimed to ensure more effective control over the movement of foreigners and immigrants into and from South Africa.

## KEY POINTS

- The Central Statistical Service (CSS) estimated the population to be 41,9m in 1995. Other estimates ranged from 40,7m in 1994 and 44,7m in 1995 (Development Bank of Southern Africa (DBSA)), to 43,6m in 1994 and 44,5m in 1995 (Research Surveys).
- According to the Bureau of Market Research, between 1991 and 1994 the African population increased by 2,4% a year, the Asian population by 1,3%, coloured people by 1,4% and whites by 0,7%.
- According to the DBSA, in 1993 Zulu, Xhosa and Afrikaans were the most widely spoken languages in South Africa: about 22% of the population spoke Zulu, 18% Xhosa and 15% Afrikaans.
- In 1991 South Africa had a human development index (HDI) (a measure of the relative socio-economic development of countries on a scale of 0-1) of 0,677 and therefore, a medium level of human development.
- The Department for Welfare and Population Development published a green paper in April 1995, which aimed to encourage public submissions on population issues. These would be incorporated into a white paper on a national population and development policy.
- According to the chief director of statistical surveys at the CSS, Mr Carl Rosenstrauch, the census on 10th October 1996 would cover certain categories excluded from the 1991 census, such as household services and modes of transport for commuting to and from the workplace.
- The Centre for Population Studies at the University of Pretoria said that the infant mortality rate in 1995 was 46 deaths per 1 000 live births, while the DBSA estimated it to be 50 deaths per 1 000 live births.
- A national literacy study undertaken by Harvard University and the University of Cape Town, and published in May 1995, said that in early 1994 about 80% of Africans in South Africa did not have a standard 5 level of literacy, compared with 40% of whites. Indians had the highest literacy level, followed by whites, coloured people and Africans.
- According to the CSS, the number of emigrants from South Africa who were economically active increased by 134% between 1992 and 1994.
- In August 1995 the National Assembly accepted a report recommending that women have access to legal abortion on request up to 14 weeks after conception and even up to between 14 and 24 weeks.

# POLICY

## Government Policy

### Central Government

The Department for Welfare and Population Development published *A Green Paper for Public Discussion: Population Policy for South Africa?* in April 1995.<sup>1</sup> [<sup>1</sup> Department for Welfare and Population Development, *A Green Paper for Public Discussion: Population Policy for South Africa?*, April 1995; *Sunday Times* 30 April 1995; *Business Day*, *The Star* 11 July 1995] (A green paper is a preliminary report of government proposals, for public discussion, while a white paper formulates government policy and could also be the basis of legislation.) The green paper aimed to open up debate on population and development. Submissions from the public would be incorporated into drafts of a white paper on a national population and development policy.<sup>2</sup> [<sup>2</sup> *Sunday Times* 30 April 1995; *The Star*, *Business Day* 11 July 1995]

According to the green paper, the reconstruction and development programme (RDP) did not take account of the relationship between development activities and population trends.<sup>3</sup> [<sup>3</sup> Department for Welfare and Population Development, *A Green Paper for Public Discussion*; *Business Day*, *The Star* 11 July 1995]

Among the issues the paper raised as discussion points were the following:<sup>4</sup> [<sup>4</sup> Department for Welfare and Population Development, *A Green Paper for Public Discussion*; *The Star* 11 July 1995]

- the interaction between population trends, resources, consumption and production patterns and the environment, and the impact these had on sustainable development. South Africa would have to determine whether it needed a ‘mechanism’ (such as the government) to co-ordinate its policy and programmes;
- the setting of quantitative population goals relating to fertility, mortality, migrancy and population growth rates. Other issues which affected population growth such as literacy levels and the provision of primary health care might also have to be examined;
- the relationship between development planning and population trends. Policy makers (for example in the areas of education, health and housing) needed both to consider population trends in the process of formulating a development policy and to investigate the impact of their programmes on population trends;
- the relationship between the empowerment of women and population trends, and the need for a government structure to co-ordinate activities aimed at empowering women;

- the provision of information to the public about development issues and population trends;
- the establishment of institutions to implement an integrated population/ development policy. Each government department could implement its own policies independently or could be assisted and monitored by a central body; and
- participation of civil society in the development of a population policy and programme. South Africa could choose, for example, between the establishment of a population forum to act as a channel between the government and organisations of civil society concerned with population issues, or the representation of these organisations on existing development forums.

See also *Population control* below.

## **Abortion**

In June 1995 members of the African National Congress on the ad hoc committee on abortion and sterilisation accepted recommendations proposed by the Abortion Rights Action Group and other human rights organisations to amend the Abortion and Sterilisation Act of 1975. The committee, convened in May 1995, had received submissions on amendments to the act from pro-life and pro-choice groups. (Pro-choice groups favour liberalisation of the law, while pro-life groups recommend that all the terms of the 1975 act which allow for abortion be outlawed.)<sup>5</sup> [<sup>5</sup> *The Citizen* 9, 23 June 1995] Inter alia, the recommendations were that:

- women should have access to legal abortion on request up to 14 weeks after conception, and under certain ‘broadly specified conditions’, up to between 14 and 24 weeks;
- a wider range of health personnel be trained and authorised to perform abortions;
- additional health facilities be provided in areas with few doctors to make abortions accessible to more women;
- application procedures for an abortion (for example, the need to consult two doctors) be simplified; and
- abortion and sterilisation be dealt with under separate legislation.<sup>6</sup> [<sup>6</sup> *The Star* 12 August 1995]

In June 1995 a report by the committee based largely on the above recommendations was referred to the parliamentary committee on health. The report was accepted by the National Assembly in August 1995 (see also *Criticism and alternative proposals* below). At the time of writing, however, legislation had

not been tabled.<sup>7</sup> [<sup>7</sup> *The Natal Witness* 10 May 1995; *Sowetan* 20 June 1995; *Business Day* 23 June 1995; *The Star* 30 June 1995, 12 August 1995]

### *Criticism and Alternative Proposals*

The vice chairwoman of the Planned Parenthood Association of South Africa, Dr Margaret Moss, said in May 1995 that in the past family planning programmes in South Africa had been viewed with suspicion and had been largely unsuccessful because of their association with apartheid. The key to successful programmes was improving the status of women, providing ‘user-friendly’ contraception services and developing an understanding of contraception among men.<sup>8</sup> [<sup>8</sup> *Cape Times* 22 May 1995]

In the same month a number of church groups, including the Apostolic Faith Mission, the Church of England in South Africa and the Dutch Reformed Church, called for a prohibition on all abortions and the repeal of the exceptions allowing for abortion in the Abortion and Sterilisation Act of 1975.<sup>9</sup> [<sup>9</sup> *The Argus* 24 May 1995]

Mr Mike Ellis MP (Democratic Party) said in July 1995 that the government should take ‘immediate’ action to educate the population on the importance of family planning. Although the government’s focus had shifted to the development and empowerment of women, statistics showed that the government was not giving population growth the attention it deserved.<sup>10</sup> [<sup>10</sup> *The Citizen* 12 July 1995]

The National Assembly’s acceptance in August 1995 of the report allowing legal abortion (see *Abortion* above) was opposed by Mr Willem Odendaal MP (National Party). He said that his party would not accept the report, which was ‘an alternative to birth control’ and ‘in conflict with human rights’.<sup>11</sup> [<sup>11</sup> *The Star* 31 August 1995] Mr Odendaal and Mr Joe Matthews MP (Inkatha Freedom Party) said that there should be a vote of conscience on the report. According to Mr Matthews, his party was divided on the issue. Mr Ellis said that the DP endorsed the report but had reservations about certain of its measures. The Freedom Front and the African Christian Democratic Party rejected the report.<sup>12</sup> [<sup>12</sup> *Ibid*]

### **Language**

The Pan South African Language Board Act, passed in September 1995, provided for the establishment of the Pan South African Language Board, an independent body which would, among other things, monitor the implementation of equal language rights in South Africa and promote multilingualism (see also chapter on *Government, the Constitution, and Human Rights*). The board would, in addition, advise central, provincial and local governments on language legislation.<sup>13</sup> [<sup>13</sup> *Pan South African Language Board Policy Discussion Paper*, March 1995; *Business Day* 30 June 1995; Pan South African Language Board Bill, B92-95; telephonic interview with Ms Julie Kilian, chairwoman of the education standing committee in Gauteng, 30 August 1995; Pan South African Language Board Act, *Government Gazette* no 16726, 4 October 1995] The chairwoman of the education standing committee in Gauteng, Ms Julie Kilian, said in August 1995 that a new language policy for the



provinces would have to be approved by the board before it could be enacted in provincial legislation.<sup>14</sup>  
[<sup>14</sup> Telephonic interview with Ms J Kilian, 30 August 1995]

In February 1995 the Gauteng provincial legislature adopted recommendations to use all 11 official languages in the province. Afrikaans, English, Northern Sotho and Zulu, however, would be the languages of record for the legislature.<sup>15</sup> [<sup>15</sup> *Business Day* 22 February 1995; telephonic interview with Ms J Kilian, 23 August 1995]

## LEGISLATION

### Central Government

#### Aliens Control Amendment Act of 1995

The Aliens Control Amendment Act, which aimed to ensure more effective control over the movement of immigrants and foreigners into and from South Africa, was passed in September 1995. The act proposed, among other things, that:

- foreigners with a valid immigration or temporary residence permit be in possession of a valid visa when first entering South Africa (citizens of about 90 countries are conditionally exempt from visa requirements for holiday, business and transit purposes and take advantage of this as ‘a short cut’ to obtain a work permit or permanent residential status in South Africa);
- immigration officials be empowered to seize wages earned by illegal immigrants to cover the costs of deportation;
- people in South Africa with temporary residence permits (including business permits, medical permits, study permits, visitors’ permits, and work and workseekers’ permits) be prohibited from changing the purpose of their visit once in South Africa. Immigrants would further have to apply for immigration, work or workseekers’ permits before entering the country;
- the minister of home affairs be empowered to cancel an immigration permit if a marriage contracted two years prior to the issue of the permit is dissolved within two years of the permit being issued (to prevent ‘marriages of convenience’ which immigrants use to secure permanent residence); and
- control over ‘agents’ who applied for immigration or temporary residence permits on behalf of illegal immigrants be made more effective.<sup>16</sup> [<sup>16</sup> *Aliens Control Amendment Bill*, B54-95, 1995; *The Star* 11 August 1995]

A spokesman for the Department of Home Affairs, Mr Attie Tredoux, said in August 1995 that although the legislation proposed a measure to reduce the cost of repatriations, none of its proposals would

‘strengthen the government’s hand’ in repatriating people. The legislation was more an attempt to ‘regularise’ people who had lived in South Africa a long time.<sup>17</sup> [<sup>17</sup> *Business Day*, *The Citizen* 24 August 1995 ]

## South African Citizenship Act of 1995

The South African Citizenship Act, passed in September 1995, provided that South African citizenship could be acquired only through birth, descent or naturalisation (the previous act had provided that citizenship could also be acquired through registration). According to a legal administration officer at the Department of Home Affairs, Mr Buks Annondale, registration had been an enforced system whereby immigrants were compelled to apply for South African citizenship. Naturalisation, however, was a voluntary system of application. People wanting to become South African citizens would have to renounce their former citizenship (also *Citizenship* below). The act further provided that any individual who had (prior to the act’s commencement) acquired citizenship by naturalisation or registration, or who was a citizen by naturalisation of any of the former ‘independent’ homelands, would be a South African citizen by naturalisation.<sup>18</sup> [<sup>18</sup> South African Citizenship Act no 88 of 1995, *Government Gazette* no 16751, 6 October 1995; telephonic interview with Mr Buks Annondale, legal administration officer, Department of Home Affairs, 8 November 1995]

## POPULATION STATISTICS

### Census

The minister without portfolio, Mr Jay Naidoo, said in August 1994 that a census would take place on 7th March 1996.<sup>19</sup> [<sup>19</sup> *Business Day* 3 August 1994] The date was subsequently changed to 10th October 1996. According to the chief director of statistical surveys at the Central Statistical Service (CSS), Mr Carl Rosenstrauch, the 1996 census would differ from the 1991 census in a number of ways.<sup>20</sup> [<sup>20</sup> *RSA Review* June 1995]

The former ‘independent’ homelands would be included, while Walvis Bay (which had become part of Namibia in February 1994) would be excluded. The census would also include categories not covered in the 1991 census, such as household services (for example, the sources of energy and water, sanitation, refuse disposal and telecommunication facilities) and modes of transport for commuting to and from the workplace.<sup>21</sup> [<sup>21</sup> *Ibid*]

Following the completion of the 1996 census, a working committee comprising, among others, representatives of the Bureau of Market Research (BMR) at the University of South Africa and the Human Sciences Research Council (HSRC) would conduct a post-enumeration survey to determine the validity of the results, Mr Rosenstrauch said.<sup>22</sup> [<sup>22</sup> *Ibid*]

### Population Size

Estimates of the population in 1995 varied from 41,9m (CSS) to 44,5m (Research Surveys, a research institute) to 44,7m (Development Bank of Southern Africa (DBSA)). A demographer at the DBSA, Mr Johan Calitz, said that the disparity between the estimates of the DBSA and the CSS had resulted from undercounting in the 1991 census, particularly of people in the rural areas and illegal immigrants—the DBSA had adjusted their figures upwards to take that into account.<sup>23</sup> [<sup>23</sup> *Telephonic interview with Mr Johan Calitz, demographer, Development Bank of Southern Africa (DBSA), 11 September 1995*]

The director of Research Surveys, Mr Neil Higgs, said that the disparity between the figures of the CSS and those of Research Surveys was the result of differences in estimates of the African population in the crowded townships of the metropolitan areas.<sup>24</sup> [<sup>24</sup> *Business Day 30 May 1995*] According to a spokesman for the CSS, disparities between the figures of research organisations resulted from those organisations' 'adjusting' the results of the 1991 census and conducting research using differing premises (for example, differing definitions of 'metropolitan areas' and assumptions of population growth rates).<sup>25</sup> [<sup>25</sup> *Telephonic interview with Mr Smalberger, head of demography, Central Statistical Service (CSS), 11 September 1995*]

In 1994 the DBSA and the CSS had similar population estimates—40,7m and 40,6m respectively, while the BMR said that the population was 40,1m.<sup>26</sup> [<sup>26</sup> *The Star 10 July 1995*; Bureau of Market Research (BMR), *Population estimates for the RSA by magisterial district and province, 1994*, 2 November 1994] Research Surveys estimated that the population was 43,6m in 1994.<sup>27</sup> [<sup>27</sup> *Business Day 30 May 1995*]

According to the BMR, in 1994 KwaZulu/Natal was the most populous province, with 8,5m people, followed by Gauteng and the Eastern Cape, with 6,8m and 6,4m respectively. The Northern Cape, with a population of 0,8m people, was the least populous province.<sup>28</sup> [<sup>28</sup> *BMR, Population estimates for the RSA*, 2 November 1994] Some 22,9% of all Africans were in KwaZulu/Natal, while the province had 76,5% of all Asians. Most coloured people (60,7%) lived in the Western Cape. About 41% of all whites were in Gauteng.

The CSS's *October Household Survey* provided a breakdown of the provincial distribution of the population by race in 1994:<sup>29</sup> [<sup>29</sup> *CSS, October Household Survey 1994, 30 March 1995, statistical release, PO317, 30 March 1995*]

### *Population of South Africa: 1994<sup>a</sup>*

Province

African

Asian

Coloured

White

Total<sup>b</sup>

Eastern Cape

5 589 612

16 030

437 710

373 613

6 416 965

**Free State**

2 301 951

2 642

72 832

372 158

2 749 583

Gauteng

4 360 975

165 136

279 733

2 141 110

6 946 953

**KwaZulu/Natal**

7 075 429

794 659

107 560

600 151

8 577 799

**Mpumalanga**

2 632 100

11 694

15 204

294 234

2 953 232

**North-West**

2 992 985

8 320

48 638

265 730

3 315 671

**Northern Cape**

221 222

1 860

395 208

121 160

739 450

**Northern Province**

5 114 932

4 560

6 793

146 298

5 272 583

**Western Cape**

655 060

33 951

2 109 282

878 043

3 676 335

Total<sup>b</sup>

30 944 267

1 038 851

3 472 960

5 192 498

40 648 574

a

As at 1 October 1994.

b

Figures may not add up owing to rounding.

The following table gives a proportional breakdown of the population of the provinces by race

*Provincial distribution of the population by race: 1994*

Province

African

Asian

Coloured

White

Total<sup>a</sup>

Eastern Cape

87,12%

0,25%

6,82%

5,82%

100%

**Free State**

83,72%

0,10%

2,65%

13,54%

100%

**Gauteng**

62,78%

2,38%

4,03%

30,82%

100%

**KwaZulu/Natal**

82,49%

9,26%

1,25%

7,00%

100%

**Mpumalanga**

89,13%

0,40%



0,51%

9,96%

100%

**North-West**

90,27%

0,25%

1,47%

8,01%

100%

**Northern Cape**

29,92%

0,25%

53,45%

16,39%

100%

**Northern Province**

97,01%

0,09%

0,13%

2,77%

100%

Western Cape

17,82%

0,92%

57,37%

23,88%

100%

Total

76,13%

2,56%

8,54%

12,77%

100%

a

Figures may not add up owing to rounding.

According to the CSS, in 1994, 97% of the Northern Province's population were African while 57% of the Western Cape's population were coloured people. Some 31% of whites lived in

The following pie chart shows the proportional distribution of the population by province in 1994:

### Population Trends

In September 1995 the Centre for Development and Enterprise (CDE) said in a report on population trends that from the adjusted 1991 census it had become clear that the South African population was 'not

growing as rapidly as was previously thought'. The CDE's findings included the following:<sup>32</sup> [<sup>32</sup> *Centre for Development and Enterprise (CDE), Post-apartheid population and income trends: A new analysis*, CDE Research no1, September 1995]

- total population and fertility rates were lower than previously estimated;
- metropolitan areas were still the focus of population and economic growth; and
- the scale and nature of 'clandestine' movements from other countries was the 'biggest unknown' factor (with 'potentially enormous consequences' for population figures).

### ***Fertility Rate***

According to the population dynamics unit of the HSRC, there was a reciprocal relationship between the fertility rate of women and the infant mortality rate of their children. While a high fertility rate impacted negatively on children's health thereby increasing chances of infant mortality, a high infant mortality rate resulted in women having more children to compensate for the loss. The probability of infant mortality increased if the mother was a teenager or over the age of 35, or if the interval between the last birth and next pregnancy was less than 15 months. In 1995, 12,1 out of every 100 women giving birth were teenagers (women under 20 years old). Lower infant mortality rates would reduce the fertility rate of women (for example, an infant mortality rate of 20 deaths per 1 000 live births could reduce the fertility rate to two children per woman)<sup>33</sup> [<sup>33</sup> *The Star* 11 July 1995; *In Focus* February/March 1995; telephonic interview with Mr Grosshopf, assistant director, Chief Directorate of Population Development, 23 October 1995]

The table below gives a provincial breakdown of fertility rates in 1991 and 1995:<sup>34</sup> [<sup>34</sup> Fax communication from Mr J Calitz, 23 August 1995]

#### *Fertility rate<sup>a</sup> by province: 1991 and 1995*

Province
1991
1995
IncEastern Cape
4,6
2,9

(37,0%)

**Free State**

3,7

2,3

(37,8%)

**Gauteng**

3,0

2,4

(20,0%)

**KwaZulu/Natal**

4,3

2,8

(34,9%)

**Mpumalanga**

4,3

2,7

(37,2%)

**North-West**

4,5

2,5

(44,4%)

Northern Cape

2,9

3,0

3,5%

**Northern Province**

5,8

3,2

(44,8%)

Western Cape

2,7

2,8

3,7%

Average<sup>b</sup>

3,3

2,8

(15,2%)

a

The average number of children born live to a woman during her child bearing years (15–49).

b

The average was calculated using weighted figures.

According to the DBSA, the Northern Province had the highest fertility rate in 1995 (3,2 children per woman), followed by the Northern Cape (three children per woman) and the Eastern Cape (2,9 children per woman). All three provinces had fertility rates above the national average of 2,8. The Free State (2,3 children per woman) and Gauteng (2,4 children per woman) had the lowest fertility rates. The Northern Province and the Western Cape were the only two provinces with an increase in fertility rates, the DBSA said.<sup>35</sup> [<sup>35</sup> Ibid]

Between 1991 and 1995 fertility rates in most provinces dropped by 35%–45%, while the national average dropped from 3,3 in 1991 to 2,8 in 1995 (by 15%). There was a slight increase in the fertility rates of the Western Cape and the Northern Cape in the same period.

The CSS's *October Household Survey*, conducted in 1994, estimated that the overall fertility rate was 2,9 per woman. Whites had the lowest fertility rate of 1,7, while Asians and coloured people had fertility rates of 2,1 and 2,3 per woman respectively. Although the CSS estimated the fertility rate of African women to be 3,3 in 1994, it said that this estimate was lower than the 'generally accepted level' for Africans (about four children per woman), owing to underestimation.<sup>36</sup> [<sup>36</sup> CSS, *October Household Survey 1994*; telephonic interview with Ms J J S Holloway, survey statistician, CSS, 24 October 1995]

In a report on post-apartheid population and income trends published by the CDE in September 1995, it was predicted that the total fertility rate of the African population would drop from 4,3 children per woman in the period 1986–91 to 3,5 in 1996–2001. The report added that Africans had achieved an equivalent decline in fertility in a shorter time than it had previously taken whites. It attributed this to the fact that economic modernisation and urbanisation had come later and with 'greater cumulative force' in the case of Africans.<sup>37</sup> [<sup>37</sup> CDE, *Post-apartheid population and income trends, September 1995*]

## ***Infant Mortality***

The Centre for Population Studies at the University of Pretoria said that the infant mortality rate in 1995 was 46 deaths per 1 000 live births.<sup>38</sup> [<sup>38</sup> *Centre for Population Studies, University of Pretoria, 1995*] In 1994 the infant mortality rate in South Africa was 56 deaths per 1 000 live births, according to the population dynamics unit of the HSRC.<sup>39</sup> [<sup>39</sup> *In Focus February/March 1995*]

In 1995 the infant mortality rate in South Africa was 50 deaths per 1 000 live births, according to the DBSA. The areas with the highest infant mortality rates were the Northern Province (59 deaths per 1 000 live births), KwaZulu/Natal (56) and the Eastern Cape (55). The provinces with the lowest infant mortality rates were the Western Cape (27 deaths per 1 000 live births) and Gauteng (37), the DBSA said.<sup>40</sup> [<sup>40</sup> *Fax communication from Mr J Calitz, 23 August 1995*]

The following table gives a provincial breakdown of infant mortality rates in 1991 and 1995, as

compiled by the DBSA:<sup>41</sup> [<sup>41</sup> *Ibid* ]

*Infant mortality rate<sup>a</sup> by province: 1991 and 1995<sup>b</sup>*

Province

1991

1995

Eastern Cape

58,2

55

**Free State**

45,4

54

Gauteng

35,2

37

**KwaZulu/Natal**

44,7

56

Mpumalanga

41,2

52

## North-West

43,3

50

Northern Cape

31,5

52

## Northern Province

57,0

59

Western Cape

26,8

27

Average<sup>c</sup>

41,8

50

a

The number of live-born children who die under the age of one year per 1 000 live births.

b

The 1991 figures are based on the CSS census of that year. Infant mortality rates recorded in 1991 are significantly lower than those of 1995 because of under-recording, particularly of illegal immigrants and of people living in the rural areas. The figures are, therefore, not comparable.

c



The average was calculated using weight

## ***Life Expectancy***

According to the Centre for Population Studies at the University of Pretoria, the average life expectancy for males in South Africa in 1995 was 63 years, while that for females was 68 years. The average life expectancy in the country was 66 years.<sup>42</sup> [<sup>42</sup> *Centre for Population Studies, University of Pretoria, 1995*]

The following table provides a provincial breakdown of life expectancy for 1991 and 1995, as compiled by the DBSA:<sup>43</sup> [<sup>43</sup> *Fax communication from Mr J Calitz, 23 August 1995*]

### *Life expectancy<sup>a</sup> by province: 1991 and 1995*

#### Province

1991 1995 Inc Eastern Cape

59,6

64,5

8,2%

#### **Free State**

63,6

63,5

(0,2%)

#### Gauteng

65,6

65,8

0,3%

**KwaZulu/Natal**

62,6

65,5

4,6%

**Mpumalanga**

63,5

65,9

3,8%

**North-West**

64,1

66,5

3,7%

**Northern Cape**

64,0

62,6

(2,2%)

**Northern Province**

62,7

64,8

3,4%

**Western Cape**

64,8

65,5

1,1%

Average<sup>b</sup>

63,4

65,1

2,7%

a

The average number of years a newborn child can be expected to live, assuming that prevailing mortality conditions remain unchanged.

b

Figures may not add up owing to rounding.

In 1991 the provinces with the highest life expectancy were Gauteng (65,6 years) and the Western Cape (64,8), while in 1995 the North-West (66,5 years) and Gauteng (65,8) had the highest life expectancy. The Eastern Cape (59,6 years) and KwaZulu/Natal (62,6 years) had the lowest life expectancy in 1991, compared with the Free State (63,5 years) and the Northern Cape (62,6 years) in 1995. Life expectancy in the Northern Cape dropped by 2% between 1991 and 1995, while it increased by 8% in the Eastern Cape. The average life expectancy in the country increased by 3% in the same period.<sup>44</sup> [<sup>44</sup> *Ibid*]

## Population Growth

According to the BMR at the University of South Africa, between 1991 and 1994 the African population increased by 2,4% a year, Asians by 1,3%, coloured people by 1,4%, and whites by 0,7%.<sup>45</sup> [<sup>45</sup> *BMR, Population estimates for the RSA*, 2 November 1994]

The following table gives a breakdown of the annual increase in the population according to race in 1991 and 1994:<sup>46</sup> [<sup>46</sup> Fax communications from Mr J Calitz, 11 September 1995, 23 October 1995]

*Average annual population increase by race: 1991–94*

*PopPopAverage annual increase*

African

28 383

30 475

2,4%

Asian

987

1 027

1,3%

Coloured

3 280

3 424

1,4%

White

5 061

5 165

0,7%

Total<sup>a</sup>/average

37 711

40 091

1,5%

a

Figures may not add up owing to rounding.

The following table provides a provincial breakdown of the annual increase in the population between 1990 and 1995, according to the DBSA:<sup>47</sup> [47 Ibid ]

*Average population increase by province: 1990–95*

Province

**AvePopEastern Cape**

2,19%

7 667 503

**Free State**

2,49%

2 722 685

**Gauteng**

3,36%

7 396 135

**KwaZulu/Natal**

2,06%

9 071 447

**Mpumalanga**

2,12%

2 925 596

**North-West**

2,51%

3 721 627

Northern Cape

1,29%

777 399

**Northern Province**

1,78%

5 661 010

Western Cape

2,07%

3 869 200

Total/average

2,32%

43 820 444

Gauteng (3,36%) and the North-West (2,51%) had the highest average annual growth rates in population in 1990–95, according to the DBSA. The Northern Cape (1,29%) and the Northern Province (1,78%) had the lowest average annual growth rates.<sup>48</sup> [48 *BMR, Population estimates for the RSA*, 1994]

The *Black Township Market Review*, a survey on township demographics published in February 1995,

said that the African, coloured and Indian populations in Gauteng would collectively rise from 7,3m in 1995 to 12,9m in 2010—an increase of 77%.<sup>49</sup> [<sup>49</sup> *Business Day* 20 March 1995]

According to the Centre for Population Studies at the University of Pretoria, the country's population would increase to 57,51m by 2010 and to 70,08m by 2025. The population's doubling time, based on 1995 estimates, was expected to be 30 years.<sup>50</sup> [<sup>50</sup> Department for Welfare and Population Development, *A green paper for public discussion* ]

Projections of population size in 2000 and 2010 calculated by the CDE in September 1995 were 45,4m and 53,4m respectively. The CDE also provided a projected distribution of the population by province in 2001 and 2011:<sup>51</sup> [<sup>51</sup> *CDE, Post-apartheid population and income trends, September 1995*]

*Projected provincial distribution of the population: 2001 and 2011*

Province

Population 2001

Proportion of total

Population 2011

Proportion of total

Eastern Cape

7,2m

15,6%

8,2m

15,1%

**Free State**

3,0m

6,6%

3,6m

6,6%

Gauteng

8,9m

19,0%

10,7m

19,8%

**KwaZulu/Natal**

9,5m

20,5%

10,9m

20,3%

Mpumalanga

3,2m

7,0%

3,9m

7,2%

**North-West**

3,8m

8,2%

4,6m



8,5%

Northern Cape

0,7m

1,6%

0,8m

1,4%

**Northern Province**

5,8m

12,4%

6,5m

12,1%

Western Cape

4,2m

9,1%

4,9m

9,0%

Total

46,3m

100,0%

54,1

## Population Control

An International Conference on Population and Development was held in Cairo (Egypt) in September 1994 (see also *Government policy* above). A South African delegation, led by the minister for welfare and population development, Mr Abe Williams, attended the conference where a programme of action was formulated.<sup>52</sup> [<sup>52</sup> *Commentum June 1995*]

The programme would be implemented over the next 20 years. South Africa would be among the countries to adopt a new philosophy which aimed to empower women through measures including increased access to effective health services and education. This would help them to decide on the number of children they should have.<sup>53</sup> [<sup>53</sup> *The Star* 11 July 1995, *Sowetan* 14 July 1995]

## Male/Female Distribution

According to the CSS, in 1994 there were slightly more women (50,5%) than men (49,5%) in South Africa.<sup>54</sup> [<sup>54</sup> *Sowetan* 26 January 1995] Provincially, the Eastern Cape had the highest proportion of females (54,1%), followed by the Northern Province (53,8%). Gauteng (53,6%) and the Free State (52,9%) had the highest proportion of males.<sup>55</sup> [<sup>55</sup> CSS, *October Household Survey 1994*, statistical release, PO317, 30 March 1995] The following table and bar chart show male/female distribution by province in South Africa in 1993:<sup>56</sup> [<sup>56</sup> *Ibid*]

*Male/female distribution in South Africa: 1993<sup>a</sup>*

Province

Male

Proportion

Female

Proportion

Majority<sup>b</sup>

Total

Eastern Cape

2 944 983

45,9%

3 471 982

54,1%

526 999 (F)

6 416 965

**Free State**

1 453 975

52,9%

1 295 608

47,1%

158 367 (M)

2 749 583

**Gauteng**

3 726 650

53,6%

3 220 303

46,4%

506 347 (M)

6 946 953

**KwaZulu/ Natal**

4 106 801

47,9%

4 470 998

52,1%

364 197 (F)

8 577 799

**Mpumalanga**

1 508 257

51,1%

1 444 976

48,9%

63 281 (M)

2 953 232

**North-West**

1 709 953

51,6%

1 605 719

48,4%

104 234 (M)

3 315 671

Northern Cape

373 820

50,6%

365 630

49,4%

8 190 (M)

739 450

**Northern Province**

2 436 541

46,2%

2 836 042

53,8%

399 501 (F)

5 272 583

Western Cape

1 846 022

50,2%

1 830 313

49,8%

15 709 (M)

3 676 335

Total

20 107 000

49,5%

20 541 572

50,5%

434 572 (F)

40 648 574

a

Figures may not add up owing to rounding.

b

The numerical difference between the male (M) and the female (F) p

## Religion

The following table shows the most popular religions or denominations in South Africa in 1991 (figures are based on the 1991 census but include 1993 estimates on Venda and exclude the other former 'independent' homelands):<sup>57</sup> [<sup>57</sup> Ibid]

*Religious affiliation: 1991<sup>a</sup>*

*African*

Asian

Coloured

White

Total

Religion

Christian

African independent churches

6 968 084

0

0

0

6 968 084

Dutch Reformed<sup>b</sup>

1 064 709

0

563 783

1 595 021

3 223 513

Gereformeerde

0

0

0

119 859

119 859

Nederduitsch Hervormde

0

0

0

246 188

246 188

Afrikaans churches<sup>c</sup>

0

1 375

0

0

1 375

Roman Catholic

1 790 160

13 800

233 364

315 092

2 352 416

Methodist



1 384 046

1 861

94 833

333 926

1 814 666

Anglican<sup>d</sup>

647 268

4 635

232 493

291 679

1 176 075

Apostolic Faith Mission

135 687

0

63 005

225 046

423 738

Lutheran

686 219

1 618

81 161

0

768 998

Presbyterian

308 028

834

0

89 922

398 784

Congregational

238 065

0

129 104

0

367 169

Full Gospel

0

21 677

0

0

21 677

Other Christian churches<sup>e</sup>

1 436 617

79 260

713 283

725 875

2 955 035

Subtotal

14 658 883

125 060

2 111 026

3 942 608

20 837 577

Hindu

0

385 679

0

0

385 679

Islamic

0

166 609

157 801

0

324 410

**Jewish**

0

0

0

65 373

65 373

**Non-Christian but Zunspecified**

31 498

6 895

5 675

7 050

51 118

**Subtotal**

31 498

559 183

163 476

72 423

826 580

Unspecified and no religion

7 502 899

302 420

1 006 046

1 046 754

9 858 119

Total

22 193 310

986 799

3 280 548

5 061 785

31 522 422

a

Figures may not add up owing to rounding.

b

Refers to the Nederduitse Gereformeerde Kerk.

c

Refers to the Nederduitse Gereformeerde Kerk, the Nederduitsch Hervormde Kerk and the Gereformeerde Kerk. The number of Asians belonging to these churches was very small and no further breakdown is available.

d

Includes the Anglican Church, the Church of England, the Church of England in South Africa and the Church of the Province of South Africa.

e

Includes, among others, the Afrikaanse Protestantse Kerk, the Baptist Church, the Greek Orthodox Church, the Pentecostal Protestant C

## Marital Status

The following table provides a breakdown of the marital status of the population of South Africa (excluding the former 'independent' homelands) in 1991, the latest year for which figures were available:<sup>58</sup> [58 1994/95 Survey, p11]

### *Marital status of the population by race: 1991<sup>a</sup>*

Afr Col Ind Whi Tot Proportion

Never married

Younger than 18 years

9 550

1 320

360

1 308

12 610

40,7%

18 years and older

5 090

760

150

700

6 700

21,6%

Married<sup>b</sup>

5 050

910

420

2 410

8 780

28,3%

Unmarried but living together

1 000

130

10

100

1 240

4,0%

Widowed

700

110

50

280

1 140

3,7%

Divorced

260

50

10

200

530

1,7%

a

Figures may not add up owing to rounding.

b

Includes common law marriages.

## Language

According to the DBSA, in 1993 Zulu, Xhosa and Afrikaans were the most widely spoken languages in South Africa (about 22% of the population spoke Zulu, 18% Xhosa and 15% Afrikaans). The language most widely spoken in the Western Cape and the Northern Cape was Afrikaans. Zulu was the most widely spoken language in KwaZulu/Natal, while Xhosa was most widely spoken in the Eastern Cape and Tswana in the North-West, the DBSA said.<sup>59</sup> [<sup>59</sup> Fax communication from Mr J Calitz, 23 August 1995]



The following table gives a proportional breakdown of the distribution of home languages within the provinces in 1993:<sup>60</sup> [60 Ibid ]

*Proportional distribution of home language by province: 1993<sup>a</sup>*

Province

Afrikaans

English

A/E<sup>b</sup>

Ndebele<sup>c</sup>

Northern Sotho

Southern Sotho

Eastern Cape

9,01%

3,71%

0,08%

0,00%

0,01%

0,15%

**Free State**

15,91%

1,59%

0,10%

0,16%

0,82%

53,81%

Gauteng

20,91%

16,44%

0,38%

0,94%

8,42%

10,79%

**KwaZulu/Natal**

1,89%

16,19%

0,07%

0,00%

0,04%

0,20%

Mpumalanga

9,67%

2,07%

0,09%

8,00%

9,18%

1,66%

**North-West**

8,22%

0,94%

0,07%

0,03%

0,64%

2,29%

Northern Cape

68,69%

2,66%

0,11%

0,00%

0,11%

0,50%

**Northern Province**

2,62%

0,46%

0,02%

1,18%

55,86%

0,24%

Western Cape

62,57%

20,09%

0,69%

0,00%

0,05%

0,20%

Average<sup>d</sup>

15,05%

9,00%

0,18%

0,87%

9,2

*Proportional distribution of home language by province: 1993<sup>a</sup> (continued)*

*Province*

Swazi

Tsonga

Tswana

Venda

Xhosa

Zulu

Other<sup>e</sup>

Eastern Cape

0,00%

0,00%

0,01%

0,00%

86,76%

0,06%

0,22%

**Free State**

0,20%

0,64%

4,93%

0,04%

9,42%

5,21%

7,16%

Gauteng

1,28%

3,85%

7,27%

1,08%

6,18%

18,46%

4,00%

**KwaZulu/Natal**

0,03%

0,03%

0,01%

0,00%

1,18%

79,40%

0,94%

Mpumalanga

31,09%

3,66%

0,87%

0,13%

1,61%

24,79%

7,18%

**North-West**

0,24%

0,73%

81,08%

0,11%

3,66%

0,50%

1,48%

**Northern Cape**

0,01%

0,14%

19,46%

0,01%

6,26%

0,27%

1,76%

**Northern Province**

0,78%

22,37%

1,49%

12,65%

0,18%

0,74%

1,39%

**Western Cape**

0,01%

0,02%

0,05%

0,00%

15,35%

0,08%

0,87%

**Average<sup>d</sup>**

2,52%

3,83%



9,17%

1,80%

18,07%

22,02%

2,31%

a

Proportions add up horizontally to 100%.

b

Afrikaans/English. Afrikaans and English are spoken equally in the home.

c

Includes Northern and Southern Ndebele.

d

Averages have been calculated according to weighted figures.

e

Includes, among others, Chinese, Dutch, French, German, Greek, Gujarati, Hindi, Italian, Portuguese, Tamil, Telegu and Urdu.

The CSS said that in 1994, 22,4% of the population spoke Zulu, 17,5% Xhosa, 15% Afrikaans, 9,8% Sepedi and 9,1% English. In Gauteng about 35,6% spoke a combination of Afrikaans and English at home, followed by English (30,3%) and Sesotho (27,8%), the CSS said.<sup>61</sup> [<sup>61</sup> *Sowetan* 26 January 1995]

The pie chart below shows the six most widely spoken languages in South Africa in 1993 as a proport

## Age

The following tables provide the age structure and its proportional breakdown by province in South

Africa in 1993:62 [62 DBSA, *South Africa's nine provinces*, 1994]

*Population age profile: 1993*

Province

0–4 years

5–14 years

15–64 years

65+

Total<sup>a</sup>

Eastern Cape

1 187 000

1 767 000

3 335 000

375 000

6 665 000

**Free State**

329 000

609 000

1 751 000

114 000

2 804 000

Gauteng

610 000

1 068 000

4 860 000

307 000

6 846 000

**KwaZulu/Natal**

1 190 000

2 167 000

4 843 000

347 000

8 548 000

Mpumalanga

403 000

698 000

1 645 000

90 000

2 838 000

**North-West**

550 000

815 000

1 987 000

153 000

3 506 000

Northern Cape

84 000

174 000

466 000

38 000

763 000

**Northern Province**

936 000

1 544 000

2 443 000

195 000

5 120 000

Western Cape

353 000

666 000

2 408 000

191 000

3 620 000

Total<sup>a</sup>

5 646 000

9 512 000

23 741 000

1 815 000

40 715 000

a

Figures may not add up owing to

*Population age profile: 1993<sup>a</sup>*

Province

0–4 years

5–14 years

15–64 years

65+

Eastern Cape

17,8%

26,5%

50,0%

5,6%

**Free State**

11,7%

21,7%

62,4%

4,1%

**Gauteng**

8,9%

15,6%

71,0%

4,5%

**KwaZulu/Natal**

13,9%

25,4%

56,7%

4,0%

**Mpumalanga**

14,2%

24,6%

58,0%

3,2%

**North-West**

15,7%

23,2%

56,7%

4,4%

Northern Cape

11,0%

22,8%

61,1%

5,0%

**Northern Province**

18,3%

30,2%

47,7%

3,8%

Western Cape

9,8%

18,4%

66,5%

5,3%

Average

13,9%

23,4%

58,3%

4,5%

a

Proportions add up horizontally to 100%.

In 1993, 58,3% of the population was in the 15–64 age group. Gauteng had the highest proportion of people aged 15–64 years (71%), followed by the Western Cape (66,5%). Some 13,9% of the population was in the 0–4 age group, 23,4% in the 5–14 age group and 4,5% over 65 years.<sup>63</sup> [<sup>63</sup> Ibid ]

According to the CSS, in 1991 about 59,5% of the population was in the 15–64 age group. Some 12,7% of the population was in the 0–4 age group, 23,2% in the 5–14 age group and 4,5% was over

## Educational Levels

The following table gives a provincial breakdown of literacy rates in South Africa in 1991 and 1995, according to figures compiled by the DBSA.<sup>65</sup> [<sup>65</sup> *Commentum* March 1995]

*Literacy rate by province: 1991 and 1995<sup>a</sup>*

Province

1991

1995

Eastern Cape

67,7%

77,8%

**Free State**



60,0%

69,0%

Gauteng

69,0%

87,8%

**KwaZulu/Natal**

58,7%

73,3%

Mpumalanga

54,6%

68,3%

**North-West**

55,8%

70,5%

Northern Cape

67,6%

67,0%

**Northern Province**

52,7%

64,8%

## Western Cape

71,9%

81,0%

## Average

61,4%

73,2%

a

Although the 1995 figures show an improvement in literacy rates, in most of the provinces this is partly attributed to under- recording in the 1991 census.

According to the DBSA, in 1995 Gauteng had the highest literacy rate (87,8%), followed by the Western Cape (81%). The Northern Province (64,8%) and the Northern Cape (67%) had the lowest literacy rates.<sup>66</sup> [66 Fax communication from Mr J Calitz, 23 August 1995]

*Edusource* said that in 1994, 42% of Africans over the age of 20 had received education after standard 5, compared with 55% of coloured people, 77% of Indians and 98% of whites.<sup>67</sup> [67 *Commentum* March 1995]

A national literacy study undertaken by Harvard University and the University of Cape Town, was published in May 1995. It found that in early 1994 about 80% of Africans in South Africa did not have a standard 5 level of literacy, compared with 40% of whites. Indians had the highest literacy level, while coloured people were between Africans and whites. The proportion of Africans attending school had risen from 50% to 85% between 1976 and 1994. In the same period, however, the proportion of Africans who had started school and had passed matriculation had dropped from 90% to 40% (see also chapter on *Education*).<sup>68</sup> [68 *Business Day* 1 June 1995, *Mail and Guardian* 2 June 1995]

In 1991 the population in Gauteng had on average the most years of schooling (8,6 years), while people in the Northern Province had the least schooling (4,6 years). The Northern Province, however, showed the largest increase in the number of years of schooling between 1980 and 1991—an increase

The following table shows the average number of years of schooling by province in 1980 and 1991 (the latest year for which figures were available):<sup>70</sup> [70 Ibid]

*Years of schooling by province: 1980 and 1991*

## Schooling<sup>a</sup> (years)

### *Province*

1980

1991

### Increase

#### Eastern Cape

4,63

6,65

43,6%

#### **Free State**

5,13

6,50

26,7%

#### Gauteng

7,35

8,59

16,9%

#### **KwaZulu/Natal**

4,91

6,48

32,0%

Mpumalanga

3,92

5,34

36,2%

**North-West**

4,35

5,75

32,2%

Northern Cape

5,42

6,25

15,3%

**Northern Province**

2,82

4,61

63,5%

Western Cape

7,63

8,45

10,8%

Average

5,43

6,86

26,3%

a

Average number of years of study for people 25 years and older.

The following chart shows a graphic representation of average number of years of study in

## Human Development

The human development index (HDI) is a method of measuring the socioeconomic development of countries. It is a composite of three factors: life expectancy, per capita income and level of education. The HDI indicates a country's relative position on a scale of 0–1. (Countries with an HDI of less than 0,5 are considered to have a low level of human development, those between 0,5 and 0,8 a medium level, and those of 0,8 and above a high level.)<sup>71</sup> [<sup>71</sup> *Ibid*]

In 1991 South Africa had an HDI of 0,677 and, therefore, an upper medium level of human development, according to the CSS. South Africa ranked similarly to Paraguay (0,679) and Iran (0,672). The HDI of the Western Cape and of Gauteng, however, placed these provinces among countries with a high level of human development, such as Singapore (0,836), the Ukraine (0,823), Venezuela (0,82) and Poland (0,815).<sup>72</sup> [<sup>72</sup> *Ibid*]

Between 1980 and 1991 the HDIs of the Western Cape and Gauteng increased from more than 0,6 to over 0,8, indicating a movement from a medium to a high level of human development. The Northern Province had the lowest level of human development in 1980 and 1991. Despite a 28% increase it was the only province in 1991 still to have an HDI of less than 0,5.<sup>73</sup> [<sup>73</sup> *Ibid*]

The table below provides the HDI for each province in 1980 and 1991:<sup>74</sup> [<sup>74</sup> *Ibid*]

*Human development index by province: 1980 and 1991*

Province

1980

1991

Increase

Eastern Cape

0,416

0,507

21,9%

**Free State**

0,556

0,657

18,2%

Gauteng

0,634

0,818

29,0%

**KwaZulu/Natal**

0,491

0,602

22,6%

Mpumalanga

0,513

0,694

35,3%

**North-West**

0,483

0,543

12,4%

Northern Cape

0,545

0,698

28,1%

**Northern Province**

0,367

0,470

28,1%

Western Cape

0,643

0,826

28,5%

Average

0,557

0,677

21,5%

The following table gives a breakdown of the HDI according to race in 1980 a

*Human development index by race: 1980 and 1991*

1980

1991

Increase

African

0,394

0,500

26,9%

Asian

0,655

0,836

27,6%

Coloured

0,532

0,663

24,6%



White

0,739

0,901

21,9%

Average

0,557

0,677

21

Although in both 1980 and 1991 Africans had the lowest HDI it increased from 0,394 to 0,5, indicating a movement from a low to a medium level of human development. Whites (0,901) and Asians (0,836) had a high level of human development in 1991. According to the CSS, if whites in South Africa had been regarded as a separate 'country' in 1991, they would have ranked 19th in the world (just after New Zealand), while Africans would have ranked 119th (just after the Maldives).<sup>76</sup> [<sup>76</sup> *Ibid*]

The table below provides a breakdown of HDI according to the urban and non-urban population in 1980 and 1991:<sup>77</sup> [<sup>77</sup> *Ibid*]

*HDI<sup>a</sup> according to urban and non-urban population: 1980 and 1991*

1980

1991

Increase

Urban

0,639

0,807

26,3%

## Non-urban

0,379

0,466

22,9%

## Average

0,557

0,677

21,5%

a

Human development index.

According to the CSS, in 1980 and in 1991 the non-urban population in South Africa had a low level of human development (below 0,5). Between 1980 and 1991 the HDI of the urban population increased from 0,639 to 0,807 (by 26%), from a medium to a high level of human developmen

## URBANISATION

A report published by the Centre for Development and Enterprise (CDE) in September 1995 and entitled *Post-apartheid population and income trends: A new analysis*, stated that since the late 1980s metropolitan destinations were no longer the 'automatic choice' for all migrants. The relatively smaller growth of the metropolitan areas was also ascribed to the lower rates of population increase in such areas and the possibility that the previously calculated rate of urbanisation had been overestimated. The report also pointed out, however, that as the metropolises were not generating economic opportunities and had high levels of violence, migration to these areas could have slowed.<sup>79</sup> [<sup>79</sup> *Ibid*]

The following table shows the urban/rural distribution of the South African population in 1995:<sup>80</sup> [<sup>80</sup> CDE, *Post-apartheid population and income trends, September 1995*]

*Urban/rural distribution of the South African population: 1995*

Province

Rural

Urban

Metropolitan<sup>a</sup>

Total

Eastern Cape

4 900 292

213 890

2 722 742

7 836 924

**Free State**

1 101 541

1 678 384

0

2 779 925

Gauteng

229 743

403 817

6 881 271

7 514 831

**KwaZulu/Natal**

5 561 131

442 511

3 257 354

9 260 996

**Mpumalanga**

1 790 981

1 190 822

10 327

2 992 130

**North-West**

2 378 079

1 435 508

0

3 813 587

**Northern Cape**

183 152

600 363

0

783 515

**Northern Province**

4 849 268

951 493

0

5 800 761

Western Cape

432 553

208 079

3 247 768

3 888 400

Total

21 426 740

7 124 867

16 119 462

44 671 069

a

A metropolitan area is a number of districts grouped together to form a densely populated urban area. There is as yet no agreement on how many districts comprise a metropole.

According to the Development Bank of Southern Africa (DBSA), in 1995 the provinces with the largest rural populations were KwaZulu/Natal (5,6m people), the Eastern Cape (4,9m people) and the Northern Province (4,8m people). Gauteng had the largest urban and metropolitan population (7,3m people), while KwaZulu/Natal had the second largest, with 3,7m people. The Free State, the North-West, the Northern Cape and the Northern Province had no metropolitan areas.<sup>81</sup> [<sup>81</sup> Fax communication from Mr J Calitz, 23 August 1995]

The following table shows the proportional distribution of the population

*Proportional distribution of the population: 1995<sup>a</sup>*

Province

Rural

Urban

Metropolitan

Total

Eastern Cape

62,5%

2,7%

34,7%

100%

**Free State**

39,6%

60,4%

0,0%

100%

Gauteng

3,1%

5,4%

91,6%

100%

**KwaZulu/Natal**

60,0%

4,8%

35,2%

100%

**Mpumalanga**

59,9%

39,8%

0,3%

100%

**North-West**

62,4%

37,6%

0,0%

100%

**Northern Cape**

23,4%

76,6%

0,0%

100%

**Northern Province**

83,6%

16,4%

0,0%

100%

Western Cape

11,1%

5,4%

83,5%

100%

Average

47,9%

15,9%

36,1%

100%

a

Figures may not add up owing to

According to projections made by the CDE in September 1995, the Witwatersrand (which included all areas from Randfontein in the west to Nigel in the east and the formal townships and informal settlement areas) had a population of 5,48m in 1995, compared with a projected 6,14m in 2000 (ie an increase of 12%) and 7,68m in 2011. The Durban metropolitan area, with an estimated population of 3,22m in 1995



would have 3,69m people in 2000 (14,6% more) and 4,82m in 2011 (another 30,6%). Pretoria (the third largest metropolitan centre), which had 2,34m people in 1995 would have 2,64m in 2000 (12,8% more) and 3,34m by 2011 (another 26,5%).<sup>83</sup> [<sup>83</sup> *Ibid* ]

The table below shows the distribution of the population in 1995 and as projected by the CDE in 2000 and 2011:<sup>84</sup> [<sup>84</sup> *CDE, Post-apartheid population and income trends, September 1995*]

*Urban/rural population estimates: 1995,2000 and 2011*

Population 1995
Proportion of total
Population 2000
Proportion of total
Population 2011
Proportion of total
Metropolitan and urban
20,1m
49%
22,8m
50%
28,9m
53%
Small towns
3,3m
8%

3,7m

8%

4,5m

8%

Rural areas

17,8m

43%

18,9m

42%

20,7m

38%

Total<sup>a</sup>

41,2m

100%

45,4m

100%

54,1m

100%

a

Figures may not add up owing to rounding.

The proportion of the population living in metropolitan areas, cities and large towns would increase from 48,8% to 53,4% between 1995 and 2011, while the proportion living in small towns and rural areas would decrease from 51,2% to 46,6% in the same period. The chart below shows urban/ rural population est

## Policy

At the time of writing, there was no information available on the government's urbanisation policy.

## EMIGRATION AND IMMIGRATION

### Policy

See *Legislation* above.

### Emigration

According to the Central Statistical Service (CSS), a total of 10 235 people emigrated from South Africa in 1994, compared with 8 078 in 1993—an increase of 27%. Most people emigrated to the United Kingdom (2 880), New Zealand (1 465), Australia (1 298), Canada (947) and the United States (752).<sup>85</sup> [<sup>85</sup> *Ibid* ]

The following table provides a comparative breakdown of officially recorded immigration to, and emigration from, South Africa from 1975 to 1994:<sup>86</sup> [<sup>86</sup> *CSS, Tourism and Migration February and March 1995, statistical release, PO351, 10 July 1995; fax communication from Ms F van Niekerk, librarian, CSS, 11 September 1995*]

*Immigration and emigration: 1975–94*

Year

Emigration

Immigration

Net gain (loss)

1975

10 255

50 464

40 209

**1976**

15 641

46 245

30 604

1977

26 000

24 822

(1 178)

**1978**

20 683

18 669

(2 014)

1979

13 828

17 304

3 476

**1980**

11 957

32 070

20 113

1981

8 791

41 541

32 750

**1982**

6 832

45 784

38 952

1983

8 247

30 483

22 236

**1984**

8 550

28 793

20 243

1985

11 401

17 284

5 883

**1986**

13 711

6 994

(6 717)

1987

11 174

7 953

(3 221)

**1988**

7 767

10 400

2 633

1989

4 911

11 270

6 359

**1990**

4 722

14 499

9 777

1991

4 256

12 379

8 123

**1992**

4 289

8 686

4 397

1993

8 078

9 824

1 746

**1994**

10

While South Africa had a net gain of 40 209 people and 38 952 people in 1975 and 1982 respectively, this figure dropped steadily over the period to 1994, because of a drop in the number of legal immigrants to South Africa. Between 1975 and 1994 South Africa had a net gain of 230 534 immigrants.

The following line graph plots the trends in immigration and emigration from 1984 to 1994:

### **The 'Brain Drain'**

The CSS said that 4 860 people who were economically active left South Africa in 1994, compared with 2 077 in 1992—an increase of 134%. Comparative figures for 1993 were not available. The table below

gives a breakdown of the occupations of emigrants from South Africa in 1992 and 1994.<sup>87</sup> [<sup>87</sup> *CSS, Tourism and Migration February and March 1995*, statistical release PO351, 10 July 1995]

*Number of emigrants according to occupation: 1992 and 1994*

Number of emigrants

Net increase (decrease)

Occupation

1992

1994

Artisans, apprentices and related activities

244

402

64,8%

Clerical and sales

526

1 008

91,6%

Farming and related activities

19

14

(26,3%)

Managerial, executive and administrative



242

638

163,6%

Mining and quarry working and production-related activities

33

67

103,0%

Subtotal

1 064

2 129

100,1%

Professional, semi-professional and technical

Accounting and related occupations

63

200

217,5%

Dental

10

16

60,0%

## Education and related occupations

152

305

100,7%

## Engineering and related occupations

233

393

68,7%

## Medical practitioner

27

72

166,6%

## Medical specialist

10

21

110,0%

## Other

403

953

136,5%

## Subtotal

898

1 960

118,3%

Service

54

122

125,9%

Transport, delivery and communications

9

45

400,0%

Unspecified

52

604

1 061,5%

Subtotal

115

771

570,4%

Total

In 1994, 1 960 people in professional, semi-professional and technical occupations emigrated from South Africa, compared with 898 people in 1992—an increase of 118% (see also chapters on *The Economy and Employment and Industrial Relations*).<sup>88</sup> [<sup>88</sup> Ibid; fax communication from Ms F van Niekerk, 11 September 1995]

## Immigration

### Legal Immigration

A total of 6 398 people immigrated to South Africa in 1994, compared with 9 824 in 1993—a drop of 35%, according to the CSS. Most immigrants came from the United Kingdom (1 047), the Republic of China (584), Zimbabwe (556), India (395) and Yugoslavia (333).<sup>89</sup> [<sup>89</sup> CSS, *Tourism and Migration February and March 1995*, statistical release PO351, 10 July 1995; fax communication from Ms F van Niekerk, 11 September 1995]

### Citizenship

In March 1995 the minister of home affairs, Chief Mangosuthu Buthelezi, said in response to a question in Parliament that in 1994 some 1,83m people obtained South African citizenship by birth, some 5 400 by descent and some 11 500 by naturalisation.<sup>90</sup> [<sup>90</sup> *Hansard* (S) 3q col 144, 29 March 1995]

The following table gives a racial breakdown of the South African population according to citizenship in 1991.<sup>91</sup> [<sup>91</sup> Fax communication from Ms F van Niekerk, 24 August 1995]

#### *Population according to citizenship: 1991*

Region
African
Asian
Coloured
White
Total
South Africa <sup>a</sup>
21 150 764

976 720

3 275 969

4 678 124

30 081 577

Rest of Africa

451 472

959

5 354

50 539

508 324

Americas

111

143

51

9 383

9 688

Asia

630

4 897

155

8 865

14 547

Europe

1 974

536

650

302 122

305 282

Oceania

253

80

81

5 869

6 283

Unspecified

39 854

2 128

3 413

7 475

52 870

## Foreign visitors

1 413

1 156

46

5 734

8 349

Total<sup>b</sup>

21 646 471

986 620

3 285 719

5 068 111

30 986 920

a

Excludes the former 'independent' homelands.

b

Figures may not add up owing to rounding.

According to the CSS, in 1991 some 30,1m people living in South Africa were South African citizens. About 0,5m people were citizens from various countries in Africa, while approximately 0,3m people had European citizenship, the CSS said.<sup>92</sup> [<sup>92</sup> Ibid ]

The South African Citizenship Act, passed in September 1995, provided that South African citizenship could be acquired only through birth, descent or naturalisation—according to the previous act, citizenship could also be acquired through registration (see also *Central government* under Legislation above). People wishing to become South African citizens would have to renounce their former

citizenship. According to the director general of home affairs, Dr Piet Colyn, the measure would not affect South Africans who already held dual citizenship and foreign passports. The act further consolidated various citizenship acts with the reincorporation of the former homelands into Sout

### ***Permanent Residence***

The table below gives a breakdown of the number of immigrants from selected countries granted and refused permanent residence in South Africa in 1993 and 1994:<sup>94</sup> [<sup>94</sup> *Hansard* (NA) 2 q, col 119, 15 March 1995]

#### *Permanent residence: 1993 and 1994*

Permanent residence granted

Permanent residence refused

Region

1993

1994

1993

1994

African countries

737

760

245

445

European countries

3 317

2 269



212

1 106

Asian countries<sup>a</sup>

3 799

1 377

469

1 229

South American countries

113

86

7

44

Total

7 966

4 492

933

2 824

a

Refers to India, Pakistan and Ta

The minister of home affairs, Chief Mangosuthu Buthelezi, said in Parliament in March 1995 that the majority of immigrants who had been granted permanent residence in South Africa in 1994 had come

from Europe and the Republic of China. The number of immigrants granted permanent residence had, however, dropped by 44% between 1993 and 1994, Chief Buthelezi said.<sup>95</sup> [<sup>95</sup> *Ibid* ]

## **Illegal Immigration**

Estimates of the number of illegal immigrants in South Africa in 1994 and 1995 differed. In November 1994 the chief whip of the National Party in the National Assembly, Mr Derek Christophers, said that there were about 3m illegal immigrants in South Africa and that about 1 200 immigrants were entering Gauteng every month. Mr Christophers said that the government was not enforcing immigration laws to protect local citizens from losing their jobs to immigrants.<sup>96</sup> [<sup>96</sup> *The Citizen* 23 November 1994]

The national co-ordinator of border control and policing in the South African Police Service (SAPS), Colonel Brian van Niekerk, said in a document published by the Institute for Strategic Studies at the University of Pretoria in September 1995, that in the previous five years illegal immigrants had cost the taxpayer about R5bn.<sup>97</sup> [<sup>97</sup> *The Star* 18 September 1995] Col van Niekerk said in November 1995 that there were some 5m illegal immigrants from Africa, Asia and Europe in the country (based on Human Sciences Research Council estimates)—an increase of 317% from 1988, when there were 1,2m. He added that, based on conservative estimates, each illegal immigrant cost South Africa about R400 a year. In 1995, therefore, illegal immigrants had cost the taxpayer about R2 000m. Col van Niekerk said that a distinction had to be made between ‘informal movers’—illegal immigrants from neighbouring countries who came to South Africa for a brief period to find work on a temporary basis and then returned home—and ‘formal movers’—illegal immigrants from the Pacific and Indian Ocean Rim countries and Europe who took up residence permanently in South Africa. Although informal and formal movers had both become involved in crime syndicates, informal movers were drawn into this involuntarily, while formal movers involved themselves voluntarily.<sup>98</sup> [<sup>98</sup> Telephonic interview with Colonel Brian van Niekerk, national co-ordinator of border control and policing, South African Police Service, 9 November 1995]

According to the executive deputy president from the majority party, Mr Thabo Mbeki, there were between 2m and 3m illegal immigrants in South Africa. In Gauteng alone there were about 1m illegal immigrants, the premier of Gauteng, Mr Tokyo Sexwale, said in June 1995.<sup>99</sup> [<sup>99</sup> *The Star* 9 June 1995] A spokesman for the SAPS in the Western Cape, Colonel Raymond Dowd, said in the same month that there were between 2,5m and 8m illegal immigrants in South Africa.<sup>100</sup> [<sup>100</sup> *The Citizen* 29 June 1995]

## **Repatriation and Deportation**

Repatriation is the process whereby a person who has illegally entered a country or whose temporary residence has expired is restored to his/her land of origin. Deportation is where a person is sent back to his/her country of birth from the country where he/she is legally resident if he/she commits a court, and is not allowed to re-enter the country from which he/she was deported.

The deputy minister of industry of Zimbabwe, Mr Simon Moyo, said in October 1994 that South Africa

should repatriate Zimbabwean illegal immigrants 'in phases' rather than 'overnight' because of unemployment in Zimbabwe. (It is estimated that South Africa has about 300 000 illegal immigrants from Zimbabwe and in 1994 repatriated some 13 000 of these.)<sup>101</sup> [<sup>101</sup> *Ibid* 14 October 1994]

A spokesman for the South African National Defence Force, Colonel Borries Bornman, said in October 1994 that an increasing number of illegal immigrants were under 16 years old, orphaned or had parents with AIDS and were bringing AIDS and other diseases into South Africa. The number of immigrants who had come from countries beyond South Africa's direct neighbours, such as Burundi, Ghana, Liberia, Malawi, Rwanda and Tanzania, had also increased, Col Bornman said.<sup>102</sup> [<sup>102</sup> *Ibid* 17 October 1994]

Mr Mbeki said in November 1994 that South Africa spent about R4m a year repatriating illegal immigrants, yet most of those immigrants returned to South Africa within a few days of being repatriated. South Africa had 'to ensure' that the process of regional development within the Southern African Development Community was such that the number of immigrants leaving their home countries because of poverty and conflict there would be reduced, Mr Mbeki said.<sup>103</sup> [<sup>103</sup> *Sowetan* 3 November 1994]

In the same month Mr Sexwale said that the government was compelled by international treaties to deal with illegal immigrants in a 'humane' way. Immigrants were not necessarily criminals and could not simply be 'pushed out' of South Africa. Many illegal immigrants had come from countries including Botswana, Lesotho and Tanzania where members of the African National Congress had found refuge during the liberation struggle, Mr Sexwale said. (See also *Refugees and asylum seekers* below.)<sup>104</sup> [<sup>104</sup> *The Citizen* 23 November 1994]

Chief Buthelezi said in December 1994 that people employing illegal immigrants would be penalised in terms of the Aliens Control Act of 1991. Although African states had protected South African refugees during the years of apartheid this could not be used as a pretext to overlook the influx of illegal immigrants, who compounded South Africa's unemployment problem, Chief Buthelezi said.<sup>105</sup> [<sup>105</sup> *Weekend Star* 3 December 1994]

Some 90 700 illegal immigrants had been repatriated during 1994, mostly to Lesotho (4 073), Mozambique (71 279) and Zimbabwe (12 931), Chief Buthelezi said in Parliament in March 1995. In 1993, 96 600 illegal immigrants had been repatriated.<sup>106</sup> [<sup>106</sup> *Hansard* (NA) 2 q, col 116-118, 15 March 1995]

Between 1988 and 1994 most repatriations from South Africa had been to Mozambique (375 023 people), Zimbabwe (57 706 people), Lesotho (30 798 people) and Swaziland (10 214 people). Repatriations had more than doubled during this period but had dropped in 1994 to countries such as Botswana and Mozambique, compared with 1993. Repatriations to Mozambique in 1994 comprised 78,7% of all repatriations, compared with 75,6% in 1988, thus making Mozambique probably the largest source of illegal immigrants.<sup>107</sup> [<sup>107</sup> *Ibid*]

The following table gives a breakdown of repatriations from South Africa from 1988 to 1994:<sup>108</sup> [108 Ibid]

*Repatriations from South Africa: 1988–94*

Country

1988

1989

1990

1991

1992

1993

1994

Total

Mozambique

33 446

38 758

42 330

47 074

61 210

80 926

71 279

375 023

**Zimbabwe**

3 527

5 817

5 363

7 174

12 033

10 861

12 931

57 706

**Lesotho**

4 400

4 728

3 832

4 440

6 235

3 090

4 073

30 798

**Swaziland**

1 839

1 269

1 225

1 828

2 283

789

981

10 214

**Botswana**

757

843

569

604

458

105

47

3 383

**Malawi**

248

110

78

177

157

250

398

1 418

**Namibia**

0

0

0

0

0

337

219

556

**Tanzania**

7

4

6

15

47

52

241

372

Zaire

0

0

0

13

94

22

20

149

**Ghana**

1

0

0

1

9

33

49

93

India



0

0

0

0

10

16

64

90

**PRC<sup>a</sup>**

0

0

0

7

2

43

32

84

Nigeria

0

0

0

0

3

22

48

73

**Senegal**

0

0

0

0

0

1

69

70

**Pakistan**

0

0

0

0

4

6

57

67

**Angola**

0

0

0

1

4

1

18

24

Total

44 225

51 529

53 403

61 334

82 549

96 554

90 526

480 120

a

People's Republic of China.

In September 1995 the president, Mr Nelson Mandela, said that the government would slow down its repatriation of illegal immigrants from Mozambique. He added that Mr Joaquim Chissano, the president of Mozambique, had requested the slowdown because his country could not cope with the number of people being sent back. The Department of Home Affairs said in the same month that in the period January–July 1995 South Africa had repatriated 60 512 illegal Mozambican immigrants.<sup>109</sup> [<sup>109</sup> *Business Day* 29 September 1995]

According to the Department of Home Affairs, 215 deportation orders were issued in 1994, compared with 683 in 1993. The number of deportation orders issued, however, did not correlate with the number executed because many of the deportation orders could be carried out only after offenders had served their sentences. Deportations of citizens of the former 'independent' homelands were discontinued with effect from 1st January 1995, when they became South Af

## Refugees and Asylum Seekers

According to the Department of Home Affairs, a total of 4 709 refugees had applied for permanent residence up until September 1995. Most applicants had come from Zaire (869), Angola (629), Pakistan (584) and Nigeria (433).<sup>111</sup> [<sup>111</sup> Fax communication from Mr Hennie Meyer, Communication, Department of Home Affairs, 15 September 1995]

Mr Mbeki said in October 1994 at a conference organised by the South African Council of Churches (SACC) that hostility towards refugees from countries such as Botswana, Tanzania and Zimbabwe was 'unhealthy' because South African refugees had been well received in those countries during the years of apartheid. Southern Africa should investigate ways of solving the problem regionally.<sup>112</sup> [<sup>112</sup> *Business Day, The Star* 13 October 1994]

The conference resolved that the issue of migration within southern Africa would be part of a proposed Southern African Development Community protocol to guarantee human rights, including those of asylum seekers and refugees.<sup>113</sup> [<sup>113</sup> *Ibid*]

## KEY POINTS

- According to the Centre for Development and Enterprise (CDE), South Africa's population would

increase to 45,4m by 2000 and to 53,4m by 2010. The Centre for Population Studies at the University of Pretoria estimated that the population would increase to 57,51m by 2010 and to 70,08m by 2025.

- The African fertility rate was expected to drop to 3,5 children per woman in the period 1996–2001, the CDE said.
- The *Black Township Market Review*, a survey on township demographics published in February 1995, said that the African, coloured and Indian population in Gauteng would collectively rise from 7,3m to 12,9m between 1995 and 2010—an increase of 77%.
- In 2000, 50% of the population would be living in urban areas, according to the CDE. By 2011 about 53% of the population would be living in metropolitan areas, cities and large towns, while 38% would be in rural areas and 8% in small towns.

## **POLITICS AND SECURITY**

### **BIRD'S EYE VIEW**

Although there were fewer fatalities resulting from political violence in 1994 than in 1993, violence continued to afflict several parts of the country and KwaZulu/Natal in particular. Conflict between members of the African National Congress (ANC) and the Inkatha Freedom Party (IFP) contributed significantly towards political violence in that province. The premier of KwaZulu/Natal, Dr Frank Mdlalose, blamed 'misguided political rivalry' for most of the violence.

The period also saw renewed claims of 'third-force' and hit-squad activities. Several such claims arose in the trial of the former commander of the C10 unit stationed at Vlakplaas, Colonel Eugene de Kock. Perhaps the most significant development in this regard was the arrest in October 1995 of the former minister of defence, General Magnus Malan, and ten high-ranking former security force officers in connection with the murders of 13 people in KwaZulu/Natal in 1987.

The facilitating legislation for the establishment of the Truth and Reconciliation Commission was signed into law in July. Some political parties and commentators expressed fears, however, that the commission could be used to start a witch hunt of ANC opponents rather than promote reconciliation.

The period under review also saw some debate over media diversity and ownership, particularly foreign ownership of South African media. The Independent Broadcasting Authority proposed, inter alia, that there be a 50% local content quota on South African Broadcasting Corporation television.

Both the South African Police Service and the South African National Defence Force (SANDF) continued with the restructuring of their services. The various police forces were integrated into a single police service organised at both national and provincial level.

During the period under review 16 450 of the estimated 35 000 former guerrillas were integrated into the SANDF. The National Intelligence Service was disbanded on 31st December 1994 and replaced by an agency for internal security and one for foreign intelligence.

The year 1995 saw the new government moving rapidly from a position of international political isolation that was a mark of previous governments, to one of expanded diplomatic, trade and other ties with many countries.

South Africa also began playing an active role in regional affairs. The year 1995 saw the government attempting to intervene diplomatically in countries such as Angola and Nigeria.

Crime continued to pose a problem to the security of South Africans. Vehicle hijacking continued to increase, most hijacks occurring in Gauteng. The National Crime Investigation Service said that there were as many as 480 organised crime syndicates operating in South Africa in 1995, while the minister of justice, Mr Dullah Omar, said as many as 115 drug syndicates were operating in the country.

## **KEY POINTS**

- According to figures compiled by the South African Institute of Race Relations, 1 044 people were killed in political violence in 1995 (a decrease of 57,8% on 1994).
- Violence in the taxi industry continued during 1995. By August 1995 there had been 123 incidents of taxi violence in Gauteng alone, resulting in some 60 deaths and 71 injuries.
- The total number of reported crimes increased by 4,8% from 1 852 223 in 1993 to 1 940 774 in 1994. The total number of murders in 1994 dropped by 6,5% compared with 1993, while the average number of robberies with aggravating circumstances increased by 13,9%.
- An average of 821 vehicles per month (27 vehicles per day) were hijacked in South Africa in 1994. About 77,8% of these hijackings occurred in Gauteng.
- Public violence was down 83,1% on the 1993 figures.
- Reported cases of fraud totalled R2,93bn in 1994, compared with R1,32bn in 1993 (an increase of 122%).
- The Truth and Reconciliation Commission, set up in terms of the Promotion of National Unity and Reconciliation Act of 1995, was appointed in December 1995. Mr Mandela designated Archbishop Desmond Tutu as chairman.
- The State of Emergency Act, which provided for the president to declare a state of emergency in South

Africa, was passed in September 1995.

- The South African Police Service Act, passed in September 1995, provided for a single police service for the entire country and organised it at both national and provincial level.
- The Independent Broadcasting Authority (IBA) recommended to Parliament in 1995 that newspapers be allowed to acquire a financial interest in a broadcast licence. A newspaper, however, would not be permitted to control such ventures if its readership exceeded 15% of the radio or television station's licensed area or if the radio station's licensed area overlapped with the newspaper's circulation by 50% or more.
- The IBA had granted 63 temporary community broadcasting licences by September 1995. No licences for commercial radio stations had yet been granted.
- South Africa hosted the Southern African Development Community's annual conference—for the first time ever—in 1995 and several agreements on matters such as energy, technology, trade, water and regional co-operation were signed by member states.

## POLITICAL DEVELOPMENTS

### Foreign Relations

At the 50th anniversary conference of the United Nations (UN) in New York in October 1995, the president, Mr Nelson Mandela, said that it was unacceptable that the UN Security Council, should consist of only five permanent members (the United Kingdom, the People's Republic of China, France, Russia and the United States (US)), most of them from the West. He added that the council should reflect the 'main compositions of the various forms of civilisation in the world'. Mr Mandela called on the UN to consider restructuring its organs so as to give more influence to smaller countries.<sup>1</sup> [<sup>1</sup> *The Citizen* 24 October 1995]

Mr Mandela said South Africa would not hesitate to take part in UN peacekeeping operations in southern Africa.<sup>2</sup> [<sup>2</sup> *Business Day* 24 October 1995]

During the period under review Mr Mandela and other members of the government paid numerous visits abroad, while various foreign leaders travelled to South Africa. On several occasions bilateral trade, aid and other agreements were signed.

Among the more noteworthy developments, the minister of foreign affairs, Mr Alfred Nzo, said in Tokyo (Japan) in January 1995, that South Africa wished to recognise the People's Republic of China but saw 'no reason' to break its diplomatic relations with the Republic of China on Taiwan.<sup>3</sup> [<sup>3</sup> *The Citizen* 1 February 1995]

Also in January 1995, Mr Mandela paid a visit to India. During his visit he backed plans to launch an Indian Ocean Rim agreement to promote economic co-operation between Australia, India, Mauritius, South Africa and other Indian Ocean countries.<sup>4</sup> [4 *The Star* 26 January 1995]

After meeting with the deputy president from the largest minority party, Mr F W de Klerk, in February 1995 the president of Mozambique, Mr Joachim Chissano, said that talks were under way on South African involvement in the development of gas and other projects in Mozambique. Mr Chissano also signed an agricultural agreement with Mr Mandela which provided for the settlement in Mozambique of about 1 000 South African red-meat farmers.<sup>5</sup> [5 *Daily Dispatch* 1 March 1995]

In March 1995 the executive deputy president from the majority party, Mr Thabo Mbeki, and the vice president of the US, Mr Al Gore, launched a United States–South Africa binational commission aimed at strengthening ties between the two countries and resolving problems that might arise between them. The commission would have five committees to deal with business development, education, energy development, environmental matters, and science and technology.<sup>6</sup> [6 *The Star* 6 March 1995]

The British monarch, Queen Elizabeth II, arrived in South Africa in March 1995 on a six-day state visit—her first since 1947—to mark South Africa’s return to the Commonwealth.<sup>7</sup> [7 *Business Day* 20 March 1994]

In May 1995 the government announced that it would no longer supply certain types of arms to Turkey ‘in line with similar decisions taken by several other countries’ in protest against the country’s violation of the human rights of its Kurdish population. The Turkish government in turn prohibited South Africa from tendering for or selling military equipment to it, claiming that the African National Congress (ANC) was backing the Kurdish resistance movement.<sup>8</sup> [8 *The Citizen* 25 May 1995]

In May Mr Mandela met the leader of the Unita movement in Angola, Dr Jonas Savimbi, in Cape Town. He said afterwards that he had encouraged Dr Savimbi to work towards a government of national unity in Angola.<sup>9</sup> [9 *Ibid* 19 May 1995] Dr Savimbi promised to free all South African prisoners held by Unita and return the bodies of South Africans killed in the Angolan war.<sup>10</sup> [10 *Cape Times* 19 May 1995 ]

During a visit to Oslo (Norway) in May 1995 Mr Nzo explained that South Africa would participate in peacekeeping operations in Africa once it had completed reorganising its military forces. He added, however, that South Africa favoured stability through diplomatic efforts rather than military force.<sup>11</sup> [11 *The Citizen* 23 May 1995]

In June 1995 the president of the political wing of the Irish Republican Army Sinn Fein, Mr Gerry Adams, visited South Africa at the invitation of the ANC, which had indicated its willingness to help in the Irish peace process. Mr Adams said that there were many parallels between the South African and Irish peace processes and that Sinn Fein could learn many lessons from the ANC’s transformation from



a liberation movement to a ruling party.<sup>12</sup> [<sup>12</sup> Ibid 15 June 1995]

In July 1995 Mr Mbeki held talks with the Nigerian military ruler, General Sani Abacha, and appealed for clemency for Nigerian citizens sentenced to death and life imprisonment for attempting to overthrow his government. These included former head of state General Olusegun Obasanjo and Chief Moshood Abiola—the civilian who was widely believed to have won the Nigerian presidential election in 1993—only to be accused of treason and have his election annulled by the then military ruler, General Ibrahim Babangida.<sup>13</sup> [<sup>13</sup> Ibid 24 July 1995]

In October 1995 Gen Abacha reduced Gen Obasanjo's sentence from life imprisonment to 15 years and announced a process which was to lead to elections in late 1998.<sup>14</sup> [<sup>14</sup> *The Star* 1 November 1995]

In November 1995 the Nigerian authorities executed nine human rights activists despite appeals by South Africa and other members of the international community for a stay of execution. As a result, the following day at a meeting of Commonwealth heads of government in New Zealand, Mr Mandela called for the expulsion of Nigeria from the Commonwealth. The meeting decided instead to suspend Nigeria's membership of the Commonwealth and give the Nigerian authorities a two-year deadline to reform politically or face expulsion from the organisation. South Africa recalled its high commissioner to Nigeria and called for a ban on the purchase of oil from the country. The calls, however, had not resulted in any oil sanctions at the time of writing.<sup>15</sup> [<sup>15</sup> *The Citizen* 14 November 1995, *Business Day* 16 November 1995]

In July Mr Mandela undertook an official visit to Lesotho. Addressing the Lesotho Parliament, he said that he favoured the retention of the existing South Africa–Lesotho borders but said he would 'look sympathetically' at Lesotho's desire for a corridor to the sea.<sup>16</sup> [<sup>16</sup> *Business Day* 14 July 1995]

The 15th annual meeting of the leaders of member states of the Southern African Development Community (SADC)—and the first to be held in South Africa—was held on 28th August 1995 in Kempton Park, near Johannesburg. Mauritius was accepted by the SADC as its 12th member. The other members were Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.<sup>17</sup> [<sup>17</sup> Ibid 29 August 1995] The member states agreed to hold a meeting with the Common Market for Eastern and Southern Africa to clarify the future of the two organisations (see also chapter on *Business*). Most leaders signed an agreement on shared watercourse systems but Zambia and Angola abstained saying they would have to consult their governments first. Delegates also signed a memorandum of understanding creating conditions for a regional power pool and the sharing of electricity with those countries needing it.<sup>18</sup> [<sup>18</sup> *The Star* 29 August 1995]

In his opening speech at the meeting, Mr Mandela warned against moving to full regional integration and trade liberalisation with 'undue speed' because this could result in negative migration trends in capital, skills and labour. 'National interest dictated that South Africa move towards closer economic ties' with its neighbours. He said that none of the SADC members could achieve sustainable growth and

development or peace and stability, in isolation.<sup>19</sup> [<sup>19</sup> *The Citizen* 29 August 1995]

After a meeting with the visiting Iranian minister of foreign affairs, Mr Ali Akbar Velayati, in August 1995 the minister of mineral and energy affairs, Mr Roelof (Pik) Botha, said that South Africa would override objections by the US and sign a multimillion rand oil deal with Iran in terms of which Iran would store 15m barrels of oil at the Cape West Coast Saldanha storage site.<sup>20</sup> [<sup>20</sup> *The Star* 16 August 1995] Mr Velayati and Mr Nzo had earlier signed a trade co-operation agreement. He added that South Africa would be guaranteed trade access to central Europe and Russia through Iran.<sup>21</sup> [<sup>21</sup> *Ibid*]

Following the appointment of South Africa's ambassador to Cuba in August 1995, the Republican chairwoman of the US House of Representatives' subcommittee on Africa expressed 'great concern and disappointment' to the South African ambassador to the US, Mr Franklin Sonn, that South Africa was extending its relationship with Cuba. In his reply, Mr Sonn said that South Africa, like the US, was striving to promote democracy in Cuba through its relationship with Cuba and 'diplomacy without confrontation'.<sup>22</sup> [<sup>22</sup> *Die Burger* 28 July 1995]

## Truth and Reconciliation Commission

In July 1995 the president, Mr Nelson Mandela, assented to the Promotion of National Unity and Reconciliation Act, which provided for the establishment of the Truth and Reconciliation Commission.<sup>23</sup> [<sup>23</sup> *The Star* 20 July 1995]

During debate on the legislation in the National Assembly in May 1995, Mr Mandela said that he had 'great sympathy with those who had wanted the cut-off date [for amnesty] extended from 5th December 1993 to 10th May 1994'. Consideration had to be given, however, to the endemic violence and the continuing activities of hit squads in various parts of the country. Those who wanted the amnesty date extended had to co-operate first in reducing the high levels of violence, Mr Mandela added.<sup>24</sup> [<sup>24</sup> *The Citizen* 18 May 1995]

The Freedom Front's spokesman on justice, Mr Corné Mulder, whose party had opposed the passage of the bill, told Parliament that the cut-off date was unacceptable and arbitrary and the legislation would only lead to disunity and conflict.<sup>25</sup> [<sup>25</sup> *Ibid*] The Pan-Africanist Congress also called for an extension of the cut-off date.<sup>26</sup> [<sup>26</sup> *Beeld* 20 July 1995]

During the debate in the Senate, Mr Ivor Powell (Inkatha Freedom Party), whose party abstained from the vote on the bill, said that to believe that the commission would disclose the truth was 'the stuff of Disneyland'.<sup>27</sup> [<sup>27</sup> *The Citizen* 28 June 1995]

Speaking at a National Party (NP) meeting in Stellenbosch in September 1995, the leader of the party, Mr F W de Klerk, said that elements in the African National Congress were working with sections of the

media to turn the Truth and Reconciliation Commission into a one-sided witch hunt. This could break down all the goodwill that had been built up in the last five years. Mr de Klerk added that the commission had the potential to bring reconciliation to a standstill and make 'a joke of nation-building'. The commission should follow an even-handed approach, not a prosecutorial one, Mr de Klerk said.<sup>28</sup> [<sup>28</sup> Ibid 1 August 1995]

In an interview with Zimbabwe's Ziana news agency in the same month, the minister for safety and security, Mr Sydney Mufamadi, said that the commission aimed to facilitate reconciliation and the integration of the South African people. He said that nobody would be prosecuted and that the government 'just want people to know what really happened'.<sup>29</sup> [<sup>29</sup> Ibid 3 August 1995]

On 17th May 1995 the minister of justice, Mr Dullah Omar, told Parliament that it was morally and legally wrong to equate the 'anti-apartheid struggle for liberation and democracy' with the 'apartheid state and its agents', whose motive was to suppress democracy. He added, however that this did not mean there were 'no excesses committed by the liberation movements'. They should also be the subject of investigation by the commission, he said.<sup>30</sup> [<sup>30</sup> *Hansard* (NA) 6 col 1343, 17 May 1995]

Mr Omar was later quoted as saying that he found it unacceptable and disgraceful that those who played the greatest role in bringing democracy to South Africa should have to apply for amnesty. He denied, however, opposition claims that his statement was a call for automatic amnesty. He had, he said, simply expressed regret that such a clause had not been included in the Promotion of National Unity and Reconciliation Act.<sup>31</sup> [<sup>31</sup> *The Citizen* 23 May 1995]

The chief executive of the South African Institute of Race Relations, Mr John Kane-Berman, said the commission was likely to be 'one-sided' and rejected his own nomination as a candidate for the commission.

In December 1995 Mr Mandela appointed 17 members to the commission and designated the Most Rev Desmond Tutu, archbishop of Cape Town, as chairman and Dr Alex Boraine as his deputy.

## **Paramilitary Units**

### **Self-Defence Units**

In February 1995 residents of Tembisa, Katlehong and Tokoza (all on the east Rand) claimed that they lived in fear of former African National Congress (ANC) self-defence unit (SDU) members who had allegedly committed a spate of robberies and rape in their townships since December 1994. The ANC spokesman on safety and security in the Gauteng legislature, Mr Robert McBride, said in February 1995 that he was aware of groups of gangsters committing criminal acts in Katlehong but added the people committing these crimes were doing them as individuals and not as members of the ANC.<sup>32</sup> [<sup>32</sup> *The Star* 20 February 1995]

In May 1995 two members of a Katlehong SDU were killed and nine wounded when members of a rival SDU attacked a funeral procession on its way to a cemetery in the east Rand.<sup>33</sup> [<sup>33</sup> Ibid 1 May 1995] According to residents of Katlehong's Twala section, former SDU members integrated into the police force were linked to the killings. They claimed that the men were not prosecuted for their acts of violence because they worked with the police (see also *Inquiries into police misconduct* below).<sup>34</sup> [<sup>34</sup> *Sowetan* 3 May 1995] Their claims were, however, unconfirmed.

A policeman at the Katlehong Police Station, Captain Philip Mokoena, said that senior police officers often did not know what to do to resolve the problem of police officers who also belonged to SDUs. He added that while they were on duty they took orders from their police superiors but 'when they knock off they take orders from their commanders in the township'.<sup>35</sup> [<sup>35</sup> Ibid] An ANC spokesman, Mr Obed Bapela, said his organisation had shut down its SDUs in Katlehong and Tokoza and that some members had joined the army and the police. He added, however, that some 'disillusioned members' had been joined by criminal elements and were promoting violence in the area.<sup>36</sup> [<sup>36</sup> *Business Day* 4 May 1995]

In October 1995 three former members of an SDU based in KwaZulu/ Natal appeared in the Richmond magistrate's court in KwaZulu/Natal for the murder in 1993 of a fellow ANC member. The case was still proceeding at the time of writing.<sup>37</sup> [<sup>37</sup> Ibid 26 October 1995]

## **Self-Protection Units**

In September 1995 a report by the Network of Independent Monitors (NIM) claimed that game reserves in remote areas under the control of the KwaZulu/Natal Department of Nature Conservation were being used to train members of self-protection units (SPUs) of the Inkatha Freedom Party (IFP). The Durban-based violence monitoring organisation alleged that the Port Dunford Forest Reserve on the KwaZulu/ Natal south coast was being used for '48-hour flash training'. The camps were dismantled after the training, making it difficult to trace them and prove that training had taken place, the organisation said.<sup>38</sup> [<sup>38</sup> *Mail and Guardian* 22 September 1995]

In October 1995 four members of a KwaZulu/Natal-based IFP SPU were arrested for the murder of an ANC activist and the attempted murder of another ANC member in September 1995.<sup>39</sup> [<sup>39</sup> *Business Day* 26 October 1995]

## **Umkhonto We Sizwe**

Replying to a question by Mr Johan Marais MP (NP), the minister of defence, Mr Joe Modise, said in September 1995 that 15 007 members of Umkhonto we Sizwe (Umkhonto) still had to be called up for training so as to be integrated into the South African National Defence Force (SANDF). The certified Umkhonto register contained 28 888 names and those not yet summonsed for training would be called up in six intakes beginning in September 1995. Mr Modise added that 1 900 of the 13 881 who had

reported for training had completed their basic bridging training and were involved in either advanced career training or had been assigned posts in the SANDF.<sup>40</sup> [<sup>40</sup> *The Citizen* 13 September 1995]

## Unofficial Police/Army Units

In June 1995 four men, believed to be linked to hit-squad activities, were arrested in connection with the murders between 1990 and 1993 of top ANC officials around Piet Retief (Mpumalanga) and Pongola (KwaZulu/Natal). The suspects were Warrant Officer Freek Pienaar, Sergeant Qina Mkhwanazi, the deputy mayor of Piet Retief, Mr Ali Msibi, and Mr Eric Gumbi. The head of a special task force investigating hit-squad activity in Mpumalanga, Captain Fannie Mlapo, said the arrests resulted from confessions by two convicted hitmen who were allegedly instructed by the IFP to carry out the killings.<sup>41</sup> [<sup>41</sup> *Sowetan* 19 June 1995]

In July 1995 the newspaper *Mail and Guardian* revealed that a secret report by the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation (the Goldstone commission) had alleged that truckloads of weapons transported from Ovamboland in Namibia by the police during 1989 had made their way to IFP structures on the Reef. These weapons had allegedly been handed to the erstwhile leader of the IFP's Gauteng branch, Mr Themba Khoza. In the report Mr Justice Richard Goldstone said that criminal activity by the security branch in the 1980s was relevant because it explained some of the current public violence and intimidation and because some top police officers who had held office until recently had not only been aware of the criminal acts but had approved them and funds to make them possible. The report named a retired police commissioner, General Johan van der Merwe, and the erstwhile minister of law and order, Mr Adriaan Vlok.<sup>42</sup> [<sup>42</sup> *Business Day* 10 July 1995]

Giving testimony in August 1995 in the case against the former commander of the C10 unit based at Vlakplaas (near Pretoria), Colonel Eugene de Kock (see also *Trials* below), Sergeant Johannes Mbelo claimed that although he had never been a member of a police assassination squad, such squads did exist.<sup>43</sup> [<sup>43</sup> *Ibid* 4 August 1995] Also giving evidence in the same case, Warrant Officer Willie Nortjé, a former C10 operative, admitted firing the shot that killed a former Krugersdorp security guard, Mr Japie Maponya. Mr Maponya was the brother of an ANC guerrilla who had killed a policeman. C10 had been trying to find him through his brother.<sup>44</sup> [<sup>44</sup> *Sowetan* 31 August 1995]

In August 1995 three former policemen, Mr Romeo Mbambo, Mr Gcina Mkhize and Mr Israel Hlongwane were convicted of six hit-squad murders in 1993 in KwaZulu/Natal. During the trial Mr Mkhize claimed that IFP president Chief Mangosuthu Buthelezi's erstwhile private secretary, Mr Zakhele Khumalo, had told him and 70 other recruits to infiltrate the South African Police (SAP) and attack ANC members so as to create distrust between the ANC and the SAP. He claimed that he and 200 other IFP members had secretly undergone paramilitary training in the Caprivi Strip (Namibia) and had trained as special constables in Koeberg (Western Cape).<sup>45</sup> [<sup>45</sup> *The Citizen* 28 August 1995]

In passing sentence on the three accused, Mr Justice Nick van Reyden said that the state had failed to

disprove allegations by the accused that they were acting on orders when they murdered six ANC-aligned people in 1992. Judge van Reyden said that he would forward the trial transcripts to the ministers of justice and of safety and security if the claims of hit-squad activity were not investigated by the police.<sup>46</sup> [<sup>46</sup> *Mail and Guardian* 1 September 1995]

The attorney general of KwaZulu/Natal, Mr Tim McNally, however, refused to subpoena IFP officials implicated in the case. They were the KwaZulu/Natal MEC for safety and security, the Rev Celani Mtetwa; the MEC for social welfare, Prince Gideon Zulu; the acting KwaZulu Police (KZP) commissioner, Brigadier C P Mzimela; a former acting KZP commissioner, Major General Siphon Mathe; the secretary of the KwaZulu/ Natal legislature, Mr Robert Mzimela; the head of KwaZulu/ Natal's VIP protection unit, Major Leonard Langeni; and Mrs Lindiwe Mbuyazi MP (IFP).<sup>47</sup> [<sup>47</sup> *Ibid*] Mr Hlongwane also claimed that Mr Philip Powell MP (IFP) had trained people in the hit squads.<sup>48</sup> [<sup>48</sup> *The Star* 31 March 1995] All those linked to the hit squads in the trial denied the allegations and refused to testify in court during the case.<sup>49</sup> [<sup>49</sup> *The Citizen* 28 March 1995] Mr McNally, however, later said that he would reconsider his earlier refusal to prosecute those named in the case.<sup>50</sup> [<sup>50</sup> *Business Day* 7 September 1995]

In October 1995 the *Sunday Times* newspaper alleged that court documents in the murder trial of Col de Kock had identified Mr Khoza and Mr Mtetwa as gunrunners and paid informants of the former government (see *Trials* below).<sup>51</sup> [<sup>51</sup> *Ibid* 17 October 1995] Mr Khoza denied the allegations and said that he was willing to appear in court to disprove them. The IFP's national spokesman on safety and security, Mr Velaphi Ndlovu, rejected the allegations and said they were a pre-election 'trick' to discredit the IFP. The ANC said that if the allegations were proved correct they would confirm its belief that the IFP was 'nothing but an extension of the apartheid covert security forces'. The organisation called for the IFP to suspend immediately Mr Khoza's and Mr Mtetwa's membership of their respective provincial legislatures pending a thorough investigation.<sup>52</sup> [<sup>52</sup> *The Citizen* 16 October 1995]

The premier of KwaZulu/Natal, Dr Frank Mdlalose, took over Mr Mtetwa's safety and security portfolio at the end of October 1995 and allocated the public works portfolio to him instead. The ANC in KwaZulu/Natal welcomed the change and said it was tantamount to an admission that there was 'something fundamentally wrong' with Mr Mtetwa, while the NP said that Mr Mtetwa should resign from the executive council if there was substance to the accusations against him. Chief Buthelezi, however, said that the move was part of an ordinary 'cabinet reshuffle', which happened 'all the time'.<sup>53</sup> [<sup>53</sup> *Business Day* 31 October 1995]

Two former military intelligence officers, Brigadier John More and Colonel Louis Botha, were arrested in June 1995 in connection with the alleged hit-squad murders of 13 people in KwaMakhutha on the KwaZulu/ Natal south coast in 1987. Also arrested on the same charges were the deputy secretary general of the IFP, Mr Zakhele Khumalo, Mr Peter Manse, Mr Sicelo Ndlovu, Mr Prince Mkhize and Mr Martin Khanyile.<sup>54</sup> [<sup>54</sup> *Ibid* 5 September 1995] The charges resulted from investigations by the investigation task unit (ITU) of the South African Police Service (SAPS) into hit-squad activity in KwaZulu/Natal at

the request of Mr Mufamadi. Following Mr Khumalo's arrest, the IFP claimed it was being victimised by the ITU and said it noted with 'growing concern' claims relating to partial investigations by the ITU. The national commissioner of police, General George Fivaz, said that the allegations would be urgently attended to by the SAPS.<sup>55</sup> [<sup>55</sup> *The Citizen* 15 June 1995] The accused appeared in the Durban regional court on 30th October and their case was postponed to 1st December 1995.<sup>56</sup> [<sup>56</sup> *Ibid* 31 October 1995]

In November 1995 the former minister of defence, General Magnus Malan, and ten high-ranking former security force officers appeared in the Durban regional court in connection with the above murders. The other four generals who appeared with Gen Malan were the former chief of the South African Defence Force (SADF), General Jannie Geldenhuys; the former chief director of operations for intelligence, General Neels van Tonder; the former chief of the SADF (Gen Geldenhuys's successor), General Kat Liebenberg; and the former chief director of military intelligence, General Tienie Groenewald.<sup>57</sup> [<sup>57</sup> *The Star* 3 November 1995]

Others who appeared were the former chief of staff of intelligence, Vice Admiral Dries Putter; the former director of special tasks 2, Brigadier Cor van Niekerk; a former military intelligence security officer, Commandant Jan van der Merwe; a former military intelligence operative, Colonel Dan Griesel; a former intelligence officer, Lieutenant Colonel Johannes Victor; and a former special operations instructor, Major Jakes Jacobs. The case was postponed to 1st December 1995 and the accused were released on bail.<sup>58</sup> [<sup>58</sup> *Ibid*]

After the court hearing Gen Malan accused the ANC of being 'intolerant' and said that 'what happened here today has caused the biggest crisis in the democracy that is South Africa'.<sup>59</sup> [<sup>59</sup> *Ibid*] The former state president and current leader of the NP, Mr F W de Klerk, said that his party stood by the accused, 'who fought against insurgency'. He added that indemnity had been granted to ANC supporters who 'threw a bomb into a bar' and 'planted a bomb in Pretoria which killed innocent women and children' and that everybody else, including the accused, was entitled to the same indemnity.<sup>60</sup> [<sup>60</sup> *The Citizen* 2 October 1995]

The leader of the Freedom Front, General Constand Viljoen, said that his party maintained that the prosecutions were not in the interests of national unity. The Truth and Reconciliation Commission should address the issue before it was referred to the criminal courts. He added that the generals who had been accused were 'certain of their innocence and had nothing to hide'.<sup>61</sup> [<sup>61</sup> *Sowetan* 2 November 1995] Gen Viljoen warned that there could be 'an Afrikaner backlash', including a rejection of reconciliation and of the government, if no obvious evidence was produced in the court case against the accused.<sup>62</sup> [<sup>62</sup> *The Citizen* 8 November 1995]

Chief Buthelezi warned that the arrest could jeopardise the reconciliation process and that right-wing groups could take the law into their own hands.<sup>63</sup> [<sup>63</sup> *Beeld* 31 October 1995] In August 1995 an IFP spokesman, Mr Ed Tillet, claimed that his organisation had uncovered evidence that an ANC member of the KwaZulu/Natal legislature was involved in alleged gun-running activities linked to ANC hit-squad

operations. According to Mr Tillet, the ANC was co-ordinating many of the armed robberies and bank heists in the province. He said that these 'revelations' would be presented to the legislature and the provincial commissioner of police 'soon'.<sup>64</sup> [<sup>64</sup> *The Mercury* 16 August 1995]

Earlier in the same month an ANC spokesman, Mr Dumisani Makhaye, claimed that the IFP together with right-wing elements within the security forces were embarking on a campaign to assassinate leading ANC members in KwaZulu/Natal.<sup>65</sup> [<sup>65</sup> *Ibid*]

## The Media

### Legislation

#### ***Independent Broadcasting Authority Amendment Act of 1995***

The Independent Broadcasting Authority Amendment Act of 1995 amended the principal act so as to dispense with the requirement that the Independent Broadcasting Authority (IBA) may issue licences only after three different inquiries had been held. It also empowered the authority to require any person to provide such testimony or documentation as might be reasonably necessary or relevant to its inquiries or hearings and laid down a procedure for this. The act provided that such a person would be allowed to have legal representation and would have the same rights as somebody appearing as a witness in criminal proceedings before a court of law. It, furthermore, provided for the authority to inspect premises and retain documents.

The act also prohibited foreigners from, either directly or indirectly, exercising control over a broadcasting signal distribution licensee. Neither could their financial or voting interests in such licensee exceed 40%. No more than 40% of the directors of a licensee could be foreigners. It also provided for the IBA to keep confidential certain information supplied by licence applicants and pertaining to matters such as finance and the names of prospective employees. The act empowered the IBA to amend the terms, conditions, and obligations of existing broadcasting licences. Sections 46 and 52 of the principal act were amended so as to make the conditions of private broadcasting licences obtained before 30th March 1994 (which were protected for a period of six or eight years under the principal act) subject to change by the IBA.<sup>66</sup> [<sup>66</sup> Independent Broadcasting Authority Amendment Act, *Government Gazette* no 16545, 19 July 1995]

The NP said that it supported the legislation because it was 'a compromise bill' while Ms Suzanne Vos MP (IFP) said that her party could not support the bill as it annulled clauses in the principal act that were the result of agreements reached at the multiparty negotiations in Kempton Park (Johannesburg).<sup>67</sup> [<sup>67</sup> *Hansard* (NA) 3 col 569, 4 April 1995] The Freedom Front (FF) and the Democratic Party objected to the fact that the bill made it possible for the conditions of private licences obtained before 30th March 1995 to be amended.<sup>68</sup> [<sup>68</sup> *Ibid*, cols 571–578]



## Ownership of the Media

A report presented by the IBA in August 1995 (see *Independent Broadcasting Authority* below) proposed the sale of seven regional radio stations belonging to the South African Broadcasting Corporation (SABC) and the reduction of its three television channels to two by 1997. The SABC's group chief executive, Mr Zwelakhe Sisulu, said that reducing the SABC's channels to two would undermine its ability to provide a public service. The SABC also felt very strongly that it should not sell two of the regional radio stations—Radio Good Hope and Radio Lotus—as they were 'very important in fulfilling the SABC's public mandate'. Mr Sisulu said that the SABC would consult with the IBA to this end.<sup>69</sup> [<sup>69</sup> *The Citizen* 30 August 1995]

The Independent Broadcasting Authority Amendment Act of 1995 (see *Legislation* above) prohibited foreign persons from, either directly or indirectly, exercising control over a broadcasting signal distribution licensee, from having financial or voting interests in such licensee exceeding 40% percent and occupying more than 40% of the seats on the board of a licensee.<sup>70</sup> [<sup>70</sup> *Government Gazette* no 16545, 19 July 1995]

In March 1995 New Africa Publications (Nap) announced that it had purchased the *New Nation* newspaper. Nap were also the publishers of the *Sowetan* newspaper, which they had purchased from the Argus Group in January 1994 (see also 1994/95 Survey, p435.).<sup>71</sup> [<sup>71</sup> *New Nation* 17 March 1995]

In August 1995 the Black Editors' Forum (BEF) addressed a subcommittee of the Constitutional Assembly and called for a constitutional prohibition on foreign media ownership and a government subsidy for black publishers. The chairman of the BEF, Mr Thami Mazwai, suggested that foreigners be allowed to own a maximum of 20% in local media. He also called for an antimonopoly restriction in the final constitution 'to help the entry of players from the black communities into the media'.<sup>72</sup> [<sup>72</sup> *The Sunday Independent* 27 August 1995]

Testifying before the same committee, the predominantly white Conference of Editors said the press was in the process of transition and foreign capital could assist in this regard. Foreign funds could be used to boost media diversity, the deputy chairman of the Conference of Editors, Mr John Patten, said. The editor of the *Sunday Times*, Mr Ken Owen, questioned the practicality of restricting foreign influence on South Africa. 'What do we do, shoot down their satellites?', he wanted to know.<sup>73</sup> [<sup>73</sup> *Daily Dispatch* 22 August 1995]

A conference of government communicators held later in the same month at Arniston in the Western Cape called for a wide-ranging investigation into the South African media, including its ownership and affirmative action. The conference was called by the executive deputy president from the majority party, Mr Thabo Mbeki, against a background of government dissatisfaction with the way in which it was being portrayed in the print media. Mr Mazwai, who was a guest speaker at the conference, broached the subject of media monopoly and said that blacks had no 'mentionable stake' in the four major newspaper

groups. Mr Owen, who was also present at the conference, argued that the monopoly of South African media was a myth. He said ‘the truth is that South Africa’s newspaper market is open, fluid and highly dangerous to existing products that do not keep pace with its demands’.<sup>74</sup> [<sup>74</sup> *The Star* 28 August 1995]

The chairman of the predominantly white Conference of Editors, Mr Khulu Sibiyi, resigned from the organisation on 27th September 1995 because, he said, he had come under ‘tremendous pressure’ as a result of his membership from his colleagues at *City Press* (where he was the editor), fellow black editors, some white editors, political groups and the BEF. In his letter of resignation Mr Sibiyi said that the battle in South Africa was no longer about press freedom and freedom of expression but rather media diversity and ownership.<sup>75</sup> [<sup>75</sup> *The Citizen* 28 September 1995]

The day after Mr Sibiyi’s resignation the premier of Gauteng, Mr Tokyo Sexwale, issued a press statement saying that South Africa had to guard against the concentration of media ownership in the hands of a small group of people because of the influence the media had in shaping opinions. The country needed foreign investment ‘but not, we believe, to the extent that we have seen in Independent Newspapers’ (see 1994/95 Survey, pp435, 436.). Mr Sexwale pointed out that the majority owner of Independent Newspapers, Mr Tony O’Reilly, was negotiating to increase his shares in the company to 60%. He added that it was ‘precisely because we need a diversity of ideas that we need a diversity of [media] ownership’.<sup>76</sup> [<sup>76</sup> *Ibid* 29 September 1995]

In September 1995 Times Media Limited were negotiating for the purchase of East London’s *Daily Dispatch* newspaper. The managing director of Dispatch Media, Mr Alan Beaumont, said that a deal was imminent.<sup>77</sup> [<sup>77</sup> *Ibid* 19 September 1995] Negotiations had not been concluded at the time of writing.

During campaigning in October 1995 for the local government elections, scheduled for 1st November 1995, the leader of the Democratic Party, Mr Tony Leon, said that the African National Congress (ANC) and some of its allies had a ‘carefully orchestrated campaign’ to undermine press freedom and scupper foreign investment. He said that subverting press freedom to the dictates of ‘so-called black empowerment’ had very little to do with mass community upliftment and everything to do with ‘muzzling the growth of a critical and vibrant media culture’.<sup>78</sup> [<sup>78</sup> *The Star* 6 October 1995]

## **Independent Broadcasting Authority**

In August 1995 the IBA presented Parliament with its report on the regulation of the broadcasting media. The report proposed, inter alia, that there be a 50% local content quota on SABC television and a 30% local content quota for private terrestrial free-to-air television stations. It also recommended a mandatory 20% local music content quota for radio stations, which would increase to 55% by the year 2000 for community and national public stations and 40% for private broadcasters and music format stations (see also chapter on *Government, the Constitution, and Human Rights*).

The IBA report, furthermore, proposed the sale of seven of the SABC’s regional radio stations, the sale

of Radio Bop and Capital Radio, and the closure of Radio Sunshine. The report called for the sale of one of the SABC's television channels by the end of 1997 but recommended that the SABC be allowed to own a satellite channel over and above the other two channels. It said that a private free-to-air terrestrial television channel 'with substantive public service language and local content obligations' should be licensed by January 1998.<sup>79</sup> [<sup>79</sup> *Business Day* 30 August 1995]

The report said that no further national radio licences should be granted on FM but that the SABC should be allowed to retain its two national stations—5FM and Radio Metro. There should be 11 official language stations operated under new names which made no reference to ethnicity or language. The report recommended that the SABC service the nine provinces with prime-time provincial slots on radio and television for five years until the desirability and viability of provincial public broadcasting had been thoroughly discussed.<sup>80</sup> [<sup>80</sup> *Ibid*]

It called for the integration of the radio stations of the former 'independent' homelands, with Radio Ciskei, Radio Transkei and Radio Xhosa combining into a Xhosa service and Radio Venda and Radio Thohoyandou merging into a Venda service. It also proposed a multilingual youth radio station for the 13–25 year age group.

Newspapers should be allowed to acquire a financial interest in a broadcast licence but should not control such ventures if the newspaper's readership exceeded 15% of the radio or television station's licensed area and if the radio station's licensed area overlapped with the newspaper's circulation by 50% or more.<sup>81</sup> [<sup>81</sup> *Ibid*]

The minister for posts, telecommunications and broadcasting, Dr Pallo Jordan, said he was concerned that the IBA's recommendation that private terrestrial television channels only be allowed in 1998 might amount to over-protection of the SABC and defeat the aim of regulated competition to improve the quality and range of public and private television.<sup>82</sup> [<sup>82</sup> *The Citizen* 30 August 1995]

The spokesman on broadcasting for the NP, Mr Marthinus van Schalkwyk, said his party did not support the report's suggestion that the SABC's monopoly should continue until the end of 1997. He added that the matter of local content should be considered carefully so that requirements were not set so high as to frustrate the 'good intention' of protecting local culture.<sup>83</sup> [<sup>83</sup> *Business Day* 30 August 1995] The FF called for an Afrikaans television station saying that English would 'clearly be favoured' in the proposed two television channels.<sup>84</sup> [<sup>84</sup> *The Citizen* 30 August 1995]

## **Broadcasting Licences**

The IBA began hearing licence applications for more than 120 community radio stations in February 1995. In the same month Radio Maritzburg became the first community radio station to start broadcasting after it was granted a one-year licence by the IBA.<sup>85</sup> [<sup>85</sup> *The Star* 27 February 1995] At the time

of writing the IBA had granted 63 temporary community broadcasting licences, including Radio Maritzburg, several university stations such as Radio Tuks (University of Pretoria) and Radio Turf (University of the North); religious stations such as Good News FM (Benoni) and Hope FM (Hillbrow) (both in Gauteng); stations targeting specific ethnic groupings such as Azaania Broadcasting Corporation (MW), an Islamic station broadcasting from Overport (KwaZulu/Natal) and Radio Clube Portuguese for Gauteng's Portuguese community; and local stations such as ALX FM (Alexandra, Gauteng) and Voice of Soweto (Soweto).

The IBA also granted the SABC 25 new broadcasting licences for its television and radio stations after its old licence expired. The corporation was granted television broadcasting rights for six years and eight years for radio.<sup>86</sup> [<sup>86</sup> *Weekend Star* 1 April 1995]

In September 1995 the IBA granted a 'special-event' licence (until the end of the month) to Radio Freedom, the former radio station of the ANC, to broadcast at the opening of the Radio Freedom Institute of Broadcast Journalism. The ANC said the radio station was autonomous, despite its past links with the party, and that it had no intention of interfering with the station.<sup>87</sup> [<sup>87</sup> *The Citizen* 23 September 1995] Mr van Schalkwyk criticised the IBA's actions saying that a 'special' licence was unheard of. He objected to the licence being granted 'in the run-up to the local government elections' and charged that the IBA was placing its own independence on the line and creating the impression that it favoured the ANC.<sup>88</sup> [<sup>88</sup> *Ibid* 26 September 1995]

Beside these licences, the IBA had not granted any licences for commercial radio stations at the time of writing.<sup>89</sup> [<sup>89</sup> *The Star* 26 July 1995]

The IBA granted the first new temporary television licence to a station in the Cape Flats in Cape Town May 1995. The Cape Film and Video Foundation was given a licence to broadcast from 27th May to 26th June 1995—during the Rugby World Cup matches.<sup>90</sup> [<sup>90</sup> *The Argus* 10 May 1995]

## Political Conflict and Tension

In March 1995 the minister for safety and security, Mr Sydney Mufamadi, told Parliament that political violence had declined steadily from 1992 to 1994. He said that a total of 5 007 people had died during this period, excluding the former 'independent' and non-independent homelands, for which statistics were not available. Mr Mufamadi said that there were 2 115 political fatalities in 1992, 1 595 in 1993 and 1 297 in 1994.<sup>91</sup> [<sup>91</sup> *The Citizen* 14 March 1995]

However, according to figures compiled by the South African Institute of Race Relations (including the ten former homelands), 3 347 people had been killed in political violence in 1992, 3 794 in 1993 and 2 476 in 1994. In 1995, 1 044 people were killed in political violence. The number of political fatalities and the average daily fatality rate for each month in 1992–95 is as follows:

*Political fatalities in South Africa: 1992–95a*

1992

1993

1994

1995

Month

Total

Average daily rate

Total

Average daily rate

Total

Average daily rate

Total

Average daily rate

January

139

4,5

135

4,4

239

7,7

131

4,2

**February**

238

8,2

148

5,3

259

9,3

87

3,1

**March**

348

11,2

143

4,6

537

17,3

79

2,6

**April**

300

10,0

212

7,1

436

14,5

138

4,6

**May**

230

7,4

339

10,9

207

6,7

100

3,2

**June**

324

10,8

309

10,3

119

4,0

82

2,7

July

278

9,0

547

17,6

136

4,4

92

3,0

**August**

361

11,7

451



14,5

106

3,4

61

2,0

September

339

13,3

425

14,2

109

3,6

69

2,3

**October**

332

10,7

398

12,8

106

3,4

49

1,6

November

299

10,0

370

12,3

94

3,1

54

1,8

**December**

159

5,1

317

10,2

128

3,3

102

3,3

Total

3 347

9,2

3 794

10,4

2 476

6,8

1 044

2,9

a

The totals represent an average of minimum and maximum fatality figures. Whereas minimum totals represent fatalities which can be assumed to be politically unrest- related, maximum totals include fatalities where the political nature is not certain, such as faction-fighting an

The following table shows the monthly figure of political fatalities from September 1984 to December 1995:

*Political fatalities in South Africa: 1984–95*

(September–December 1984: 149)

1985

1986

1987

1988

1989

1990

1991

1992

1993

1994

1995

**January**

4

105

40

211

126

210

187

139

135

239

131

**February**

35

112

22

107

95

283

129

238

148

259

87

March

76

179

40

62

89

458

351

348

143

537

79

**April**

46

145

40

48

99

283

270

300

212

436

138

**May**

66

221

33

58

89

208

318

230

339

207

100

**June**

45

212

36

76

38

150

150

324

309

119

82

**July**

96

122

39

94

96

247

164

278

547

136

92

**August**

163

76

35

112

104

698

184

361

451

106

61



September

69

40

73

108

135

417

282

339

425

109

69

**October**

86

16

93

90

116

162

218

332

398

106

49

November

101

37

89

85

129

316

283

299

370

94

54

**December**

92

33

121

98

287

267

170

159

317

128

102

Total

879

1 298

661

1 149

1 403

3 699

2 706

3 347

3 794

2 476

1 044

The bar chart below plots the annual fatality figures fr

## Assassinations/Murders

### *Assassinations of Members of the South African Police Service*

The following table provides a breakdown of the number of South African Police Service members murdered from 1983 to 1995:<sup>92</sup> [<sup>92</sup> **Fast Facts** No 5 1993; *The Citizen* 8 December 1995; information supplied by the National Crime Investigation Centre, 19 January 1996]

#### *Murders of police officers: 1983–95*

Year	Number	Increase (decrease) <sup>d</sup>
------	--------	----------------------------------

1983/84<sup>a</sup>

48

N/A

**1984/85<sup>a</sup>**

39

(18,8%)

1985/86<sup>a</sup>

68

74,4%

**1986<sup>b</sup>**

29

(57,4%)

1987

67

131,0%

**1988**

80

19,4%

1989

71

(11,3%)

**1990**

107

50,7%

1991

137

28,0%

**1992**

226

64,9%

1993

280

23,9%

**1994**

255

(8,9%)

1995<sup>c</sup>

212

(16,9%)

Total

1 619

—

a

1st July–30th June.

b

1st July–31st December.

c

Preliminary figures.

d

Increases/decreases are not all strictly comparable.

N/A — Not available.

The total number of police officers killed dropped from 255 in 1994 to 212 in 1995. Of the 212 officers

killed, 77 were on duty and 135 were off duty. The highest proportion of murders in 1995 occurred in Gauteng, where 95 police

### ***Assassinations/Murders of Inkatha Freedom Party Officials***

In September 1995 the secretary general of the Inkatha Freedom Party (IFP), Dr Ziba Jiyane, called on Mr Mufamadi to establish an independent commission of inquiry into violence against IFP officials and supporters. Dr Jiyane said that at least 430 IFP officials had been murdered in a systematic fashion since 1985. The involvement of members of the defence force, police and internal stability unit in the 'systematic campaign of assassination against IFP leaders' should be investigated, Dr Jiyane said.

The president of the IFP, Chief Mangosuthu Buthelezi, said in November 1995 that members of the ANC within the South African National Defence Force had used their positions to carry out violent acts in the name of their political organisation. Although he had reported specific cases of killings to the minister of justice and the minister for safety and security he had not received any responses, he said.

In November 1995 the IFP said it would ask attorneys general to investigate the alleged murders of 317 of its officials. Most of the killings occurred in KwaZulu/Natal between 1985 and 1993. The alleged murders were discussed with the acting attorney general of Gauteng, Mr Kevin Attwell.

Superintendent Bala Naidoo of the police said in December 1995 that the police had investigated 392 murders of IFP officebearers and officials since 1985, but had found no reason to believe that any of these attacks had been orchestrated.

### **Conflict Between the African National Congress and the Inkatha Freedom Party**

In March 1995 four people were shot dead and four wounded in clashes between the African National Congress (ANC) and the Inkatha Freedom Party (IFP) in Bhambayi, (north of Durban).<sup>93</sup> [<sup>93</sup> *The Star* 22 March 1995]

In April 1995 the IFP blamed the ANC for an attack which claimed five lives in the IFP-supporting Chimora squatter camp (near Durban). The settlement was near the ANC-dominated Glebelands Hostel. An ANC spokesman, Mr Dumisani Makhaye, denied the charges and accused the IFP of making unsubstantiated accusations.<sup>94</sup> [<sup>94</sup> *Business Day* 18 April 1995]

In May 1995 the president, Mr Nelson Mandela, said he would withdraw central government funds from KwaZulu/Natal if these were used to subvert the constitution. He added that there was 'a certain leader in KwaZulu/Natal who said he'll organise people to revolt against the government',<sup>95</sup> [<sup>95</sup> *Sowetan* 3 May 1995] The minister of home affairs and president of the IFP, Chief Mangosuthu Buthelezi, who had earlier called on the KwaZulu/Natal government to 'rise and resist the central government', said he 'rejected with contempt' allegations that he or the IFP were organising people to revolt against the

government. The Democratic Party, the IFP and the National Party argued that a move by the central government to cut off funding to a province would be unconstitutional.<sup>96</sup> [<sup>96</sup> *Business Day* 3 May 1995]

Eight people were killed in the Izingolweni rural district (about 120km south of Durban) in June 1995. A police spokesman, Captain Dawood Kader, said the killings were a result of political rivalry between the ANC and the IFP in the area.<sup>97</sup> [<sup>97</sup> *Ibid* 6 June 1995]

The ANC Youth League in KwaZulu/Natal called in July 1995 for a security campaign to disarm 'warlords', chiefs and members of self-protection units (SPUs). It alleged that former members of the KwaZulu Police had armed these groups.<sup>98</sup> [<sup>98</sup> *The Citizen* 17 July 1995]

In September 1995 the cabinet decided that arms and ammunition issued to civilians by the administrations of the former homelands would be reclaimed by the central government. However, this would be done with 'sensitivity', taking into account the safety of those who had been issued with the weapons for self-protection and those who had been issued with the weapons to protect government property.<sup>99</sup> [<sup>99</sup> *Ibid* 14 September 1995]

The IFP said that it would resist all moves by the central government to disarm traditional leaders who had been issued with arms by the former KwaZulu administration. The party labelled the cabinet's decision as 'illtimed and unwise'. The IFP's spokesman for safety and security, Mr Velaphi Ndlovu, said the party supported the withdrawal of weapons in principle but that because violence was rife in KwaZulu/Natal it would be unwise to recall the weapons.<sup>100</sup> [<sup>100</sup> *Ibid* ]

In July 1995 *The Star* reported that three IFP members had been killed while returning to the Diepkloof Hostel (Soweto) from a peace rally organised by the IFP to improve ties between hostel and Soweto residents. A police spokesman, Colonel Tienie Halgryn, said the men had been ambushed by residents. No arrests were made. An IFP spokesman, Mr Dlangezwa Mvelase, claimed that the killers were from a predominantly ANC informal settlement.<sup>101</sup> [<sup>101</sup> *The Star* 17 July 1995] The ANC, however, claimed that the deceased were not IFP members, were all from the Motsoaledi informal settlement and had not attended the rally. The organisation claimed that the meeting was not a peace rally but was called by the chiefs to discuss the Umzimkulu border dispute in the Eastern Cape (see 1994/95 Survey, p356.).<sup>102</sup> [<sup>102</sup> *The Citizen* 20 July 1995]

At least 12 IFP supporters were wounded in the same month when they were shot at by ANC supporters during a rally to launch a new IFP branch in Clermont (north of Durban).<sup>103</sup> [<sup>103</sup> *Ibid* 10 July 1995] The IFP also blamed ANC hit-squads for the murder of its KwaNdelu branch chairman, the Rev David Zondi, in July 1995. The ANC denied the allegations.<sup>104</sup> [<sup>104</sup> *The Citizen* 4 July 1995] Information received on the 11 people killed in three separate attacks at Isithebe (near Mandini, KwaZulu/ Natal) in May 1995, indicated that they were ANC members, a police spokesman, Colonel Bala Naidoo, said. The area was divided into ANC and IFP strongholds and the attacks could have been politically motivated, he



added.<sup>105</sup> [<sup>105</sup> *Business Day* 10 May 1995]

## Initiatives Against Political Violence

Following discussions with the heads of all the security forces in February 1995, Mr Mandela ordered the immediate deployment of extra security forces in the Eastern Cape, Gauteng, KwaZulu/Natal and the Northern Cape, in an attempt to combat the high levels of political violence and lawlessness in these provinces (see also *Deployment of troops* below).<sup>106</sup> [<sup>106</sup> *Sowetan* 28 February 1995]

In July 1995 Mr Mandela, the two deputy executive presidents, Mr Thabo Mbeki and Mr F W de Klerk, and Chief Buthelezi decided to establish an interdepartmental working group to liaise with KwaZulu/Natal authorities on ways to stabilise the security situation in the province. The decision was taken at a special cabinet conference to discuss the security situation in KwaZulu/Natal (see also *Security* below). The cabinet secretary, Professor Jakes Gerwel, said the cabinet recognised that socioeconomic factors were part of the problem of violence and, therefore, had to be addressed urgently. He said that factors fuelling the violence included the existence of SDUs and SPUs which were no longer under effective political control, crossborder arms smuggling, unemployment and homelessness.<sup>107</sup> [<sup>107</sup> *Ibid* 8 June 1995] In an attempt to stop the violence in the province the premier of KwaZulu/Natal, Dr Frank Mdlalose, set up a multiparty committee in August 1995 consisting of three representatives each from the ANC and the IFP. It was hoped that the two parties would be able to 'iron out' their differences in a closed door conference hosted by the committee. The chairman of the committee, Mr Bheki Cele MPL (ANC), said that if a state of emergency was needed to stop the killings in the province then such a step should be taken.<sup>108</sup> [<sup>108</sup> *New Nation* 11 August 1995]

At the end of August 1995 Dr Mdlalose opened a two-day peace conference attended by some 300 delegates. At the conference, which took place in Durban, Dr Mdlalose said that 'intolerance born of misguided political conviction' was largely the cause of political violence.<sup>109</sup> [<sup>109</sup> *The Star* 1 September 1995]

## Racial Attacks

### *Attacks on Blacks by Whites*

In December 1994 a white farmer from Tzaneen (Northern Province), Mr Jaap du Toit, was charged with the murder of Edward Malepe, who was shot at the entrance to Mr Du Toit's farm.<sup>110</sup> [<sup>110</sup> *Ibid* 7 July 1995] A white farmer from Koster (NorthWest), Mr Stoffel Diedericks, allegedly beat a four-year-old African child to death in January 1995 for playing with a white child. Mr Diedericks was released on R1 000 bail and his case was still pending at the time of writing.<sup>111</sup> [<sup>111</sup> *Ibid* 16 February 1995]

In February 1995 a white Free State farmer, Mr Petrus Buys, was jailed for nine years for stoning an African man to death. His two co-accused were acquitted because of lack of evidence against them.<sup>112</sup>

[<sup>112</sup> *Sowetan* 20 February 1995] In the same month about 150 white residents of Ruyterwacht (Western Cape) armed with chains and whips and accompanied by snarling dogs, intimidated African students and threatened to burn down a school the pupils had occupied.<sup>113</sup> [<sup>113</sup> *The Citizen* 16 February 1995] Residents said that they did not want the pupils in the school and some claimed that the pupils had urinated and had sexual intercourse in public. Armed police had to escort the pupils into their classes on their second day at the school and the police had to intervene when the pupils and the residents pelted each other with bricks and stones.<sup>114</sup> [<sup>114</sup> *The Star* 15 February 1995]

On the second day of the confrontation an African pupil was killed after being stabbed by an unknown person, and a white man was arrested for beating an African pupil with a sjambok.<sup>115</sup> [<sup>115</sup> *Ibid* 16 February 1995]

The residents eventually agreed to present their grievances to the Western Cape MEC for safety and security, Mr Patrick Mackenzie, and the MEC for education, Mrs Martha Olckers. Mrs Olckers subsequently closed the school saying it was a 'health risk' as the water supply had been cut off and drains and lavatories had been blocked. This led to a demonstration through the streets of Cape Town by about 5 000 black youths who demanded Mrs Olckers's resignation.<sup>116</sup> [<sup>116</sup> *Ibid* 17 February 1995] Mrs Olckers's decision was later overruled by the premier of the Western Cape, Mr Hernus Kriel, who said that he would not allow racial intolerance to prevent efforts to ease the crisis in black education.<sup>117</sup> [<sup>117</sup> *The Citizen* 18 February 1995]

In the same month African residents of the former 'whites-only' suburb of Westonaria (near Johannesburg) claimed their lives were in danger after groups of right-wing supporters stoned their homes and assaulted their children. Residents told the Westonaria police that they had been subjected to racial hatred from these groups who had called them 'kaffirs'.<sup>118</sup> [<sup>118</sup> *Sowetan* 1 March 1995]

In March 1995 two white residents of Kliprivier, Mr Daniel du Plessis and Mr Petrus Steyn, were arrested in connection with the murder of two African men in what police said they believed to be 'a racist attack'. A police spokesman, Warrant Officer Madelein Bunce, said the men were travelling in a bakkie when they were allegedly forced off the road and shot by the two suspects.<sup>119</sup> [<sup>119</sup> *The Star* 20 March 1995]

Also in March 1995, a white former policeman, Mr Alwyn Scholtz, who beat to death an African man near a dam in Boksburg (east Rand) in 1993 while on police duty, was sentenced to 25 years' imprisonment. Mr Scholtz pleaded not guilty to murder and claimed to have assaulted Mr Ephraim Sikhosana while interrogating him after he smelled dagga on him. A similar sentence was imposed earlier on his accomplice, Mr Herculaas Coetzee, for the same crime.<sup>120</sup> [<sup>120</sup> *The Citizen* 10 March 1995]

A member of the Afrikaner Weerstandsbeweging (AWB) in Witbank (Mpumalanga), Mr Marthinus Venter, and his co-accused, Mr Tyrone Chadwick, a British mercenary, were also arrested in March in

connection with the murder of two African youths in 1993. According to the police, Mr Chadwick, who led the police to the bodies, claimed to have killed the two while employed by the AWB to train IFP members in 1993.<sup>121</sup> [<sup>121</sup> *Ibid* 17 March 1995] He later denied his statements and told the police that the youths had been killed by Mr Venter. An affidavit by a journalist from the *London Times*, Mr Tim Raymond, and corroborated by a Johannesburg photographer, Mr Johann Kuus, linked Mr Chadwick to train violence involving the injury and death of commuters, and taxi wars on the Johannesburg–Nylstroom road.<sup>122</sup> [<sup>122</sup> *The Star* 30 March 1995]

A white farmer, Mr Alexander Hugo, who shot and killed a ten-year-old African boy, Vusi Nkolozi, in June 1994 for starting a veld fire was sentenced to four years' imprisonment in July 1995, of which he was to serve only 18 months before undergoing correctional supervision. In passing sentence Mr Justice J J Goldblatt said he 'felt sorry for the accused' because Mr Hugo had not intended to kill the boy and only wanted to punish him.<sup>123</sup> [<sup>123</sup> *Sowetan* 3 July 1995] The Black Lawyers' Association described the sentence as 'appalling and racist'. Lawyers for Human Rights said 'sentences like this reinforce a long held belief that courts valued the lives of black people as cheap'.<sup>124</sup> [<sup>124</sup> *Ibid* 4 July 1995]

A Mpumalanga farmer, Mr Shaun Niemand, was arrested in July 1995 for allegedly beating to death a Mozambican labourer, Mr Rogers Sjambale, because he was lazy.<sup>125</sup> [<sup>125</sup> *The Star* 6 July 1995] Mr Niemand's case was in progress at the time of writing.<sup>126</sup> [<sup>126</sup> *Sowetan* 3 August 1995]

Groups of striking African municipal workers were assaulted and thrown out of the town centre of Kuruman (Northern Cape) by armed white residents in August 1995. A warder was killed and 12 people were injured in the ensuing clashes. After the clashes the protestors returned to Mathiebestad, near Kuruman, and began stoning and setting alight vehicles driven by whites. A prison warden, Mr Andre Claasens, was burnt to death.<sup>127</sup> [<sup>127</sup> *The Star* 1 September 1995]

### ***Attacks on Whites by Blacks***

In April 1994 a 19-year-old member of the Pan-Africanist Congress (PAC), Mr Gcinikhaya Makoma, was sentenced to 23 years in prison for the attack on St James's Church in Kenilworth (near Cape Town), in July 1993. He was convicted of murdering 11 people in the attack in which several gunmen had opened fire and flung hand grenades into an evening service at the church. In his judgement Mr Justice R M Marais said the court could not establish any political objective for the attack since political changes had already begun in South Africa. He added that a possible motive was to 'punish the whites for atrocities committed by certain whites against blacks'.<sup>128</sup> [<sup>128</sup> *Ibid* 6 April 1995]

In June 1995 a member of the PAC was convicted of the murder of an American Fulbright scholar, Ms Amy Biehl, in August 1993. Mr Justice Abraham Lategan sentenced Mr Ntombeko Peni to 18 years' imprisonment. In October 1994 three other PAC members had also been sentenced to 18 years' imprisonment for the same murder (see 1994/95 Survey, pp441, 442.).

In January 1995 the Transvaal Agricultural Union (TAU) called on farmers in Hoedspruit (Mpumalanga) to discuss security in the area following an incident in which three African policemen allegedly fired shots at a family on their farm in the area. The president of the TAU, Mr Dries Bruwer, demanded that African policemen no longer be deployed on white farms.<sup>129</sup> [<sup>129</sup> *The Citizen* 20 January 1995]

In November 1995, following the murder of two Free State farmers, the president of the Free State Agricultural Union, Dr Pieter Gous, said that attacks on Free State farmers appeared to be deliberate and well planned. The attacks appeared to be racist in nature and were intended to send 'a specific message' to farmers, he added.<sup>130</sup> [<sup>130</sup> *Ibid* 7 November 1995]

### ***Intra-African Tensions and Conflict***

In January 1995 six teenagers and a five-year-old child were killed in two separate attacks by a rival faction at Nyoni (KwaZulu/Natal). Five of the teenagers were killed while watching television.<sup>131</sup> [<sup>131</sup> *Sowetan* 16 January 1995]

Eleven other people were killed in two separate faction fights in the KwaZulu/Natal Midlands in the same month. A police spokesman, Major Henry Budhram, said six of those killed were members of a Gqushaneni kraal who died in an attack from another faction near Pomeroy. The other five people were killed while attending a prayer meeting in the Noukenor area near Kranskop.<sup>132</sup> [<sup>132</sup> *The Citizen* 4 January 1995]

In March 1995 one man was chopped to death and three were wounded when a large group of people launched an attack on a residential area near Richmond (KwaZulu/Natal). According to Major Budhram, the attack was linked to faction fighting in the area.<sup>133</sup> [<sup>133</sup> *Ibid* 21 March 1995]

Hundreds of shack residents fled the Zonkizizwe informal settlement in the same month after allegedly being forced at gunpoint to join the IFP. The three schools in the settlement were also closed down because of tensions in the area.<sup>134</sup> [<sup>134</sup> *The Star* 8 March 1995] However, all the stakeholders in the area subsequently held a meeting at which they declared their commitment to bring about peace and stability in the area. They formed a committee which included representatives from the IFP and the ANC to monitor progress at the settlement.<sup>135</sup> [<sup>135</sup> *Sowetan* 16 March 1995]

In May 1995 six people were shot and wounded at a Workers' Day rally in the King Goodwill Zwelithini Stadium in Umlazi (KwaZulu/Natal) where Mr Mandela addressed mainly ANC supporters. A police spokesman, Colonel Bala Naidoo, said that tensions at the rally grew when a group of about 500 IFP supporters from surrounding hostels gathered outside the stadium. They were dispersed by the police. It was not clear where the shots that were fired had come from.<sup>136</sup> [<sup>136</sup> *The Citizen* 2 May 1995]

### **Tensions Among Hostel Residents**

In February 1995 a gun battle occurred between ANC residents of Glebelands Hostel (near Durban) and 16 busloads of IFP supporters returning from a rally in Eshowe,<sup>137</sup> [<sup>137</sup> *The Star* 1 May 1995] while in April 1995 alleged IFP supporters inside a train returning from a rally in Durban opened fire on the hostel, killing four people and injuring four.<sup>138</sup> [<sup>138</sup> *Ibid* 28 April 1995]

In July 1995 Scaw Metals Hostel near Germiston (east Rand) owned by the Anglo American Corporation of South Africa (Anglo), closed after efforts to stem the violence in the hostel failed. The violence began with the killing of 12 people in 1993 and led to the killing of a member of the National Union of Metalworkers of South Africa (Numsa) and two others on 21st July 1995. A spokesman for Anglo, Mr Jabu Maphalala, said that it had become 'difficult to justify the continued existence of the hostel if people's lives could not be guaranteed'. Numsa members, who called for the closure of the hostel, welcomed the move saying that too many of 'our people have died here'. However, members of the United Workers' Union of South Africa condemned the move saying that they had no other place to go as their homes were in KwaZulu/Natal and they had no relatives in Gauteng.<sup>139</sup> [<sup>139</sup> *Ibid* 27 July 1995]

In September 1995 two people were killed and at least eight injured in fighting at Sebokeng Hostel near Vanderbijlpark (Vaal Triangle). The police were called in after fighting erupted between Xhosa residents on the one side and Bhaca, Pondo and Sotho residents on the other. Two people were arrested and a pistol and a number of petrol bombs were seized.<sup>140</sup> [<sup>140</sup> *The Citizen* 27 September 1995] The violence was apparently triggered by the killing of a Sotho couple by a group of Xhosa workers.<sup>141</sup> [<sup>141</sup> *The Star* 26 September 1995 ]

Violence also erupted at the same hostel earlier in July 1995 when 15 people were killed. Residents claimed that the deaths were sparked by the killing of a Sotho-speaking couple and their child who had apparently refused to contribute money to buy firearms for the hostel. Sotho-speaking residents, who believed that Xhosas had killed the family, retaliated. The police arrested 20 people.<sup>142</sup> [<sup>142</sup> *Ibid* 25 July 1995] In August 1995 six gunmen ambushed and killed a hostel resident in his friend's van inside the same hostel grounds. The killing of this man brought the number of people killed in the Iscorowned hostel to more than 40 since December 1994.

The chairman of the Congress of Traditional Leaders of South Africa, Chief Mwelo Nonkonyana, said the violence at the hostel was taking place against a background of long-standing tension between the tribes which could be traced back to disputes in the former Transkei. He said that chiefs and representatives of Eastern Cape kings would visit five Sebokeng hostels in an attempt to broker peace between the warring factions.<sup>143</sup> [<sup>143</sup> *Ibid* 4 August 1995] These visits subsequently took place in the same month.

In August 1995 a police search for weapons in the A-section Hostel of the KwaMashu township (KwaZulu/Natal) resulted in the death of eight hostel residents and the injury of 11 others. A spokesman for the South African Police Service (SAPS), Warrant Officer Vishnu Naidoo, said the police had come

under fire during the search after arresting four men for the illegal possession of weapons. An IFP spokesman, Mr Ed Tillet, claimed that eyewitness reports suggested the police had ‘acted excessively’ and he demanded an official inquest into the incident.<sup>144</sup> [<sup>144</sup> *Mail and Guardian* 4 August 1995 ]

In October 1995 five gunmen shot dead two residents of the KwaDabeka Hostel in Clermont (outside Durban). The KwaZulu/Natal police said that the gunmen had apparently demanded to see the victims’ ANC membership cards and were shot dead when they failed to produce them.<sup>145</sup> [<sup>145</sup> *The Citizen* 9 October 1995]

## **Burning of Witches**

In July 1995 a commission of inquiry into witchcraft-related violence and ritual murder in the Northern Province published its interim report. The report said that more than 250 people accused of witchcraft had been killed in the province in the year preceding its publication. It said that witches were frequently identified and killed or hounded out of their villages as a result of family feuds or civic conflicts.

It suggested that communal jealousy related to financial success or sexual prowess of a particular individual was often the trigger for a witch hunt. The report explained that all sorts of misfortune—including people being killed by drought, illness, lightning and political persecution—were frequently explained as a consequence of witchcraft. The ‘sniffing’ out of witches by a growing number of traditional leaders ‘corrupted by financial gain’ was singled out as a major factor in the killings.<sup>146</sup> [<sup>146</sup> *Mail and Guardian* 14 July 1995]

The report made a number of recommendations aimed at containing the spate of witch killings. These included:

- the institution of a code of conduct for traditional healers;
- the conducting of an educational programme ‘to liberate those people whose belief in witchcraft’ led them to kill other people;
- the promotion of an understanding, in areas where witch killings were prevalent, that there were more humane methods of dealing with sorcerers;
- the clarification of the legislation and penalties applied to witches and those who ‘sniff them out’; and
- the criminalising of the practice where funds were forcefully collected by youths to consult a diviner to sniff out witches—youths stood to gain by appropriating some of these funds.<sup>147</sup> [<sup>147</sup> *Ibid*]

## **People’s Courts**

Two types of people's courts seemed to be emerging during the period under review. 'Community courts' with lay assessors worked in tandem with the formal justice system, while the so-called 'kangaroo courts' operated outside the formal justice system.

At the end of August 1995 Mr Mufamadi said that a total of 50 people had been killed and 62 injured as a result of action by 'people's courts' since 1st January 1994 and 295 prosecutions had been instituted. He added that community police forums had been set up to initiate co-operation between the SAPS and the public in order to rid communities of this 'unacceptable practice'.<sup>148</sup> [<sup>148</sup> *The Citizen* 1 September 1995]

In the same month a group of street children who had confessed to theft were sentenced by a people's court to attend day classes and sleep at a shelter for three months. They were sentenced by a group of community leaders—among them lay assessors from the Kensington/Factreton area (outside Cape Town). The court had been sanctioned by the senior prosecutor and probation officer at the Cape Town magistrate's court. A member of the Juvenile Defence Centre of the University of the Western Cape held a watching brief over the proceedings on behalf of the children. A senior prosecutor in the Cape Town magistrate's court, Ms Alma Smith, said that if the sentence was considered appropriate by all parties and if the children showed some willingness to reform, the prosecution would withdraw the case. Every juvenile arriving at the Cape Town magistrate's court would be assessed for diversion to people's courts but only for petty offences. This would enable the children to learn from the experience without lumbering them with a criminal record.<sup>149</sup> [<sup>149</sup> *The Star* 29 August 1995]

The minister of justice, Mr Dullah Omar, put forward a similar idea to a meeting of lay assessors at Parliament earlier in the same month. He said that 'community courts' with lay assessors would be perfectly positioned to play a major role in the administration of justice. He was, however, careful to differentiate between these courts and the 'kangaroo courts' which he said had nothing to do with justice.<sup>150</sup> [<sup>150</sup> *Ibid*]

## ***Necklacing***

Replying to a question by Mr Douglas Gibson MP (Democratic Party), Mr Mufamadi told the National Assembly in May 1995 that 16 deaths and two injuries resulted from necklacings in 1994, while only one necklacing which resulted in death had been reported for 1995 up until 10th May 1995. The majority of these necklacings (11) occurred in Gauteng. The rest occurred in the Eastern Cape (two), Natal (one), North-West (one), the Northern Province (one) and the Western Cape (one). The location of two cases was not reported by the minister. He, however, reported that suspects had been arrested in only two of the 19 cases.<sup>151</sup> [<sup>151</sup> *Hansard* (NA) 8q cols 948–952, 24 May 1995]

## **Violence in the Taxi Industry**

Replying to a question in the Senate in May 1995, Mr Mufamadi said that 197 people had been killed and 314 injured in violence-related crimes in the taxi industry in 1994. He added that 33 people had been

killed and 75 injured during the period 1st January 1995–25th April 1995.<sup>152</sup> [<sup>152</sup> *Hansard* (S) 7q col 375, 18 May 1995] During this period no violence-related taxi incidents had been reported in the Western Cape, compared with the 29 deaths and 88 injuries reported in the same period in 1994. No deaths or injuries had occurred in the Northern Province, compared with the 62 people who had been killed or injured in 1994. In Gauteng 17 people were killed and 36 injured in 1995, compared with 73 killed and 87 injured in 1994.<sup>153</sup> [<sup>153</sup> *Business Day* 19 May 1995] A total of 236 suspects were arrested in connection with taxi-related violence in 1994.<sup>154</sup> [<sup>154</sup> South African Police (SAP), *A broad perspective on the incidence of crime and the activities of the specialist units of the division: crime combating and investigation*, 1994]

On 28th August 1995 the acting commissioner for the SAPS in Gauteng, Major General Barry van der Walt, said 123 incidents of taxi violence which resulted in some 60 deaths and 71 injuries had occurred in Gauteng since the beginning of 1995. Twenty-four suspects had been arrested.<sup>155</sup> [<sup>155</sup> *The Star* 29 August 1995]

In April 1995 representatives of the Gauteng legislature, the Eastern Services Council and the East Rand Taxi Association signed a peace pact aimed at restoring peace and stability in the taxi industry.<sup>156</sup> [<sup>156</sup> *Business Day* 24 April 1995]

At the annual general meeting of the National African Federated Transport Organisation held in May 1995 the minister of transport, Mr Mac Maharaj, said the government would ‘come down heavily’ on perpetrators of taxi violence.<sup>157</sup> [<sup>157</sup> *Ibid* 22 May 1995]

In June 1995 the Gauteng government and taxi bodies operating in the province established the Gauteng Taxi Initiative to address problems in the taxi industry (see also chapter on *Business*).<sup>158</sup> [<sup>158</sup> *The Star* 29 July 1995]

Rival taxi organisations in King William’s Town (Eastern Cape) opened fire on each other in May 1995. The fighting started after a convoy of taxis from the King William’s Town Taxi Forum occupied the street in front of a rank used by the Border Alliance Taxi Association. No injuries were reported but 31 firearms were confiscated by the police and 17 taxis were damaged. Two people were arrested.<sup>159</sup> [<sup>159</sup> *Business Day* 21 June 1995]

In July 1995 a police spokesman, Major Pieter Swanepoel, said that police in the Northern Province were investigating suspicions that former Mozambican soldiers were being hired to eliminate rivals in the region’s taxi industry. He said that evidence was emerging that unemployed Mozambicans were being paid large sums of money by taxi operators to protect their fleets.<sup>160</sup> [<sup>160</sup> *Sowetan* 1 August 1995]

In August 1995 the anticorruption unit of the SAPS launched an investigation into police involvement in taxi violence and the illegal issuing of taxi licences.<sup>161</sup> [<sup>161</sup> *Business Day* 22 August 1995] In September the *Sowetan* reported that confidential police documents in its possession indicated that the unit had



uncovered evidence that warring taxi associations were using hit squads from neighbouring countries to protect their routes against rivals. It also found evidence that close to 200 police officers owned taxis. These officers were being investigated to ascertain whether they had any part in the taxi violence.<sup>162</sup> [<sup>162</sup> *Sowetan* 8 September 1995] Mr Mufamadi told Parliament in September 1995 that at least six members of the SAPS were being investigated for involvement in taxi violence. The cases against them included murder, attempted murder, intimidation and kidnapping.<sup>163</sup> [<sup>163</sup> *The Citizen* 9 September 1995] The investigation had not been concluded at the time of writing and no action had been taken against those police officers under investigation.<sup>164</sup> [<sup>164</sup> Fax communication from the communication service of the South African Police Service, 7 November 1995]

Members of the Soweto-based Dube Station–Noord Street Taxi Association claimed in August 1995 that they were forced to pay R1 000 each to finance hit squads.<sup>165</sup> [<sup>165</sup> *Sowetan* 18 August 1995]

The MEC for safety and security in the Northern Province, Mr Seth Nthai, announced in August 1995 that an investigation had been launched into allegations that some police officers in the province had vested interests in the taxi industry. He said that police involvement was untenable considering the high levels of violence in the taxi industry.<sup>166</sup> [<sup>166</sup> *The Citizen* 30 August 1995] Twelve taxi operators were killed in the Seshego–Matlala–Bochum area (Northern Province) in July and August 1995.

In September 1995 a man arrested for driving a car with false registration numbers belonging to the internal stability unit in Alexandra (north of Johannesburg), claimed he had connections with the security forces and that he was under orders to kill Gauteng taxi drivers pointed out to him.<sup>167</sup> [<sup>167</sup> *Sowetan* 12 September 1995] As a result the national commissioner of police, General George Fivaz, announced that all involvement of police officers in the taxi industry would be forbidden because of the conflict of interest it created.<sup>168</sup> [<sup>168</sup> *The Citizen* 13 September 1995]

Three people were killed and 13 injured when shots were fired at the Noord Street and King George Street taxi ranks (Johannesburg) on 4th September 1995. Two minibuses were also burnt out. Three suspects were arrested in connection with the shootings.<sup>169</sup> [<sup>169</sup> *Ibid* 5 September 1995] On 13th September 1995 gunmen again fired on the Noord Street taxi rank, critically injuring a taxi operator. A spokesman for the Southern African Long Distance Taxi Association (Saldta) and the Federation of Local and Long Distance Transport Associations (Feldta), which operated from the rank, claimed that the gunmen were acting for a rival taxi associations, the Letlhabile Taxi Association (LTA), that operated from a nearby street. The organisations were fighting over control of the Johannesburg–Pietersburg taxi route. The police were investigating these claims at the time of writing.<sup>170</sup> [<sup>170</sup> *Ibid* 14 September 1995]

Shortly after this incident the Witwatersrand Local Division of the Supreme Court ordered LTA to stop operating from the ‘new’ taxi rank in Quartz Street after an application was made to the court by Saldta and Feldta. They claimed LTA were operating from the new rank in violation of an agreement between the three that they would all operate from the King George Street taxi rank.<sup>171</sup> [<sup>171</sup> *Sowetan* 4 September 1995]

Although the rival taxi operators had agreed in September 1995 to independent mediation in an attempt to end the violence,<sup>172</sup> [<sup>172</sup> *The Star* 8 September 1995] in October 1995 four taxis were burnt out in Mabopane (north of Pretoria) in renewed hostilities between them. The violence was apparently sparked by the killing by unknown assailants of the chairman of Saldta, Mr Thomas Nkosi, earlier in the month.<sup>173</sup> [<sup>173</sup> *The Citizen* 9 October 1995]

In September 1995 the Gauteng legislature's transport standing committee established a provincial taxi violence monitoring committee to complement those set up by the national ministry of safety and security. It was mandated to conduct investigations into taxi violence and to ensure that legislation was enacted to deal with it.<sup>174</sup> [<sup>174</sup> *Business Day* 14 September 1995]

See also chapters on *Business* and *Living Conditions*.

## **SECURITY**

### **Policy**

Addressing a rally in Chatsworth (near Durban) in July 1995 the president, Mr Nelson Mandela, said that safety and security were among the government's highest priorities. He said that those who broke the law 'must know that they will be caught'.<sup>175</sup> [<sup>175</sup> *The Citizen* 10 July 1995]

The minister for safety and security, Mr Sydney Mufamadi, and the minister of defence, Mr Joe Modise, resolved in August 1995 to 'immediately and substantially' increase the strength of the security forces operating in crimeridden areas such as parts of the Eastern Cape, Gauteng and KwaZulu/Natal, where violence continued 'with unacceptable frequency and gravity'.<sup>176</sup> [<sup>176</sup> *Ibid* 17 August 1995]

At the end of September 1995 the attorney general of the Free State, Mr Mulder van der Merwe, ordered prosecutors in the province to oppose all bail by suspects charged with serious crimes such as child abuse, murder, rape and robbery.<sup>177</sup> [<sup>177</sup> *Ibid* 1 August 1995]

### **Legislation**

#### **Criminal Procedure Second Amendment Act**

In September 1995 the Criminal Procedure Second Amendment Act, which made it more difficult for an accused in a serious criminal case (such as those described above) to get bail, was passed by Parliament (see also *Justice* below).<sup>178</sup> [<sup>178</sup> *Ibid* 15 September 1995]

#### **State of Emergency Act of 1995**

The State of Emergency Act, passed by Parliament in September 1995, provided for the president to impose a state of emergency in South Africa, or any part thereof, after having considered the provisions pertaining to this in the Constitution of the Republic of South Africa Act of 1993. Furthermore, it empowered the president to make regulations to deal effectively with a war, invasion, general insurrection or a national disaster, following such a declaration but specifically excluded regulations relating to the disqualification, nomination, election or tenure of office of members of Parliament or of a provincial legislature or the powers, privileges or immunities of these legislatures. Regulations making military service compulsory (other than those provided for in the Defence Act of 1957) were also excluded from the terms of the act.<sup>179</sup> [<sup>179</sup> *The Star* 14 September 1995]

## **Internal Peace Institutions Act Repeal Act of 1995**

The Internal Peace Institutions Act Repeal Act of 1995 repealed the Internal Peace Institutions Act of 1992 which provided for the combating and prevention of public violence and intimidation through the establishment of a National Peace Secretariat and regional and local peace committees.<sup>180</sup> [<sup>180</sup> Internal Peace Institutions Act Repeal Act of 1995, *Government Gazette* no 16554, 21 July 1995]

## **Arms and Ammunition Amendment Act of 1995**

The Arms and Ammunition Amendment Act of 1995 amended the principal act so as to provide for the minister of defence to determine in a notice, from time to time, a period of time within which people handing in unlawful arms and ammunition could surrender such arms or ammunition, with indemnity.<sup>181</sup> [<sup>181</sup> Arms and Ammunition Amendment Act of 1995, *Government Gazette* no 16431, 10 May 1995]

## **Crime**

In July 1995 the minister for safety and security, Mr Sydney Mufamadi, and the commissioner of the South African Police Service (SAPS), General George Fivaz, assured South Africans that the police had a 'grip' on crime and had not lost the war against criminals. The government was satisfied that the changes it had introduced in the police services had increased its ability to fight crime. Since the introduction of the community safety plan (a nationwide government plan to combat crime) in 1995 (see also *Government initiatives* below), there had been a noticeable drop in crime. Mr Mufamadi claimed that the police had not paid enough attention to crime in the past as they had devoted more resources to fighting political opponents. Most organised crime syndicates carried out crime 'with impunity' partly because members of the police were involved in these syndicates or were getting 'a cut'. Mr Mufamadi said, however, that the government had introduced changes (such as anticorruption units) to the police service to root out corruption.<sup>182</sup> [<sup>182</sup> *The Star* 13 July 1995]

Gen Fivaz said that the community safety plan had a stabilising effect on crime in the country although certain crimes such as car hijacking remained prevalent in some areas such as Gauteng.<sup>183</sup> [<sup>183</sup> *Ibid*]

The spokesman on safety and security for the Democratic Party (DP), Mr Douglas Gibson MP, said that voters did not have the impression that crime statistics were coming down.<sup>184</sup> [<sup>184</sup> Ibid]

At the beginning of September 1995 the chief of the national crime investigation service (NCIS) of the SAPS, Lieutenant General Wouter Grové, blamed 'questionable actions' by the former government for the dramatic upsurge in crime in South Africa. Speaking at a conference on money laundering, he said that international crime syndicates had been drawn to South Africa because 'the moral fibre of the country [had] degenerated during the apartheid era'. He said that dishonesty had become a daily feature of South African political and economic life during that era.<sup>185</sup> [<sup>185</sup> Ibid 12 September 1995 ]

## **Statistics and Trends**

### ***Attacks on the Elderly***

Attacks on elderly people (50 years and older) in and around their homes increased by 17,4% from 1 014 in 1993 to 1 190 in 1994.<sup>186</sup> [<sup>186</sup> SAP, *A broad perspective on the incidence of crime*, 1994]

### ***Fraud and Other White-Collar Crime***

In June 1995 the KPMG fraud barometer, run by the accounting and auditing firm KPMG Aiken and Peat, said that reported cases of fraud totalled R2,93bn in 1994, compared with R1,32bn in 1993 (an increase of 122%). However, in 1994 one case included an amount of R1,9bn. The barometer showed that 59% of all reported fraud cases in 1994 were perpetrated by management (70% in 1993), 26% by people outside the companies concerned (25% in 1993) and 15% by employees (5% in 1993).<sup>187</sup> [<sup>187</sup> *KPMG Fighting Fraud*, issue no 3, 1995]

KPMG said that the banking and financial sector was the hardest hit in 1994, with close to 36% of all fraud cases committed in that sector. About 33% of fraud cases occurred in the commercial sector, while 12% occurred in government. Investors (10%) and others (9%) accounted for the balance.<sup>188</sup> [<sup>188</sup> Ibid]

A spokesman for the Office for Serious Economic Offences said in July 1995 that the office was investigating 31 cases of white-collar crime, involving about R9,5bn, compared with the same time in 1994, when there were 19 cases pending, involving some R797m. A spokesman for the SAPS commercial branch, Major Johan van Ginkel, said the value of cases under its investigation in July 1995 was R7,98bn. The two agencies operated separately of each other.<sup>189</sup> [<sup>189</sup> *Business Day* 12 July 1995]

### ***Crime Syndicates***

Addressing a conference on crime in Bloemfontein in July 1995, the minister of justice, Mr Dullah

Omar, told delegates that 433 organised crime syndicates (including an estimated 155 drug syndicates) were known to be operating in the country in 1994. He revealed that the SAPS organised crime intelligence unit had arrested 373 suspects and recovered goods worth R88m in 1994.<sup>190</sup> [<sup>190</sup> *The Citizen* 6 July 1995 ]

In September 1995, however, Gen Grové said that about 480 organised crime syndicates involving 2 178 primary suspects were operating in South Africa.<sup>191</sup> [<sup>191</sup> *Ibid* 12 September 1995] According to the NCIS, most of these syndicates were involved in drug-trafficking (136), vehicle theft (112) and commercial crime (85). The service said that 187 of these syndicates operated internationally and of these, 125 were active in sub-Saharan Africa. Organised crime networks had become so well established that the same routes were being used for smuggling cocaine, dagga, heroin, LSD and mandrax as those for running firearms, gemstones, ivory and vehicles.<sup>192</sup> [<sup>192</sup> *Saturday Star* 9 September 1995]

### ***Reported Offences and Crime of Various Types***

The number of reported offences (such as traffic and speeding offences, and unlicensed businesses) decreased by 30,1% from 492 698 in 1993 to 344 340 in 1994. About 99% of these offences were solved in 1993 and in 1994.<sup>193</sup> [<sup>193</sup> SAP, *A broad perspective on the incidence of crime*, 1994]

The total number of reported crimes increased by 4,8% from 1 852 223 in 1993 to 1 940 774 in 1994. Fifty-one percent of crimes were solved in 1993, while 50% were solved in 1994.<sup>194</sup> [<sup>194</sup> *Ibid*]

Below is a table of selected crimes that were reported to the SAPS in the period 1987–94:<sup>195</sup> [<sup>195</sup>, 1994]

*A selection of crimes reported in South Africa: 1987–94<sup>a</sup>*

Crime

1987

1988

1989

1990

Arson

4 466

4 882

5 563

7 171

**Assault<sup>b</sup>**

120 779

125 571

128 887

124 030

Contravention of the explosives act

305

280

208

327

**Theft of motor vehicle**

59 936

57 851

58 298

68 649

Theft out of or from motor vehicle

N/A

116 813

122 385

149 606

**Housebreaking<sup>c</sup>**

235 693

182 754

187 946

225 158

**Illegal possession of arms and ammunition**

5 409

4 696

5 059

7 322

**Murder**

9 800

10 631

11 750

15 109

**Public violence**

1 973

1 368

3 173

4 756

**Rape**

18 145

19 368

20 458

20 321

Robbery<sup>d</sup>

46 288

45 847

50 636

61 132

**Shoplifting**

40 833

40 477

41 601

48 935

*A selection of crimes reported in South Africa: 1987–94<sup>a</sup> (continued)*

**Crime**

1991



1992

1993

1994

Arson

23 920<sup>e</sup>

6 389

6 854

7 056

**Assault<sup>b</sup>**

129 626

136 322

144 504

157 315

Contravention of the explosives act

378

448

507

532

**Theft of motor vehicle**

71 120

71 532

77 906

94 710

Theft out of or from motor vehicle

160 179

154 247

166 295

177 734

**Housebreaking<sup>c</sup>**

260 661

254 941

259 645

276 050

Illegal possession of arms and ammunition

9 706

10 580

9 542

8 838

**Murder**

14 693

16 067

19 583

18 312

Public violence

2 402

2 250

5 695

961

**Rape**

22 761

24 360

27 037

32 107

Robbery<sup>d</sup>

68 936

78 644

87 102

95 763

**Shoplifting**

51 658

58 371

62 166

63 274

a

Not all crimes have been included.

b

With intent to inflict serious bodily harm (excluding common assault).

c

Business and residential premises.

d

Including robbery with aggravating circumstances.

e

Some 12 000 cases of arson with origins of a doubtful nature were reported in Natal during June 1991.

N/A — Not available as such theft was not separated from the

The line graphs below illustrate the increase in motor vehicle thefts and robbery, and murder and possession of illegal arms and ammunition in 1987–94:

The most dramatic decrease in a crime category in 1994 occurred in public violence, which dropped by 83,1% compared with the 5 695 such cases reported in 1993. In 1994 there were only 961 such cases of public violence, the lowest incidence in the period 1987–94.

Motor vehicle thefts (including car hijackings) in 1994 increased by 21,6% over 1993's figure of 77 906. Rapes increased by 18,8% over the 27 037 rape cases reported in 1993. In the period 1987–94, however, motor vehicle theft increased by 58%, while rape increased by 76,9%.

According to the Centre for the Analysis and Interpretation of Crime Information, in the period January–June 1995 in Gauteng there were 18758 assaults (up 10,5% on the same period in 1994), 49 842 house breakings of which 80% were into residences (up 6,6%), 5 548 rapes (up 11,7%) and 22 038 robberies

(up 4,4%).<sup>196</sup> [<sup>196</sup> **Fast Facts** No 11, November 1995] There were 16 186 rapes countrywide in the period January–June 1995.<sup>197</sup> [<sup>197</sup> Fax communication from the national crime investigation unit of the South African Police Service, 30 October 1995]

### **Arms Smuggling, Caches, and Theft**

During the period under review many arms caches were discovered by the police. In April 1995 police seized what was believed to be the biggest and most sophisticated arms cache of its kind found in the country, on a farm in Bronkhorstspuit (near Pretoria). The cache included 436kg of commercial explosives, 15 Valsella antipersonnel mines, 7,5kg of plastic explosives, 14 hand grenades, one Claymore mine, 1 360 rounds of ammunition and two antitank rocket launchers. Police launched a search for the owners of the cache but had not made any arrests at the time of writing.<sup>198</sup> [<sup>198</sup> *Sowetan* 10 April 1995]

In the same month the police recovered a large cache of weapons allegedly stolen from the South African Police (SAP) training centre at Verdrag (near Pretoria) in November 1994. The cache was found at the home of Major Piet Snyders where police confiscated 26 Claymore mines, 14 rifle grenades, two white phosphor grenades, seven hand grenades, three containers of Pentolite, 162 explosive head rounds and two practice mines. They also confiscated 34 detonating rounds with explosive heads, 800 rounds of ammunition and 1468 ballistic rounds.<sup>199</sup> [<sup>199</sup> *The Citizen* 8 April 1995 ]

On 19th July 1995 the commissioner of police for Johannesburg, Major General Frans Malherbe, said that more than 500 people had been arrested and 1 034 firearms, including AK-47 machine guns and handmade firearms had been confiscated since the beginning of 1995 in Gauteng. A police spokesman, Lieutenant Jan Combrink, said that in 1994 the police in Gauteng had confiscated 386 AK-47 machine guns, 120 handmade firearms, 1 650 revolvers and pistols, 547 explosives and 67 301 rounds of ammunition. He added that the police had confiscated 186 rifles, 848 revolvers and pistols, 2632 explosives and 19 727 rounds of ammunition in Gauteng up to the end of June 1995.<sup>200</sup> [<sup>200</sup> *The Star* 20 July 1995]

Also in July, the chief of police in Mozambique, Commander Pedro Rond, announced that South African and Mozambican police had destroyed 1 300 guns and 36kg of explosives in a joint operation carried out on their common border.<sup>201</sup> [<sup>201</sup> *Ibid* 14 July 1995]

In August 1995 a police spokesman, Colonel Raymond Dowd, announced that the SAPS had helped crack a Japanese gun-running syndicate which had led to the arrest of five people in Japan after they were found in the possession of 63 handguns. Initial investigations by the Japanese police indicated that the guns had originated in South Africa. Col Dowd added that a Cape Town gun dealer had sold 600 weapons to a Japanese national carrying a false passport, who had then exported them to Japan via Mauritius.<sup>202</sup> [<sup>202</sup> *The Citizen* 3 August 1995]

Mr Mufamadi told Parliament in August 1995 that 55 AK-47 machine guns smuggled into South Africa from Mozambique and Lesotho had been confiscated by the police since the beginning of 1995. He said that 60 other weapons had been seized while being smuggled into South Africa from the aforementioned countries and Zimbabwe.<sup>203</sup> [<sup>203</sup> Ibid 1 September 1995]

Replying to a question by Senator James Selfe, the minister of defence, Mr Joe Modise, said that the recovery of weapons from the military wing of the African National Congress (ANC), Umkhonto we Sizwe, and other nonstatutory forces integrated into the South African National Defence Force was being carried out in phases. Phase one (June 1994 to August 1994) involved the collection of weapons from bulk stores. The second phase (November 1994 to December 1994) involved the recovery of weapons from arms caches. Phase three (November 1994 to March 1995) involved the recovery of weapons from individuals. Collectively the three phases had resulted in the recovery of 273 AK-47 machine guns, 156 pistols, 534 limpet mines, 2 857 grenades, 104 922 rounds of ammunition, 2 RPG-7 rocket launchers, 14 RPG-7 rockets and six other rifles.<sup>204</sup> [<sup>204</sup> *Hansard* (S) 3q cols 131–132, 28 March 1995]

In August 1995 Gen Wouter Grové said in a statement that as many as 71 000 illegal weapons had been seized in the period 3rd March 1995–17th August 1995. Since the launch on 17th June 1995 of Operation Rachel, which aimed to combat the smuggling of weapons into South Africa, 1 164 illegal weapons had been destroyed in Mozambique, of which 685 were AK-47 machine guns. He added that weapons were being tracked both inside and outside the country and the ending of the civil war in Mozambique had placed the SAPS and its counterparts in neighbouring states in a better position to deal with weapon smuggling.<sup>205</sup> [<sup>205</sup> *The Citizen* 19 August 1995]

The table below provides a breakdown of the number of firearms and explosives seized by the SAPS firearm investigation unit during 1993 and 1994:<sup>206</sup> [<sup>206</sup> SAP, *A broad perspective on the incidence of crime*, 1994]

*Number of weapons seized by police in South Africa: 1993–94*

1993
1994
Increase (decrease)
AK-47 machine guns
1 386
1 589
14,7%

**Rifles**

1 793

2 277

27,0%

**Pistols**

4 628

5 397

16,6%

**Revolvers**

1 894

2 364

24,8%

**Home-made firearms**

1 994

3 123

56,6%

**Hand grenades**

230

481

109,1%

Mortars

326

250

(23,3%)

**Limpet mines**

8

7

(1,3%)

RPG-7 projectiles

78

37

(52,6%)

**Land mines**

0

6

—

Total

12 337

15 531

25,9%



In reply to a question by Senator James Selfe (DP), Mr Mufamadi told the Senate that 6 907 stolen registered weapons were recovered in 1993, while 9 462 such weapons were recovered in 1994 (an increase of 37%).<sup>207</sup> [<sup>207</sup> *Beeld* 13 September 1995] (In August 1995 the head of the SAPS firearm register unit, Lieutenant Colonel C J Lamprecht, said that 209 887 firearm licences had been issued in 1993 and 236 638 in 1994—an increase of 12,7%. Licences issued from January 1995 to July 1995 totalled 82 660 compared with 171 601 for the same period in 1994—a decrease of

### **Drug Smuggling**

Replying to a question in the Senate in April 1995, Mr Mufamadi said that in 1994 the police destroyed cocaine, heroin, LSD and mandrax with a total street value of R121,4m.<sup>209</sup> [<sup>209</sup> *Hansard* ]

In 1994, 24 arrests were made in connection with drug trafficking at Johannesburg International Airport and 30 716 grammes of drugs were confiscated. Up to the end of July 1995, 12 arrests had been made at the airport and 22 285 grammes of drugs had been seized.<sup>210</sup> [<sup>210</sup> *The Star* 31 July 1995]

Addressing a conference organised by the South African Reserve Bank in Pretoria in July 1995, Mr Omar told delegates that the SAPS believed as many as 115 drug syndicates were operating in South Africa. He said that the South African Narcotics Bureau had launched 12 units in 1995 specifically to deal with organised drug trafficking.<sup>211</sup> [<sup>211</sup> *The Citizen* 29 July 1995]

According to the 1994 report of the SAP crime combating and investigation division, fewer people (14 278) had been arrested in 1994 in connection with the smuggling, illegal trading of or trading in illicit drugs than in 1993 (17 299). However, the value of illicit drugs confiscated or destroyed by police rose to approximately R7,5bn in 1994, compared with R1bn in 1993.<sup>212</sup> [<sup>212</sup> SAP, *A broad perspective on the incidence of crime*, 1994]

In July 1995 a director of the South African National Council on Alcoholism and Drug Dependence, Dr Sylvian de Miranda, said the quantity of confiscated cocaine had increased from 125g in 1990 to 65kg in the first six months of 1995.<sup>213</sup> [<sup>213</sup> *The Star* 11 July 1995]

### **Murder**

The number of murders in 1994 (18 312) dropped by 6,5% from the 19 583 reported in 1993. The number of murders, however, has risen steadily (by 86,9%) since the 9 800 reported in 1987. In the first six months of 1995 there were 8 407 murders reported countrywide.<sup>214</sup> [<sup>214</sup> Fax communication from the national crime investigation service of the South African Police Service, 30 October 1995]

Mr Mufamadi told Parliament in March 1995 that 72 farmers and members of their families had been

murdered on farms between 1st May 1994 and 31st January 1995.<sup>215</sup> [<sup>215</sup> *Hansard* (NA) 1q col 44, 1 March 1995]

According to the Centre for the Analysis and Interpretation of Crime Information, there were 2 493 murders in Gauteng in January–June 1995, down 15,2% on the same period in 1994. Of those, 44,8% had been solved.<sup>216</sup> [<sup>216</sup> **Fast Facts** No 11, November 1995]

In October 1995 a suspected serial killer, Mr Moses Sithole, was arrested and charged with 29 counts of murder. Gen Grové said that the police had evidence which positively linked Mr Sithole to the murder of the 29, all women. The bodies of Mr Sithole's alleged victims were found in Cleveland (near Johannesburg), Atteridgeville (near Pretoria) and Boksburg (east Rand).<sup>217</sup> [<sup>217</sup> *The Citizen* 21 October 1995]

### **Vehicle Hijacking**

According to the police service's Centre for the Analysis and Interpretation of Crime Information (Gauteng), an average of 821 vehicles per month or 27 per day were hijacked in South Africa in 1994. The number of car hijackings increased by 36,7% from 7 207 in 1993 to 9 851 in 1994. Compared with 1992, however, when there were 5 457 car hijackings, these had increased by 80,5%. About 77,8% (7 668) of all car hijackings in 1994 occurred in Gauteng, amounting to an average of 639 per month or 21 per day. This figure was 27,8% up on the 5 999 car hijackings reported in Gauteng in 1993.<sup>218</sup> [<sup>218</sup> Fax communication from the Centre for the Analysis and Interpretation of Crime Information (South African Police Service, Gauteng), 8 May 1995]

According to a police spokesman, Lieutenant Colonel Eugene Opperman, 4 060 vehicles were hijacked in Gauteng in the first six months of 1995. Some 67% of the victims were African, while 28,4% were white. In 81% of the cases the hijackers were armed with guns, which were fired in 5% of those cases, resulting in 29 deaths and 48 injuries. The police recovered 1 208 of these vehicles and arrested 769 suspects. The highest number of these hijackings (699) occurred in Soweto.<sup>219</sup> [<sup>219</sup> *The Star* 26 September 1995]

The number of trucks with freight hijacked in 1994 (836) showed an increase of 35,7% over the 616 reported incidents in 1993. Their estimated value rose from R129m in 1993 to R169m in 1994. These hijackings occurred primarily in Gauteng, 594 (71,1%) followed by Mpumalanga, 71 (8,5%) and the Free State with 61 (7,3%).<sup>220</sup> [<sup>220</sup> SAP, *A broad perspective on the incidence of crime*, 1994] There were 419 truck hijackings in Gauteng in the period January–June 1995, according to the Centre for the Analysis and Interpretation of Crime Information.<sup>221</sup> [<sup>221</sup> **Fast Fact** No 11, November 1995]

### **Robbery**

The number of robberies with aggravating circumstances increased by 13,9% from 60 089 in 1993 to 68

416 in 1994, while other robberies increased by 1,2% from 27 013 in 1993 to 27 347 in 1994.<sup>222</sup> [222 SAP, *A broad perspective on the incidence of crime*, 1994]

There were 211 bank robberies in South Africa in 1994, Mr Mufamadi said. The police, however, had an agreement with the banks not to make public the losses incurred during these robberies.<sup>223</sup> [223 *Hansard* (NA) 7q col 757, 9 May 1995]

## **Counterfeiting of Money**

In 1994 the SAPS arrested 182 people for counterfeiting money, Mr Mufamadi said.<sup>224</sup> [224 *The Citizen* 30 August 1995]

About 559 700 counterfeit South African bank notes with a total face value of R29m were seized in 1994, compared with 781 720 counterfeit notes with a total face value of R38,7m seized in 1993. Some 62 300 counterfeit United States bank notes with a total face value of \$5,7m were seized during 1994.<sup>225</sup> [225 SAP, *A broad perspective on the incidence of crime*, 1994]

## **Child Abuse**

The deputy minister for safety and security, Mr Joe Matthews, told the Senate in March 1995 that 16 309 cases of child abuse were investigated in 1994, resulting in 7 330 arrests.<sup>226</sup> [226 *Hansard* (S) 3q col 132, 28 March 1995]

## **Initiatives to Combat Crime**

### **Government Initiatives**

The community safety plan, a government plan to combat crime nationally (but to be implemented provincially), was initiated in February 1995 after the president, Mr Nelson Mandela, expressed the government's concern about the high levels of crime in the country.<sup>227</sup> [227 *Hansard* (NA) 10 col 2941, 20 June 1995]

The plan involved the use of the army to back up police and was scheduled to last between six months and a year. By the beginning of August 1995, crime had dropped in several areas covered by the plan: Hillbrow (a 30% drop in housebreaking and 16% in vehicle theft), Randburg (a 25% drop in vehicle theft and 36% in armed robberies), central Johannesburg (a 14% drop in vehicle theft, 43% in hijackings and 16% in assaults), New Brighton (Eastern Cape) (a 28% drop in murder); Khayelitsha (Western Cape) (a 40% drop in hijackings and 33% in housebreakings). Rape declined by 32% in Diepkloof, 29% in Sebokeng, 42% in Vosloorus (all in Gauteng) and by 8% in KwaMashu (KwaZulu/Natal).<sup>228</sup> [228 *Financial Mail* 4 August 1995]

On 13th July 1995 Operation Jambu, a two-day major anticrime prevention operation, targeting illegal immigrants and weapon smugglers in Gauteng, Mpumalanga and the Northern Province, was launched. A police spokesman, Major Joseph Ngobeni, said that Operation Jambu represented another phase of the community safety plan. The South African National Defence Force (SANDF) would provide a supporting role to the police during the operation.<sup>229</sup> [<sup>229</sup> *The Citizen* 13 July 1995] A police spokesman, Lieutenant General Erwin Dorfling, later pronounced the operation a success saying that 96 stolen vehicles worth an estimated R5m had been recovered, 11 firearms confiscated, 345 alleged illegal immigrants held, a cattle theft syndicate exposed, and quantities of dagga and stolen goods recovered.<sup>230</sup> [<sup>230</sup> *Ibid* 18 July 1995] More than 1 500 police and troops backed by air force helicopters had been deployed during the operation.<sup>231</sup> [<sup>231</sup> *Ibid* 14 July 1995]

On 21st July 1995 police in Gauteng implemented the community safety plan in the province. During the operation 357 roadblocks were set up, and 21 363 vehicles, 1 574 premises and 43 858 people searched. This resulted in the arrest of 6 011 people and the recovery of 113 stolen vehicles worth about R3m, as well as other stolen property worth about R1m. Suspects held during the operation included 117 for rape, 169 for housebreaking, 406 for theft and attempted theft of a nonviolent nature, 61 for possession of illegal firearms and ammunition, and 128 for vehicle theft and attempted vehicle theft. More than 1 000 illegal immigrants were arrested.<sup>232</sup> [<sup>232</sup> *Ibid* 1 August 1995]

In October 1995 KwaZulu/Natal police said in a press statement that more than 2 100 people had been arrested in the province since the start of a community safety plan dubbed 'Operation Jambu III' on 28th August 1995. The campaign, a joint SAPS and SANDF operation, had been 'highly successful in stabilising trouble spots', the police statement said. About 460 roadblocks had been set up and 13 050 vehicles searched. Weapons were seized as were more than 1,5 tonnes of dagga.<sup>233</sup> [<sup>233</sup> *Ibid* 3 October 1995]

### **Other Initiatives**

In August 1995 some 350 people from the ANC Youth League, the Inkatha Freedom Party Youth Brigade, the Pan-Africanist Congress Youth and the DP Youth, among others, launched Operation Jinda—a programme aimed at teaching the youth respect for human life and ownership of property.<sup>234</sup> [<sup>234</sup> *Business Day* 30 August 1995]

Businessmen launched an anticrime campaign—the Business Initiative Against Corruption and Crime (BIACC)—at a conference held in Kempton Park (near Johannesburg) in August 1995. A 20-person action committee, consisting of business leaders, police officials and military officers, was appointed to study ways of combating crime. One of the suggestions raised at the conference was a form of corporate financing of police services. Gen Fivaz said that the significance of the BIACC was its 'recognition of the fact that crime-fighting cannot be done by the SAPS alone'.<sup>235</sup> [<sup>235</sup> *The Star* 16 August 1995] In a working paper issued at the end of August 1995, the committee proposed that business co-finance a body to co-ordinate national crime prevention strategies with the police.<sup>236</sup> [<sup>236</sup> *Business Day* 1 September 1995]

## South African Police Service

### Policy

The South African Police Service (SAPS) had to be completely depoliticised and returned to its classic task of crime prevention, the national commissioner of the SAPS, General George Fivaz, said in August 1995. Fundamental changes in the SAPS were aimed at meeting the requirements of the government and creating a police service that was accountable to the community. He added that he was serious about 'sensitising' the police service to human rights and that police officers would be trained in this regard.<sup>237</sup> [237 *Sowetan* 25 August 1995]

Community policing was the answer to the problem of rising crime rates, Gen Fivaz told more than 100 businesspeople at a safety and security conference in Johannesburg in August 1995. He added, however, that the proper structures still had to be set up. It was envisaged that each police station in the country would have a forum in place by the end of 1995. Already, in August, 900 of the 1 188 police stations in the country had police forums in place, Gen Fivaz said.<sup>238</sup> [238 *The Star* 22 August 1995]

### Legislation

#### **South African Police Service Act of 1995**

The South African Police Service Act, which was passed in September 1995, provided for the establishment, organisation, regulation and control of the SAPS as set out in chapter 14 of the transitional constitution. The act made provision for a single police service organised at both national and provincial level. A national commissioner would exercise executive command of the service and provincial commissioners would have responsibility for the service in the respective provinces.<sup>239</sup> [239 South African Police Service Act of 1995, *Government Gazette* no 16731, 4 October 1995]

The act also provided for the establishment of specialised units such as one for the prevention and investigation of organised crime and one for national public order policing. Mechanisms were also set up to ensure some civilian control over the police, such as a secretariat for safety and security to advise the minister for safety and security in the exercise of his functions and duties and to promote democratic civilian control, accountability and 'transparency' in the service. Provinces were empowered to establish provincial secretariats for safety and security.<sup>240</sup> [240 *Ibid*]

Furthermore, the act made provision for community-police forums (where the community and the police work together) as well as an independent complaints directorate (at both national and provincial level) where complaints of misconduct or corruption by police officers could be investigated. It also established an executive co-ordinating committee, consisting of the minister for safety and security and the respective provincial MECs for safety and security, to co-ordinate the service and ensure effective co-operation between the various commissioners. A board of commissioners consisting of the national and

provincial commissioners would be established to promote co-operation in the service.

Under certain conditions the act conferred certain powers on members of the service, including the power to set up roadblocks, carry out searches and cordon off areas to restore public order, where they had obtained written authorisation for this from the national or provincial commissioner. The act also obliged police officers to report certain offences of which they were aware to their commanding officers and to ‘act reasonably in the execution of their official duties’.<sup>241</sup> [<sup>241</sup> Ibid]

Introducing the bill in the National Assembly, the minister for safety and security, Mr Sydney Mufamadi, said it would create the basis for the establishment of a human rights culture in the police service and ensure that uniform standards and procedures would be applied throughout the country. Mr Hendrik Smit MP (NP) said that his party welcomed the legislation as it would establish a legitimate police force to combat crime.<sup>242</sup> [<sup>242</sup> *The Citizen* 14 September 1995]

## **Restructuring of the Police Force**

South Africa’s 11 policing agencies were amalgamated into one South African Police Service when the South African Police Service Act of 1995 was gazetted in October 1995 (see *South African Police Service Act of 1995* above).

## **Training**

In August 1995 the deputy director general of the human resources division of the SAPS, Mr Neels Steenkamp, announced that a field training programme had replaced ‘outdated’ training in the police service as part of the transformation of the SAPS. He said that the distinguishing features of the new training programme were a culture of human rights, community relations, accountability and transparency. Trainees would undergo 44 weeks of training—both practical and theoretical—as opposed to the six months’ training of previous recruits.<sup>243</sup> [<sup>243</sup> Ibid 3 August 1995]

## **Rank Structures**

In September 1995 Gen Fivaz announced that a new rank structure, which would break with the ‘militaristic police culture’ of the past, would be introduced on 1st October 1995. From that date all lieutenants would be given the rank of captain, majors and lieutenant colonels would be superintendents, colonels would be senior superintendents and brigadiers would be directors. A major general would become an assistant commissioner and lieutenant generals would become provincial or divisional commissioners, while a full general would become a commissioner. The ranks of constable, sergeant and captain would be retained as they were internationally acceptable police ranks, Gen Fivaz said.<sup>244</sup> [<sup>244</sup> *Business Day* 4 September 1995] However, the new rank structure only came into force on 1st December 1995.<sup>245</sup> [<sup>245</sup> *The Star* 5 December 1995] In October 1995 the cabinet approved the appointment of a lawyer,

Mr Azhar Cachalia, as the secretary for safety and security. The post was on par with that of the national commissioner of the SAPS. He would be responsible for establishing a secretariat to develop policy, evaluate the SAPS, and assess the cost-effectiveness of its operations.<sup>246</sup> [<sup>246</sup> Ibid 19, 20 October 1995]

## **Inquiries into Police Misconduct**

Referring in August 1995 to possible corruption in the ranks of the police, Gen Fivaz announced that he had given permission for nine new anticorruption units to be set up, bringing the total to 11 countrywide.<sup>247</sup> [<sup>247</sup> *Sowetan* 25 August 1995]

In January 1995 nine former members of the C10 unit (an antiterrorist unit of the South African Police (SAP) stationed at Vlakplaas, near Pretoria) appeared in the Pretoria magistrate's court on charges of murder relating to an incident in March 1992 in which five men allegedly on their way to commit a bank robbery were allegedly murdered in an ambush outside Nelspruit (Mpumalanga). The case against Messrs Jannie Hanekom, Ben van Zyl, Dougie Holtzhausen, Deon Gouws, Rolfe Gevers, Blackie Swart, Eric Sefadi, Simon Radebe and Duiwel Britz was postponed to 1st August 1995 so that a trial date could be determined. Bail was extended to them all.<sup>248</sup> [<sup>248</sup> *The Citizen* 21 January 1995] In August 1995 the charges were withdrawn against Messrs Holtzhausen and Gevers. Both later testified in the trial of Colonel Eugene de Kock, the former commander of the C10 unit. The case against the other accused was postponed to 27th January 1995.<sup>249</sup> [<sup>249</sup> *Business Day* 2 August 1995 ]

In July 1995 a suspended policeman, Sergeant Gary Pollock, told the Durban and Coast Local Division of the Supreme Court in Durban that he was involved in 'third-force' activities including the arming of supporters of the Inkatha Freedom Party (IFP), ambushing a busload of supporters of the African National Congress (ANC) and bugging conversations of political leaders. He also confessed to fomenting friction between political groups deliberately and trying to sow fear and unrest in Alexandra township (north of Johannesburg) but claimed that he had been acting under the instructions of senior police officers at all times.<sup>250</sup> [<sup>250</sup> *Sowetan* 12 July 1995]

His admission emerged in an application to postpone a case against him in the magistrate's court involving dealing in, possession and theft of various firearms, until the Truth and Reconciliation Commission had been set up because he believed he would be eligible for indemnity. Sgt Pollock claimed that a confession on the gun-smuggling charges had been made under duress and was a cover-up for the covert actions of the SAP. He said his commander, Colonel Z de Beer, had told him to shoulder the blame so as not to involve senior members of the police. In August 1995 the case for postponement was dismissed by the court.<sup>251</sup> [<sup>251</sup> *The Star* 8 August 1995]

In the same month a former spy for the SAP, Mr Craig Williamson, confessed that he and his fellow agents, including Col de Kock (also see *Trials* below), had planned and executed a bombing campaign in London aimed largely at the ANC. Mr Williamson also admitted SAP involvement in the killing of Mr Joe Slovo's first wife, Ruth First, in 1982 and ANC member Jeanette Schoon and her daughter

Katryn in Angola in 1984.<sup>252</sup> [<sup>252</sup> Ibid 20 February 1995]

Reacting to the claims, the minister of justice, Mr Dullah Omar, said he expected the police to investigate these claims while Mr Marius Schoon, the widowed husband of Mrs Jeanette Schoon, laid criminal charges against Mr Williamson.<sup>253</sup> [<sup>253</sup> Ibid] In March 1995 a police spokesman, Lieutenant Colonel Joseph Ngobeni, said the police were investigating the charges against Mr Williamson and that a docket would be handed over to the attorney general of Gauteng for his decision as soon as the investigation had been completed.<sup>254</sup> [<sup>254</sup> *The Citizen* 9 March 1995] No further developments had been reported at the time of writing.

The trial of Col de Kock, who was arrested on 5th May 1994 on 121 charges ranging from fraud to murder arising from his activities as a commander of the antiterrorist unit at Vlakplaas in the 1980s, started in the Transvaal Provincial Division of the Supreme Court in Pretoria on 20th February 1995.<sup>255</sup> [<sup>255</sup> *The Star* 21 February 1995] Col de Kock pleaded not guilty to all charges (see *Trials* below).

In March 1995 an investigation was launched on the orders of Gen Fivaz into claims by a former security force source, Mr Nzuzo Godfrey Matiwane, that about 30 police officers and soldiers had been involved in hit squads in the former Ciskei in 1993. Mr Matiwane, who was facing charges of murdering two ANC members in 1993, asked for indemnity in return for giving evidence against those he had implicated in these activities. He also gave details of murders in Mdantsane (Eastern Cape) in 1993 for which he claimed he had been paid for by the police in Port Elizabeth. In April 1995 the lawyer heading the investigation, Mr Gideon Huisamen, said he had almost completed his investigation and that once completed the results would be sent to the attorney general of the Eastern Cape for a decision.<sup>256</sup> [<sup>256</sup> *Daily Dispatch* 19 April 1995]

In June 1995 a former policeman of the Durban security branch, Colonel Louis Botha, was arrested in connection with several alleged hit-squad murders which took place in KwaZulu/Natal in the late 1980s. The arrest followed investigations by the internal investigation task unit appointed by Mr Mufamadi in August 1994 to look into hit-squad activity in KwaZulu/Natal.<sup>257</sup> [<sup>257</sup> *The Natal Witness* 1 June 1995]

The police reporting officer for Gauteng, Mr Jan Munnik, in July 1995 published a report on allegations of police torture by the murder and robbery squad at Vanderbijlpark Police Station (Vaal Triangle) (see also 1994/95 Survey, pp142–145.). Torture and electric shocks were used to extract information from suspects. Mr Munnik said he expected prosecutions to follow in about 40 cases and that the attorney general of Gauteng had already decided to prosecute 17. There were 62 investigations near completion, he added.<sup>258</sup> [<sup>258</sup> *The Sunday Independent* 9 July 1995]

Mr Munnik said in the report that senior police officers had hampered and interfered with his investigation and had denied him access to certain case documents. Police officials had consistently refused to suspend the implicated police officers from their duties. He added that allowing police



officers facing prosecution to remain on duty continued to damage ‘the credibility of the police’.<sup>259</sup> [259 Ibid]

Gen Fivaz said that an urgent investigation would be launched into Mr Munnik’s allegations of obstruction. However, he accused Mr Munnik of using ‘lynch-mob tactics’ by sidestepping police reporting procedures and ‘rushing to the media’. He said that he was committed to rooting out misconduct by police officials—through the implementation of legal and constitutional investigative processes.<sup>260</sup> [260 *The Citizen* 11 July 1995]

An investigator in Mr Munnik’s team, Mr Piers Pigou, disclosed in the same month that the commissioner of the SAPS in Gauteng, Lieutenant General Sharma Maharaj, had refused to act on allegations of police misconduct which had occurred before his appointment.<sup>261</sup> [261 *The Sunday Independent* 9 July 1995] In his reply Gen Maharaj said that the decision not to suspend the police officers had been taken after an independent investigation by the previous national police commissioner, General Johan van der Merwe, Gen Fivaz and a deputy commissioner.<sup>262</sup> [262 *The Citizen* 10 July 1995]

In her reaction to Mr Pigou’s disclosure the Gauteng MEC for safety and security, Ms Jessie Duarte, said Gen Maharaj’s decision not to suspend the police officers was unacceptable. She said that if there was evidence that police officers had committed wrongs Gen Maharaj would be obliged to act against them, regardless of when they allegedly committed a crime.<sup>263</sup> [263 *Sowetan* 12 July 1995] However, after meeting with Gen Maharaj, Ms Duarte said the decision not to suspend the officers had been taken at national level but that she would be taking the matter up with Mr Mufamadi, to ensure that action was taken ‘against those linked to the acts of torture and murder’.<sup>264</sup> [264 *The Star* 13 July 1995]

Later in the month, however, Mr Munnik and the SAPS agreed that the SAPS would study a draft suspension policy as compiled by the interim police reporting officer’s board, concerning officials suspected of misconduct, after which, suspensions, if necessary, would be made. They also agreed that Mr Munnik would be given access to case documents previously denied to him.<sup>265</sup> [265 *The Citizen* 14 July 1995]

Also in July, a document entitled *Breaking with the past? Reports of alleged human rights violations by the South African Police, 1990 to 1995*, compiled by the Network of Independent Monitors, the Trauma Centre for Victims of Violence and Torture, and the Independent Board of Inquiry, was published. The report, which contained 66 case studies, claimed that police in the Western Cape tortured suspects ‘on a routine basis’ and demonstrated ‘a remarkable failure to investigate criminal activity within their own ranks’. The report said that in the period 1990–95 there had been more than 130 deaths during arrest or in police custody in Gauteng, KwaZulu/Natal and the Western Cape.<sup>266</sup> [266 *The Argus* 21 July 1995]

A police spokesman in the Western Cape, Colonel Raymond Dowd, responded to the allegations in the report by saying that no evidence existed to verify torture allegations against the unit.<sup>267</sup> [267 Ibid]

In August 1995 Gen Fivaz ordered an investigation into allegations that senior police officers had been supplying guns handed in to them during the 1995 weapons amnesty to warring factions at the Sebokeng hostel complex (Vaal Triangle). The allegations were made by an unnamed 'top cop' in the *City Press* newspaper. Gen Maharaj said that he would personally monitor the investigation's progress.<sup>268</sup> [<sup>268</sup> *The Citizen* 22 August 1995]

The police commissioner for the Vaal Triangle, General Leon van Tonder, however, denied these allegations and said that the weapons handed in during the amnesty were locked in a safe at the firearms unit and had been recorded in a register. The register and the firearms were displayed at a press conference.<sup>269</sup> [<sup>269</sup> *The Star* 23 August 1995]

Three former KwaZulu/Natal police officers and self-confessed members of a police hit squad were found guilty of murder, kidnapping and malicious damage to property in August 1995 for their role in the murder of six people in 1993 at Esikhawini (KwaZulu/Natal north coast). Messrs Romeo Mbambo and Israel Hlongwane were each sentenced to 75 years in prison, while Mr Gcina Mkhize was sentenced to 52 years' imprisonment.<sup>270</sup> [<sup>270</sup> *The Citizen* 30 August 1995] In mitigation of sentence the men claimed that the MEC for pensions and social welfare in KwaZulu/Natal, Prince Gideon Zulu, had given them orders to kill. They also named several IFP officials and former KwaZulu Police officials for involvement in hit squads, including Prince Zulu, Mrs Lindiwe Mbuyazi MPL (IFP), Major Leonard Langeni, Brigadier C P Mzimela and Mr Zakhele Khumalo. All refused to testify and their lawyer, Mr Patrick Falconer, said his clients did not want to give evidence as the trial would become 'a trial of the Inkatha Freedom Party'.<sup>271</sup> [<sup>271</sup> *New Nation* 31 March 1995]

Mr Justice Nick van Reyden said he accepted Mr Mkhize's evidence that one of the murders was 'sanctioned by Prince Zulu and others'. He also accepted the evidence of the accused that four of those murdered in June 1993 were murdered 'on the orders of those who controlled the hit squad'.<sup>272</sup> [<sup>272</sup> *Sowetan* 30 August 1995] He did not say who they were.

In August 1995 the SAPS anticorruption unit launched an investigation into police involvement in taxi violence and the illegal issuing of taxi licences (see also *Violence in the taxi industry* above).<sup>273</sup> [<sup>273</sup> *Business Day* 22 August 1995]

In October 1995 a document entitled *One year of government of national unity*, and issued by the ANC, questioned the loyalty of the police to defend the government of national unity. It said that security issues had been 'scandalously exploited in the past' and security force members had been poorly paid and had lacked motivation. 'Given these factors, to what extent can we claim the loyalty of these forces?' the document asked.<sup>274</sup> [<sup>274</sup> *The Citizen* 14 October 1995] Gen Fivaz denied that the police were disloyal to the government and said a distinction had to be made between 'loyalty to the constitution and loyalty to a political party'. He appealed to all political parties not to reduce the police service to a 'political football'. The secretary general of the ANC, Mr Cyril Ramaphosa, subsequently reiterated his

party's support for the police service and claimed that the document had been 'misrepresented' by the media.<sup>275</sup> [<sup>275</sup> Ibid 17 October 1995]

Mr Mufamadi said he could state 'categorically' there was no truth to suggestions of disloyalty and that the police retained his confidence and that of the president.<sup>276</sup> [<sup>276</sup> Ibid]

## **Trade Unionism in the South African Police Service**

A new unified labour relations arrangement for the SAPS, which provided for greater access to information in the service by employee organisations and which prohibited strike action by police officers, came into effect on 27th September 1995. Gen Fivaz said that the system was in line with the SAPS vision of a demilitarised, people-centred personnel management system. The new system provided for the members of the non-managerial ranks of the SAPS to join employee organisations. Members in managerial positions were allowed to belong to a union but were not allowed to represent the union at the negotiating table to avoid possible conflict of interest. The regulations prohibited strikes and lockouts but provision was made for a national negotiating forum and provincial forums to handle labour disputes. Provision was also made for compulsory arbitration in the event of a deadlock developing in a negotiating forum. Police unions and employee organisations were prohibited from affiliating to or receiving support from political parties.<sup>277</sup> [<sup>277</sup> Ibid 27 September 1995]

Replying to a question by Mr Douglas Gibson MP (DP), Mr Mufamadi said that in January 1995, 279 members of the SAPS went on strike resulting in a loss of 333 mandays.<sup>278</sup> [<sup>278</sup> *Hansard* (NA) 2q col 96, 15 March 1995]

In January 1995 about 100 police officers occupied the Orlando Police Station (Soweto) in what they said was a protest against a white policeman who had called one of their African colleagues a 'kaffir'. The protesting officers claimed that no disciplinary action had been taken against the policeman despite a complaint having been lodged with the station commander, Colonel A Louw. At a meeting with the district commissioner of police for Soweto, Brigadier Chris Earle, it was agreed that all their grievances would be investigated and acted upon.<sup>279</sup> [<sup>279</sup> *Business Day* 17 January 1995]

Five police officers, including the commander of the police station, were temporarily transferred to another police station while the investigation was in progress. On completion of the investigation the five officers were, however, reinstated after being cleared of charges of racism. As a result 36 police officers at the Orlando Police Station stopped working in protest against the decision.<sup>280</sup> [<sup>280</sup> *The Citizen* 27 January 1995] A few days later Warrant Officer Jabulani Xaba was killed when members of the internal stability unit (which had been called in to quell the protest) opened fire on police officers protesting the reinstatement of the five.<sup>281</sup> [<sup>281</sup> *Sowetan* 31 January 1995] Col Louw was subsequently transferred and replaced as commander of the Orlando Police Station by Major Joel Mokwena.<sup>282</sup> [<sup>282</sup> *Business Day* 1 February 1995]

Meanwhile protest action against alleged racism in the police service (organised by the Police and Prisons Civil Rights Union (Popcru)) spread to several parts of the country including Langa Police Station (Cape Town) where the station commander had to be transferred after being held hostage by 15 police officers, and Port Elizabeth where three white station commanders were temporarily suspended after being accused of racism by protesting police officers.<sup>283</sup> [<sup>283</sup> Ibid]

Popcru called off the protest actions after meeting with Gen Fivaz, who promised to attend to their grievances urgently. A crisis management committee consisting of Popcru leaders and the management of the SAPS was set up. Gen Fivaz also assured Popcru that no force would be used in future to resolve labour problems in the police service. In a statement after the meeting Gen Fivaz said police unions needed to be recognised but that illegal industrial action deprived the community at large of their constitutional rights to police services and destroyed community confidence in the SAPS.<sup>284</sup> [<sup>284</sup> *The Star* 2 February 1995]

A team under the auspices of the Independent Mediation Service of South Africa was subsequently appointed to investigate the grievances of police officers at Orlando Police Station. The investigators found that some white police officers at the police station used racist and abusive language such as 'kaffir' and 'bobbejaan' (baboon) against subordinate black officers. The team added that a culture of racism was evident among certain of the white police officers at the station.<sup>285</sup> [<sup>285</sup> *The Citizen* 8 February 1995]

In February 1995 the Police and Traffic Officers Union of South Africa was launched. The chairman of the committee overseeing the launch, Major Strini Govender, said that a professional union was needed to solve problems through negotiation and not through strike action.<sup>286</sup> [<sup>286</sup> Ibid 11 February 1995]

In the same month a national crisis committee was set up to handle labour problems in the SAPS. General Fivaz said that the committee would serve as a mechanism 'to take urgent action in handling volatile and threatening labour unrest'.<sup>287</sup> [<sup>287</sup> Ibid 18 February 1995]

In March 1995 members of the South African Police Union (Sapu), which claimed to represent 50 000 police officers, embarked on a 'go slow' in the Eastern Cape, Gauteng, KwaZulu/Natal, the Northern Cape and the NorthWest in support of a 25% pay increase, overtime pay and the payment of a R350 'prestige' bonus. The union also demanded a separate bargaining forum to negotiate police wages and living conditions. Despite an agreement with Gen Fivaz that a meeting would be held with government ministers to discuss the demands for an increase, Sapu said the protest action would continue until 'concrete' solutions had been produced.<sup>288</sup> [<sup>288</sup> *The Star* 28 March 1995]

Popcru distanced itself from the protest action, which had by then spread to the Northern Province and the Free State.<sup>289</sup> [<sup>289</sup> *Business Day* 31 March 1995] The situation had not been resolved by April 1995 and the union staged two protest marches, one in Johannesburg and the other in Cape Town.<sup>290</sup> [<sup>290</sup> *The Citizen* 8

April 1995]

Reacting to the police protest action, the president, Mr Nelson Mandela, called police salaries ‘a disgrace’ and said that he had asked Mr Mufamadi and the minister of finance, Mr Chris Liebenberg, to investigate ways of improving police salaries and working conditions. On 17th April 1995 the national organiser of Sapu, Mr Gerhard van der Merwe, announced an end to the ‘go slow’ after police management had acceded to the union’s demands.<sup>291</sup> [<sup>291</sup> *Sowetan* 18 April 1995]

At the beginning of August 1995 about 150 Popcru members marched on the Pretoria Police Training College demanding that all assistant constables be given permanent appointments before the end of 1995. The acting chairman of Popcru in the North-West, Mr Themba Nxumalo, said assistants earned ‘disgraceful salaries’ and were randomly dismissed from work. He said the situation could not be allowed to continue.<sup>292</sup> [<sup>292</sup> *Ibid* 2 August 1995] On 7th September 1995 Gen Fivaz announced that 8 000 police officers had been promoted to noncommissioned ranks after they had passed a series of examinations. The promotion of personnel to commissioned ranks had to be approved by the president. He added that promotions based on merit were still under consideration but would be done on the basis of vacancies, available funds and the requirements of the SAPS.<sup>293</sup> [<sup>293</sup> *The Citizen* 8 September 1995] Gen Fivaz subsequently announced that commissioned officers who qualified for promotion would be dealt with in categories owing to the large number of promotions. He added, however, that not all members who qualified for promotion would be promoted as this would result in a completely unmanageable organisation.<sup>294</sup> [<sup>294</sup> *Ibid* 14 September 1995]

About 150 members of Popcru were arrested in September 1995 during a march to John Vorster Square Police Station to demand the resignation of the area commissioner, Major General Frans Malherbe, because of alleged racism. The march was followed by a sit-in of three union members inside the station. The arrested policemen were later released on bail.<sup>295</sup> [<sup>295</sup> *The Star* 13 September 1995]

In October 1995 the Transvaal Provincial Division of the Supreme Court in Pretoria dismissed an application by Popcru to have 250 striking assistant constables reinstated after they were dismissed earlier in the same month by the management of the SAPS.<sup>296</sup> [<sup>296</sup> *Ibid* 5 September 1995] The constables embarked on the strike in support of 23 assistant police constables who were attending a course at the police college in Pretoria designed to promote them to the rank of constable. The 23 constables demanded a second chance when they failed their exams and they refused to return to their police stations as assistant constables when ordered to. The court found that the strike had been illegal and the SAPS was entitled to dismiss the assistant constables for ignoring an ultimatum to return to classes.<sup>297</sup> [<sup>297</sup> *Ibid*]

The deputy director of the human resource division of the SAPS, Mr Neels Steenkamp, called the decision a ‘victory for the new labour relations regulations which were based on mutual agreement between labour organisations and the management of the police service’.<sup>298</sup> [<sup>298</sup> *The Citizen* 5 October 1995]

## Justice

### Legislation

#### ***Criminal Procedure Amendment Bill***

The Criminal Procedure Amendment Bill—a private member’s bill by Mr Douglas Gibson MP (Democratic Party)—sought to amend the principal act so as to compel the courts to refuse bail to an accused who had been imprisoned without the option of a fine for similar crimes on two previous occasions. The onus would then be on the accused to convince the court that the granting of bail in such an instance would not be contrary to the interests of justice. The bill also sought to introduce life imprisonment either with or without the possibility of parole or release from prison before the death of the person convicted. Furthermore, it provided for imprisonment for a specific period of time without the possibility of parole or early release.<sup>299</sup> [299 Criminal Procedure Amendment Bill B53-95] The bill had not been passed at the time of writing.

#### ***Criminal Procedure Second Amendment Act of 1995***

The Criminal Procedure Second Amendment Act, passed in September 1995, provided that where a police officer of or above the rank of noncommissioned officer refused to grant bail to an accused in custody before their first appearance in the lower courts, the accused would be entitled to be brought before a lower court for consideration of bail ‘as soon as possible’. It also provided, however, for such a court, under certain conditions (such as where it was of the opinion that it had insufficient evidence to rule on bail or where material evidence had been lost), to postpone any bail proceedings to a later date, for a period not exceeding seven days at a time.

The act also directed that persons arrested on suspicion of having committed an offence be charged or released and be allowed to institute bail proceedings no later than the day after arrest. An accused would be entitled to bail at his or her first appearance in a lower court unless the court found ‘good cause’ for detaining the accused.

The act laid down strict criteria to be considered by the court in granting bail (including the safety of the public). The criteria made it tougher for those accused of violent criminal acts to get bail, by placing the onus on them to show that it was in the interests of justice that they be released. It also repealed section 61 of the principal act, which allowed attorneys general to prevent a court from releasing an accused in custody on bail but provided for attorneys general to appeal to a superior court against a decision of a lower court to release an accused. The conditions under which bail could be cancelled were also extended to include instances where evidence was obtained under oath that an accused was interfering or threatening or attempting to interfere with witnesses or that he or she constituted a threat to public safety. It provided for bail to be forfeited and a warrant of arrest to be issued where a court of appeal had ordered a sentence to be effected and the accused could not be found at the address provided for him or her. Furthermore, the act empowered a superior court to consider the granting of bail after the refusal of

such an application in a magistrate's court where the accused was standing trial in the superior court.<sup>300</sup>  
[<sup>300</sup> no 16696, 21 September 1995]

## **Trials**

### ***State v Eugene de Kock***

The trial of the former commander of the C10 unit (an SAP antiterrorist unit) stationed at Vlakplaas (near Pretoria), Colonel Eugene de Kock, who was arrested on 5th May 1994 on 121 charges ranging from fraud to murder, arising from his activities in the 1980s as commander of Vlakplaas started in the Transvaal Provincial Division of the Supreme Court in Pretoria on 20th February 1995.<sup>301</sup> [<sup>301</sup> *The Star* 21 February 1995] Col de Kock pleaded not guilty to all charges. In a report by the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation (the Goldstone commission) in March 1994 Mr Justice Richard Goldstone had named Col de Kock as a central figure in an alleged conspiracy to arm the Inkatha Freedom Party (IFP) for a secret war against the African National Congress (ANC).<sup>302</sup> [<sup>302</sup> *Ibid* 20 February 1995] The case was still in progress at the time of writing.

### ***Shell House***

In September 1995 a docket on the killing of eight IFP supporters outside Shell House, the ANC's national headquarters in Johannesburg, during a Zulu march in March 1994 was handed to the acting attorney general of the Witwatersrand, Mr Kevin Attwell. A special team was appointed by Mr Attwell to study the docket.<sup>303</sup> [<sup>303</sup> *Ibid* 13 September 1995] At the time of writing, no trial had been instituted.

The eight supporters that were killed outside Shell House were among more than 50 people who were killed in and around Johannesburg on 28th March 1994, after a demonstration (in support of demands by the Zulu monarch, King Goodwill Zwelithini, for a Zulu kingdom and self-determination for Zulus) called by Zulu traditional leaders in the run-up to the 1994 general election. The IFP had been granted permission for the march by the Johannesburg City Council.<sup>304</sup> [<sup>304</sup> *The Citizen* 30 March 1995]

The day after the killings the ANC described the violence that accompanied the march as part of a 'general campaign to destabilise Gauteng and endanger free and fair elections in the province'. The organisation said that it had passed on information to the then commissioner of the South African Police, General Johan van der Merwe, that the ANC's regional and national offices would be 'targeted by the marchers'. The ANC said that it held both the IFP and the police responsible for what had happened. The IFP alleged that members of the ANC's armed wing, Umkhonto we Sizwe, had infiltrated the march and were the ones who had started the shooting that led to the deaths.<sup>305</sup> [<sup>305</sup> *The Star* 29 March 1994] The president of the IFP, Chief Mangosuthu Buthelezi, said that the killings marked the start of a struggle between the ANC and the Zulu nation unless the date for the election (scheduled for 27th April 1994) was postponed. Chief Buthelezi blamed the ANC for the killings and described the incident as the 'Shell House massacre'. In May 1995 Mr Douglas Gibson MP (DP) said in the National Assembly that

although 14 months had passed since the killings no one had yet been charged. Mr Gibson called for proper and professional police investigation and the co-operation of both the ANC and the IFP. The minister for safety and security, Mr Sydney Mufamadi, said that the investigation had been going on for too long. The matter would be receiving his personal attention, Mr Mufamadi said.<sup>306</sup> [<sup>306</sup> *Hansard* (NA) 8q cols 891–895, 24 May 1995; *The Citizen* 30 March 1994]

In June 1995 the president, Mr Nelson Mandela, told Parliament that he had instructed ANC security guards to shoot if necessary to defend the ANC offices against attack from the marchers. During a special debate in the National Assembly, a number of opposition parties called for an independent commission of inquiry into the Shell House incident, in view of Mr Mandela's involvement, the alleged obstruction of justice and the slow pace of the police investigation. The executive deputy president from the majority party, Mr Thabo Mbeki, rejected the call, saying that it would be 'improper' to appoint a commission of inquiry as it would 'interfere with the attorney general's prerogative to decide whether to hold an inquest or to prosecute anyone'. Mr Mandela added that the circumstances surrounding the Shell House killings did not require a commission of inquiry. A spokesman for the national crime investigation unit, which handled the case, said in September 1995 that the few outstanding statements needed to complete the Shell House docket were being obtained by the police but that they would not materially affect the attorney general's decision on whether to prosecute or not. Mr Attwell said he had requested that the case files of people killed at the Library Gardens in Johannesburg should also be included in the Shell House docket. These killings could all be related, he said, as all the people killed were on their way to the same meeting.<sup>307</sup> [<sup>307</sup> *The Citizen* 5, 6, 14 June 1995; *The Star* 13 September 1995] No decision on whether to prosecute had been made at the time of writing.

The ANC claimed that a token presence of policemen and soldiers was sent to patrol the Shell House precinct and that they fled when the shooting broke out. The party said that their regional office had been attacked by Zulu marchers prior to the Shell House shootings and that top party leaders in Shell House were, therefore, at risk.<sup>308</sup> [<sup>308</sup> **Fast Facts** No 9, September 1995]

In a 172-page submission to the Goldstone commission on 18th April 1994, the police disputed the claim that Shell House was under attack or that they [the police] had fled when firing broke out. Nine policemen and ten troops had been deployed in the Shell House precinct after the ANC had requested police protection for the building. About ten ANC guards, with bulletproof vests and armed with pistols and shotguns, stood near the entrance to the building and refused to heed requests by the police not to point firearms at the marchers. Policemen on the scene claimed that the guards had opened fire on the marchers 'for no reason whatsoever', when they were 50 to 70 meters away from the guards. In July 1995 Mr Mandela said that a 'plot' between the IFP and the police had led to the killings. After the IFP threatened to take Mr Mandela to court over the allegations, the ANC accused the IFP of trying to deflect attention from its alleged 'third force' involvement. The ANC said that the events of 28th March 1994 had to be 'judged against the backdrop of a conspiracy involving the NP government, senior police officers and the IFP. Both the IFP and the police commissioner at the time of the killings, General Johan van der Merwe, called for an independent inquest into the Shell House incident.<sup>309</sup> [<sup>309</sup> *Ibid*; *Saturday Star* 8



July 1995, *Business Day* 10 July 1995]

## Prison Population Reduction and Releases

Replying to a question by Senator James Selfe (DP), the minister of correctional services, Dr Sipho Mzimela, supplied the following information on prison populations in South Africa as at 31st March 1995:310 [<sup>310</sup>*Hansard* (S) 8q cols 417–430, 31 May 1995]

### *Prisoners in South African prisons at 31st March 1995*

Province

Prisoners

Monthly cost Rm<sup>a</sup>

Eastern Cape

13 406

21,6

**Free State**

11 902

12,3

Gauteng

29 903

25,4

**KwaZulu/Natal**

17 646

18,1

**Mpumalanga**

8 375

8,3

**North-West**

7 709

7,9

**Northern Cape**

3 712

3,5

**Northern Province**

2 786

4,7

**Western Cape**

22 766

19,7

**Total**

118 205

122,5

a

Figures may not add up owing to rounding.

Each prisoner cost the state an average of R1 036 a month.

In May 1995 Dr Mzimela told Parliament that up to 13th May 1995 a total of 14 427 prisoners had been released or 'placed out' of prison (where they served sentences outside prison) as a result of an amnesty announced by the president on 27th April 1995.<sup>311</sup> [<sup>311</sup> Ibid 8q col 931, 24 May 1995]

In August 1995 a judicial inquiry into unrest in prisons recommended a general remission of sentences subject to a maximum of three years, a move that would have effectively released some 52 000 prisoners. The parliamentary portfolio committee on correctional services, however, rejected the recommendation saying that amnesty was 'a unique mechanism which was the prerogative of the president and usually announced to mark an important event in the history of the country'.<sup>312</sup> [<sup>312</sup> *Sowetan* 16 August 1995]

In September 1995 Dr Mzimela told Parliament that 566 paroled prisoners and 292 released under correctional supervision had been readmitted to prison after committing a criminal offence between May 1994 and Ju

## Death Sentence

Replying to a question by Mr Douglas Gibson MP (DP), Mr Omar said in May 1995 that 91 people had been sentenced to death in South Africa in 1994.<sup>314</sup> [<sup>314</sup> *Hansard* (NA) 7 col 823, 10 May 1995] No executions had, however, taken place since 1989 (see 1994/95 Survey, p151.).

The deputy minister of justice, Mr Gert Myburgh, told the Free State congress of the National Party in July 1995 that there had been no increase in serious crime since the repeal of the death penalty in May 1995 (see also chapter on *Government, the Constitution, and Human Rights*). He claimed, however, that the abolition of the penalty had led to a 'psychosis among criminal elements that they could do as they pleased'.<sup>315</sup> [<sup>315</sup> *The Citizen* 22 July 1995]

## South African National Defence Force

### Policy

In June 1995 the government published its draft white paper on national defence. The white paper, which also invited public participation in the formulation of defence policy and strategy, supported the creation of the post of military ombudsperson to investigate complaints against the South African National Defence Force (SANDF) and committed the defence force to a policy of transparency in its workings. According to the white paper, the government would also prefer a voluntary defence force to a conscripted one.<sup>316</sup> [<sup>316</sup> *Defence in a democracy: Draft white paper on national defence for the Republic of South Africa*, 21 June 1995]

Proposals made by the ministry of defence in the white paper included the following:

- soldiers should be entitled to refuse to execute an order if it was an offence or a breach of international law on armed conflict;
- military personnel should be allowed to vote and be members of political parties but should not be able to hold office;
- the SANDF should be subordinate to the elected civilian authority, and fully accountable to Parliament and the executive; and
- there should be a 'fair and acceptable' balance between the need to protect sensitive information and demands for freedom of information.

In the white paper, the Department of Defence said that it was considering the question of appropriate labour relations machinery but added that a comparison with other countries indicated that unionisation, even with severe limitations, was rarely permitted in defence forces.<sup>317</sup> [<sup>317</sup> Ibid]

In an interview conducted by a newspaper, *New Nation*, in August 1995 the minister of defence, Mr Joe Modise, said that even though there was no visible external threat to South Africa this did not rule out the possibility of future threats. Internal threats were also a possibility and the SANDF would be the final resort if all other forces within the country failed to keep internal order.<sup>318</sup> [<sup>318</sup> *New Nation* 25 August 1995]

## Legislation

### ***Defence Amendment Act of 1995***

The Defence Amendment Act, which provided for the establishment of a defence secretariat under a secretary for defence, was gazetted in October 1995. The act stipulated that the secretary for defence should not be a member of the SANDF, but members of the SANDF could be placed at the disposal of the secretary to serve in the secretariat. The act defined distinct powers and functions for the secretary for defence and the chief of the defence force to enable them to act independently.

According to the act, the secretary for defence would be the chief adviser to the minister of defence with regard to defence policy as well as any matter to be investigated by the joint standing committee on defence of Parliament. Provision was also made for the secretary for defence to ultimately act as chief accounting officer of the Department of Defence and to perform that function with the aid of the chief of the SANDF without the latter having to relinquish his military executive command over the SANDF.<sup>319</sup> [<sup>319</sup> Defence Amendment Act of 1995, *Government Gazette* no 16739, 6 October 1995]

The act provided, inter alia, for the chief of the defence force to be chief adviser of the minister of defence on military, operational and administrative matters, in addition to his duties as chief executive of the SANDF. The explanatory memorandum to the legislation stated that it aimed to give effect to the government's intention to establish civilian control over the SANDF.<sup>320</sup> [<sup>320</sup> Ibid]

### ***Defence Special Account Amendment Act of 1995***

The Defence Special Account Amendment Act, gazetted in October 1995, amended the principal act so as accommodate the future appointment of the secretary for defence as accounting officer of the Department of Defence (see *Defence Amendment Act of 1995* above). However, until such time as the secretary for defence was actually appointed as accounting officer the chief of the national defence force, who was the current departmental accounting officer, would continue to function as such.<sup>321</sup> [<sup>321</sup> Ibid]

### **Restructuring and Integration**

The full-time uniformed component of the SANDF consisted of 75 479 personnel including 39 473 Africans, 28 192 whites, 6 982 coloured people and 832 Indians.<sup>322</sup> [<sup>322</sup> *The Citizen* 8 November 1995] There were 21 695 civilians in the service of the full-time component of the SANDF and there were 2 614 members of nonstatutory forces not yet placed.

The part-time component of the force consisted of 605 185 members of whom 2 007 were in voluntary military service, 526 702 in the citizen force and 76 476 in commandos.<sup>323</sup> [<sup>323</sup> South African National Defence Force annual report 1994/95, October 1995]

The integration and rationalisation of the force was still under way at the time of writing but Mr Modise said that the process would be completed by 1999.<sup>324</sup> [<sup>324</sup> Ibid]

In June 1995 the commanding officer of SANDF Group 46, Colonel Kinnie van Eden, said that the integration of armed forces in the Eastern Cape was 'slowly but surely gaining momentum'. Most of the personnel of the former 'liberation' armies plus the former Ciskei Defence Force, the former Transkei Defence Force and the South African Defence Force, had 'to a great extent' been integrated into the SANDF. Col van Eden said, however, that the strength of the force in the province would have to be adjusted and that this would be done through transfers to other provinces.<sup>325</sup> [<sup>325</sup> *Daily Dispatch* 30 June 1995]

In August 1995 Mr Modise said that the demobilisation and rationalisation of the SANDF would be completed by 1999 and that the full-time uniformed members of the force would be reduced to between 70000 and 75 000. The first phase in the reduction would be the demobilisation of former members of 'liberation' armies. Mr Modise said that the government had allocated R255m for gratuities for those opting for demobilisation.<sup>326</sup> [<sup>326</sup> *The Citizen* 23 August 1995]

In August 1995 the parliamentary caucus of the African National Congress (ANC) demanded the disbandment of the countrywide commando network. The ANC chief whip, the Rev Arnold Stofile, said that the ANC regarded the commandos as self-defence units that ‘the boere had set up for themselves’. The commandos were part of the country’s part-time forces and had units in both rural and urban areas. According to a defence force spokeswoman, Major Merle Mayer, there were 200 commando units spread throughout the country, their function being to act as ‘rear-area defence protection’. She added that the units were not ‘whites-only organisations’ but were becoming increasingly black.<sup>327</sup> [<sup>327</sup> Ibid 1 September 1995]

Reacting to the proposal, the spokesman on defence for the Conservative Party (CP), Dr Willie Snyman, warned that disbanding the commandos would lead white communities to establish self-defence units in their own towns to protect their lives and property ‘under the unprecedented wave of violence and crime that is sweeping the country’. The CP would push for the retention of the system and for its expansion.<sup>328</sup> [<sup>328</sup> *Patriot* 8 September 1995]

In August 1995 the chief of staff of the SANDF, General Sphiwe Nyanda, disclosed that 482 instructors had resigned, mostly because of stress. The integration of the SANDF and the standard of training could be seriously affected by the resignations. He added that instructors ‘unaccustomed to a certain style of training’ faced tremendous stress training soldiers from a range of armies and different cultures.<sup>329</sup> [<sup>329</sup> *The Star* 23 August 1995]

In a progress report to Parliament in August 1995, Gen Nyanda said that 16 450 of the estimated 35 000 former ‘liberation’ army personnel had been integrated into the SANDF. He said that the process had been complicated by illiteracy, low levels of training in the guerrilla armies and the resignation of instructors.<sup>330</sup> [<sup>330</sup> *The Citizen* 23 August 1995]

Replying to criticism from Mr Tony Yengeni MP (ANC) concerning the fact that most instructors in the SANDF were white, Gen Nyanda said that public service regulations imposed criteria that made it hard for former guerrillas, most of whom had only informal training, to attain high rank in the new defence force.<sup>331</sup> [<sup>331</sup> Ibid]

In September 1995 the chief of the SANDF, General Georg Meiring, and a group of his senior officers began discussions with South African business executives aimed at gaining the co-operation of business in the development of an effective voluntary part-time or citizen force. The co-ordinator, Brigadier Roy Andersen, a member of the citizen force and president of the Johannesburg Stock Exchange, said that the purpose of the talks was to establish whether business would be willing to back the upgrading of the voluntary system now that conscription no longer existed. He added that the advantage to business would be a lower tax burden since it would be possible to maintain a smaller full-time professional defence force. Questions such as the time volunteers would have to devote to the force and responsibility for payment—the SANDF or their employers—were among the items still to be discussed.<sup>332</sup> [<sup>332</sup> Ibid 21 September 1995]

In October 1995 Mr Modise announced that an incentive system for volunteers serving in the part-time forces of the SANDF would be introduced and would form part of a new part-time forces system 'to be unveiled soon'. An incentive system would also be devised for employers willing to release employees for part-time service. The part-time forces would complement the ranks of all urban and rural units. South Africa's defence strategy was to have a core force, which, if necessary, could be expanded to a full war-time force by calling up trained volunteers. Voluntary military duty rather than conscription would result in a more effective system, Mr Modise added.<sup>333</sup> [<sup>333</sup> Ibid 20 October 1995]

## Deployment of Troops

In July 1995 the army was sent into Sebokeng (Vaal Triangle) when violence flared between Xhosa hostel residents and Bhaca, Pondo and Sotho hostel residents. The violence was believed to have been sparked by the death of a Sotho couple at one of the hostels—allegedly at the hands of Xhosa workers. The ensuing violence resulted in 15 deaths and 11 injuries (see also *Tensions among hostel residents* above).<sup>334</sup> [<sup>334</sup> *The Star* 26 July 1995]

Two armoured squadrons from the army were deployed in KwaZulu/ Natal from 1st August 1995 to help curb the violence in the province. They were deployed in the Midlands, in Durban, and on the south coast.<sup>335</sup> [<sup>335</sup> *The Mercury* 1 August 1995] They were still there at the time of writing.

On 22nd August 1995 the minister for safety and security, Mr Sydney Mufamadi, said that 400 additional troops plus 600 police officers would be deployed in KwaZulu/Natal to fight violent crime in the province. He told a briefing at the headquarters of the internal stability unit of the South African Police Service (SAPS) that the operation was being implemented as part of a community safety plan in Gauteng, KwaZulu/Natal, Mpumalanga and the Western Cape (see also *Initiatives to combat crime* above). Mr Mufamadi added that four areas marked for more security forces were the greater Durban area, Empangeni–Eshowe in the north, Ladysmith in the Midlands and Port Shepstone on the south coast. The Inkatha Freedom Party (IFP) condemned the decision on the grounds that Mr Mufamadi had not consulted the KwaZulu/Natal MEC for safety and security, the Rev Celani Mtetwa, and the affected communities. An IFP member of the KwaZulu/Natal legislature, Mr Thomas Shabalala, said he feared that the SANDF members would 'cause trouble' as there were many former soldiers of Umkhonto we Sizwe in the SANDF. The ANC, on the other hand, welcomed the move.<sup>336</sup> [<sup>336</sup> *Sowetan* 23 August 1995]

In September 1995 the SANDF announced that call-ups of members of the citizen force were under way to provide support for the local government elections scheduled for 1st November 1995. Members had already received instructions, the statement said.<sup>337</sup> [<sup>337</sup> *The Star* 3 October 1995] The following month, however, the SANDF said that there had only been a limited call-up of citizen-force members to assist the SAPS and provincial authorities during the elections.<sup>338</sup> [<sup>338</sup> *The Citizen* 3 October 1995]

## Trade Unionism in the Defence Force

In September 1995 the South African National Defence Force Union applied to the Constitutional Court to declare invalid section 126 (b) of the Defence Act of 1957, which prohibited unionisation among members of the SANDF. A spokesman for the union, Mr Cor van Niekerk, said the application had followed months of negotiation on the matter with the SANDF. The union said it was unable to form a national executive committee because of a refusal by the SANDF to allow it to organise. The application was refused by the court in October 1995.<sup>339</sup> [<sup>339</sup> Information provided by Miss S Mohlabakoe, assistant to the registrar of the Constitutional Court, 19 January 1996; *The Citizen* 14 September 1995]

## Intelligence

The National Intelligence Service (NIS) was disbanded on 31st December 1994 and replaced by the National Intelligence Agency, which would handle internal security, and the South African Secret Service, which would handle foreign intelligence.<sup>340</sup> [<sup>340</sup> Ibid 24 February 1995]

In February 1995 Mr Joe Nhlanhla, the former head of the intelligence department of the African National Congress (ANC), was sworn in as deputy minister for intelligence services. Mr Nhlanhla would report directly to the president, Mr Nelson Mandela.<sup>341</sup> [<sup>341</sup> Ibid] In June 1995 Mr Mandela appointed the minister of justice, Mr Dullah Omar, to administer intelligence services in addition to his existing portfolio.<sup>342</sup> [<sup>342</sup> *The Star* 7 June 1995]

In September 1995 the parliamentary joint standing committee on intelligence was sworn in by the acting judge president of the Cape, Mr Justice J Flanagan. Ms Lindiwe Sisulu-Gama, a former ANC intelligence operative, was sworn in as chairwoman of the committee. She said that the establishment of the committee was a 'bold' step in ensuring accountability of the intelligence service to Parliament. Inspectors general had not been appointed at the time of writing.<sup>343</sup> [<sup>343</sup> *Sowetan* 14 September 1995] In September Ms Sisulu-Gama said the public would be asked to submit nominations for candidates to the posts of inspectors general. The inspectors general would oversee the two branches of the intelligence service. She said that the final choice would have to be approved by a 75% majority in Parliament.<sup>344</sup> [<sup>344</sup> *The Citizen* 27 September 1995]

## Policy

Speaking to the media in February 1995, Mr Nhlanhla said that never again would South Africa's intelligence services be involved in unconstitutional or illegal activities against South African citizens simply because they opposed the government. He added that political dissent was not the concern of intelligence.<sup>345</sup> [<sup>345</sup> Ibid 24 February 1995]

## Legislation



## **Committee of Members of Parliament on and Inspectors General of Intelligence Amendment Act of 1995**

The Committee of Members of Parliament on and Inspectors General of Intelligence Amendment Act, gazetted in July 1995, amended the principal act so as to provide for the above committee to be composed of nine members of the majority party in Parliament, three members of the largest minority party, one member of the second largest minority party, and one member each from every other political party represented in Parliament. The amendment also provided for the committee members to be appointed by the speaker of the National Assembly and the president of the Senate, with the concurrence of the president of the republic acting in concurrence with the leader of the political party concerned. The amendment further provided for the replacement of a member either at the request of his or her party leader, or in cases where a member conducted himself or herself in a manner which constituted a threat to national security. In addition, the amendment act provided for the committee to hand a report to Parliament within the first five months of its appointment and within two months after March in each year thereafter. Nothing should be included in the report which would be more harmful to national security than its exclusion would be to the national interest. The amendment act provided, furthermore, for a minister, acting with the concurrence of the committee, to make regulations for inspectors general. The act also changed the short title of the principal act to the Intelligence Services Control Act of 1994.<sup>346</sup> [346 Committee of Members of Parliament on and Inspectors General of Intelligence Amendment Act of 1995, *Government Gazette* no 16521 July 1995]

## **EDUCATION**

### **BIRD'S EYE VIEW**

Nine provincial departments of education were formally established in April 1995, replacing the previous 19 education departments. The national department would be responsible for tertiary education while the provincial departments would be responsible for primary and secondary education. Teacher training would be the joint responsibility of the national and provincial departments.

Several important education documents, including legislation, were published in 1995. The *White Paper on Education and Training*, published in March 1995, did not differ substantially from the draft white paper published in September 1994. In August 1995 the *Report of the Committee to Review the Organisation, Governance and Funding of Schools* recommended that private and public schools be the only types allowed—effectively abolishing model C schools—and that a compulsory school fee, based on parents' income, be introduced on a sliding scale. Some of the report's proposals were published in a white paper in November 1995.

Two enabling bills were gazetted in 1995, the National Qualifications Framework Bill and the National Education Policy Bill. The former provided for the establishment of an authority which would allow students to transfer credits from one type of educational institution to another. The latter set out the powers of the minister of education and the rights of every person to a basic education and 'equal

access' to education. It was, however, referred to the Constitutional Court and would be signed into law only after the court had ruled on it.

Several of the provincial education departments had drawn up or were preparing legislation regarding the management of schools, technical education and teacher training. A School Education Bill, tabled in the Gauteng provincial legislature in May 1995, was referred to the Constitutional Court in September following complaints by various political parties that it granted 'excessive powers' to the education MEC. The bill, excluding the disputed clauses, was assented to by the premier in December 1995.

The 1995/96 national budget allocated R32,21bn to education, an increase of 9,6% on the previous year's figure and 6,5% of gross domestic product.

The introduction of free and compulsory education in 1995 was generally regarded as a success by education officials. Isolated incidents of racism were reported at some schools but the shortage of space, particularly at township schools, was a bigger problem. Schooling was disrupted but no nationwide strikes or boycotts occurred. Reasons for the disruptions varied from shortages of teachers and classrooms to the abolition of model C schools.

There were also widespread disruptions at tertiary institutions. The students' main demands included student funding, and the transformation of tertiary institutions and their admission policies.

## **KEY POINTS**

- Approximately 5m people above the age of 4 years had no education in 1994, 4m had matriculation only and 1,7m had some form of post-matriculation education.
- A study by Harvard University and the University of Pretoria found that in 1994, 80% of Africans and 40% of whites could not read or compute at a standard 5 level (the basic level of literacy).
- In 1995 Gauteng had the highest literacy rate (88%) followed by the Western Cape (81%). The Northern Cape and the Northern Province had the lowest (67% and 65% respectively), according to the Development Bank of Southern Africa.
- In 1993 white students received almost twice as many degrees, certificates and diplomas (31 304) awarded by universities as African students (16 482).
- White students were awarded 73% of all technikon diplomas and certificates in 1993 and African students 14%.
- The number of people who registered for and completed apprenticeship contracts dropped by 45% and 44% respectively from 1990 to 1995.

- The number of engineering degrees awarded increased by 22% from 1989 to 1993 but comprised only 5% and 4% respectively of the total number of degrees awarded in those years. Degrees awarded in mathematics increased by 29% in the same period but remained at 2% of all degrees awarded in 1989 and 1993.
- About 55% of pupils who wrote matric in 1995 passed compared with 58% in 1994. Only 16% obtained university exemption (18% in 1994).
- In 1994 the average amount spent on education for white pupils (R5403) was 147% higher than the amount spent on African pupils (R2 184) (excluding the former homelands). Average per capita expenditure on all pupils was R2 222.
- In 1994 some 116 796 students were studying to become teachers, 124 317 teachers were improving their qualifications and 239 193 teachers were improving their school competence through curriculum-related courses or management training.
- In 1994, 64% of all teachers in South Africa were fully qualified, 29% were underqualified and 7% were unqualified.
- According to a report published in 1995 by the Education Policy and Systems Change Unit, the 48 000 teachers in Gauteng were the best qualified in South Africa. (Only 4,5% were un- or underqualified.)

*Note: The minister of education, Professor Sibusiso Bengu, said in Parliament in April 1995 that delays might be expected in the reporting of provincial education data because of the complexity of establishing the new provincial departments of education and a new, provincially based national education management information system.<sup>1</sup> [<sup>1</sup> Hansard (S) 4q col 188, 4 April 1995] For this reason education-related figures for 1995 were not always available.*

## **HUMAN RESOURCES**

### **Qualification Profile of the Population**

#### **Level of Education**

According to the *October Household Survey*, an annual sample survey by the Central Statistical Service (CSS), in 1994 approximately 10m people had no education. Of these, 86% were African, 7% were coloured people, 5% were white and 2% were Indian. Some 4m people had matriculation only, of whom Africans comprised 48% and whites 39%. About 1,7m people had some form of post-matriculation education, of whom 56% were white, 36% were African, 4% were coloured and 3% were Indian.<sup>2</sup> [<sup>2</sup> Central Statistical Service (CSS), *October Household Survey 1994*, Statistical release, PO317, 30 March 1995]

The following table and chart give the education levels of the population in 1994:<sup>3</sup> [<sup>3</sup> Ibid]

*Education levels: 1994<sup>a</sup>*

African

Coloured

Indian

White

Total

No education<sup>b</sup>

8 529 389

681 789

151 215

538 246

9 900 639

**Sub A– standard 1**

4 008 982

365 222

86 013

235 159

4 695 376

Standard 2

1 884 560

167 755

36 319

92 651

2 181 286

**Standard 3**

1 757 544

201 126

38 092

90 586

2 087 348

Standard 4

1 916 650

236 771

43 214

88 428

2 285 062

**Standard 5**

2 179 449

318 924

58 786

92 477

2 649 636

Standard 6

2 361 287

398 670

100 177

268 375

3 128 509

**Standard 7**

1 763 488

279 814

66 098

202 767

2 312 167

Standard 8

1 898 092

287 609

117 199

828 353

3 131 252

**Standard 9**

1 619 372

153 262

75 574

202 653

2 050 860

**Matriculation**

1 880 095

299 631

210 982

1 542 381

3 933 090

**Diploma with standard 9 or less**

129 385

6 582

2 963

55 076

194 005

**Diploma with matriculation**

465 706

54 885

30 127

507 318

1 058 035

**Degree**

135 922

16 184

21 125

426 961

600 192

**Other**

14 479

2 325

941

15 691

33 435

**Unspecified**

69 068

1 629

27

5 376



76 100

Total

30 613 467

3 472 178

1 038 851

5 192 498

40 316 995

a

Figures may not add up owing to non-sampling errors.

b

About 5m were younger tha

According to the CSS, 9,9m people had no education in 1994, of whom approximately 5m were younger than four years old and who would normally be below educable age. In 1994 slightly fewer men (48%) than women (52%) had no education.<sup>4</sup> [<sup>4</sup> Ibid]

The number of people with a matric qualification only increased by 28,5% from 1991 to 1994 and by 250% from 1980 to 1994. In 1994 the number of people with matric was equally divided between males and females.<sup>5</sup> [<sup>5</sup> Ibid]

The number of people with degrees increased by 42,5% from 1991 to 1994, and by 183,6% from 1980 to 1994. Women constituted 38% of all people with degrees in 1994 and men 62%.<sup>6</sup> [<sup>6</sup> Ibid]

## **Artisans**

According to the CSS, in 1995 there were 1,18m craft and related trade workers in South Africa, of whom 51% were African, 31% white, 14% coloured and 4% Indian.<sup>7</sup> [<sup>7</sup> Ibid]

## **Literacy**

A survey on national literacy levels by Harvard University and the University of Cape Town, published in May 1995, found that some 80% of Africans and 40% of whites could not read or compute at standard 5 level (the level of basic literacy). The report based its figures on a basic literacy examination (which included language comprehension and numeracy skills) and which was set at about a standard 5 level. Indians were more literate than whites while coloured literacy fell between the rate of Africans and whites. Despite a rise from 50% to 85% in the proportion of African children attending school since 1976, the number of Africans passing matric had dropped from 90% to 40% of those who started school, the report said.<sup>8</sup> [<sup>8</sup> Fuller B, Pillay P and Sirur N, *Literacy Trends in South Africa: Expanding Education while Reinforcing Unequal Achievement?*, May 1995]

Literacy levels among Africans were generally higher in urban townships than in rural areas and also higher in families with fewer children and higher household incomes. Although the years of schooling completed among African students increased by two years after 1976, literacy levels did not improve accordingly (see also chapter on *Population*).<sup>9</sup> [<sup>9</sup> Ibid]

According to National Literacy Co-operation (NLC), in 1994 about 15m people were functionally illiterate in South Africa (ie people without a standard 5 qualification). However, NLC added that the figure was not reliable and that various studies differed from the official figure.<sup>10</sup> [<sup>10</sup> Personal communication with National Literacy Co-operation, 28 September 1995]

According to a report published by the Human Sciences Research Council (HSRC) and entitled *A Profile of Poverty, Inequality and Human Development in South Africa*, households with poorly educated household heads had a far higher incidence of poverty than those with better educated household heads. Some 68,3% of household heads who had no education lived in poverty in 1993, while only 2,2% of household heads who had completed university education lived in poverty.<sup>11</sup> [<sup>11</sup> Human Sciences Research Council, *A Profile of Poverty, Inequality and Human Development in South Africa*, 1995]

In 1995, 87,8% of people living in Gauteng were considered literate, followed by 81% in the Western Cape, 77,8% in the Eastern Cape, 73,3% in KwaZulu/Natal, 70,5% in the North-West, 69% in the Free State, 68,3% in Mpumalanga and 67% in the Northern Cape. Literacy rates were the lowest in the Northern Province (64,8%) (see also chapter on *Population*).<sup>12</sup> [<sup>12</sup> Information provided by Mr J Calitz from the Development Bank of Southern Africa, 23 August 1995]

## **Types of Qualification**

The HSRC said that in 1994 some 393 000 people had degrees in South Africa (see 1994/95 Survey, pp224, 225.). The figure was, however, not accurate as it included people who had obtained degrees in South Africa but had emigrated and those who had died with no notification being given to the HSRC.

General arts degrees constituted 25,9% of all the degrees, followed by commerce degrees (18%), health science (8,7%) and education (7,5%).

Figures indicating the number of people with degrees in 1995 were not available at the time of writing. The table below shows a proportional breakdown of the highest type of degree obtained, according to the register of degrees of the HSRC:<sup>13</sup> [<sup>13</sup> 1994/95 Survey, pp224, 225]

*Types of degrees held by the South African population: 1994(a proportional breakdown)*

African

Coloured

Indian

White

Unspecified

Total

Agriculture<sup>a</sup>

0,9%

0,2%

0,3%

3,7%

1,9%

3,0%

**Architecture<sup>b</sup>**

0,1%

0,5%

0,7%

1,9%

3,3%

1,6%

Arts (general)

42,5%

45,3%

25,4%

23,0%

22,0%

25,9%

**Commerce<sup>c</sup>**

7,9%

8,6%

17,5%

19,7%

20,2%

17,9%

Communication<sup>d</sup>

0,6%

0,07%

0,03%

0,8%

0,6%

0,7%

**Computer science**

0,03%

0,04%

0,1%

0,1%

0,05%

0,09%

**Education**

17,8%

13,9%

16,1%

5,4%

4,6%

7,5%

**Engineering**

0,6%

1,0%

2,1%

8,2%

6,3%

6,6%

Health science<sup>e</sup>

10,8%

7,9%

15,8%

12,1%

13,4%

12,1%

**Home economics<sup>f</sup>**

0,08%

0,5%

0,03%

0,5%

0,2%

0,4%

Languages<sup>g</sup>

0,2%

0,1%

0,09%

0,6%

0,1%

0,5%

**Law**

5,5%

4,8%

7,0%

5,9%

6,6%

5,8%

Library and museum science

0,7%

0,7%

0,4%

0,8%

0,5%

0,8%

## **Performing and visual arts**

0,3%

0,7%

0,6%

1,6%

1,2%

1,3%

## **Philosophy and religion**

0,9%

1,4%

0,4%

2,2%

0,4%

1,9%

## **Physical education**

0,02%

1,0%

0,3%

0,6%

0,1%

0,5%



## Psychology

0,04%

0,03%

0,2%

0,2%

0,09%

0,2%

## **Public administration**

2,6%

0,8%

1,5%

0,6%

0,5%

0,9%

## Science

4,9%

8,0%

9,1%

9,2%

9,6%

8,7%

**Social science**

3,7%

4,9%

2,4%

2,9%

8,1%

3,3%

Unspecified

0,04%

0,0%

0,1%

0,03%

0,03%

0,03%

Total<sup>h</sup>

100,0%

100,0%

100,0%

100,0%

100,0%

100,0%

a

Includes degrees in subjects relating to natural sciences and renewable resources.

b

Includes environmental design.

c

Includes management sciences.

d

Includes journalism.

e

Includes veterinary sciences.

f

Includes food sciences.

g

Includes literature and translation.

h

Figures may n

## **Education Output**

## **Matriculation Pass Rate**

In December 1995 Professor Bengu announced that 55,25% of pupils who wrote matric passed, a drop of 2,79 percentage points from 1994. The proportion of candidates who obtained university exemption also dropped, by 2,3 percentage points, to 15,6% from 17,9% in 1994.<sup>14</sup> [<sup>14</sup> Information provided by the Department of Education, 3 January 1996]

Professor Bengu said that the 1995 matric results reflected 'growing stability in education'. The results also showed, however, that the effect of changes in the education system would take time to materialise. A period of three to four years would be needed for changes to be felt in the system, Professor Bengu said.<sup>15</sup> [<sup>15</sup> *The Citizen* 29 December 1995] According to a spokesman for the Department of Education, Mr Lincoln Mali, it was not possible to establish whether there had been an increase or decline in pass rates according to race because many black pupils had been integrated into the traditionally white schools in the past two years.<sup>16</sup> [<sup>16</sup> *Business Day* 29 December 1995]

A spokesman for the Democratic Party, Ms Anchen Dreyer, said that the results were disappointing and that more attention had to be given to teaching methods and upgrading of schools.<sup>17</sup> [<sup>17</sup> *Ibid*]

A spokesman for the Inkatha Freedom Party (IFP), Mr Ed Tillett, said that the 'fact that the results had deteriorated was a damning indictment of Professor Bengu'. The low pass rate could be attributed to the fact that 'ideology had taken precedence over education, along with excessive political interference in education and insufficient prioritisation of teacher training', said Mr Tillett.<sup>18</sup> [<sup>18</sup> *Ibid*]

According to the National Party, promises made by the minister of education had not resulted in a better pass rate. 'Uncertainty caused by Professor Bengu's handling of his portfolio and his lack of vision contributed to the poor results,' the NP added.<sup>19</sup> [<sup>19</sup> *Ibid*]

The Pan-Africanist Students' Organisation criticised Professor Bengu for not disclosing the performance of African matriculants compared to white matriculants, which would have enabled the organisation to 'measure the progress made by African students.'<sup>20</sup> [<sup>20</sup> *The Citizen* 29 December 1995]

The table below shows a racial breakdown of the number of matriculation candidates, the pass rate and matric exemptions from 1990 to 1995:<sup>21</sup> [<sup>21</sup> 1994/95 Survey, p227; information provided by the Department of Education, 3 January 1996 ]

*Matriculation examination results: 1990–95<sup>a</sup>*

African

Coloured

Indian

White

Total

1990

Candidates

255 498

22 315

14 542

68 097

360 452

Pass<sup>b</sup>

37%

82%

95%

96%

53%

Matric exemption<sup>c</sup>

8%

21%

46%

41%

17%

1991

Candidates

304 315

22 405

14 258

67 490

408 468

Pass<sup>b</sup>

41%

83%

96%

96%

54%

Matric exemption<sup>c</sup>

11%

22%

50%

41%

18%

1992

Candidates

342 038

24 419

14 485

67 549

448 491

Pass<sup>b</sup>

44%

86%

95%

97%

56%

Matric exemption<sup>c</sup>

10%

21%

49%

41%

17%

1993<sup>d</sup>

Candidates

366 501

25 735

15 203

65 019

472 458

Pass<sup>b</sup>

39%

86%

91%

97%

51%

Matric exemption<sup>c</sup>

8%

21%

45%

42%

15%

*1994<sup>d</sup>*

Candidates



392 434

25 375

15 092

62 507

495 408

Pass<sup>b</sup>

49%

87%

93%

97%

58%

Matric exemption<sup>c</sup>

13%

22%

51%

42%

18%

1995<sup>e</sup>

Candidates

N/A

N/A

N/A

N/A

441 853

Pass<sup>b</sup>

N/A

N/A

N/A

N/A

55%

Matric exemption<sup>c</sup>

N/A

N/A

N/A

N/A

16%

a

Figures differ from the 1994/95 Survey because a different source, ie the Research Institute for Education Planning at the University of the Orange Free State, provided all the figures in December 1995.

b

Proportion of total candidates who passed matric.

c

Proportion of total candidates who obtained a matriculation exemption.

d

Results of supplementary examinations have not been included.

e

Results are preliminary — several thousand outstanding results had not yet been included in the official figure.

### **University Degrees, Diplomas and Certificates Awarded**

A total of 54 082 degrees, diplomas and certificates were awarded by universities in South Africa in 1993 —the latest year for which figures were available. White students were awarded almost double the number of degrees, certificates and diplomas (31 304) that were awarded to African students (16 482). The following table gives a breakdown of the number of certificates, diplomas and degrees awarded by universities in 1993 (excluding the former ‘independent’ homelands):<sup>22</sup> [22 Information provided by the Department of Education, 4 August 1995]

*Degrees, certificates and diplomas awarded by universities: 1993<sup>a</sup>*

African

Coloured

Indian

White

Total

Agriculture<sup>b</sup>

85

1

0

502

588

**Architecture<sup>c</sup>**

35

7

19

605

666

**Commerce<sup>d</sup>**

611

272

541

7 024

8 448

**Communication**

87

7

5

384

483

## Computer science

40

23

55

805

923

## **Education**

8 669

858

540

2 548

12 615

## Engineering

79

43

104

1 786

2 012

## **Health science**

994

240

372

2 429

4 035

Home economics

17

32

0

149

198

**Languages<sup>e</sup>**

1 956

296

120

1 480

3 852

Law

548

179

357

2 976

4 060

**Library and museum science**

86

37

34

205

362

Life and physical science

345

193

183

1 919

2 640

**Mathematics**

97

48

67

661

873

Military science

0

0

0

5

5

**Philosophy, religion and theology**

305

98

41

681

1 125

**Physical education**

26

18

14

324

382

**Psychology**

511

249

205



2 343

3 308

**Public administration**

606

113

65

667

1 451

**Social science<sup>f</sup>**

1 346

440

366

3 170

5 322

**Visual and performing arts**

38

28

23

640

729

Total

16 482

3 181

3 115

31 304

54 082

a

A formula was used by the Department of Education to calculate the number of people who obtained a certificate, degree or diploma according to major subject. Figures may, therefore, not add up.

b

Includes subjects relating to renewable resources.

c

Includes subjects relating to environmental design (eg quantity surveying, building management and town planning).

d

Includes subjects relating to business management.

e

Includes literature and linguistics.

The total number of degrees awarded by universities increased by 25% from 1989 to 1993. Commerce degrees comprised the single largest proportion of degrees awarded—16% in 1989 and 18% in 1993. Social science degrees were the second most popular, constituting 12% of degrees awarded in 1989 and in 1993. General arts (ie degrees in languages, philosophy, religion and theology, psychology, social sciences, and visual and performing arts) comprised 32% of degrees awarded in 1993.

Engineering degrees awarded increased by 22% from 1989 to 1993 but of the total number of degrees

awarded in those years they comprised only 5% and 4% respectively. Degrees awarded in mathematics increased by 29% in the same period but remained at 2% of all degrees awarded in both 1989 and 1993. There was a 19% increase in degrees awarded in life and physical sciences in 1989–93. In both 1989 and 1993 these comprised 6% of the total number of awards made.

The following table gives a breakdown of the type of degrees awarded by universities from 1989 to 1993 (excluding the former ‘independent’ homelands):<sup>23</sup> [<sup>23</sup> 1994/95 Survey, p231; information provided by the Department of Education, 4 August 1995]

*Degrees awarded by universities in South Africa: 1989–93*

1989

1990

1991

1992

1993

**Agriculture<sup>a</sup>**

875

620

678

608

585

**Architecture<sup>b</sup>**

538

638

673

704

642

Commerce<sup>c</sup>

5 577

5 991

6 779

7 359

7 700

**Communication**

298

324

411

440

442

Computer science

629

574

619

606

656

**Education**

3 606

3 421

4 527

4 259

4 382

Engineering

1 562

1 602

1 716

1 824

1 900

**Health science**

3 535

3 498

3 539

3 761

3 638

Home economics

165

153

174

214

191

**Industrial arts**

0

0

1

0

0

Languages<sup>d</sup>

2 712

2 722

3 365

3 528

3 744

**Law**

2 357

2 651

3 360

3 439

3 827

Library and museum science

174

207

261

273

204

**Life and physical science**

2 206

2 339

2 505

2 541

2 618

Mathematics

669

668

783

830

862

**Military science**

4

16

14

3

5

**Philosophy, religion and theology**

1 057

1 058

1 148

1 067

1 119

**Physical education<sup>e</sup>**

234

290

286

374

363

**Psychology**

2 420

2 584

3 046



3 136

3 297

**Public administration**

939

985

1 295

1 322

1 314

**Social science**

4 138

4 417

4 982

5 068

5 229

**Visual and performing arts**

996

648

649

704

657

Total<sup>f</sup>

34 683

35 395

40 810

42 003

43 377

a

Includes renewable resources.

b

Includes environmental design.

c

Includes business and management sciences.

d

Includes literature and linguistics.

e

Includes health education and leisure.

f

The Department of Education used a formula when calculating the above figures. They, therefore, do not add up to the total given. The totals

The total number of certificates and diplomas awarded by universities in the period 1989–93 increased by 15%. Most diplomas and certificates awarded were in education (80% in 1989, dropping slightly to 77% in 1993). These were followed by commerce diplomas (5% in 1989 and increasing to 7% in 1993) and diplomas in health sciences (5% in 1989 and 4% in 1993). The following table gives a breakdown of

the diplomas and certificates awarded by universities from 1989 to 1993:24 [24 1994/95 Survey, p232; information provided by the Department of Education, 4 August 1995]

*Diplomas and certificates awarded by universities in South Africa: 1989–93*

1989

1990

1991

1992

1993

Agriculture<sup>a</sup>

0

0

6

7

3

**Architecture<sup>b</sup>**

8

4

14

24

24

Commerce<sup>c</sup>

465

520

599

638

748

**Communication**

37

26

18

20

41

Computer science

200

212

220

247

267

**Education**

7 385

6 985

7 312

8 200

8 233

Engineering

95

96

77

119

113

**Health science**

416

391

461

396

397

Home economics

6

11

9

7

8

**Languages<sup>d</sup>**

32

41

95

99

109

Law

137

197

100

187

233

**Library and museum science**

145

136

177

182

156

**Mathematics**

8

6

19

6

12

**Philosophy, religion and theology**

13

8

13

6

5

**Physical education<sup>e</sup>**

13

1

9

19

18

**Psychology**

23

24

14

10

11

**Public administration**

202

188

141

159

138

**Social science**

15

27

50

53

93

**Visual and performing arts**

68

69

72

70

72

**Totalf**



9 286

8 976

9 427

10 455

10 704

a

Includes renewable and natural resources.

b

Includes environmental design.

c

Includes business and management sciences.

d

Includes literature and linguistics.

e

Includes health education and leisure.

f

The Department of Education used a formula when calculating the above figures. They, therefore, do not add up to the totals given. The totals ar

## **Technikon Diplomas and Certificates Awarded**

The latest year for which figures were available on the number of diplomas and certificates awarded by technikons in South Africa was 1993. White students were awarded 73% of all diplomas and certificates and African students 14%. The table below gives a racial breakdown of these figures (excluding the

former 'independent' homelands):<sup>25</sup> [25 Information provided by the Department of Education, 4 August 1995]

*Diplomas and certificates awarded by technikons: 1993<sup>a</sup>*

African

Coloured

Indian

White

Total

Agriculture<sup>b</sup>

33

7

3

426

469

**Architecture<sup>c</sup>**

75

34

53

532

694

Commerce<sup>d</sup>

412

244

239

2 867

3 762

**Communication**

28

19

37

256

340

Computer science

46

42

57

457

602

**Education**

48

72

35

76

231

**Engineering**

303

170

174

3 051

3 698

**Health science**

521

144

97

756

1 518

**Home economics**

35

28

43

439

545

**Industrial arts**

18

11

19

237

285

Languages<sup>e</sup>

5

0

0

46

51

**Law**

1

0

2

26

29

Library and museum science

21

8

6

34

69

**Life and physical science**

99

45

70

360

574

**Mathematics**

12

9

10

16

47

**Philosophy, religion and theology**

4

0

0

0

4

**Physical education**

4

0

2

11

17

**Psychology**

10

2

6

12

30

**Public administration**

275

73

99

497

944

**Social science<sup>f</sup>**

134

47

36

210

427

Visual and performing arts

15

12

31

528

586

Total

2 100

968

1 019

10 835

14 922

a

A formula was used by the Department of Education to calculate the number of people who obtained a certificate or diploma according to major subject. Figures may, therefore, not add up.

b



Includes renewable resources.

c

Includes environmental design (eg quantity surveying, building management and town planning).

d

Includes business management.

e

Includes linguistics and literature.

A total of 14 922 diplomas and certificates were awarded by technikons in 1993, an increase of 46% over 1989. Diplomas and certificates in commerce were the most popular in 1993, comprising 25% of all diplomas and certificates awarded. In 1989 diplomas and certificates in commerce were the second most popular (22%) after engineering (which constituted 27% of all diplomas in 1989, dropping to 25% in 1993). The proportion of health science diplomas and certificates awarded over the same period dropped by one percentage point from 11% in 1989 to 10% in 1993, while the proportion of public administration diplomas and certificates remained unchanged at 6% over the same period.

The table below gives a breakdown of the number of diplomas and certificates awarded by technikons from 1989 to 1993:<sup>26</sup> [26 1994/95 Survey, p234; information provided by the Department of Education, 4 August 1995]

*Diplomas and certificates awarded by technikons: 1989–93*

1989

1990

1991

1992

1993

Agriculture<sup>a</sup>

407

408

368

427

469

**Architecture<sup>b</sup>**

476

492

527

619

694

**Commerce<sup>c</sup>**

2 202

2 471

3 028

3 275

3 762

**Communication**

208

216

243

279

340

Computer science

369

537

552

613

602

**Education**

233

235

267

216

231

Engineering

2 746

2 914

2 973

3 506

3 698

**Health science**

1 128

1 131

1 305

1 329

1 518

Home economics

486

442

505

575

545

**Industrial arts**

233

199

237

260

285

Languages<sup>d</sup>

1

10

7

51

51

**Law**

1

5

8

484

29

Library and museum science

57

63

51

57

69

**Life and physical science**

452

471

452

747

574

**Mathematics**

10

30

27

22

47

**Philosophy, religion and theology**

1

5

7

7

4

**Physical education<sup>e</sup>**

3

6

4

12

17

**Psychology**

4

9

6

25

30

**Public administration**

642

954

888

631

944

**Social science**

113

196

268

396

427

**Visual and performing arts**

455

520

556

516

586

Total<sup>f</sup>

10 226

11 314

12 279

14 048

14 922

a

Includes renewable resources.

b

Includes environmental design.

c

Includes business and management sciences.

d

Includes literature and linguistics.

e

Includes health education and leisure.

f

The Department of Education used a formula when calculating the above figures. They, therefore, do not add up to the totals given. The totals



The following table shows the total number of degrees, diplomas and certificates awarded by universities and technikons in 1993, according to population group:<sup>27</sup> [<sup>27</sup> Information provided by the Department of Education, 4 August 1995]

*Degrees, diplomas and certificates awarded by universities and technikons: 1993<sup>a</sup>*

African

Coloured

Indian

White

Total

Agriculture

118

8

3

928

1 057

**Architecture**

110

41

72

1 137

1 360

## Commerce

1 023

516

780

9 891

12 210

## Communication

115

26

42

640

823

## Computer science

86

65

112

1 262

1 525

## Education

8 717

930

575

2 624

12 846

Engineering

382

213

278

4 837

5 710

**Health science**

1 515

384

469

3 185

5 553

Home economics

52

60

43

588

743

**Industrial arts**

18

11

19

237

285

Languages

1 961

296

120

1 526

3 903

**Law**

549

179

359

3 002

4 089

Library and museum science

107

45

40

239

431

**Life and physical science**

444

238

253

2 279

3 214

**Mathematics**

109

57

77

677

920

**Military science**

0

0

0

5

5

Philosophy, religion and theology

309

98

41

681

1 129

**Physical education**

30

18

16

335

399

Psychology

521

251

211

2 355

3 338

**Public administration**

881

186

164

1 164

2 395

Social science

1 480

487

402

3 380

5 749

**Visual and performing arts**

53

40

54

1 168

1 315

Total

18 582

4 149

4 134

42 139

69 004

a

A formula was used by the Department of Education to calculate the number of people who obtained a degree, certificate or diploma according to major subject. Figures may

## Trade Tests Passed

Between 1989 and 1994 the number of people who wrote trade tests to qualify as artisans dropped from 14 431 to 10 617 or by 26%. The number of people who passed trade tests also dropped, from 6 716 to 5 943 (ie by 12%) over the same period.

The table below gives the number of people who wrote trade tests and the number who passed between 1989 and 1994:<sup>28</sup> [28 1994/95 Survey, p235; information provided by the Department of Labour, 4 August 1995]

*Trade tests written and passed: 1989–94*

Year

Written

Passed

Tests passed increase (decrease)

1989

14 431

6 716

N/A

1990



12 885

6 095

(9,2%)

1991

12 785

6 220

2,0%

1992

14 285

7 276

17,0%

1993

16 599

9 371

28,8%

1994

10 617

5 943

(36,6%)

N/A — Not avai

## EDUCATIONAL RESOURCES

### Finance

#### The Budget

In 1995/96 an amount of R32,21bn was allocated to education—an increase of 9,6% over the amount allocated in 1994/95. However, a total amount of R32,6bn was allocated in 1995/96 in terms of the functional classification of expenditure. (Functional classification does not correspond fully with the division of programmes between departmental votes.) Education expenditure represented 21,2% of total consolidated expenditure (R156,9bn)—the same proportion as in 1994/95—and 6,5% of gross domestic product (GDP) (down from 7% in 1994/95). Education received the highest of all allocations from the consolidated national and provincial budgets in 1994/95 and in 1995/96.<sup>29</sup> [<sup>29</sup> Department of Finance, *Budget Review*, 15 March 1995]

Expenditure on education grew faster than total government spending during the early 1990s, according to the Budget Review. Allocations to education from the consolidated national and provincial budget increased from 6,2% of GDP in 1991/92 to 7% in 1994/95 before dropping again. The bulk of the additional spending went on primary and secondary education—which increased from 20,8% of non-interest government spending in 1991/92 to 21,9% in 1994/95. Tertiary education increased by only 0,1 percentage points (from 3,4% to 3,5% of non-interest government spending) over the same period. (See *Allocations to levels of education* below.)<sup>30</sup> [<sup>30</sup> Ibid]

An amount of R4,3bn was allocated to the Department of Education in 1995/96. Some R3,1bn of this was allocated to universities and R1bn to technikons, which were respectively 10,5% and 25,5% higher than the 1994/95 allocations. The amount for universities included R2,7bn for subsidies, R50m for financial aid to students and R55m for new buildings. Some R856m of the amount for technikons was earmarked for subsidies, R5m for financial aid to students and R40m for new buildings.<sup>31</sup> [<sup>31</sup> Ibid]

#### **Provincial Allocations**

As a result of the amalgamation of the different education departments in April 1995 funds were allocated to the national Department of Education and the new provincial education departments. Comparisons with previous years were, therefore, not possible.

About R27,48bn was allocated to provincial education departments, which were responsible for education at school and college (ie technical and teacher training colleges level. Some R318m was allocated to private ordinary schools.<sup>32</sup> [<sup>32</sup> Ibid] The highest proportion of provincial education spending was allocated to KwaZulu/Natal (19,6%), followed by Gauteng (16,5%). The Eastern Cape received 16,4%. The Northern Cape received 2,5% and Mpumalanga 6,5%.<sup>33</sup> [<sup>33</sup> *Hansard* (S) 4q cols 206–207, 6 April

1995]

Professor Bengu provided the following breakdown of allocations to the various provincial departments of education in 1995/96:<sup>34</sup> [Ibid]

*Budgetary allocations to provincial departments: 1995/96*

R(000)

Proportion

Eastern Cape

4 499 703

16,4%

**Free State**

1 964 931

7,2%

Gauteng

4 547 094

16,5%

**KwaZulu/Natal**

5 373 990

19,6%

Mpumalanga

1 772 703

6,5%

## North-West

1 899 210

6,9%

Northern Cape

691 320

2,5%

## Northern Province

3 613 433

13,1%

Western Cape

3 117 061

11,3%

Total

27 479 44

According to Professor Bengu, a lack of reliable information had necessitated that the 1995/96 allocations be based on the subsidies provided to the former education departments. Provincial allocations for 1996/97 would be based on 'reliable information', he added.<sup>35</sup> [<sup>35</sup> *Business Day* 13 April 1995]

Professor Bengu said that the 1995/96 education budget was a 'transitional' budget, of which 15% would be spent on reducing inequalities in education. Equity in the distribution of funding among the provinces would be phased in over a period of five years.<sup>36</sup> [<sup>36</sup> *Hansard* (NA) 7 col 1719, 25 May 1995]

*Business Day* reported that in 1995/96 education in the Western Cape was being overfunded by 49,5%, the Northern Cape by 40,9%, Gauteng by 28,8% and the Free State by 11,4%. Education in the Eastern Cape was underfunded by 21%, the Northern Province by 18%, KwaZulu/Natal by 5%, Mpumalanga by 3,9% and the North-West by 0,03%.<sup>37</sup> [<sup>37</sup> *Business Day* 13 April 1995] The percentages indicated the extent to

which provinces were being over or underfunded in terms of equal spending per pupil.<sup>38</sup> [<sup>38</sup> Education Foundation, *Edusource Data News*, August 1995] Greater imbalances in funding would have occurred if funding had been switched from the former education departments to the provinces according to the relative distribution of pupils, because it would have resulted in the Western Cape having to scale down its education budget by 37%, while the Eastern Cape and Northern Province would have increased their budgets by some 33%, Professor Bengu said.<sup>39</sup> [<sup>39</sup> *Business Day* 13 April 1995]

The nine provincial departments of education made the following allocations for education in the 1994/95 and 1995/96 financial years:<sup>40</sup> [<sup>40</sup> Eastern Cape Province, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; Province of KwaZulu/Natal, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; North-West Province, *Estimate of Expenditure to be Defrayed from the Provincial Revenue Account During the Financial Year Ending 31 March 1996*; The Province of the Northern Cape, *Estimate of Expenditure to be Defrayed from the Provincial Revenue Account During the Financial Year Ending 31 March 1996*; Northern Transvaal Province, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; Pretoria-WitwatersrandVereeniging, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; Province of the Western Cape, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*]

*Education expenditure in the provinces: 1994/95 and 1995/96*

199199IncEastern Cape<sup>a</sup>

2 511 158

4 499 850

79,2%

**Free State**

N/A

N/A

N/A

**Gauteng**

4 647 143

4 547 467

(2,1%)

**KwaZulu/Natal<sup>a</sup>**

5 517 497

5 431 158

(1,6%)

**Mpumalanga**

1 665 575

1 795 462

7,8%

**North-West<sup>b</sup>**

1 077 550

1 843 433

71,1%

**Northern Cape<sup>a</sup>**

617 133

687 106

11,3%

**Northern Province<sup>c</sup>**

N/A

3 858 563

N/A

Western Cape

3 389 493

3 131 784

(7,6%)

a

Includes provision for culture.

b

Includes provision for training, youth and sport.

c

Includes provision for arts, culture and sport.

N/A— Not available

According to a spokesman from the Department of Education, Dr R Cilliers, provinces could reassign expenditure within their departments according to their own priorities.<sup>41</sup> [41 Interview with Dr R Cilliers, Department of Education, 1 August 1995]

### ***Allocations to Levels of Education***

The following table gives a breakdown of the estimated expenditure on pre-tertiary and tertiary education from 1991/92 to 1995/96:<sup>42</sup> [42 Department of Finance, *Budget Review*, 15 March 1995]

*Estimated education expenditure: 1991/92–1995/96<sup>a</sup>*

1991/92 1992/93 1993/94 1994/95 1995/96

Rm

Pre-primary, primary and secondary

17 093

21 018

23 794

27 064

28 532

Tertiary

2 836

3 375

3 967

4 364

4 084

Total

19 929

24 393

27 761

31 428

32 616

a

Figures for 1990/91 to 1994/95 include allocations in the main budget and the additional/adjustment budget.

***Allocations to the Different Forms of Education***



The table below gives a breakdown of the amounts allocated by the provinces to the various sectors of education for 1995/96:<sup>43</sup> [43 Various estimates of expenditure of the provinces for 1995/96]

*Provincial education expenditure by education sector: 1995/96*

Eastern Cape<sup>a</sup>

R(FreGauAdministration

71 438

N/A

64 891

**Auxiliary/support services**

53 396

N/A

71 776

Non-formal education

40 042

N/A

50 853

**Public schools**

4 159 151

N/A

3 712 271

Private schools

20 474

N/A

181 625

**Special schools**

35 953

N/A

182 843

Teacher training

101 452

N/A

147 627

**Technical colleges**

17 944

N/A

135 581

Other

–

N/A

–

**Total**

4 499 850

N/A

4 547 467

*Provincial education expenditure by education sector: 1995/96 (continued)*

**KwaZulu/Natal<sup>a</sup>**

**R(MpuNorth-West<sup>b</sup>**

**R(Administration**

225 138

187 669

179 284

**Auxiliary/support services**

110 713

39 837

42 135

**Non-formal education**

15 803

33 227

9 004

**Public schools**

4 636 565

1 434 935

1 506 838

Private schools

45 020

4 730

7 139

**Special schools**

97 754

25 348

41 582

Teacher training

190 970

36 607

48 503

**Technical colleges**

99 050

33 109

8 948

Other

10 145

—

—

Total

5 431 158

1 795 462

1 843 433

*Provincial education expenditure by education sector: 1995/96 (continued)*

Northern Cape<sup>a</sup>

R(Northern Province<sup>c</sup>

R(WesAdministration

43 051

709 477

86 427

**Auxiliary/support services**

2 214

—

41 388

Non-formal education

2 715

—

24 098

**Primary education<sup>d</sup>**

—

1 623 257

—

**Public schools**

574 337

—

2 563 434

**Private schools**

3 500

—

30 036

**Secondary education<sup>d</sup>**

—

1 237 150

—

**Special schools**

21 416

36 243

217 941

**Teacher training**

15 511

198 379

99 078

**Technical colleges**

12 441

34 285

69 010

Other

372

19 772

372

**Total**

687 106<sup>e</sup>

3 858 563

3 131 784

a

Includes provision for culture.

b

Includes provision for sport, training and youth.

c

Includes provision for arts, culture and sport.

d

The Northern Province did not allocate money to public and private schools but instead allocated money to primary and secondary education. However, this would include money allocated to public and secondary education.

e

The total amount allocated to education in the Northern Cape includes an amount of R11,549m allocated to arts and culture.

– This particular item was not included in the relevant provincial budget.

N/A — Not available.

### ***Per Capita Expenditure***

Because of the creation of new provincial education departments no figures for 1995 were available on per capita expenditure according to race. The table below shows the 1995 estimated per capita expenditure by province and as a proportion of the national average.<sup>44</sup> [44 Information provided by Dr R Cilliers, Department of Education, 1 August 1995]

*Estimated per capita expenditure for teacher training and technical colleges/school education by province: 1995<sup>a</sup>*

R

Proportion of national average

Eastern Cape

1 769

80%

**Free State**



2 447

110%

Gauteng

3 098

139%

**KwaZulu/Natal**

2 105

95%

Mpumalanga

2 001

90%

**North-West**

1 977

89%

Northern Cape

3 401

153%

**Northern Province**

1 766

79%

Western Cape

3 567

160%

Average

2 223

100%

a

Excluding private ordinary

The Western Cape had the highest per capita expenditure at 160% of the national average, followed by the Northern Cape (153%) and Gauteng (139%). Expenditure in KwaZulu/Natal was closest to the national average (95%) but spending in the Northern Province (79%), the Eastern Cape (80%) and the North-West (89%) was substantially below the national average.

In 1994 the average per capita amount spent on education for white pupils (R5 403) was 147% higher than the amount spent on African pupils (R2 184) (excluding the former homelands). The average spent on coloured pupils was R3 691 and on Indians R4 687. Average per capita expenditure was R2 222.<sup>45</sup> [<sup>45</sup> The Education Foundation, *Edusource Data News*, October 1995]

## Special Projects

Professor Bengu announced at the beginning of 1995 that R100m had been set aside for a Culture of Learning Project which would, among other things, provide money for the renovation of dilapidated and vandalised township schools.<sup>46</sup> [<sup>46</sup> *The Star* 4 January 1995] The money had been divided among provinces on the basis of 'need and equity' and targeted 1 500 schools in Gauteng, 1 000 in the NorthWest, 174 in the Northern Province, 108 in KwaZulu/Natal, 80 in the Western Cape, 66 in Mpumalanga, 52 in the Eastern Cape, 47 in the Free State and 34 in the Northern Cape.<sup>47</sup> [<sup>47</sup> *The RDP: The First Year Review*, 27 April 1995] KwaZulu/Natal received the highest allocation (R16,1m), followed by the Eastern Cape (R15,6m), the Northern Province (R13,7m), Gauteng (R11,4m), the North-West (R9m), Mpumalanga and the Western Cape (R8,6m each), Free State (R8,5m) and the Northern Cape (R7,5m).<sup>48</sup> [<sup>48</sup> Personal communication with the RDP culture of learning national co-ordinating office, 3 October 1995]

## Financial Assistance to Students

In January 1995 Professor Bengu announced that R200m had been raised from various donors to provide 'emergency funding' for poor students at universities and technikons in 1995. The money would be distributed in the form of loans of up to R8 250 a student. Students could convert a maximum of 40% of the loan into a grant once they graduated.<sup>49</sup> [<sup>49</sup> *Business Day* 30 January 1995]

In March 1995 the Tertiary Education Fund of South Africa (Tefsa) reported that it had allocated R133,5m to help some 40 000 black students to attend university. The executive director of Tefsa, Mr Roy Jackson, said that the money would be given to universities which implemented 'affirmative action policies and practices' in their admission of students.<sup>50</sup> [<sup>50</sup> *Ibid* 30 March 1995]

The National Commission on Higher Education said in a report, published in June 1995, that a national student financial aid scheme would come into operation in 1996. The scheme would make more than R600m available to some 70 000 students (ie 55 000 university students and 15 000 technikon students) in the form of bursaries and loans. The scheme could be extended to technical and other colleges in 1997. Eligibility for financial aid would be based on the student's inability to pay fees, the 'relevance' of the chosen programme of study and the availability of funds in the scheme.<sup>51</sup> [<sup>51</sup> National Commission on Higher Education, *Student Financial Aid in South Africa*, June 1995] Professor Bengu said that the scheme would be open to all needy students, irrespective of race.<sup>52</sup> [<sup>52</sup> *The Star* 5 July 1995] However, Professor Bengu announced in December 1995 that R300m would be made available to 70 000 students in the 1996/97 financial year. Students would receive loans of a minimum of R800 and a maximum of R10 000, of which up to 40% would be converted to a bursary depending on whether students passed or not.<sup>53</sup> [<sup>53</sup> *Ibid* 14 December 1995]

## Schooling

### Pupils

#### *Enrolment*

According to the Research Institute for Education Planning (Riep) at the University of the Orange Free State, in 1994 there were 11 407 598 pupils enrolled from sub A to matric at public ordinary schools—3,1% more than in 1993. Riep noted that compared with the increase of 4,4% from 1992 to 1993 there seemed to be a drop in the tempo of school population growth. Africans constituted some 81% of all pupils, whites 8,6%, coloured people 7,9% and Indians 2,4%.<sup>54</sup> [<sup>54</sup> Research Institute for Education Planning (Riep), *Education and Manpower Development*, September 1995]

In 1995 all formerly segregated state schools were opened to pupils of all races. (Previously, white model C state schools had been opened to blacks.) This step represented the first phase of the department's commitment to provide ten years of free and compulsory education as set out in the *White Paper on Education and Training* (see *White Paper on Education and Training* below). However, in

1995 only first-year primary school pupils would receive free education.<sup>55</sup> [<sup>55</sup> The Education Foundation, *Edusource Data News*, April 1995] Free education for the other grades would be phased in gradually (see 1994/95 Survey, p267.).

The table below provides a provincial breakdown of pupil enrolment in 1994 at the different types of schools:<sup>56</sup> [<sup>56</sup> Department of Education, *CS Education According to Province for 1994*, Report 233 (95/8), August 1995]

*Provincial enrolment according to type of school: 1994*

Public schools

Special schools

Private schools

Total

Eastern Cape

2 406 587

3 453

13 089

2 423 129

**Free State**

757 383

1 789

6 758

765 930

Gauteng

1 361 817

12 653

82 776

1 457 246

**KwaZulu/Natal**

2 403 773

10 131

27 456

2 441 360

**Mpumalanga**

831 396

1 096

2 705

835 197

**North-West**

901 632

2 639

7 263

911 534

**Northern Cape**

193 657

719

3 111

197 487

**Northern Province**

1 937 131

2 188

9 255

1 948 574

**Western Cape**

821 481

10 849

19 279

851 609

**Total**

11 614 857

45 517

171 692

11

However, figures provided by the Education Foundation showed that there were approximately 11,5m pupils enrolled at schools in 1994 (excluding private and special schools), of whom 69% were in primary and 31% in secondary schools. Some 81% of all pupils were African, 9% white, 8% coloured and 2% Indian.<sup>57</sup> [<sup>57</sup> The Education Foundation, *Edusource Data News*, October 1995]

According to a report by Dr Jane Hofmeyr and Mr Graham Hall and entitled *The National Teacher Education Audit*, published in 1995, in 1994 some 850 000 pupils of schoolgoing age (aged six to 16) were not attending school.<sup>58</sup> [<sup>58</sup> Hofmeyr J and G Hall, *The National Teacher Education Audit*, 1995] However, according to Professor Bengu, some 1,8m people of schoolgoing age were not attending school in 1994.<sup>59</sup> [<sup>59</sup> *Hansard* (NA) 1q col 49, 1 March 1995]

The report also said that the growth in the school-age population had been slowing down because of urbanisation, which caused declining fertility rates. In the 1970s the annual growth in school enrolment was 7,3%, but by the mid-1990s it had dropped to 3,8%. However, the introduction of compulsory education in 1995 was expected to bring about higher levels of enrolment. As a result of the poor quality of many African schools there were high repetition rates in grade 1, and standards 8, 9 and 10, which in turn caused 'over-enrolment' in certain standards.<sup>60</sup> [<sup>60</sup> Hofmeyr J and G Hall, *The National Teacher Education Audit*, 1995]

## **Provision of Schools and Classrooms**

According to Riep, in 1994 there were a total of 26 182 schools in South Africa (excluding special and private ordinary schools)—464 schools for Indians, 1 971 for coloured people, 2 208 for whites and 21 539 for Africans (including schools in the former homelands and the Department of Education and Training). Some 82% of all schools in South Africa were for Africans. The average African school had 430 pupils, white schools 440 pupils, coloured schools 460 pupils and Indian schools 600 pupils. The smaller average size of African schools was because a large proportion of African schools were farm schools, which enrolled fewer than 100 pupils. The average size of other African schools was therefore, considerably higher. The high average in Indian schools was because there were fewer schools as a result of a concentration of Indians in certain centres.<sup>61</sup> [<sup>61</sup> Riep, *Education and Manpower Development 1993*, August 1994; *Education and Manpower Development 1994*, September 1995] In addition, there were 3 060 pre-primary institutions, 124 technical colleges and 105 teacher training institutions. Primary schools comprised 78% of all schools and secondary schools 22%.<sup>62</sup> [<sup>62</sup> Department of Education, *CS Education According to Province for 1994*, Report 233 (95/08), August 1995]

In May 1995 Professor Bengu said that South Africa needed an additional 50000 classrooms at a cost of R5bn to accommodate existing pupils and some 35 200 classrooms, at a cost of R3,5bn, to accommodate about 1,8m pupils aged six to 18 years who were expected to enrol over the next three years. The calculation of the number of classrooms needed was based on a pupil/classroom ratio of 40:1 in primary schools and 35:1 in secondary schools.<sup>63</sup> [<sup>63</sup> *Hansard* (NA) 8q cols 881–882, 23 May 1995]

## ***Pupil/Classroom Ratios***

Statistics on pupil/classroom ratios were unavailable at the time of writing.

## Teachers

In 1994 a report entitled *Restructuring Teacher Supply, Utilisation and Development*, prepared for the Ipet (Implementation Plan for Education and Training) task teams on teacher development and support and finance, and commissioned by the Centre for Education Policy Development, identified the following shortcomings in the state's teacher policy:<sup>64</sup> [<sup>64</sup> *Restructuring Teacher Supply, Utilisation and Development (TSUD)*, Report for the Ipet Task Teams: Teacher Development and Support and Finance, 1994]

- the inequitable distribution of teachers across South Africa, with an oversupply in urban areas and an undersupply in rural areas;
- a shortage of teachers in English, mathematics, science and technical subjects;
- the underqualification or lack of qualifications of about half the teachers;
- overemphasis of teacher training on qualifications required for selection and too little on reasons for wanting to teach;
- inefficient teacher training colleges (ie high 'student wastage rates' and the inability of colleges to utilise their full capacity), resulting in many students not entering the profession;
- the poor quality of teacher training;
- a (financially) unsustainable upward trend in the teacher salary structure; and
- an underrepresentation of female teachers in education management.

In a report on teacher supply, utilisation and development in Gauteng, published by the Education Policy and Systems Change Unit (Edupol) in 1994, it was found that teacher training in South Africa was inefficient, costly, unequal and poor in quality.<sup>65</sup> [<sup>65</sup> Edupol, *A Policy Study of Teacher Supply, Utilisation and Development in Gauteng*, December 1994] Almost all of the country's 324 000 teachers needed in-service training. Teacher education curricula were often overloaded with irrelevant subject matter and needed revision. Teacher training colleges were very inefficient, not fully utilised and had high student wastage rates.

According to the report, a quarter of teachers in Gauteng were improving their qualifications to get promotion or earn higher salaries but were not necessarily becoming better teachers. The present salary structure was on an unsustainable upward trend and rewarded qualifications instead of improved teaching.<sup>66</sup> [<sup>66</sup> *Cape Times* 3 May 1995] Teacher training was the most expensive form of tertiary education



because of low student/lecturer ratios, the report said. There was a surplus of white, especially Afrikaans-speaking, teachers and a shortage of teachers in English, mathematics, science and technical subjects.<sup>67</sup>

[<sup>67</sup> Edupol, *A Policy Study of Teacher Supply, Utilisation and Development in Gauteng*, December 1995]

In November 1995 a report entitled *The National Teacher Education Audit*, which was commissioned by the Department of Education and researched by a consortium of education institutions, was published. South Africa had the capacity to produce enough teachers to meet national needs for the foreseeable future—there was in fact an oversupply of teachers, the report found. However, the quality of teacher education offered was generally poor and the problem was increasing as more institutions were providing cheap correspondence education without accompanying student support. The report identified improving the quality of teacher education as the biggest challenge in the future.<sup>68</sup> [<sup>68</sup> Hofmeyr J and G Hall, *The National Teacher Education Audit*, 1995]

Teacher education was also very inefficient because of high failure rates, cost-ineffective institutions and, in particular, because of students who had no desire to teach but entered teacher education programmes in order to obtain a higher education qualification. The report recommended that alternative higher education institutions, such as junior or community colleges, be developed to overcome the problem of students' not taking up teaching on graduation. The 'mistaken' notion of equating qualifications with quality and rewarding it with automatic salary increases had to be addressed by restructuring the salary scale of teachers in such a way that it was no longer qualifications-driven, the report added. The report concluded that a national policy framework for teacher supply, utilisation and development be drawn up as a starting point for reconstructing the education system.<sup>69</sup> [<sup>69</sup> Ibid]

## ***Teacher Numbers***

In 1994 there were 341 903 teachers in South Africa of whom 61% were teaching at primary level and 39% at secondary level. The following table shows the number of primary and secondary school teachers by race and province in 1994:<sup>70</sup> [<sup>70</sup> Ibid; The Education Foundation, *Edusource Data News*, October 1995]

*Number of teachers by race and province: 1994*

African

Coloured

Indian

White

Total

Proportion<sup>a</sup>

Eastern Cape

Primary

30 088

3 467

28

2 060

35 643

61%<sup>b</sup>

Secondary

19 101

1 742

62

1 890

22 795

39%<sup>b</sup>

Subtotal

49 189

5 209

90

3 950

58 438

17%<sup>c</sup>

*Free State*

Primary

12 575

498

13

2 247

15 333

65%<sup>b</sup>

Secondary

6 276

223

11

1 841

8 351

35%<sup>b</sup>

Subtotal

18 851

721

24

4 088

23 684

7%<sup>c</sup>

*Gauteng*

Primary

14 758

1 625

887

9 390

26 660

55%<sup>b</sup>

Secondary

10 199

1 190

851

9 507

21 747

45%<sup>b</sup>

**Subtotal**

24 957

2 815

1 738

18 897

48 407

14%<sup>c</sup>

*KwaZulu/Natal*

**Primary**

33 961

838

5 749

2 965

43 513

64%<sup>b</sup>

**Secondary**

16 902

585

4 957

2 399

24 843

36%<sup>b</sup>

Subtotal

50 863

1 423

10 706

5 364

68 356

20%<sup>c</sup>

*Mpumalanga*

Primary

14 158

101

45

1 670

15 974

63%<sup>b</sup>

Secondary

7 358

42

163

1 640

9 203

37%<sup>b</sup>

**Subtotal**

21 516

143

208

3 310

25 177

7%<sup>c</sup>

*North-West*

**Primary**

14 624

242

21

1 395

16 282

61%<sup>b</sup>

**Secondary**

8 620

122

120

1 532

10 394

39%<sup>b</sup>

**Subtotal**

23 244

364

141

2 927

26 676

8%<sup>c</sup>

*Northern Cape*

**Primary**

1 064

2 892

14

779

4 749



66%<sup>b</sup>

Secondary

561

1 217

12

669

2 459

34%<sup>b</sup>

Subtotal

1 625

4 109

26

1 448

7 208

2%<sup>c</sup>

*Northern Province*

Primary

29 270

27

23

862

30 182

60%<sup>b</sup>

Secondary

19 052

15

32

828

19 927

40%<sup>b</sup>

Subtotal

48 322

42

55

1 690

50 109

15%<sup>c</sup>

*Western Cape*

Primary

2 037

15 161

65

4 360

21 623

64%<sup>b</sup>

Secondary

923

7 352

209

3 741

12 225

36%<sup>b</sup>

Subtotal

2 960

22 513

274

8 101

33 848

10%<sup>c</sup>

*Grand total*

**Primary**

152 535

24 851

6 845

25 728

209 959

61%

**Secondary**

88 992

12 488

6 417

24 047

131 944

39%

**Total**

241 527

37 339

13 262

49 775

341 903

100%

a

Figures may not add up owing to rounding.

b

Primary and secondary number of teachers in each province as a proportion of the total number of teachers in the same province.

c

Total number of teachers in each province as a proportion of

Of all primary and secondary school teachers, about 71% were African, 15% were white, 11% were coloured and 4% were Indian. African teachers comprised the majority in all the provinces except in the Northern and the Western Cape, where coloured teachers accounted for 57% and 67% of the total respectively. KwaZulu/Natal had the highest number of teachers (68356) and the Northern Cape had the lowest (7 208). Most teachers (64%) were female and in the 25 to 45 year age group.

Projections made by the report on *Restructuring Teacher Supply, Utilisation and Development (TSUD)* indicated a need by 2002 for an additional 135700 primary school teachers (at a pupil/teacher ratio of 35:1) and 93600 secondary school teachers (at a pupil/teacher ratio of 32:1)—an annual requirement of 22 930 new teachers from 1992 to 2002. (The calculations were based on a projected 27% rise in the number of school enrolments between 1992 and 2002, ie from 10,7m pupils to 13,6m pupils.) This would require a ‘substantial’ increase in the national rate of teacher training. Particular attention would have to be paid to the training of African primary and secondary school teachers.<sup>71</sup> [<sup>71</sup> *Restructuring Teacher Supply, Utilisation and Development (TSUD)*, Report for the Ipet Task Teams: Teacher Development and Support and Finance, 1994]

The report on *The National Teacher Education Audit* said that based on expected teacher numbers, by 2004 there would be a need for 11 655 new primary school teachers and 15 498 secondary school teachers (at pupil/teacher ratios of 40:1 and 35:1 respectively). However, if by 2004 the pupil/teacher ratio dropped to 35:1 for primary schools and to 30:1 for secondary schools 13 320 new primary school teachers and 18 081 new secondary school teachers would be required. The following table shows the total number of teachers required from 1995 to 2004 as well as the number of new teachers required at different pupil/teacher ratios:<sup>72</sup> [<sup>72</sup> Hofmeyr J and G Hall, *The National Teacher Education Audit*, 1995]

*Teacher demand: 1995–2004*

1995

1998

2001

2004

Primary school teachers

Preset graduates<sup>a</sup>

15 900

18 400

15 400

15 400

Total demand (40:1)<sup>b</sup>

213 712

217 029

214 926

207 679

New demand (40:1)<sup>c</sup>

11 362

12 950

12 589

11 655

Surplus/(shortage)<sup>d</sup>

4 538

5 450

2 811

3 745

Total demand (35:1)<sup>b</sup>

218 655

237 003

245 630

237 347

New demand (35:1)<sup>c</sup>

16 305

18 955

14 387

13 320

Surplus/(shortage)<sup>d</sup>

(405)

(555)

1 013

2 080

*Secondary school teachers*

Preset graduates<sup>a</sup>

14 525

15 700

15 750

15 750

Total demand (35:1)<sup>b</sup>

129 836

137 691

157 073

179 315

New demand (35:1)<sup>c</sup>

6 941

11 410

18 540

15 498

Surplus/(shortage)<sup>d</sup>

7 584

4 290

(2 790)

252



Total demand (30:1)<sup>b</sup>

133 869

153 331

183 252

209 200

New demand (30:1)<sup>c</sup>

10 974

16 081

21 630

18 081

Surplus/(shortage)<sup>d</sup>

3 551

(381)

(5 880)

(2 331)

a

Preset — Preservice education for teachers. Estimated supply of newly qualified teachers from colleges, technikons and universities, but excluding graduates from private colleges.

b

Total number of teachers required at primary and secondary schools. Figures in brackets indicate pupil/teacher ratios.

c

Number of new teachers required each year to compensate for attrition and to accommodate the increase in the number of pupils.

d

The estimated surplus (shortage) of teachers, calculated by subtracting the number of new teachers required from the nu

The figures in the above table were based on the following assumptions:<sup>73</sup> [<sup>73</sup> Ibid]

- declining fertility rates, from a population growth rate of 2,06% in 1991 to 1,45% in 2006 (and a lower growth rate for the schoolgoing population than for the population as a whole—averaging below 1% annually after 2000);
- increasing pupil enrolment between 1994 and 2000—averaging 3,1% annually (1,4% for primary school enrolment and 6,6% for secondary school enrolment); and
- teacher attrition rates, varying from 2,7% to 39,3% according to race and qualification levels.

At a pupil/teacher ratio (PTR) of 40:1 the total number of primary school teachers needed would drop by 2,8% between 1995 and 2004, but it would increase by 8,5% at a PTR of 35:1. The demand for secondary teachers in the same period, however, would increase by 38,1% at a PTR of 35:1 and by 56,3% at a PTR of 30:1. The additional number of primary school teachers required by 2004 as a proportion of total teacher demand would be 5,6% at both 40:1 and 35:1. Similarly, by 2004 the additional number of secondary school teachers required as a proportion of total secondary demand would be 8,6% at both 35:1 and 30:1.

According to the report, the demand for secondary school teachers was likely to grow in the next decade as pupils presently in primary schools moved through to secondary schools and as the retention rate of high schools improved.

Upswings in the economy were linked to outflows from the teaching profession as teachers resigned to take up employment in other sectors of the economy, the report said. The estimated number of teachers who qualified could also be lower than the figures given in the table because a ‘significant number’ (up to 20%) of newly qualified teachers might not enter the teaching profession. The figures relating to total demand and new demand for teachers in the above table did not take into account the number of unemployed teachers who were waiting for a position. Estimates of the number of unemployed teachers varied at the beginning of 1995, but could be as high as 7 000 in the Northern Province, 3 000 in Mpumalanga and 2000 in Gauteng. The cumulative number of unemployed teachers together with newly qualified teachers who could not obtain posts indicated that in most provinces (particularly in Gauteng,

the Northern Province and the Western Cape) there was an oversupply of teachers.<sup>74</sup> [<sup>74</sup> Ibid]

### ***Teacher Qualifications***

In 1994 some 26 000 new teachers qualified from all teacher training institutions (including private and state colleges, technikons and universities). In 1995 there were some 281 institutions providing either distance or contact teacher education, according to the report. The institutions included 102 nongovernmental organisations, 101 state colleges of education, 41 teacher centres controlled by the provincial education departments, 23 universities, eight private colleges of education and six technikons. The report described newly qualified teachers' 'lack of commitment to the profession' as a serious problem for teacher education institutions as it forced institutions to expand beyond the teaching needs of schools.<sup>75</sup> [<sup>75</sup> Ibid]

The Ipet report on *Restructuring Teacher Supply, Utilisation and Development*, published in 1994, noted that only 567 students of every 1000 who began teacher training actually entered the profession. The effect of this was to add 76% to the average cost of teacher training.<sup>76</sup> [<sup>76</sup> *Restructuring Teacher Supply, Utilisation and Development (TSUD)*, Report for the IPET Task Teams, 1994]

In 1994, 64% of all teachers were fully qualified (ie matric and a three-year professional qualification), 29% were underqualified (ie less than matric and three-year qualification) and 7% were unqualified (ie no teaching qualification). Most teachers in Gauteng and the Western Cape were qualified (78% and 77% respectively). The North-West had the highest proportion of unand underqualified teachers (48%), followed by the Eastern Cape and the Free State (42% each).<sup>77</sup> [<sup>77</sup> The Education Foundation, *Edusource Data News*, October 1995]

The following table provides a racial breakdown of the number of qualified, unand underqualified teachers in 1994:<sup>78</sup> [<sup>78</sup> Ibid]

#### *Teacher qualifications by race: 1994*

African

Coloured

Indian

White

Total

Proportion

Unqualified

24 567

8

5

1

24 581

7,2%

Underqualified

85 404

10 875

970

494

97 743

28,6%

Qualified

131 556

26 456

12 287

49 280

219 579

64,2%

Total

241 527

37 339

13 262

49 775

341 903

100,0%

Almost all of the unqualified teachers in 1994 as well as 87% of underqualified teachers were African. Some 46% of African teachers were unand underqualified. Africans comprised 60% of all qualified teachers and whites 22%.

In May 1995 Professor Bengu and the Council of Education Ministers (CEM) announced that ‘no further private colleges of education would be accepted for registration for the purposes of providing preservice teacher training’. Professor Bengu would have discussions with the College of Education of South Africa ‘to confirm that until further notice, no new students be accepted for preservice teacher training by that college’.<sup>79</sup> [<sup>79</sup> *The Citizen* 2 June 1995]

Professor Bengu said in October 1995 that the number of students who would be allowed to study at colleges of education would be ‘significantly’ reduced in 1996. The CEM had decided that priority would be given to students who intended to major in commerce, mathematics, science and technology. The nine provinces would separately decide on the number of students who would be accepted for teacher training.<sup>80</sup> [<sup>80</sup> *Ibid* 11 October 1995] Various provinces, including Gauteng, Mpumalanga, the Northern Cape and the Western Cape, announced in 1995 that steps would be taken to reduce the number of students at teacher training college

In 1995 some 116 796 students were enrolled in preservice education courses (training to become teachers), 124 317 were improving their qualifications and 239 193 were improving their school competence through curriculum-related courses or management training. *The National Teacher Education Audit* expressed concern that a third of the teaching corps was improving their qualifications as it would have serious implications for the upward trend in the teacher salary bill—as long as there

was an 'automatic' link between qualifications and salaries. Furthermore, there was no continuum in teacher development, ie preservice and in-service education for teachers was planned and designed separately.<sup>82</sup> [<sup>82</sup> Hofmeyr J and G Hall, *The National Teacher Education Audit*, 1995]

A report on teacher supply, utilisation and development in Gauteng, published in 1995 by the Education Policy and Systems Change Unit, found that the 48 000 teachers in Gauteng were the best qualified in South Africa. Only 4,5% of Gauteng teachers were unqualified or underqualified, compared with a national average of 47%.<sup>83</sup> [<sup>83</sup> *Cape Times* 3 May 1995]

### ***Pupil/Teacher Ratios***

The following table shows the estimated PTR in 1994 for primary and secondary schools in each of the provinces:<sup>84</sup> [<sup>84</sup> Department of Education, *CS Education According to Province*, Report 233 (95/08), August 1995]

#### *Pupil/teacher ratios by province: 1994<sup>a</sup>*

Primary school

Secondary school

Province

Ratio

Ratio

Average

Eastern Cape

49:1

29:1

41:1

**Free State**

34:1

30:1

32:1

Gauteng

32:1

24:1

29:1

**KwaZulu/Natal**

42:1

30:1

38:1

Mpumalanga

38:1

31:1

35:1

**North-West**

33:1

26:1

29:1

Northern Cape

29:1

22:1

27:1

**Northern Province**

38:1

34:1

37:1

**Western Cape**

28:1

21:1

25:1

**Average**

37:1

27:1

34:1

a

Full-time equivalent education personnel in public ordinary schools.

PTRs were higher in primary than in secondary schools. The province with the highest average PTR was the Eastern Cape (41:1) and the province with the lowest, the Western Cape (25:1).

*The National Teacher Education Audit* noted that the average PTR for Africans in primary school was 43:1, compared with 27:1 for coloured people and Indians, and 23:1 for whites. Similarly the PTR for Africans in secondary schools was 31:1, almost twice as high as the PTRs for Indians and whites (16:1). The PTR for coloured people in secondary schools was 20:1. According to the report, however, approximately six pupils had to be added to each PTR in order to obtain real class sizes—because nonteaching staff such as librarians and principals were included in the ca



## **Conditions of Service**

In September 1994, 21 teacher organisations (including the National Professional Teachers' Organisation of South Africa (Naptosa) and Sadtu) demanded an 18,4% salary increase. A spokesman for the Department of Education, Mr Corrie Rademeyer, said that the government did not have the funds and that the raise would require an additional R5,8bn, which would increase the annual salary bill by 29%. In November 1994 the government offered an overall increase of 1,4%, which was rejected by Naptosa and Sadtu.<sup>86</sup> [<sup>86</sup> *Sowetan* 23 May 1995] In May 1995 the Department of Education raised its offer to 5% across the board from 1st July 1995—with a higher increase in the lowest four notches of the salary scale. The increases were to be funded by borrowing from the state service pension fund.<sup>87</sup> [<sup>87</sup> *Ibid*]

The offer was initially rejected by both Naptosa and Sadtu, although Sadtu later decided to accept it, provided there were written guarantees that teachers' pensions would not be eroded or adversely affected. In June 1995 the minister of education closed negotiations on salary increases as agreement could not be reached, and tabled a final offer which provided for the following and which would come into effect on 1st July 1995:<sup>88</sup> [<sup>88</sup> *City Press* 11 June 1995]

- a salary increase of 5% for educators who earned less than R107 000 per year and which dropped to 4% at the level of director; and
- a higher increase at the four lowest notches of the salary scale to improve the minimum wage.

Both Sadtu and Naptosa accepted the final offer, although it did not meet their demands. According to Mr Rademeyer, the increases represented the first phase in a three-year programme for the improvement of conditions of service of educators. Research committees had been established in the Education Labour Relations Council to assess educators' salaries in 1996/97.<sup>89</sup> [<sup>89</sup> *Ibid*]

The president, Mr Nelson Mandela, assured teachers in March 1995 that no teachers would be retrenched as a result of cuts in the education budget.<sup>90</sup> [<sup>90</sup> *Cape Times* 9 March 1995] The announcement followed speculation that 6 000 teachers in the Western Cape would be retrenched by the end of 1995 because of budgetary constraints.<sup>91</sup> [<sup>91</sup> *The Argus* 21 June 1995]

In 1993 and 1994 a total of 1 631 qualified teachers had already been made redundant and 1 332 had been retrenched or had retired, according to Professor Bengu. Some 2 373 newly qualified teachers had been able to obtain posts since the beginning of 1994.<sup>92</sup> [<sup>92</sup> *Business Day, The Citizen* 24 March 1995]

Professor Bengu said in April 1995 that the government was committed to employing more teachers. The Department of Education would try to absorb all teachers from the old education departments into the nine provincial departments. However, all teachers who could not be absorbed within six months of

the start of rationalisation would be retired. The minister did not say how many teachers would be affected. Further discussions on the issue would be conducted in the bargaining committee of the Education Labour Relations Council.<sup>93</sup> [<sup>93</sup> *Business Day, The Star* 24 April 1995]

Reacting to Professor Bengu's statement, Sadtu said that it was prepared to negotiate with the education ministry on the issue of teacher rede- ployment but the retrenchment of teachers would not be acceptable. The general secretary of Sadtu, Mr Thulas Nxesi, said that it would be impossible to redeploy the administrative staff of all the previous education departments into the nine provincial departments.<sup>94</sup> [<sup>94</sup> *Business Day* 25 April 1995]

In September 1995 agreement was reached in the Education Labour Relations Council that gender discrimination in education would be eliminated, with the exception of pensions, which were still being discussed. The agreement removed gender discrimination from the department's homeowner allowance scheme.<sup>95</sup> [<sup>95</sup> *Business Day, The Citizen*, 2 October 1995]

According to the *Restructuring Teacher Supply, Utilisation and Development* report, the teacher wage bill comprised about 80% of the education budget in 1994/95. The removal of race and gender discrimination was one of the main causes of the rise in teacher costs. According to the report, research showed that if the current teacher salary structure was kept constant in real terms it would lead to a R2bn deficit in 1998.<sup>96</sup> [<sup>96</sup> *Restructuring Teacher Supply, Utilisation and Development (TSUD)*, Report for the Ipet Task Teams, 1994]

A consumer health survey, published in 1995 by Roche Products, a pharmaceutical company, found that teachers had one of the highest average stress levels of professional groups in South Africa. Factors contributing to the high stress levels included large and unwieldy classes, lack of motivation—especially among high school children—uncertainty associated with having to adapt to a changing multicultural teaching environment, long working hours and pressures faced by teachers without enough textbooks and teaching aids. The survey found that teachers were leaving the profession to take up jobs or start businesses in fields such as adult education and literacy training.<sup>97</sup> [<sup>97</sup> *Business Day* 6 June 1995, *Sowetan* 9 June 1995]

As part of the 'rationalisation' of education, agreement was reached in November 1995 between the government and teachers' unions in the Education Labour Relations Council to formally abolish all teachers' posts in the former education departments and to recreate the posts in the nine provincial departments of education. The rationalisation would not result in a 'cutback of teachers' as excess teachers in any province would be retrenched only if they were unwilling to transfer to another province or to accept voluntary retirement. In terms of the agreement provincial MECs would draw up plans for the distribution of teachers so as to reach 'equity' in the provision of personnel. Criteria for declaring posts redundant would have to be negotiated. Agreement was also reached between the provinces to implement pupil/teacher ratios of 40:1 and 35:1 in primary and secondary schools respectively.<sup>98</sup> [<sup>98</sup> *Business Day* 2 October 1995]

Agreement was also reached in the Education Labour Relations Council to implement new salary scales for teachers in 1996. 'Broad banding' would replace the present eight levels of posts and the amount paid to teachers within specific bands would be determined more by teachers' performance in the classroom than by the old criteria of qualifications, position and years of experience. The exact number of bands was being negotiated. According to a spokeswoman for Sadtu, Ms Kate Skinner, broad banding would allow good teachers to continue teaching instead of moving to managerial positions in schools, where they received higher pay.<sup>99</sup> [<sup>99</sup> *The Star* 24 November 1995]

## **Disruptions to School Education**

Disruptions and protests during the 1993/94 financial year had cost the Department of Education and Training (DET) at least R240m in staff expenses, the auditor general, Mr Henri Kluever, said in March 1995. Strikes and stayaways by teachers had cost nearly 450 000 mandays, while actions by pupils and other organisations involved in the education sector cost about 524 400 mandays (see also chapter on *Employment and Industrial Relations*).<sup>100</sup> [<sup>100</sup> *Sowetan* 30 March 1995]

In August 1995 Professor Bengu condemned a campaign by the Azanian Students' Movement (Azasm) to victimise and harass white teachers in the townships in order to have them replaced by unemployed black teachers. The rights of any individual to work wherever he or she desired and not to be discriminated against on the grounds of race were enshrined in the transitional constitution. Professor Bengu accused the organisation of causing 'confusion and divisions' in the education system.<sup>101</sup> [<sup>101</sup> *The Citizen* 3 August 1995] The campaign was also condemned by the ANC Youth League, the Congress of South African Students and the Gauteng Department of Education. In Cape Town, secondary schools in Khayelitsha and Guguletu rejected the campaign and staged a protest march to the local offices of the Azanian People's Organisation.<sup>102</sup> [<sup>102</sup> *Sowetan* 25 August 1995]

No prolonged, nationwide teacher strikes or school boycotts occurred during the period under review. However, isolated disruptions for a variety of reasons continued throughout 1995. Most of the disruptions related to shortages of teachers and classrooms.

## **Technical Training and Apprenticeships**

### **Enrolment at Technical Colleges**

According to the Department of Education, in 1994 there were 65 477 full-time equivalent pupils (pupils studying on a full-time basis for 12 months, or a certain number of pupils studying part-time on a proportional basis) enrolled at technical colleges in South Africa. (This figure was considerably lower than the figure of 95 944 given in the 1994/95 *Survey* because the latter added full-time and part-time pupils instead of using a formula to determine the number of full-time equivalent pupils (see 1994/95 *Survey*, p255.)) The following table gives figures for provincial full-time equivalent enrolment at

technical colleges in 1994:103 [103 Department of Education, *CS Education according to Province for 1994*, Report 233 (95/08), August 1995]

*Enrolment at technical colleges: 1994*

Up to matric level

Matric and further

Total

Eastern Cape

6 481

2 084

8 565

**Free State**

2 642

1 100

3 742

Gauteng

18 200

5 714

23 914

**KwaZulu/Natal**

7 300

1 800

9 100

Mpumalanga

3 004

1 083

4 087

**North-West**

1 703

583

2 286

Northern Cape

850

571

1 421

**Northern Province**

2 746

514

3 260

Western Cape

4 875

4 227

9 102

Total

47 801

17 67

## Apprenticeship

In 1994, 22 015 apprenticeship contracts were in operation—an increase of 2% over 1993. The largest proportion of contracts in 1994 (32%) was in the metal industry, followed by the mining industry (20%) and the motor industry (19%). From 1990 to 1994 the number of apprenticeship contracts in operation dropped by 10% from 24 448 to 22015. In the same period the number of apprentices in the metal industry dropped the most (by 1 214), while the number of apprentices in local authority undertakings grew the most (by 353).

The table below shows the number of apprenticeship contracts by industry which were in operation each year from 1990 to 1994:<sup>104</sup> [104 Information provided by the Department of Labour, 4 August 1995]

### *Apprenticeship contracts in operation: 1990–94*

1990

1991

1992

1993

1994

Aerospace

550

501

386

206

208

**Automobile manufacturing**

408

499

450

547

577

**Building**

850

786

853

659

582

**Diamond cutting**

8

9

5

5

3

**Electrical contracting**

340

397

437

479

479

**Eskom**

382

453

754

689

689

Explosives

266

266

195

112

125

**Furniture**

116

271



309

423

322

Government undertakings

489

476

457

307

286

**Hairdressing**

876

695

632

823

823

Jewellers and goldsmiths

92

127

103

104

93

## **Local authority undertakings**

94

574

628

447

447

**Metal**

8 202

9 567

8 472

6 972

6 988

## **Mining**

4 523

3 929

4 703

4 067

4 473

**Motor**

4 867

5 033

4 547

4 173

4 173

**Printing**

1 182

1 236

1 035

661

751

**Sugar refining**

126

119

99

92

74

**Textile**

0

0

0

19

30

Transnet

989

1 704

1 689

885

876

**Tyre and rubber**

88

72

31

7

16

Total

24 448

26 714

2

The number of people who registered for and completed apprenticeship contracts dropped by 45% and 44% respectively from 1990 to 1994. The table below shows the number of registrations for apprenticeship contracts from 1990 to 1994 and the number of contracts completed over the same period:<sup>105</sup> [105 Ibid]

*Apprenticeship contracts started and completed: 1990–94*

1990

1991

1992

Regis-tered

Com-pleted

Regis-tered

Com-pleted

Regis-tered

Com-pleted

Aerospace

234

225

259

299

257

98

**Automobile manufacturing**

169

83

187

73

109

29

**Building**

273

262

417

442

348

133

**Diamond cutting**

2

10

7

5

1

0

**Electrical contracting**

147

74

162

82

322

83

**Eskom**

200

129

225

115

156

16

Explosives

73

123

126

118

64

16

**Furniture**

15

18

179

15

136

22

Government undertakings

208

191

202

189

208

32

**Hairdressing**

464

376

335

391

462

367

Jewellers and goldsmiths



49

21

63

22

21

4

**Local authority undertakings**

1

34

566

82

296

87

Metal

1 942

2 052

3 911

2 067

1 940

1 977

**Mining**

1 987

1 959

880

1 326

1 200

1 352

Motor

2 231

940

1 855

1 222

1 217

498

**Printing**

499

261

422

310

400

429

**Sugar refining**

23

50

43

45

19

6

**Textile**

0

0

0

0

0

0

**Transnet**

500

304

907

162

332

47

**Tyre and rubber**

37

20

12

22

4

16

Total

9 054

7 132

10 7

*Apprenticeship contracts started and completed: 1990–94 (continued)*

1993

1994

Registered

Completed

Registered

Completed

Aerospace

43

213

63

52

**Automobile manufacturing**

105

4

77

44

**Building**

222

355

230

270

**Diamond cutting**

3

3

1

3

**Electrical contracting**

150

99

277

259

**Eskom**

126

174

71

66

Explosives

58

138

32

18

**Furniture**

199

46

70

166

Government undertakings

100

242

86

103

**Hairdressing**

733

497

244

233

Jewellers and goldsmiths

35

34

32

42

**Local authority undertakings**

172

344

143

137

Metal

1 387

2 695

1 227

1 092

**Mining**

942

1 249

976

299

Motor

1 524

1 733

972

810

**Printing**

283

596

224

103

Sugar refining

25

30



9

27

**Textile**

19

0

11

0

**Transnet**

113

879

244

233

**Tyre and rubber**

8

31

13

3

**Total**

62

The line graph below shows the number of contracts started and completed in 1990–94:

In 1994 there were 229 trainees with the Department of Labour (ie people who, instead of entering into a contract with an employer as an apprentice, entered into a contract with the department and studied at one of the department's training centres before working for an employer for two years. Trainees also wrote trade tests to become artisans.) The table below shows the number of trainees with the Department of Labour from 1985 to 1994:<sup>106</sup> [106 1994/95 Survey, p259; information provided by the Department of Labour, 4 August 1995]

*Trainees in training: 1985-94*

Year

Number

1985

468

1986

464

1987

N/A

1988

N/A

1989

344

1990

359

1991

N/A

1992

296

1993

264

1994

229

N/A— Not a

## Tertiary Education

### Enrolment at Teacher Training Colleges

The following table shows the number of full-time equivalent students enrolled at teacher training colleges in the nine provinces in 1994 (including the former 'independent' homelands):<sup>107</sup> [<sup>107</sup> Department of Education, *CS Education According to Province for 1994*, Report 233 (95/08), August 1995]

#### *Enrolment at teacher training colleges: 1994*

Number

Proportion<sup>a</sup>

Eastern Cape

15 164

19,4%

**Free State**

4 301

5,5%

Gauteng

12 177

15,6%

**KwaZulu/Natal**

12 855

16,4%

Mpumalanga

3 468

4,4%

**North-West**

4 850

6,2%

Northern Cape

814

1,0%

**Northern Province**

19 705

25,2%

Western Cape

4 856

6,2%

Total

78 190

100,0%

a

Figures may not add up owing to

## Enrolment at Universities and Technikons

The following table illustrates university enrolment by institution and by race in 1995:<sup>108</sup> [108 Replies from various universities, 1995]

### *University enrolment: 1995*

#### Universities

African

Coloured

Indian

White

Total

#### Bophuthatswana

4 952

0

0

0

4 952

**Cape Town**

3 616

2 076

837

8 742

15 271

**Durban-Westville**

5 353

167

4 645

294

10 459

**Fort Hare**

5 065

7

1

11

5 084

**Medunsa<sup>a</sup>**

2 856

36

539

157

3 588

**Natal<sup>b</sup>**

4 733

404

4 369

6 066

15 609

The North

N/A

N/A

N/A

N/A

19 633

**Orange Free State**

1 677

498

22

7 449

9 646

**Port Elizabeth**

1 203

756

167

3 591

5 717

**Potchefstroom**

2 035

229

58

7 834

10 156

**Pretoria**

4 239

236

321

21 119

25 915



**Rand Afrikaans**

8 174

870

639

10 580

20 263

Rhodes

1 372

156

427

2 660

4 615

**Stellenbosch<sup>c</sup>**

382

1 430

95

13 023

14 946

Transkei

6 750

N/A

N/A

N/A

6 750

**Unisa<sup>d</sup>**

61 156

4 877

11 240

50 925

128 198

Venda<sup>e</sup>

8 190

1

2

7

8 200

**Vista**

34 770

611

72

158

35 611

Western Cape

7 288

6 521

695

200

14 704

**Witwatersrand**

4 665

338

2 285

10 874

18 162

Zululand

N/A

N/A

N/A

N/A

7 742

**Total**

N/A

N/A

N/A

N/A

385 221

a

Medical University of Southern Africa.

b

The figures are not final. Included in the total are 37 students who did not specify their race.

c

The total includes 16 students who did not specify their race.

d

University of South Africa.

e

The figures are not final. More students were expected to have registered before the end of 1995.

N/A — Not available.

The following table illustrates technikon enrolment by race

*Technikon enrolment: 1995*

Technikons

African

Coloured

Indian

White

Total

Border

1 410

1

4

31

1 446

**Cape**

935

1 785

162

6 403

9 285

Free State

2 398

278

12

4 553

7 241

**Mangosuthu**

4 341

4

11

55

4 411

**ML Sultan**

3 011

190

4 857

472

8 530

**Natal**

3 179

235

1 208

3 953

8 575

**Northern Transvaal**

7 407

28

25

51

7 511

**Peninsula**

3 897

4 007

127

176

8 207

Port Elizabeth

4 038

1 279

124

4 850

10 291

**Pretoria**

5 695

224

145

10 141

16 205

South Africa

41 486

6 147

3 536

32 714

83 883

**Setlogelo**

N/A

N/A

N/A

N/A

2 039

Transkei

2 884

0

0

0

2 884



## **Vaal Triangle**

4 010

143

136

4 137

8 426

## **Witwatersrand**

4 556

384

544

5 773

11 257

**Total**

N/A

N/A

N/A

N/A

190 191

N/A —

## **Disruptions to Tertiary Education**

Education at tertiary institutions in 1995 was characterised by widespread disruptions. The disruptions ranged from sit-ins, hostage-taking, vandalism and trashing to violent clashes between students. The main demands of students related to student funding, the transformation of institutions and admission policies. Arguably the most serious demand was that for student funding, said the director general of education, Dr Chabani Manganyi. More than R200m was owed to universities alone in 1995.<sup>110</sup> [<sup>110</sup> *The Star* 23 August 1995] According to Dr Manganyi, many students were frustrated by their inability to pay tuition and residence fees. He said that the solution to the problem lay in a possible increase in state subsidies, more cost-effective management of existing subsidies by institutions and the establishment of a national bursary and loan fund.<sup>111</sup> [<sup>111</sup> *The Argus* 31 March 1995]

## **EDUCATIONAL RESTRUCTURING**

### **National Level**

#### **Policy**

Speaking at the annual meeting of the Joint Education Trust in June 1995, the director general of education, Dr Chabani Manganyi, identified the following short-term priorities of the department:<sup>112</sup> [<sup>112</sup> Education Policy Unit, *Quarterly Review of Education and Training in South Africa*, 15 June 1995]

- the implementation of ten years of free and compulsory education;
- the reorganisation and rationalisation of the 19 departments of education into one integrated system, with authority for the provision of education devolved to the provinces;
- the implementation of greater financial equity between the provinces; and
- the establishment of a national qualifications framework.

#### ***White Paper on Education and Training***

In March 1995 a *White Paper on Education and Training* was published by the Department of Education.<sup>113</sup> [<sup>113</sup> Department of Education, *White Paper on Education and Training*, 15 March 1995]

According to Dr Jane Hofmeyr, director of education and training at the National Business Initiative, the white paper differed from a draft published in September 1994 (see 1994/95 Survey, pp263–268.) only insofar as it clarified minor issues. For example, according to the draft, the ‘broader community’ should be represented on school governing bodies. The white paper, however, made it clear that parents were the main stakeholders in education and should therefore, together with teachers and students, be

represented on school governing bodies. The white paper also omitted any reference to legally required school fees, except to say that the issue of funding would be investigated by the Committee to Review the Organisation, Governance and Funding of Schools.<sup>114</sup> [<sup>114</sup> Telephonic interview with Dr Jane Hofmeyr, director of education and training, National Business Initiative, 14 August 1995]

The National Party (NP) and the Democratic Party (DP) welcomed the changes. The NP said that, although the white paper was not satisfactory in certain respects, it was more sensitive to cultural issues and emphasised the role of parents. The DP spokesman on education, Mr Mike Ellis, said that the document did not clarify the position of model C schools or how the various phases of the education process would be financed.<sup>115</sup> [<sup>115</sup> *Business Day* 1 March 1995] The leader of the DP, Mr Tony Leon, however, warned that the white paper revealed a ‘new and increasing tendency of the government of national unity to over-regulate and legislate’. Mr Leon said that the white paper bypassed the devolution of education since the central government had the power to enforce its laws on the provinces if provincial laws conflicted with national legislation.<sup>116</sup> [<sup>116</sup> *The Star* 28 April 1995]

The Conservative Party (CP) spokesman on education, Mr Andrew Gerber, described the white paper as ‘an unrealistic attempt to use the education system to build a single nation in South Africa’. However, the right given to schools to determine admission on the grounds of a common religion, culture and language was a step in the right direction.<sup>117</sup> [<sup>117</sup> *The Citizen* 2 March 1995]

The South African Democratic Teachers’ Union (Sadtu) welcomed the white paper but expressed concern that ‘mainstream issues’—such as a body to drive the transformation of primary and secondary schools—were neglected in the white paper.<sup>118</sup> [<sup>118</sup> *The Shopsteward*, April/May 1995]

The chairman of the South African Federation for State-aided Schools and of the Afrikaanse Ouervereniging, Dr Hennie van Deventer, welcomed the recognition of the right of people to have their own educational institutions based on a common culture, language or religion (see also chapter on *Government, the Constitution, and Human Rights*).<sup>119</sup> [<sup>119</sup> *The Citizen* 1 March 1995]

The provision of greater access to practical and technical skills training was the ‘single most important aspect’ of the white paper, according to a *Business Day* editorial. The newspaper said that the movement away from the ‘humanities-dominated classrooms’ would ensure that the country had a constant pool of technical expertise, which formed an essential base for a growing economy.<sup>120</sup> [<sup>120</sup> *Business Day* 2 March 1995]

## ***Report of the Committee to Review the Organisation, Governance and Funding of Schools***

A Committee to Review the Organisation, Governance and Funding of Schools (the Hunter committee) submitted its report to the minister of education in August 1995. The main recommendations of the

committee were the following:<sup>121</sup> [121 Department of Education, *Report of the Committee to Review the Organisation, Governance and Funding of Schools*, 31 August 1995]

- there should be only two types of schools in South Africa—public and independent (or privately owned) schools;
- each public school should have a governing body (consisting of parents, pupils in secondary schools only, teachers, non-teaching staff, the principal and the community) which could make decisions on school hours, codes of conduct, subject choices, fund raising and budgets;
- model C schools should become public schools and all land and fixed assets ceded to these schools by the state should revert to public ownership;
- there should be a partnership funding approach which would provide for a compulsory school fee based on the income of parents. All parents would have to declare their income and fees would be levied on a sliding scale, with high-income earners paying up to R1 000 a year, while people earning below a stipulated minimum would be exempted;
- a formula-based subsidy for independent schools should be provided under ‘certain circumstances’;
- no child should be excluded from the compulsory education phase (ie the first ten years) because of nonpayment of fees;
- attention should be given to providing transport and accommodation subsidies for pupils in rural areas;
- provincial budgets should include an amount for a ‘redress fund’ to assist schools which were ‘disadvantaged’ by past policies;
- an initial amount should also be set aside for capital development programmes to be allocated to provincial authorities on the basis of an ‘index of need’; and
- an education management information system and an education management training institute should be established to provide management information and training to personnel.

The committee also recommended that the funding approach be reviewed in five years’ time.<sup>122</sup> [122 *Sowetan* 1 September 1995] Professor Bengu said that enabling legislation to put the recommendations into practice would be passed early in 1996.<sup>123</sup> [123 *The Citizen* 1 September 1995]

The African National Congress (ANC) welcomed the report, saying that ‘for the first time in the history of education in South Africa there was a set of recommendations to realise a unitary, democratic, non-

racial, non-sexist and equitable schooling system'.<sup>124</sup> [<sup>124</sup> Ibid 2 September 1995]

The DP criticised the report saying that it was clear that the 'ANC wanted to centralise control of education, either nationally in the hands of the minister or provincially in the hands of the MECs—especially [in the provinces] where it held power'.<sup>125</sup> [<sup>125</sup> *Business Day* 29 August 1995]

The Herstigte Nasionale Party (HNP) said that the report indicated that education was the main target of an attack on Afrikaners as parents and school governing bodies would be denied any say in the organisation, management and financing of schools. Both the HNP and the CP said that whites would have to pay more for education and would in effect be subsidising black pupils at state schools.<sup>126</sup> [<sup>126</sup> *The Star* 30 August 1995]

The report was welcomed by the Transvaalse Onderwysersvereniging, which said that, although the model C school system would disappear, almost all its positive elements would continue. The organisation also welcomed compulsory school fees for all parents who could afford them. However, it warned that the problem of funding of schools had not been resolved.<sup>127</sup> [<sup>127</sup> *Business Day* 1 September 1995, *The Star* 11 September 1995]

Sadtu supported the phasing out of model C schools and the implementation of a public school system.<sup>128</sup> [<sup>128</sup> *The Citizen* 29 August 1995]

Dr van Deventer said that parents would not accept a recommendation that most of the functions and powers of school governing bodies should be taken away from them. He expected parents to refuse to divulge their income to schools.<sup>129</sup> [<sup>129</sup> Ibid 28 August 1995]

### ***Organisation, Governance and Funding of Schools: a Draft Policy Document for Discussion***

In November 1995 the Department of Education published a draft white paper for discussion dealing with the proposals of the Hunter committee (see *Report of the Committee to Review the Organisation, Governance and Funding of Schools* above).<sup>130</sup> [<sup>130</sup> *Government Gazette* no 16839, 24 November 1995]

The white paper confirmed the Hunter committee's proposal that only two categories of schools, public and independent (or privately owned schools), be recognised. It also supported the principle of giving public school governing bodies responsibility for a number of 'basic functions' and the right to negotiate further powers with the provincial departments of education.

According to the white paper, it was 'neither possible nor desirable' to make an 'early' decision on the financing of schools. The white paper noted that a new national school bill would not reach Parliament before the middle of 1996. Assuming that provincial legislation would follow in the second half of 1996,

the earliest date for implementing a new national school finance policy would be January 1997. In addition, the implications of a new government policy on school finance would be incorporated only in the 1997/98 national budget. According to the white paper, a panel of economists had been appointed by the Department of Education to evaluate options for a new system of school finance.<sup>131</sup> [<sup>131</sup> Ibid]

The NP expressed concern that the implementation of the draft white paper would result in parents' having less influence in the management of their children's schools.<sup>132</sup> [<sup>132</sup> *The Citizen* 25 November 1995]

## **Language Policy**

Professor Bengu announced in November 1995 that a new language policy would be implemented in schools from 1996, which would aim to 'promote multilingualism and remove all forms of linguistic discrimination'.<sup>133</sup> [<sup>133</sup> Ibid 15 November 1995] Matric pupils would no longer be required to pass both English and Afrikaans to obtain their senior certificate. A discussion document detailing the new language policy, published in November 1995, made the following recommendations:<sup>134</sup> [<sup>134</sup> Department of Education, *Towards a Language Policy in Education*, November 1995]

- at least two languages of instruction should be offered from grade 1, one of which should be the home language of a 'significant' number of pupils;
- one language only should be taken into account for promotion from grade 1 to standard 1 which should be the home language, where possible;
- a second language would become compulsory from standard 1. From standard 2 one language only would be taken into account for promotion;
- two languages would have to be passed from standard 5 to matric, of which one should be one of the 11 official languages and one should also be the pupil's home language (the language of instruction was not necessarily the pupil's home language); and
- pupils would be encouraged to take a third language from standard 2.

The ANC welcomed the proposals because they would 'lay the basis for the development of African languages'. The organisation rejected claims that the language proposals would lower the standard of education, saying that such an argument could only come from people who wanted to maintain the privileged status of English and Afrikaans at the expense of languages spoken by most South Africans.<sup>135</sup> [<sup>135</sup> *The Star* 17 November 1995]

A spokesman of Naptosa, Mr Andrew Pyper, said in November 1995 that the dropping of the requirement for matric students to pass their language of instruction could result in the lowering of

educational standards. Mr Pyper expressed concern that pupils who could not pass the language of instruction would not be able to effectively communicate their knowledge.<sup>136</sup> [<sup>136</sup> *The Citizen* 15 November 1995]

According to Sadtu, the new language policy promised to create a 'framework of multilingual models for schools and would pay particular attention to the necessity of developing appropriate syllabi for previously disadvantaged African languages'. However, teachers would have to be trained in order to cope with the 'realities of the country's multicultural and multilingual classrooms'.<sup>137</sup> [<sup>137</sup> *The Star* 17 November 1995]

*Business Day* noted in an editorial that the abolition of the requirement to pass English to obtain university exemption would put pupils at a disadvantage in tertiary educational institutions, in the worlds of commerce and industry, in the political and cultural arenas and in their dealings with the world outside of South Africa's borders because English had become the 'lingua franca' of business and academic discourse.<sup>138</sup> [<sup>138</sup> *Business Day* 16 November 1995]

## Legislation

### ***National Education Policy Bill***

The National Education Policy Bill was tabled in Parliament early in September 1995 and aimed to give legal effect to the policy directions set out in the white paper.<sup>139</sup> [<sup>139</sup> *Ibid* 5 September 1995] The bill gave far-reaching powers to the minister of education, who could determine national policy on the co-ordination, evaluation, financing, governance, management, monitoring, planning, programmes, provision, staffing and well-being of the education system. The minister could also, among other things, decide on pupil/teacher ratios, compulsory school education, the admission and determination of the age of admission, the length of the school day, the curriculum framework and language in education. Corporal punishment was forbidden. The minister could override provincial education law by making a special declaration to that effect after having informed the provincial MECs of education.<sup>140</sup> [<sup>140</sup> National Education Policy Bill, B83-1995]

The bill guaranteed the right of every person to basic education and equal access, the right to be instructed in a language of choice if reasonably practicable, the right to the freedoms of conscience, belief, expression and association and the right to establish education institutions based on a common language, culture or religion.<sup>141</sup> [<sup>141</sup> *Ibid*]

Statutory status was granted to the Council of Education Ministers (CEM) and the Heads of Education Departments Committee (Hedcom). The bill provided for the establishment of a national training and education council to advise the minister on policy.<sup>142</sup> [<sup>142</sup> *Ibid*]

The deputy minister of education, Mr Renier Schoeman, commented that, although the bill had been

approved by the cabinet, it did not necessarily mean that the NP agreed with the legislation. Although the bill's overall objectives had been agreed upon, the NP had 'serious reservations' about the extent of the policymaking powers of the minister. Mr Schoeman added that the legislation 'overstated the national education minister's power in terms of the [transitional] constitution, which had declared schooling as a provincial legislative competence'.<sup>143</sup> [<sup>143</sup> *Business Day* 5 September 1995]

The National Professional Teachers' Organisation of South Africa (Naptosa) objected to the lack of consultation and transparency at political level in the drafting, discussion and approval of the bill.<sup>144</sup> [<sup>144</sup> *Ibid*]

In September 1995 the bill was referred to the Constitutional Court after a petition, signed by the African Christian Democratic Party (ACDP), the DP, the Freedom Front (FF), the Inkatha Freedom Party (IFP), the NP and the Pan-Africanist Congress (PAC), was presented to the speaker of Parliament. According to the parties, the bill was unconstitutional because it allocated too much power to the minister of education and undermined the provinces' powers.<sup>145</sup> [<sup>145</sup> *Sowetan* 22 September 1995] The bill was, however, passed in both houses of Parliament in September but could only be promulgated by the president after the Constitutional Court had ruled on it.<sup>146</sup> [<sup>146</sup> *Saturday Star* 16 September 1995]

### ***South African Qualifications Authority Act***

The South African Qualifications Authority Act was assented to by the president in October 1995. The act provided for the establishment of a South African qualifications authority which would unite all education organisations under one administrative body—as set out in the education white paper (see 1994/95 Survey, p264.). The main functions of the qualifications authority were to oversee the development and the implementation of a national qualifications framework, including:<sup>147</sup> [<sup>147</sup> National Qualifications Framework Bill, *Government Gazette* no 16439, 2 June 1995]

- registering of national standards and qualifications;
- ensuring compliance of education bodies with the provisions of accreditation;
- ensuring internationally acceptable standards and registered qualifications; and
- registering of bodies responsible for establishing education and training standards and accrediting bodies responsible for monitoring and auditing achievements in terms of the above standards.

Universities countrywide expressed concern when the bill was published, that it 'disregarded the universities' right to academic freedom and autonomy' because the state would determine the content of curricula.<sup>148</sup> [<sup>148</sup> *Cape Times* 27 June 1995] The bill was described as 'not appropriate for the education sector' by Dr Stuart Saunders, vice chancellor of the University of Cape Town. He said there had been a



lack of consultation with universities on the issue and that the bill should be referred to the National Commission on Higher Education.<sup>149</sup> [<sup>149</sup> Ibid]

### ***University of North-West (Private) Bill***

Late in 1995 the University of North-West (Private) Bill was tabled in Parliament by Dr B E Nzimande. The bill in essence provided for the change of name of the University of Bophuthatswana to the University of NorthWest.<sup>150</sup> [<sup>150</sup> University of North-West (Private) Bill, B90-95]

### **Transformation at Tertiary Institutions**

Following the unrest at various tertiary institutions, Professor Bengu said in March 1995 that all higher education institutions should set up inclusive transformation forums to debate and formulate policy on both the direction and pace of change. Each institution should, together with all its stakeholders, design solutions appropriate to its own situation, Professor Bengu said.<sup>151</sup> [<sup>151</sup> *Hansard* (NA) 4q cols 643–644, 3 May 1995] Institutions were encouraged to submit proposals to the National Commission on Higher Education, which was investigating the higher education system. The minister said that, although the department was trying to assist needy students, it could not accede to the demand for writing off all previous debts as that would ‘fly in the face of all attempts to implement the reconstruction and development programme’.<sup>152</sup> [<sup>152</sup> *Sowetan* 24 March 1995]

The president of the South African Students’ Congress (Sasco), Mr David Makhura, suggested in May 1995 that the broad transformation forums (BTFs), which should comprise all stakeholders on the campuses, investigate the following issues:<sup>153</sup> [<sup>153</sup> *New Nation* 12 May 1995]

- the composition of the governance structure of tertiary institutions;
- the ‘democratisation’ of the general running of such institutions;
- the reconstruction of ‘racist, sexist and generally problematic curricula’;
- the contribution of tertiary institutions to the reconstruction and development programme by producing graduates with the relevant skills and knowledge;
- the improvement of student living conditions and staff working conditions; and
- the upgrading of the institutions.

The BTFs were seen as temporary negotiating forums which would be phased out once ‘acceptable

democratic councils or governance structures' had been established.

The Students for Democratic Transformation (SDT) (a student forum which linked the students' representative councils of various universities which supported transformation) warned in April that the university system was moving towards a 'state of collapse'. Reasons cited by them for the crisis were the increase in racial polarisation and conflict, a lack of respect for the rule of law on campuses, the deepening financial crisis and the government's 'capitulation to violent student protest'.<sup>154</sup> [<sup>154</sup> *The Citizen* 20 April 1995] The SDT demanded in a letter to Professor Bengu that the government stop any cuts in subsidies and that some R500m be made available to disadvantaged students. The organisation also expressed concern that the violence on other campuses could spread to Afrikaans universities.<sup>155</sup> [<sup>155</sup> *Rapport* 3 April 1995]

Research done by the Education Policy Unit at the University of Cape Town identified in-fighting as the main threat to transformation at tertiary institutions. In the case of the University of the Witwatersrand (Wits) disagreement over the name of the transformation forum and the criteria for selecting members had proved a problem. Black students experienced problems at predominantly Afrikaans-speaking universities where most students were satisfied with the running of the campus. At the universities of Bophuthatswana, Natal and the North students were part of the councils and participated in decision making with positive effects. The universities of Cape Town and the Western Cape were still setting up subcommittees but did not want forums to act as advisers to the council.<sup>156</sup> [<sup>156</sup> *Business Day* 7 March 1995]

### ***Rand Afrikaans University***

In May 1995 students at the Rand Afrikaans University (RAU) voted in favour of becoming the fifth historically Afrikaans campus to affiliate to the newly formed forum called Students for Democratic Transformation. The university joined the students' representative councils from the universities of the Free State, Port Elizabeth, Potchefstroom, and Stellenbosch. The president of the Students' Representative Council at RAU, Mr Paulo Andrade, said that the university needed to begin the transformation process immediately but warned that the forum viewed violent mass action as 'unacceptable'.<sup>157</sup> [<sup>157</sup> *Ibid* 9 May 1995]

### ***University of Natal***

The council of the University of Natal approved an affirmative action/equal opportunities programme in 1995 which would be implemented over five years. The university would not introduce either racial or gender quotas.<sup>158</sup> [<sup>158</sup> *The Natal Witness* 28 June 1995]

### ***University of the Witwatersrand***

According to the vice chancellor of Wits, Professor Robert Charlton, tertiary education faced four

‘daunting’ challenges in the future, which he identified as follows:<sup>159</sup> [<sup>159</sup> *Business Day* 1 June 1995]

- a further shrinkage in resources as funds were diverted to other educational sectors;
- a rising demand for university places from inadequately prepared school leavers;
- increasing numbers of students unable to pay fees and insufficient funds to support them; and
- demands from students for ‘democratisation’.

In February 1995, 1 500 students and workers marched peacefully on Wits to hand over a memorandum demanding the establishment of a forum for further accelerated and comprehensive transformation (FFACT) and the establishment of a commission of inquiry to investigate the crisis at the university. Other demands included finding a solution to the financial crisis, using contingency funds to aid students facing financial exclusions and lifting a 20% upfront payment fee for residence.<sup>160</sup> [<sup>160</sup> *The Citizen, Sowetan, The Star* 17 February 1995] A petition, signed by 250 academics, was submitted to Professor Charlton. The academics blamed the administration for ‘dragging its feet on transformation’ and condemned violent and disruptive action on the campus.<sup>161</sup> [<sup>161</sup> *Business Day* 3 March 1995] The FFACT was set up at the beginning of March—representing administration, academics, students and workers at the university.<sup>162</sup> [<sup>162</sup> *Weekly Mail* and *Guardian* 3 March 1995]

In October 1995, 13 senior academics at Wits accused the deputy vice chancellor of the university, Professor William Makgoba, of misrepresenting his curriculum vitae, of making statements that undermined the university and of neglecting his administrative duties. A file containing the allegations was handed to Professor Charlton, who appointed a tribunal of three foreign academics to investigate the charges. The tribunal was to sit in January 1996. The decision to appoint foreign academics to the tribunal was rejected by black students, workers and some academics at the university.

In December 1995 Professor Makgoba in turn levelled accusations of ‘widespread abuse’, including tax evasion, inconsistent salary scales, payment for non-existent research and misrepresentation of credentials against the academics, which they rejected as false. Professor Makgoba was subsequently suspended by Professor Charlton because he had ‘ignored warnings against misusing his official position to obtain access to the personal files of the 13 academics and made them public’.<sup>163</sup> [<sup>163</sup> *The Citizen* 6, 7 December 1995, various newspaper reports] Both Sasco and the Students’ Representative Council demanded that the 13 academics be suspended and that Professor Bengu intervene, failing which, they threatened to launch a mass action campaign in 1996 to demand the resignation of Professor Charlton and his ‘illegitimate and undemocratic administration’.<sup>164</sup> [<sup>164</sup> *The Citizen* 7 December 1995]

## **Vista University**

In March it was reported that the council of Vista University said that it would not resign and that it remained committed to transforming the university into a democratic institution.<sup>165</sup> [<sup>165</sup> *Business Day* 27 March 1995] This followed demands made by various student organisations which claimed that the council was 'illegitimate' because it had been appointed by an 'illegitimate government'. However, Professor Bengu announced at the end of March that the council would be dissolved within three months and replaced by an interim council.<sup>166</sup> [<sup>166</sup> *The Citizen* 20 April 1995] According to a spokeswoman for the university, at the time of writing the council had not yet been replaced because legislation had to be passed before a newly constituted council could be formed. However, vacancies on the council had been advertised and the university was awaiting applications.<sup>167</sup> [<sup>167</sup> Personal communication with Vista University, 17 October 1995]

### ***Technikon Pretoria***

At the end of August the steering committee of the BTF at Technikon Pretoria met for the first time and decided in principle to create supportive transformation structures. Satellite campuses were expected to establish their own structures.<sup>168</sup> [<sup>168</sup> *Sowetan* 1 September 1995]

### ***Vaal Triangle Technikon***

The Vaal Triangle Technikon set up ten student forums with equal race representation to address transformation at the technikon in February 1995. Students were represented at council level, rectorate level, management level, and on the academic board and the rector's advisory council.<sup>169</sup> [<sup>169</sup> *Ibid* 24 February 1995]

In March 1995 members of the BTF at the Vaal Triangle Technikon (consisting of Azasm, Cosas, Paso and Students for Human Rights) demanded in a memorandum to Professor Bengu that a transitional technikon council be established and the existing council be disbanded. They also demanded the resignation of the rector.<sup>170</sup> [<sup>170</sup> *Weekend Star* 18 March 1995] The rector was suspended, following a recommendation by a commission of inquiry into allegations of financial mismanagement at the technikon. According to the acting rector of the technikon, Mr Piet Swanepoel, a newly constituted council had been appointed in June 1995 following the promulgation of a new technikon act. At the time of writing discussions were taking place within the BTF regarding transformation at the technikon, Mr Swanepoel added.<sup>171</sup> [<sup>171</sup> Personal communication with the acting rector of the Vaal Triangle Technikon, Mr Piet Swanepoel, 17 October 1995]

## **Provincial Level**

### **Legislation**

#### ***Eastern Cape***

In August 1995 it was reported that the draft of the Eastern Cape Education Bill was in its final stages. The province had five official languages (Afrikaans, English, Sotho, Xhosa and Zulu) and provision had to be made for these as media of instruction and as subjects, depending on the schools' and communities' preferences.<sup>172</sup> [<sup>172</sup> The Education Foundation, *Edusource Data News*, August 1995]

## **Free State**

Enabling legislation relating to school education was tabled in the provincial legislature in December 1995 and was expected to be assented to by the premier in January 1996. Legislation regulating education colleges as well as technical education would be tabled early in 1996.<sup>173</sup> [<sup>173</sup> Personal communication with Mr Johan Meyer, legal adviser to the Free State legislature, 15 December 1995]

## **Gauteng**

The School Education Bill of Gauteng was gazetted in May 1995.<sup>174</sup> [<sup>174</sup> School Education Bill, *Provincial Gazette Extraordinary* no 30, 12 May 1995] The bill aimed to place all schools in the province under one law. It guaranteed several rights, including those relating to language, freedom of conscience, political rights of educators, rights to information, consultation and negotiation, and rights relating to administrative justice. The bill provided for free and compulsory education for children from the ages of seven to 15 years with no discrimination on the grounds of race, culture, language or religion. However, the introduction of compulsory education could be withheld until 1998 if the department lacked the material or administrative resources to provide it. No pupil could be refused admission to a public school on the grounds of nonpayment of fees. School fees at public schools would take the form of contributions to a school fund but private schools and state-aided schools (which included model C schools) could charge their own fees.

The bill recognised three types of schools, public state schools, public state-aided schools and private schools. Parents, who played a crucial role in their children's education, were required to make up the majority of members on a public school's governing body. Students were to be represented on the governing bodies of secondary schools only.

The bill protected the languages of all South Africans. Language competence testing could not be used as an admission requirement at a public school. Pupils had the right to be taught in the language of their choice wherever this was practicable. The bill also banned corporal punishment at schools.<sup>175</sup> [<sup>175</sup> *Ibid*]

The bill gave far-reaching powers to the MEC for education, such as the right to determine the school calendar, school religious holidays, the length of the school day and to certify or withdraw certification of the syllabi. The MEC could also, after giving reasonable notice and reasons, close any centre of learning and determine admissions conditions. In addition, the MEC had a veto on the choice of language policy as well as the religious policy of a school.<sup>176</sup> [<sup>176</sup> *Ibid*]

Widespread criticism was levelled at the School Education Bill. Mr Roger Burrows, spokesman for the DP on education, said that the party had ‘grave misgivings over the over-riding powers reserved in many instances for the MEC’. If it was found that the MEC had to have the powers these should be exercised in consultation with some elected body, Mr Burrows suggested.<sup>177</sup> [<sup>177</sup> *The Star* 30 June 1995]

The Freedom Front (FF) said in a submission to the province’s education standing committee that the bill was unconstitutional and allocated ‘excessive’ power to the MEC for education. The FF said that the bill should be rewritten to provide for the establishment of governing bodies, while the appointment of their members should be the responsibility of the communities. Governing bodies should have the right to refuse students entry to schools on the grounds of inability to pay school fees and ‘low language ability’.<sup>178</sup> [<sup>178</sup> *Business Day* 27 June 1995]

The NP expressed concern over the powers granted to the MEC for education by the bill, in particular the veto power over language and religious policies in public schools which, according to the NP, violated the constitutional rights of South Africans.<sup>179</sup> [<sup>179</sup> *The Citizen* 5 July 1995]

The South African Federation for State-aided Schools said that the bill ignored the constitution and other regulations, causing confusion among parents, teachers and pupils. The chairman of the federation, Dr Hennie van Deventer, called on the provincial MEC not to take ‘unilateral action which impaired the rights and powers of the governing bodies’ of schools.<sup>180</sup> [<sup>180</sup> *Ibid* 15 June 1995]

The South African Board of Jewish Education and the Association of Muslim Schools objected to the fact that the bill allowed children who attended ‘state-subsidised private schools’ to refuse to attend religious education classes and religious ceremonies at schools. The organisations felt that schools should be entitled to require their pupils to participate fully in the religious practices stipulated by the schools.<sup>181</sup> [<sup>181</sup> *The Star* 29 June 1995] The Transvaal Teachers’ Association and the Association of Professional Teachers supported the option of corporal punishment.<sup>182</sup> [<sup>182</sup> *The Citizen* 4 July 1995]

In September 1995 a petition was presented to the speaker of the Gauteng legislature by the political parties opposing the bill (ie the DP, FF and NP), demanding that the bill be referred to the Constitutional Court. They disputed its constitutionality regarding religious freedoms at schools, the inadmissibility of language testing before admission and the provincial school education forum’s ability to make decisions which were binding on school governing authorities (see also chapter on *Government, the Constitution, and Human Rights*).<sup>183</sup> [<sup>183</sup> *Sowetan* 22 September 1995; *Business Day* 27 September 1995]

The legislature was temporarily prevented from discussing the bill after an interdict was granted by the Supreme Court in Pretoria to the Afrikaner Kulturbond, which had objected to the fact that the bill had been published in English only.<sup>184</sup> [<sup>184</sup> *Ibid* 15 September 1995] The premier of Gauteng, Mr Tokyo Sexwale, assented to the bill with the exclusion of the disputed clauses, in December 1995.<sup>185</sup> [<sup>185</sup> *The Star* 8

December 1995]

## ***Kwazulu/Natal***

In November 1995 three education bills were submitted to the provincial legislature, ie the Colleges of Education Bill, the School Education Bill and the Technical Colleges Bill.<sup>186</sup> [<sup>186</sup> *Provincial Gazette of KwaZulu/ Natal* no 5087, 29 November 1995]

The Colleges of Education Bill provided for the regulation of all colleges of education in the province by the same legislation, thus replacing the four acts formerly regulating them. The bill also provided for the establishment and closure of colleges and said that they should be managed by a college council and a senate.<sup>187</sup> [<sup>187</sup> *Ibid*]

The School Education Bill replaced the five laws formerly governing education in the province. Three categories of schools were provided for in the bill, namely state schools, state-aided schools and private schools. The category of state schools was subdivided into state, community and state-subsidised schools. State and community schools would be funded and controlled by the state but an elected management council would be established which would deal with certain school matters. State-subsidised schools would be partially managed by the governing bodies of these schools and would receive subsidies from the department. Parents of pupils attending such schools had to pay for any shortfall in the funds required for running the schools. State-aided schools would be partially controlled by the state and the owners of the schools. Private schools would also receive subsidies from the department. Existing farm and church schools were allowed to continue as private schools but the MEC for education was not allowed to establish new farm or church schools.<sup>188</sup> [<sup>188</sup> *Ibid*]

The Technical Colleges Bill aimed to ensure that all technical colleges were regulated by the same legislation. It provided for the establishment of a committee of technical college principals which would advise the MEC on technical education matters. Colleges could decide whether to act as state or as state-aided colleges.<sup>189</sup> [<sup>189</sup> *Ibid*]

## ***Mpumalanga***

Two pieces of legislation, the Education Act (dealing with transitional matters) and the School Education Act (which focused on basic education) were passed by the provincial legislature in 1995. According to the *Education Foundation*, legislation concerning technical colleges and colleges of education was being drafted and a draft white paper had been formulated.<sup>190</sup> [<sup>190</sup> *Education Foundation, Edusource Data News*, August 1995]

## ***North-West***

In June 1995 the North-West Department of Education made draft education legislation available for

comment. In August 1995 a white paper on education for the North-West province was published.<sup>191</sup> [<sup>191</sup> Ibid]

### **Northern Cape**

The draft School Education Bill was published in July 1995 and provided for nine years of free and compulsory education. It also provided for the compulsory establishment of democratic governing bodies in all schools, for special attention to be given to rural schools with the emphasis on pupils' right of physical access to farm schools and for the provision of specialised education in ordinary schools where possible.<sup>192</sup> [<sup>192</sup> Ibid, October 1995]

### **Northern Province**

During the year under review draft education legislation was debated in the Northern Province but at the time of writing nothing had been tabled in the legislature.<sup>193</sup> [<sup>193</sup> Ibid, August 1995]

### **Western Cape**

In December 1994 the premier of the Western Cape assented to three laws, the Western Cape Colleges of Education Law, the Western Cape School Education Law and the Western Cape Technical Colleges Law. The Western Cape Colleges of Education Law provided for the 'establishment, maintenance, management and control' of colleges of education in the province.<sup>194</sup> [<sup>194</sup> *Provincial Gazette Extraordinary* no 701, 30 December 1994] The Western Cape Technical Colleges Law provided for the 'establishment, maintenance, management and control' of technical colleges.<sup>195</sup> [<sup>195</sup> Ibid no 702]

The Western Cape School Education Law provided for the establishment of five categories of schools—community schools, private schools, state schools, state-aided schools and state-subsidised schools. Community schools would be funded by the provincial education department. All private schools would be required to register with the department and could apply for a subsidy. A management council would be established for each state school or for a group of state schools by the MEC who would also determine the duties and powers of such councils. State-aided schools would also be required to register with the department, and could receive subsidies. A managing body (appointed by the owner of the school) would manage the school. State-subsidised schools would be controlled by governing bodies and could receive subsidies from the department.

It also provided for the establishment of an education council for the province to advise the MEC for education and the provincial Department of Education on education-related issues. The act provided for the right to mother-tongue education, the right to religious education and compulsory school attendance 'in accordance with national policy'.<sup>196</sup> [<sup>196</sup> Ibid no 700]

### **Developments in the Provinces**



## **Eastern Cape**

In May 1995 the Eastern Cape MEC for health, Dr Trudy Thomas, said that the primary school feeding scheme in the province would be temporarily suspended because of widespread corruption and maladministration. An investigation would be carried out, she said.<sup>197</sup> [<sup>197</sup> *Business Day* 30 May 1995] It was estimated that up to 2m pupils could be affected when the provincial government cut its feeding programme in August 1995.<sup>198</sup> [<sup>198</sup> *Ibid* 5 July 1995] According to the minister without portfolio, Mr Jay Naidoo, the school feeding scheme had been defrauded of R5m.<sup>199</sup> [<sup>199</sup> *Sowetan* 10 August 1995]

The school feeding scheme resumed again in September 1995 after checks had been put in place to prevent further fraud. The project was, however, downscaled to provide meals every second day only and the amount spent on every child dropped from 71c a day to 53c for urban pupils and to 68c for rural pupils. Participating schools had to submit enrolment figures to prevent them from claiming more money than was needed.<sup>200</sup> [<sup>200</sup> *The Star* 20 September 1995]

The Eastern Cape Department of Education said in October 1995 that thousands of rands in salaries were being drawn from its payroll for nonexistent teaching posts and schools in the former Transkei. The irregularities were uncovered during spot checks on the school feeding schemes. According to the permanent secretary of the department, Dr Ronnie van Wyk, an audit of institutions and personnel would be completed by the end of November 1995 or early in 1996 to investigate the extent of the problem.<sup>201</sup> [<sup>201</sup> *Sowetan* 11 October 1995]

## **Free State**

In July 1995 thousands of pupils at model C schools in the Free State lost their bursaries for fees, transport and boarding—prompting accusations that the provincial government was deliberately undermining the model C school system. Financial considerations and reorganisation of education in the province had necessitated the decision, which would affect some 12 000 pupils, the department said.<sup>202</sup> [<sup>202</sup> *Business Day* 25 July 1995, *The Star* 26 July 1995]

## **Gauteng**

A spokesman from the Gauteng Department of Education, Mr N Moloko, said in March 1995 that the issue of remedial classes was ‘very sensitive’ because it singled out children from disadvantaged communities. He said that although the department had not ordered schools to stop such classes, the department had ‘requested’ that such classes be stopped until another solution could be found.<sup>203</sup> [<sup>203</sup> *The Citizen* 4 March 1995]

According to the co-ordinator of the school renovation programme, Mr Graeme Bloch, 1 500 former

DET schools in Gauteng would receive R8000 each in 1995 for improvements. This project formed part of the presidential lead project announced in March 1995 to improve dilapidated schools. In order to qualify for assistance schools had to be historically disadvantaged, have a democratically elected governing body and must have tried to raise funds themselves.<sup>204</sup> [<sup>204</sup> *The Star* 2 May 1995]

According to the MEC for education, Ms Mary Metcalfe, a R1,2m transport subsidy for pupils at former coloured, Indian and white schools was being phased out. The subsidy would be cut by 30% in the third term of 1995 and by a further 20% in the fourth term. It would be phased out completely from 1996. The money would be redirected to African schools in rural areas to cover the travelling costs of their pupils.<sup>205</sup> [<sup>205</sup> *Ibid* 26 July 1995]

In November 1995 Ms Metcalfe announced that in 1996 schools in Soweto would be reorganised to end the overcrowding at high schools. Primary schools would take pupils up to standard 4 only, new junior high schools would be formed which would cater for pupils in standards 5 to 7 and senior schools would accommodate pupils from standard 8 to matric. Primary schools in the same area which were underutilised would be combined and the resulting empty school would be converted into a junior high school. In a preliminary study of schools in Soweto it was found that about 75% of primary schools were underutilised, while 65% of high schools were overcrowded. Ms Metcalfe said, however, that the restructuring of schools would not be implemented if parents opposed it.<sup>206</sup> [<sup>206</sup> *Sunday Times* 26 November 1995]

### ***Kwazulu/Natal***

The KwaZulu/Natal provincial education committee said in May 1995 that the education budget had enough money to pay teachers' salaries until October 1995. A shortfall of R400m was expected. Furthermore, the then acting superintendent general, Mr Bill Staude, said that more than 3 000 teachers had to be employed to address the serious backlog in rural areas at an additional cost of R85m a year and 55 000 classrooms would have to be built.<sup>207</sup> [<sup>207</sup> *The Natal Witness* 9 May 1995] However, according to the superintendent of communication of the education department, Mr Cornelius, the budgetary problems had been sorted out and the department would be able to pay teachers' salaries without requesting additional funds from the national department.<sup>208</sup> [<sup>208</sup> Personal communication with the superintendent of communication, KwaZulu/Natal Department of Education, 7 December 1995]

In July 1995 a spokesman for the KwaZulu/Natal Department of Education said that subsidies at model C schools for residences, funds and transport had been stopped in April. More than 17 000 pupils had been affected by the cutback.<sup>209</sup> [<sup>209</sup> *The Mercury* 27 July 1995] However, teachers at model C schools would still receive the same salaries as teachers at state schools.<sup>210</sup> [<sup>210</sup> *Business Day* 26 July 1995]

### ***Mpumalanga***

In May 1995 the MEC for education in Mpumalanga, Mr David Mabuza, said that large-scale corruption

and theft had occurred in the province's school feeding scheme. The scheme would be restructured so that schools became responsible to provincial education departments, Mr Mabuza said.<sup>211</sup> [<sup>211</sup> *The Citizen* 12 May 1995] In September 1995 the provincial education department put out a tender for a private company to manage the programme.<sup>212</sup> [<sup>212</sup> *Business Day* 29 September 1995]

Mr Mabuza announced in August 1995 that all subsidies to model C schools had been cut as well as the transport subsidies given to white teachers in the province. The province would continue to pay the salaries of teachers at model C schools but would no longer assist parents to keep their children at such schools.<sup>213</sup> [<sup>213</sup> *The Citizen* 18 August 1995]

However, in December 1995 the Transvaal Provincial Division of the Supreme Court in Pretoria ruled that Mr Mabuza had to continue to pay subsidies to model C schools for boarding, education and transport until December 1995. The court said that Mr Mabuza had not consulted sufficiently before discontinuing the subsidies.<sup>214</sup> [<sup>214</sup> *Ibid*, 5, 12 December 1995]

### **North-West**

The MEC for education in the North-West, Mrs Mamokoena Gaoretelwe, said in August 1995 that the provincial department had built 700 classrooms and had employed an additional 500 teachers in response to the 'shocking conditions in local schools'. The province had also reopened 21 of the 49 schools which had previously been taken over by the defence force.<sup>215</sup> [<sup>215</sup> *Sowetan* 4 August 1995]

### **Northern Province**

In February 1995 more than 11 500 newly qualified teachers were unemployed in the province. The Northern Province Department of Education said that teachers could be employed only once the new budget had been approved in April 1995. Even then the department expected that a maximum of 8 000 teaching posts could be created—leaving 3 500 unemployed. Despite this fact, the 22 teacher training colleges in the province were 'besieged by thousands of new [applicants]' who still wanted to enrol.<sup>216</sup> [<sup>216</sup> *Ibid* 9 February 1995]

The MEC for education in the Northern Province, Dr Aaron Motsoaledi, assured parents in February 1995 that he would not compel model C schools to turn to dual-medium education, nor would the provincial government try to undermine Afrikaans or the language rights of Afrikaner parents and children.<sup>217</sup> [<sup>217</sup> *The Citizen* 9 February 1995]

In August 1995 the school feeding scheme for primary schoolchildren collapsed after the scheme had been defrauded of more than R2m. Many schools in the former homelands of Venda and Gazankulu had not benefited from the scheme for more than three months.<sup>218</sup> [<sup>218</sup> *Sowetan* 10 August 1995]

## **Western Cape**

In August 1995 the Western Cape Department of Education said it faced a salary shortfall of more than R500m—leading to speculation that teachers would not be paid for December 1995 and January–February 1996. The department had applied to the provincial treasury for additional funds and expected the request to be passed on to the national Department of Education.<sup>219</sup> [<sup>219</sup> *The Star* 31 August 1995]

## **KEY PROJECTIONS**

- Some 1,8m pupils aged six to 18 years were expected to enrol at schools over the next three years.
- At a pupil/teacher ratio of 40:1 in primary schools, *The National Teacher Education Audit* expected a surplus of more than 5 400 teachers in 1998, dropping to 2 800 in 2001, and increasing slightly to some 3 700 in 2004.
- In secondary schools, with a pupil/teacher ratio of 35:1 the audit showed a surplus in 1998 (4 300) but a shortage of some 2 800 teachers in 2001. By 2004 a small surplus of 252 was expected.

## **BUSINESS**

### **BIRD'S EYE VIEW**

In 1995 the South African government embarked on a series of initiatives to promote small business, discourage corporate anti-competitive practices and arrive at structures and trade arrangements within southern Africa and internationally, to encourage international competitiveness while allowing South African industry time to adapt to its new environment.

Measures aimed at empowering small, medium and micro-enterprises (SMMEs) began with the publication in March 1995 of a white paper on small business development. Small business would for the first time be represented by a unified body, would be financed by a wholesale finance facility linked to an enterprise promotion agency, and would be offered training to improve business skills. The National Small Business Bill, drafted later the same year, provided for the establishment of the necessary structures and schemes.

The scale and productive capacity of South Africa's SMMEs in 1994 indicated that an increasing proportion of the population was finding work in this sector. While some 2,5m people (17% of the economically active population) were employed in small and medium enterprises (SMEs), a further 4,5m were involved in microand 'survivalist' enterprises. SMEs accounted for some 45% of South Africa's gross domestic product, while micro-enterprises contributed an additional 15%.

When South Africa became a member of the World Trade Organisation (WTO) in January 1995, it

committed itself to increased global competitiveness and improved industrial and manufacturing standards. On its world competitiveness scoreboard, *The World Competitiveness Report*, published in September 1995, ranked South Africa 42nd out of 48 countries.

In 1995 South Africa's clothing, textile and motor industries committed themselves to tariff reduction, with target rates lower than those specified by the General Agreement on Tariffs and Trade. The minister of trade and industry, Mr Trevor Manuel, assured industries undergoing restructuring that the government would offer support over a 'grace' period to allow them to adapt to international competition. He also initiated measures to promote domestic competition. Draft legislation to tighten restrictions on anticompetitive behaviour proposed, among other things, widening their application from monopolies to 'dominant' companies, strengthening the powers of the Competition Board and setting up a separate competition tribunal with quasi-judicial authority to adjudicate on anti-competitive practices.

The Johannesburg Stock Exchange was also targeted for deregulation in the pursuit of security, liquidity and international harmonisation. The Stock Exchanges Control Amendment Act aimed at ensuring that trade in securities complied with internationally acceptable principles. It widened the definition of floor trading to include screen and automated trading, extended membership on the exchange to local (eg banks) and foreign corporates, and provided for dual capacity trading.

## KEY POINTS

- A white paper on the development and promotion of small business in South Africa was approved by the cabinet and Parliament in March 1995. Among other things it provided for the rechanneling of public sector and donor funds for SMMEs into a state-owned agency, the Ntsika Enterprise Promotion Agency (Nepa), linked a wholesale finance facility, and for a National Small Business Council which would represent major participants in the SMME sector.
- In terms of the white paper, R600m in assets would be transferred from the Small Business Development Corporation (SBDC) to Nepa. The SBDC would, however, continue as a private sector-led partnership between the government and the business sector, centred on the funding of viable small businesses.
- The president of the Johannesburg Stock Exchange (JSE), Mr Roy Andersen, said in May 1995 that there were 11 black-controlled companies listed on the JSE with a market capitalisation of R4 300m, compared with one listing in May 1994.
- The minister of agriculture, Dr Kraai van Niekerk, said in May 1995 that there were 60 000 commercial farmers in South Africa, 70 000 small farmers (ie those with an annual income of between R7 000 and R20 000), and 0,5m subsistence farmers.
- In August 1995 the Department of Public Enterprises published a discussion document outlining proposals for a public sector restructuring and privatisation programme. It proposed delineating para-

stats into three categories, some of them earmarked for sale to blacks depending on their strategic value to the state.

- The Stock Exchanges Control Amendment Act, passed in September 1995, aimed to ensure that the statutory provisions regulating trading in securities in South Africa were 'competitively neutral' and complied with internally accepted standards. The act included provision for dual capacity and automated trading and for membership of the JSE for local and foreign companies.
- The General Agreement on Tariffs and Trade gave way to the World Trade Organisation (WTO) on 1st January 1995. In January 1995 South Africa became a member of the WTO, which sets out the principal obligations of governments in framing and implementing domestic trade legislation, and committed itself to simplifying tariffs in conformity with the WTO.
- A spokesman for the European Union, Mr Joao Vale de Almeida, said in September 1995 that South Africa would be given only 'qualified' membership of the Lome convention, which included political co-operation but excluded trade and aid: while a free trade area would be set up after ten years.

## **SMALL BUSINESS**

In 1994 the small and medium-sized enterprise (SME) sector employed about 2,5m people in South Africa (17% of the economically active population), while microand 'survivalist' enterprises employed an additional 4,5m people, according to the Small Business Development Corporation (SBDC). The SME sector accounted for some 45% of South Africa's gross domestic product, while micro-enterprises contributed a further 15%.<sup>1</sup> [<sup>1</sup> *Enterprise* March 1995]

## **Policy**

### **Central Government**

A white paper on the development and promotion of small business in South Africa, constituting the government's policy document on the empowerment of small, medium and micro-enterprises (SMMEs), was approved by the cabinet and Parliament in March 1995. Proposals in the white paper, to be implemented between 1995 and 2005, included the following:<sup>2</sup> [<sup>2</sup> *The Argus* 17 February 1995, *Business Day* 14 March 1995, *Saturday Star* 28 October 1995]

- re-channelling of public sector and donor funds for the financing of SMMEs into a state-owned agency, the Ntsika Enterprise Promotion Agency (Nepa). The SBDC would become a private sector financing institution for viable small and medium businesses;
- the establishment of a National Small Business Council (NSBC), to include representatives of major participants in the SMME sector and which would function as an advisory body; and

- the expansion of the small enterprise desk in the Department of Trade and Industry into a chief directorate for small business. In terms of an agreement between the government and the SBDC, the former would continue as a private sector-led partnership between government and the corporate sector. Assets worth R600m, including programme funds that had been made available to the corporation between 1985 and 1995 but had not been incorporated into its share capital, would be returned to the government and would be channelled into a wholesale finance facility linked to Nepa. The SBDC would also assist with setting up Nepa units. It would continue to function as a national institution with a regional office network, comprising regional boards representing provincial development agencies, provincial governments and the private sector.<sup>3</sup> [<sup>3</sup> *The Argus* 17 February 1995]

According to the white paper, the Department of Trade and Industry would spend R180m on small business support in 1995/96. In addition, legislation to remove restrictive practices on small business (including a national law on small business, a transition and procurement bill and a small business finance bill) would be drafted.<sup>4</sup> [<sup>4</sup> *Daily Dispatch* 17 February 1995, *The Star* 30 March 1995]

According to the minister of trade and industry, Mr Trevor Manuel, small business support structures proposed in the white paper included the following:<sup>5</sup> [<sup>5</sup> *Business Day* 29 March 1995; *African Business* May 1995]

- a small business desk in each province, which would be represented on the NSBC;
- a network of local service centres;
- a national credit guarantee scheme;
- a small business finance trust, linked to Nepa, which would channel public sector and donor funds to SMMEs;
- a property trust, which would include assets taken over from the SBDC and help in the development of facilities in urban and rural areas;
- an export unit; and
- a small business training board.

The interim co-ordinating office of the NSBC said in September 1995 that the NSBC proper would be launched in January 1996. It would comprise representatives of the provincial small business councils, provincial SMMEs and the Department of Trade and Industry and would perform the following functions:<sup>6</sup> [<sup>6</sup> *Sunday Times* 10 September 1995]

- represent the interests of SMMEs at national and provincial level;
- recommend to central government, policies to support SMMEs; and
- play a proactive role in formulating and implementing national and provincial policy affecting the SMME sector.

Mr Manuel appointed Dr Alistair Ruiters as chief director of the Centre for Small Business Promotion.<sup>7</sup>  
[<sup>7</sup> Ibid]

Mr Manuel said in July 1995 that the government would review legislation which barred black entrepreneurs from access to mineral rights and finance, as well as laws on land tenure systems which hampered the development of small business in rural areas.<sup>8</sup> [<sup>8</sup> *Business Day* 25 July 1995]

An additional clause to the Income Tax Act of 1994, introduced in August 1995, allowed the minister of finance to help small business undertakings. In terms of the amendment the minister would be permitted:<sup>9</sup> [<sup>9</sup> Ibid 16 August 1995]

- to define a small business, according to regulation, by reference to its nature, turnover, taxable income, profit and number of employees, among other things; and
- to regulate the type of tax or other relief to be granted to the business (the minister could place small business on a cash-flow basis, or grant more limited relief, restricted to valuation of trade stock, or allow more rapid depreciation of capital equipment).

A National Small Business Bill, aimed at stimulating growth in the small business sector, was being drafted at the time of writing. The bill provided for the following, among other things:<sup>10</sup> [<sup>10</sup> *Sunday Times* 1 October 1995, *Business Day* 3 October 1995]

- creation of the NSBC to represent small business. The council would implement a new policy and propose changes to existing policy on small business;
- studies by central and provincial government departments to identify legislation (including local and regional bylaws) that hampered the development of small business; and
- the establishment of Nepa, which would set up local business service centres in South Africa. The government would give the agency R240m to fund activities in 1995/96.



Mr Manuel said that Nepa would provide core nonfinancial services such as business linkage, local business centres, marketing assistance and training to new entrepreneurs. It would be closely linked to a wholesale finance facility which would provide financial support to small business, Mr Manuel said.<sup>11</sup> [11 *Saturday Star* 28 October 1995]

A forum to investigate ways of restructuring the state tender system to favour small and medium suppliers and to promote the economic empowerment of marginalised sectors was launched by the Department of Public Works in January 1995. The forum, comprising representatives of the departments of public works and finance, would present its recommendations in October and would focus on the following:<sup>12</sup> [12 *Business Day* 25 January 1995]

- user-friendliness and accessibility of the procurement system, particularly with regard to small and medium enterprises;
- alternative tender methods;
- assisted, preferential or selective tendering;
- review of tender documentation;
- the need for risk underwriting in specific circumstances;
- community involvement in tendering; and
- labour intensive construction methods.

## **Provincial Government**

The MEC for economic affairs in the Eastern Cape, Mr Smuts Ngonyama, said in April 1995 that the provincial government would promote the development of small business through a number of initiatives. These included the following:<sup>13</sup> [13 *Daily Dispatch* 8 April 1995; telephonic interview with Mr J Telbraake, Department for Economic Affairs, Eastern Cape, 22 November 1995]

- the launch of an SMME forum in the province to express the concerns of business. The forum would convene with a public workshop in Bisho;
- the establishment of 15 community-owned, local service centres between 1995 and 1998, to provide core services to entrepreneurs. A business information centre would be set up early in 1996 to provide information on business opportunities such as sub-contracting;

- the creation, also in early 1996, of the Eastern Cape Development Agency, a unified regional development agency, to facilitate job creation through viable business ventures, in particular the construction of infrastructure and housing and small manufacturing concerns (at the time of writing, legislation allowing for the establishment of the development agency was being tabled in the provincial legislature); and
- reviewing and ‘streamlining’ of legislation affecting small business.

The MEC for economic affairs and finance in Gauteng, Mr Jabu Moleketi, said in May 1995 that the Gauteng provincial government would undertake a number of initiatives to help blacks enter the province’s mainstream economy, including the following:<sup>14</sup> [<sup>14</sup> *Business Day* 18 May 1995]

- ‘deracialisation’ of legislation (such as the Liquor Act of 1989) and the use of ‘enabling, affirming legislation’, particularly in areas of potential growth such as construction, food and beverages, gambling, machinery and equipment, motor vehicles and tourism;
- enlisting the assistance of companies, through the Gauteng Economic Promotions Agency (to be opened in March 1996), in gaining access to international markets;
- improvement of township infrastructure to provide physical links between townships and established economies; and
- creation of ‘empowerment zones’ and private/public sector partnerships to encourage job-creating businesses in historically neglected areas.

The Gambling and Gaming Act, passed by the Gauteng provincial legislature in October 1995, provided that gambling licence applicants in Gauteng be required to offer a stake in their ventures to ‘historically disadvantaged’ businesses or groups. According to Mr Moleketi, the provincial government would restrict the number of licences in the province to five, to encourage the formation of large gambling consortiums with significant black partnerships.<sup>15</sup> [<sup>15</sup> *Ibid* 8 September 1995; telephonic interview with librarian, Centre for Applied Legal Studies, 20 October 1995]

In September 1995 Gauteng launched the first provincial tender journal, the *SME Tender Journal*, as part of an attempt to make government tenders more accessible to small, medium, and micro-enterprises. The journal would be distributed through organisations such as the SBDC and the National African Federated Chamber of Commerce and Industry and would provide tender information on the reconstruction and development programme and other projects initiated by the government, parastatals and the private sector. Tender journals from the other eight provinces were expected to be launched in early 1996.<sup>16</sup> [<sup>16</sup> *Sunday Times* 10 September 1995]

The premier of the North-West province, Mr Popo Molefe, said in the same month that the North-West legislature had begun to engage local black entrepreneurs in small-scale mining. The legislature had reached an agreement with mining houses to make an inventory of mineral deposits superfluous to them but which could be used for other groups. Mr Molefe added that black entrepreneurs would be given the opportunity to bid for six unlisted commercial companies associated with the former Bophuthatswana Sefalana Employee Benefits Organisation (the legislature was considering disposing of its interests in these companies).<sup>17</sup> [<sup>17</sup> *Business Day* 25 July 1995]

## AFRICAN BUSINESS

### Successes and Failures

The president of the Johannesburg Stock Exchange (JSE), Mr Roy Andersen, said in May 1995 that there were currently 11 black-controlled companies listed on the JSE, with a market capitalisation of R4,3bn, compared with one listing in May 1994.<sup>18</sup> [<sup>18</sup> *The Citizen* 18 May 1995]

In February 1995 **Sizwe Medical Aid**, a black-owned medical aid fund formed in 1978 to provide medical aid for people excluded from other such schemes, reported a membership of more than 60 000 individuals and some 600 companies. In addition, Sizwe had a R500 000 investment in the Empilweni Clinic, opened in Vosloorus (east Rand) in 1994.<sup>19</sup> [<sup>19</sup> *Enterprise* February 1995]

**Bonitas Medical Aid**, a black-run medical aid scheme started in 1982 and with a 27,3% shareholding in Medscheme (South Africa's largest medical aid group), received R1bn in contributions and had a membership of 170 000 in 1994, mainly African. Coloured and Indian membership was expected to increase significantly when it merged with Pro Sano and Sanitas (a medical aid group with predominantly Asian membership) at the end of 1995, to form Bonprosan.<sup>20</sup> [<sup>20</sup> *Ibid*; *Sowetan* 25 July 1995 ]

In March 1995 the **Kagiso Trust** (formed in 1987 with the support of the European Union to help empower disadvantaged South Africans) reported that turnover of one of its interests, Kagiso Publishers, had increased to R350m. The trust had acquired a 40% stake in Kagiso Publishers following its investment in a well-established Afrikaans educational publishing firm, Haum Publishers, in 1994. Kagiso Publishers held 20% of the educational publishing market. In 1994 Kagiso Trust provided loans to 53 educational institutions in South Africa and was the biggest donor of student bursaries.<sup>21</sup> [<sup>21</sup> *Finance Week* 23 March 1995 ]

A black-owned bottling company, **Kilimanjaro Investments**, was listed on the JSE in December 1994. It reported a 29% rise to R2,1m in attributable earnings between June and December 1994. In the same period turnover had increased by 9% to R33m, while operating income had risen by 6% to R4m.<sup>22</sup> [<sup>22</sup> *Business Day* 29 March 1995]

**Herdbuoys Advertising and Marketing**, South Africa's only blackowned advertising agency, had a turnover of R40m in 1994 (the year it received the *Financial Mail* Small Agency of the Year award for the fastest-growing agency with turnover below R50m a year). In 1995 new clients of Herdbuoys included the Free State and North-West provincial governments and the Coca Cola Company's interests in southern Africa.<sup>23</sup> [<sup>23</sup> *Sowetan* 25 April 1995]

The single premium income of **Metropolitan Life (Metlife)**, a black-led life assurance company, rose by 27% to R47,8m between October 1994 and March 1995. In the same period recurring premium income increased by 23% to R668,56m. Total premium income rose by 24% to R716,36m and total income by 21% to R962,77m, while total assets increased by 15% to R7,7bn.<sup>24</sup> [<sup>24</sup> *Business Day* 25 May 1995 ] The company, which had been operating in Namibia since 1970, was listed on the Namibian Stock Exchange in June 1995. The listing would allow Metlife to extend its policy-holder base in Namibia.<sup>25</sup> [<sup>25</sup> *The Citizen* 23 June 1995 ]

In March 1995 **Real Africa Holdings (Real)**, a holding and investment company focusing on black economic empowerment initiatives, was listed on the JSE and became the first black-controlled company to make a public offer of shares. Real, with a capital of R75,8m, acquired a 51% stake in the African Life Assurance Company (Aflife), 20% in NSA Investments (an investment trust), 13% in the Oceana Fishing Group (an investment holding company with interests in fishing, cold storage, trading and shipping), and 2,8% in the cellular telephone network Mobile Telephone Networks (MTN), which Real sold for R25m in September 1995. Also in March, Real Africa Investments Limited (Rail), which owned 51% of Real (Rail and Real comprise the Real Africa Group), was listed on the JSE.<sup>26</sup> [<sup>26</sup> *Sowetan* 22 February 1995, *Business Day* 22 March 1995, *The Star* 23 March 1995]

According to the chief executive of the **African Life Assurance Company (Aflife)**, Mr Bill Jack, the total premium income of Aflife increased by about 75% to R328,7m between March 1994 and March 1995, while investment income rose by 46% to R33,5m. In the same period total assets rose by 30% to R554,3m, while new business increased by 72%.<sup>27</sup> [<sup>27</sup> *Business Day* 8 May 1995, 11 July 1995, 15 August 1995 ] Mr Jack said in July 1995 that between April and July 1995 Aflife's recurring premium income rose by 42%, single premium income increased from R7,2m to R36m and total income rose by 87%. The company's assets increased by R96m to R650m.<sup>28</sup> [<sup>28</sup> *The Star* 5 July 1995 29 ]

**African General Insurance (Afgem)**, South Africa's first black-led insurance company, closed down in July 1995, owing to a shortage of capital and its inability to compete on the insurance market. Mr Rudolf Pretorius, a spokesman for the Aegis Insurance Company (which together with SA Eagle held 48% of Afgem) said in May 1995 that the company would be restructured to reduce its costs and would resume business in 1996.<sup>29</sup> [<sup>29</sup> *Sowetan* 25 May 1995, 1 June 1995 ]

In June 1995 the Centre for Black Economic Development (CBED) closed one of its operations, the **Tunguru Investment Club**, owing to a shortage of funds. Tunguru was an investment fund affiliated to

the National Association of Co-operative Societies of South Africa (Nacssa), a funeral scheme started by the CBED. The decision followed losses of some R200 000 incurred by another Nacssa affiliate, the Letsema Investment Corporation (a coffin manufacturing plant in KwaNdebele which received 80% of its funds from Tunguru), which had ceased operating in 1994.<sup>30</sup> [<sup>30</sup> Ibid 8 June 1995]

In September 1995 **XB Holdings**, a black-controlled financial services company, was liquidated following an application by Segefin (XB Holdings' former partner) in August. Segefin stated that a subsidiary of XB Holdings, XB Financial Services, had been unable to repay Segefin a R3,5m debt. According to a provisional liquidators' report, XB Holdings had shown a loss of R2,1m, while all its subsidiaries except XB Security Holdings and XB Security Services were insolvent.<sup>31</sup> [<sup>31</sup> Ibid 18, 31 August 1995; *Business Day* 20 September 1995]

In September 1995 the South African Reserve Bank placed **The African Bank (Afbank)** under curatorship and closed down its operations temporarily, following an investigation which uncovered some R100m in bad debts. The bank had been granting dubious loans and had also been experiencing cash flow problems owing to its low growth in advances in the middle to low-income market.<sup>32</sup> [<sup>32</sup> *Sunday Times* 10 September 1995] The curator appointed by the reserve bank, Mr John Louw, said in the same month that Afbank would conduct limited business under certain conditions to retain the bank's depositors and to allow them to use Afbank's facilities while under curatorship.<sup>33</sup> [<sup>33</sup> *The Star* 14 September 1995, *The Citizen* 15 September 1995 ]

The governor of the reserve bank, Dr Chris Stals, said in September 1995 that the reserve bank would not help salvage Afbank as it provided liquidity support only if the affected bank was solvent.<sup>34</sup> [<sup>34</sup> *Business Day* 11 September 1995 ] In October 1995 New Africa Investments Limited, NBS Holdings and Metlife assumed ownership of Afbank, which began operating again later in the same month.<sup>35</sup> [<sup>35</sup> Ibid 18 October 1995, *Sowetan* 26 October 1995] In November 1995 the government unveiled a package to assist Afbank, which included taking a 20% stake in the bank and using up to R262m of money from deposits by the Transkei Public Debt Commissioners and other parastatals to cover bad debts. The minister of finance, Mr Chris Liebenberg, said the government's contribution would be included either in budgetary allocations or in the budget review as a contingent liability.<sup>36</sup> [<sup>36</sup> *Business Day* 24 November 1995]

**National Sorghum Breweries (NSB)**, South Africa's largest black manufacturing company, reported a R19,2m operating loss for the second half of 1995. An NSB subsidiary, Jabula Foods (which had closed down in April), had incurred a loss of R7,2m, while subsidiaries Vivo Africa Breweries (NSB's clear beer division) and African Beverage Corporation had made losses of R15,4m and R1,3m respectively.<sup>37</sup> [<sup>37</sup> Ibid 2 October 1995 ] NSB had also closed five of its sorghum beer branches in February 1995.<sup>38</sup> [<sup>38</sup> *Sowetan* 22 June 1995, *Business Day* 23 June 1995, *The Star* 4 July 1995]

## Major New Ventures

In December 1994 South Africa's largest black-owned catering company, **Kagiso Khulani Supervision Food Services (KKS)**, was formed. The company was established after Firstcorp Capital Investors, the Kagiso Trust Investment Company, Khulani Holdings and the senior management of Supervision Food Services (SFS) acquired 80% of SFS, a group with 553 contracts to educational institutions and hospitals, from the Tongaat-Hulett Group for R53m.<sup>39</sup> [<sup>39</sup> *Finance Week* 23 March 1995; *The Star* 12 May 1995; *Enterprise* July 1995] The chief executive officer of KKS, Mr Nigel Dunlop, said in May 1995 that the company, which provided more than 800 000 meals daily to customers in banking, commercial, educational, governmental, hospital, industrial and mining institutions, had an annual turnover of R320m and managed more than 560 contracts.<sup>40</sup> [<sup>40</sup> *The Star* 12 May 1995]

South Africa's first black economic empowerment property firm, **Russell Marriott Dlamini and Associates**, was formed in February 1995 in a joint venture between property group Russell Marriott and Boyd Trust (RMBT), and strategic and financial consultants Mandela Dlamini and Associates. According to a director of RMBT, Mr Stanley Arenson, the company aimed to become a competitive provider of property consulting services, which would include property leasing, sales and investment broking, property management and administration, property valuation and ancillary property consulting. The company would provide black brokers with in-service and external training.<sup>41</sup> [<sup>41</sup> *Business Day* 28 February 1995]

In March 1995 **New Africa Investments Limited (Nail)** (a subsidiary of Prosper Africa) acquired ownership of a weekly newspaper, *New Nation*. The newspaper would be managed by New Africa Publications (Nap), a subsidiary of Nail. Nap had acquired ownership of *Sowetan*, a daily newspaper, from Argus Newspapers in January 1994 (see also 1994/95 Survey, p169.).<sup>42</sup> [<sup>42</sup> *Business Day*, *The Citizen* 17 March 1995]

In August 1995 Nail and SBC Communications, an international cellular company, entered into a R330m joint international telecommunications venture. Nail would sell half its 20% stake in (MTN) to SBC for R106m in the first phase of the new venture, the name of which was not disclosed. Nail would reinvest the proceeds of the deal into MTN, which would receive an additional R100m from SBC. Nail and SBC would jointly participate in future telecommunications projects in southern Africa.<sup>43</sup> [<sup>43</sup> *Business Day*, *The Star* 7 August 1995]

The Anglo American Corporation of South Africa (Anglo) and the Johannesburg Consolidated Investment Company (JCI) said in March 1995 that JCI would be restructured into three separate listed companies to encourage black participation in mining and industrial finance groups. The new companies would be the **Anglo American Platinum Corporation (Amplats)** (a platinum mining house which would hold platinum and unlisted diamond investments); **Johannesburg Consolidated Investment Limited (JCI Ltd)** (a mining finance house controlling JCI's gold, ferrochrome, coal and base metal interests); and **Johnnies Industrial Corporation (Johnnic)** (an industrial finance company holding JCI's property and other investment portfolios). Anglo would sell its controlling holdings in JCI Ltd and Johnnic to black interests to promote black economic empowerment.<sup>44</sup> [<sup>44</sup> *Sowetan* 27 February 1995; *Finance*

*Week* 27 April 1995; *Business Day* 28 April 1995; *Mail and Guardian* 12 May 1995; *Sowetan* 25 May 1995]

At the time of writing, groups negotiating for a stake in the new companies included Corporate Africa, Randgold (which had teamed up with a group of black businessmen and politicians) and the National Empowerment Trust (a black-led consortium convened by a businessman, Mr Don Mkhwanazi, and launched in July 1995). The consortium comprised representatives from trade unions and business, as well as an international investor lobby represented by Lehman Brothers. The consortium had been granted Anglo's approval to put forward proposals for a 34% stake in Johnnic.<sup>45</sup> [<sup>45</sup> *Finance Week* 27 April 1995; *Business Day* 28 April 1995, 11 September 1995; *Mail and Guardian* 12 May 1995; *Sowetan* 25 May 1995] In October 1995 Corporate Africa withdrew its application for a stake in Johnnic.<sup>46</sup> [<sup>46</sup> *The Star* 13 October 1995]

In April 1995 **New Africa Communications (NAC)** was formed following an agreement between Corporate Africa and two large international telecommunications companies, Southwest Bell Corporation Communications and Cable and Wireless (the three companies collectively had assets worth R108bn). NAC had been formed in response to the government's request for companies which could assist Telkom in installing 1m telephones in South Africa (see also chapter on *Living Conditions*).<sup>47</sup> [<sup>47</sup> *Sowetan* 12 April 1995]

The chairman of **Real Africa Holdings (Real)**, Mr Don Ncube, said in June 1995 that Real would become the first black-owned listed company to move into health care when it acquired a 30% stake in Lifecare, a private health care company which owned or managed 41 medical facilities, in a R90m agreement in April 1996 (see also *Successes and failures* above).<sup>48</sup> [<sup>48</sup> *Business Day* 27 June 1995]

In July 1995 the African Life Assurance Company (Aflife) acquired a 70% stake in the RMS Syfrets Property Development Company. The newly acquired company, **African Life Properties**, would focus initially on Gauteng, where most of its developments were.<sup>49</sup> [<sup>49</sup> *Ibid* 11 July 1995]

**G O'Flaherty Inc** became the first black-owned stockbroker on the Johannesburg Stock Exchange (JSE), following Aflife's purchase of a majority stake in the company in September 1995. The agreement originally involved only the asset management side of the business, but would extend to stockbroking with the deregulation of the JSE in November 1995, which would enable non-brokers and foreigners to own broking firms.<sup>50</sup> [<sup>50</sup> *Sunday Times* 24 September 1995]

In October 1995 a black empowerment gaming consortium, **African Sun International**, was launched by Sun International, the Thebe Investment Corporation (Thebe), Real Africa Holdings, and the MEC for finance and public works in KwaZulu/Natal, Mr Senzele Mhlungu, among others. The managing director of Sun International, Mr Peter Bacon, said at the launch that the group would bid for five new casino licences in Gauteng, KwaZulu/Natal and the Western Cape.<sup>51</sup> [<sup>51</sup> *Business Day* 20 October 1995]

In May 1995 Thebe Properties, a wholly owned subsidiary of **Thebe**, and **Bovis Southern Africa**, a

subsidiary of British construction group Bovis, jointly established a new company, **Thebe Bovis**, of which Thebe Properties would hold 51%. The chairman of Bovis Southern Africa, Mr Peter Clogg, said that capital for the new company was some R500 000, with Thebe and Bovis investing 51% and 49% respectively. According to Mr Clogg, the new company would focus on reconstruction and development programme projects, in particular construction project management in social infrastructural schemes; housing, office, retail and industrial projects; transport and telecommunications projects, sporting and tourism facilities; and theme parks and resort projects.<sup>52</sup> [<sup>52</sup> Ibid 3 May 1995]

In June 1995 Thebe said it would expand its merchant banking division, **Msele Finance Holdings**, into a medium-sized bank, Msele Bank Holdings, which would focus on commercial and merchant banking and mortgage finance. (Citizen Bank Holdings, in which Thebe had a controlling stake, would acquire the Bank of Transkei, the Transkei National Buiding Society and the Bophuthatswana Building Society, and would be renamed Msele Bank Holdings, with assets of some R1,6bn.) Thebe would own 30% of Msele Bank Holdings, which would acquire Msele Finance Holdings and the corporate services division of the Citizen Bank to form Msele Merchant Bank, South Africa's first black-led merchant bank.<sup>53</sup> [<sup>53</sup> *Business Day, The Citizen* 8 June 1995]

Telkom, Thebe and Hoerikwagga Investments, a black business consortium operating in the Western Cape, launched a new subsidiary, **Swiftnet**, with assets of R30m. Swiftnet would operate a Telkom service, Fastnet, through which credit card transactions, security alarms, meter readings and other short messages could be sent by radio instead of telephone. Telkom, which had invested R16m in the venture, would own 60% of Swiftnet, and the other participants 20% each.<sup>54</sup> [<sup>54</sup> *Financial Mail* 7 July 1995; *Weekend Argus* 5 August 1995]

In August 1995 Ster-Moribo (a joint venture between Thebe and Ster-Kinekor formed in 1994—see 1994/95 Survey, pp169–170.) paid R1,6m for control of **Maxi Movies**, a low-cost cinema concept offering emergent entrepreneurs the opportunity to own a stake in the entertainment industry. Under the agreement a new company (also to be called Maxi Movies) would be formed and cinema franchises, of which Ster-Moribo would own 60%, would be set up in South Africa.<sup>55</sup> [<sup>55</sup> *Sowetan* 14 September 1995]

A life assurance company, **Bonlife**, to provide life insurance and employee benefit schemes to disadvantaged groups within the economically active sector, was formed in June 1995. Bonlife would operate through employer associations, insurance brokers, medical aids and trade unions. Bonitas medical aid, a black-controlled medical aid scheme, would be among Bonlife shareholders.<sup>56</sup> [<sup>56</sup> Ibid 25 July 1995]

In May 1995 Absa Merchant Bank and a consortium of black businesspeople headed by Dr Oscar Dhlomo established a R200m investment trust, **Dynamo Investments**, in KwaZulu/Natal. This was the province's largest black economic empowerment initiative since the establishment of KKS in October 1994.<sup>57</sup> [<sup>57</sup> *The Star* 30 June 1995; *African Business July* 1995]



A black family-owned business, **Kunene Brothers**, acquired a controlling stake in Supercare, a national cleaning contractor worth R20m, in July 1995, following negotiations which had begun in June 1994. In terms of the agreement, Kunene Brothers would be permitted to increase its stake to 51%.<sup>58</sup> [<sup>58</sup> *The Star* 14 July 1995]

In August 1995 the Kunene Finance Company (KFC), a wholly owned subsidiary of Kunene Brothers Holdings, acquired a 10% stake in Grinaker Electronics, an electronics company manufacturing products for the commercial, defence and security markets with assets of some R7m. Kunene Brothers would set up a subsidiary to manage the Grinaker stake, 80% of which would be owned by KFC and 20% by First Corp Merchant Bank.<sup>59</sup> [<sup>59</sup> *Mail and Guardian* 28 July 1995] In terms of an agreement signed in September between Kunene Brothers and Grinaker, the former acquired a 30% interest in Grinaker to be secured over five years.<sup>60</sup> [<sup>60</sup> *The Star* 5 September 1995]

Also in August, the United Breweries Group, India's largest brewer and distiller, acquired a 30% stake in **National Sorghum Breweries (NSB)**, South Africa's largest black-owned manufacturing company. Under the R70m agreement, United could buy an additional 20% of NSB within three years. NSB, which would be licensed to brew and sell United's flagship Kingfisher Lager brand in South Africa, would raise its market value to some R230m.<sup>61</sup> [<sup>61</sup> *Business Day, Sowetan* 8 August 1995; *The Star* 4 July 1995, 8 August 1995; *Mail and Guardian* 11 August 1995] Earlier, in June 1995, NSB denied that the acquisition was an attempt to salvage the losses incurred by its subsidiary, Jabula Foods, the closure of five of its sorghum beer branches in February 1995 and the unsuccessful launch of Vivo, NSB's clear beer division (see also Successes and failures above).<sup>62</sup> [<sup>62</sup> *Sowetan* 22 June 1995, *Business Day* 23 June 1995, *The Star* 4 July 1995]

In August 1995 Caltex Oil South Africa, Bongani Motor Holdings, First Corp Merchant Bank and Worldwide African Investment Holdings, established **Afric Oil**, South Africa's first black-controlled oil company. Worldwide Holdings would own 51% of the company, Bongani 29%, and Caltex and First Corp 10% each. Afric Oil was launched in September, when Caltex transferred ownership of 50 of its petrol stations in Gauteng to the new company.<sup>63</sup> [<sup>63</sup> *The Citizen* 18 August 1995, *Business Day* 22 August 1995, *The Star* 23 August 1995, *Sowetan* 24 August 1995, *New Nation* 8 September 1995]

In the same month Sasol Oil said that it was finalising an agreement with the **National Black Fuel Retailers' Association** (a group started in 1993 and consisting of 400 owners of filling stations) which would lead to the establishment of a black-controlled oil company. Sasol declined to give the names of the other parties involved in the agreement, but added that it intended to include as shareholders of the new company 'as broad a spectrum as possible of black individuals, organisations or groups'. Sasol said it had been assured that the black business group had consulted 'widely' with black businessmen involved in the petroleum industry.<sup>64</sup> [<sup>64</sup> *Business Day* 17 August 1995; *Sowetan, The Star* 18 August 1995] At the time of writing Sasol was still negotiating with a 'specific black group', the identity of which it had not disclosed.<sup>65</sup> [<sup>65</sup> *The Star* 11 September 1995; telephonic interview with Mr Alfonso Niemand, public relations, Sasol Oil, 20 November 1995 ]

South Africa's first black-owned chartered accounting and business advisory firm, **Kgosana Magondo Mokgabudi Tshikovi**, was formed in August 1995 to offer accounting, auditing and business consulting services by black professionals.<sup>66</sup> [<sup>66</sup> *Business Day* 22 August 1995 ]

## Business Organisations

The president of the **National African Federated Chamber of Commerce and Industry (Nafcoc)** in Gauteng, Mr Mashudu Ramano, said in March 1995 that black business was facing a transition from its 'traditional orientation' of retailing, to activities such as manufacturing, small-scale mining and financial services.<sup>67</sup> [<sup>67</sup> *The Star* 16 March 1995 ] In May 1995 Mr Ramano said that Nafcoc would help blacks to establish businesses in the primary, secondary and tertiary sectors of the economy through a number of initiatives, including the following:<sup>68</sup> [<sup>68</sup> *Business Day* 18 May 1995 ]

- establishment of an agreement with a large financial institution to facilitate easier access to finance for Nafcoc members;
- launch of a joint training programme with Rand Afrikaans University in June 1995 to teach management and other skills to entrepreneurs; and
- establishment of a fund, in conjunction with Fedsure, to provide for pension and other needs of workers in the developing business sector.

In its black business manifesto submitted to the government in January 1995 Nafcoc said that the government should play a 'limited' interventionist role to facilitate black economic empowerment. Nafcoc proposed in its manifesto, among other things, the following:<sup>69</sup> [<sup>69</sup> *Sowetan* 25 May 1995 ]

- implementation of the '3-4-5-6 resolution' by 2000, whereby blacks should occupy 30% of the boards of listed companies, and should have 40% of the equity in those companies; companies should receive 50% of their supplies from black suppliers, while 60% of company managers should be black;
- simplification of the tender system to facilitate participation by black business;
- restructuring of institutions such as the Small Business Development Corporation and the Industrial Development Corporation in line with the capital requirements of black business;
- the use of 'unbundling' and privatisation to facilitate black economic empowerment. Unbundling should, however, benefit black business in general and not a few individuals. The Competition Board should be given authority to deal effectively with monopolistic tendencies in the business sector;

- the appointment of a minister, deputy minister and commissioner of small business. Nafcoc would participate in the structuring of such a ministry; and
- provision of tax incentives for foreign investors conducting business with blacks in South Africa.

The president of Nafcoc, Mr Joe Hlongwane, said that Nafcoc was forming an alliance of black organisations (including the Black Lawyers Association, the Black Management Forum and the National Black Business Caucus) to lobby the government and big corporations for business preferences, management advances, an enabling legal environment and tax breaks.<sup>70</sup> [<sup>70</sup> *Mail and Guardian* 28 July 1995 ]

The minister of public works, Mr Jeff Radebe, said at a Nafcoc conference that black empowerment was the cornerstone of the reconstruction and development programme and that measures would be taken to reduce the dominance of large companies and enhance the role of black contractors. Economic empowerment, however, would have to come from the initiatives of black entrepreneurs and communities.<sup>71</sup> [<sup>71</sup> *Ibid*]

The chairman of the **Foundation for African Business and Consumer Services (Fabcos)**, Mr Brian Johnston, said in June 1995 that Fabcos aimed to become a ‘major player’ in the economic development of South Africa and Africa within the context of black economic empowerment. He added that in order to facilitate this end, banks would have to provide increased financial assistance to black entrepreneurs while foreign investors would also have to focus more on promoting black business.<sup>72</sup> [<sup>72</sup> *The Argus* 17 July 1995 ]

In February 1995 a dispute arose between Business SA and Nafcoc over the allocation of the 18 seats set aside for business on the National Economic Development and Labour Council (Nedlac). Initially Nafcoc demanded nine of the 18 seats, as the main body representing black business in South Africa.<sup>73</sup> [<sup>73</sup> *Business Day* 28 February 1995] However, the president of Nafcoc, Joe Hlongwane, reduced the number of seats demanded from nine to seven. Business SA countered that giving such a large proportion of the seats to Nafcoc would ‘dilute’ sectoral representation on the executive council. By March 1995, Business SA and Nafcoc had reached an interim agreement according to which they would occupy 13 and five seats respectively, for the first executive meeting. It was understood at the time that Nafcoc had lowered its demand from seven to six seats (see also chapter on *Employment and Industrial Relations*).<sup>74</sup> [<sup>74</sup> *Ibid* 20 March 1995, 7 April 1995]

## Finance

**Msele-Nedventures**, a venture or development capital fund which provided equity and quasi-equity finance to developing businesses primarily in disadvantaged communities, received ten applications for funding between October 1994 (its month of inception) and March 1995. (A venture or development capital fund is beneficial to emerging small businesses in that it does not provide loans, which accumulate interest and raise costs, but takes a stake in the enterprise and protects its investment through

participation in managing the business.) Msele-Nedventures had been started in October 1994 by Nedcor Bank, Société de Promotion et de Participation pour la Coopération Economique (Proparco SA), Deutsche Investitions-und Entwicklungsgesellschaft mbH (DEG), the Swiss Confederation and Msele Finance Holdings.<sup>75</sup> [<sup>75</sup> *Enterprise* March 1995 ]

In August 1995 the Msele Nedventures Fund, a R22m equity fund, was launched to provide finance to small and medium enterprises (SMEs) by purchasing shares in those businesses. The fund would be administered by NedEnterprise, a division of Nedcor specialising in assisting small business, and Msele Finance Holdings.<sup>76</sup> [<sup>76</sup> *Sowetan* 3 August 1995 ]

In April 1995 the International Finance Corporation (the private sector arm of the World Bank) and Nedbank established a R50m franchise fund to assist entrepreneurs in South Africa, particularly those from disadvantaged communities, to acquire franchise licences. Other local and overseas contributors to the fund included the Commonwealth Development Corporation (CDC), the Development Bank of Southern Africa and Sanlam. The fund would be managed by NedEnterprise.<sup>77</sup> [<sup>77</sup> *Ibid* 23 May 1995 ]

In March 1995 **Kagiso Trust** was appointed to manage R520m worth of loans, mainly from the European Union (EU), for 1995 development projects. The money would not be directed to the reconstruction and development programme (as was the case with most other nongovernmental organisations in South Africa) but would be managed by the trust's investment arm, the Kagiso Trust Investment Company (KTI). According to the chairman of KTI, Mr Eric Molobi, profits from KTI would be reinvested into the trust to help it finance rural and peri-urban development for marginalised communities.<sup>78</sup> [<sup>78</sup> *Finance Week* 23 March 1995 ]

A R100m **Enterprise Benefit Fund** was launched by the CDC, Fedsure (a life assurance company) and Investec in March 1995 to provide development capital to black business ventures worth R2,5m or more. The fund would provide equity and quasi-equity funding of between R2,5m and R10m to black medium-sized enterprises. A spokesman for Investec, Mr Ross Paton, said that the fund would also invest in those white businesses intending to transfer ownership to members of previously disadvantaged communities.<sup>79</sup> [<sup>79</sup> *The Star* 23 March 1995, *Business Day* 24 March 1995] The fund became operational in August.<sup>80</sup> [<sup>80</sup> *Sowetan* 31 August 1995]

The adviser to the minister of trade and industry, Dr Alistair Ruiters, said in July 1995 that the state would provide R400m in credit guarantees to small black business from November 1995. The **Department of Trade and Industry** would set up a national credit guarantee fund with an initial budget of R100m to provide loans to small business. The fund would include government and foreign contributions, Dr Ruiters said.<sup>81</sup> [<sup>81</sup> *The Argus* 5 July 1995]

Dr Ruiters added that his department would also set up a R100m wholesale financing facility in November 1995, which would channel public sector and donor funds to institutions financing small,

medium and micro-enterprises (SMMEs). The department had allocated R180m of its 1995/96 budget to small business and an additional R600m would come from the Small Business Development Corporation.<sup>82</sup> [<sup>82</sup> Ibid] (See also *Policy* and *Business organisations* above.)

In August 1995 the managing director of the **Get Ahead Foundation**, Mr Don MacRobert, said that about 90% of loans paid out by the foundation's micro-lending scheme in February 1995 had been repaid on time. The rate of repayment indicated that this type of investment in the informal sector was a cost-effective means of creating jobs, Mr MacRobert said.<sup>83</sup> [<sup>83</sup> *Business Day* 28 August 1995 ]

## Foreign Aid

The French minister of industry, posts and telecommunications and external trade, Mr José Rossi, said in March 1995 that **France** would provide a R110m aid package to promote small business in South Africa. The funds would be used to facilitate sub-contracting by SMEs to larger institutions, especially in the telecommunications sector. Funds would also be provided to train members of disadvantaged communities in electronics, automation and telecommunications, Mr Rossi said.<sup>84</sup> [<sup>84</sup> *The Citizen* 18 March 1995 ]

The deputy director general for industry of the **Commission of the EU**, Mr Alexander Schaub, said in March 1995 that the EU would invest R625m in South Africa in each of the next four years to assist SMMEs and promote job creation and external trade diversification. This would be combined with the existing European Community Investment Partners (ECIP) joint venture programme. (The ECIP facility, with a budget of \$50m, supports joint ventures between European companies and 'partners', particularly SMEs, from developing countries. The facility was extended to South Africa in 1994 and has so far granted R5,3m in joint ventures, eg project identification, feasibility studies, capital finance and management assistance.)<sup>85</sup> [<sup>85</sup> *Business Day* 30 March 1995, 4 April 1995]

Between 1986 and 1994 the EU invested R2,8bn in South Africa and in 1994 financed a R6m programme to support SME development in the Northern Province.<sup>86</sup> [<sup>86</sup> Ibid 30 March 1995 ] In April 1995 the EU appointed First National Bank, Nedbank and Standard Bank to assist in administering the ECIP facility.<sup>87</sup> [<sup>87</sup> Ibid 4 April 1995]

A spokeswoman for the **World Bank**, Ms Thyra Riley, said in October 1995 that the bank and a group comprising representatives of the government, commercial and investment banks, contractual savings institutions and small business and development corporations had set up an 'apex institution' to assist some 250 000 black entrepreneurs in South Africa in acquiring access to finance over a five-year period. In terms of the scheme, incentives and subsidies would be offered to banks and other financial institutions to promote lending to black micro-enterprises. The World Bank would invest \$500m in the scheme and would access additional funding from donor nations. The institution would begin operating in November 1995, Ms Riley said.<sup>88</sup> [<sup>88</sup> Ibid 4 October 1995 ]

## Constraints on Black Business

A spokesman for the South African Import and Export Association, Mr Nathan Motse, said in April 1995 that black entrepreneurs lacked the skills needed to export their products. Exporting required a specialised knowledge of local and foreign markets and training in this area had been inaccessible and costly, Mr Motse said.<sup>89</sup> [<sup>89</sup> *Sowetan* 6 April 1995 ]

A member of the executive committee of the National Industrial Chamber (the industrial wing of the National African Federated Chamber of Commerce and Industry), Mr Ian Hetherington, said in April 1995 that the development of SMEs was being hampered by current laws, regulations and practices. Other constraints experienced by SMEs included the frequent failure of corporate clients to pay small suppliers on time. Large firms requested quotations from small suppliers for even negligible orders from which the profit often failed to cover the costs of preparing the quotation, Mr Hetherington said.<sup>90</sup> [<sup>90</sup> *Cape Times* 4 April 1995] However, such problems could be overcome if small suppliers formed established relationships with only a few large customers, according to Mr Hetherington.<sup>91</sup> [<sup>91</sup> *Ibid*]

In the following month the chairman of the Foundation for African Business and Consumer Services, Mr Brian Johnston, said that empowerment of black entrepreneurs was being hampered by difficulty in getting financing from banks, overseas investors' focusing on the advancement of white corporates, and suppliers giving more favourable treatment to white than to black business.<sup>92</sup> [<sup>92</sup> *The Argus* 17 June 1995 ]

## Preferential Policies

A workshop to discuss South Africa's tendering system and to allow interaction between representatives from provincial tender boards and black business was held in Gauteng in July 1995. Participants at the workshop proposed a committee be set up to lobby the government on behalf of black professionals and business on procurement issues. At the time of writing, however, agreement had not been reached on the structure of the committee.<sup>93</sup> [<sup>93</sup> *Sowetan* 1 August 1995]

The Gauteng Tender Board came into operation in September 1995. The chairwoman of the board, Dr Danisa Baloyi, said that the board would use regulation to ensure sub-contracting to small, black businesses.<sup>94</sup> [<sup>94</sup> *Mail and Guardian* 8 September 1995]

## Informal Sector

### Statistics

According to the World Bank, between 1983 and 1993 the annual employment growth rate within South Africa's informal sector was 24%. Although expansion of the informal sector had been constrained by over-regulation, a lack of business management skills and an inability to gain access to credit from

banks in the formal sector, more than one third of blacks over the age of 16 in major metropolitan areas participated in stokvels (informal rotating savings and credit systems) (see also *Stokvels* below).<sup>95</sup> [<sup>95</sup> Moore B J and Schoombe G A, 'Bank credit to the informal sector: challenge and reward', *Development Southern Africa*, vol 12 no 3, June 1995]

A report published in October 1995 by the Bureau of Market Research at the University of South Africa said that in 1994 the informal sector employed about 1,6m or 15,4% of the economically active population in South Africa. In the same year the informal sector had contributed some R26bn to gross domestic product (GDP) (about 6,7% of GDP). The activities of the informal sector were concentrated in trade (48%), community and personal services (17%), transport (12%), construction (10%) and manufacturing (7%), the report said.<sup>96</sup> [<sup>96</sup> Bureau of Market Research, *The Informal Sector of the South African Economy*, 26 October 1995]

The report, which included an income and expenditure survey of people living in townships in Gauteng (such as Kagiso, Mamelodi, Sebokeng, Soweto and Tembisa), added that 28% of the approximately R16bn spent at retail outlets in those townships in 1994 was spent at informal outlets. About 32% of purchases were at spaza shops, 29% at shebeens, and 18% at hawkers and flea markets. Most expenditure at informal retail outlets had been on fuel and light (75%), alcoholic beverages (67%), reading matter (59%), cigarettes and tobacco (38%), and food (28%), the report said.<sup>97</sup> [<sup>97</sup> Ibid]

According to a document on informal business published by the Greater Johannesburg Metropolitan Council in July 1995, there were some 8 000 informal traders in the Johannesburg central business district (CBD).<sup>98</sup> [<sup>98</sup> *Business Day* 4 July 1995 ]

## Hawkers

In March 1995 the African Council for Hawkers and Informal Businesses (Achib) and Richards Bay Minerals requested R2m from the government, to be used to establish 42 informal hawker banks in South Africa. Achib and Richards Bay Minerals would use the finance to supplement R1,25m already pledged by the private sector, to appoint nine regional co-ordinators to control the proposed project. At the time of writing, five informal banks for hawkers had already been established in Durban, Empangeni (KwaZulu/ Natal), Klerksdorp and Rustenberg (North-West), and Johannesburg, and another five in Gauteng, financed by Genmin, were about to start.<sup>99</sup> [<sup>99</sup> *The Star* 14 March 1995]

Achib said at its annual conference in June 1995 that it would campaign for representation on the National Economic Development and Labour Council as well as on other local and regional government chambers. Achib also resolved to establish 15 micro-entrepreneur development banking facilities by May 1996, to launch a micro-enterprise training campaign for its members and to negotiate a subsidy scheme for its members with the Department of Housing.<sup>100</sup> [<sup>100</sup> *Sowetan* 29 June 1995 ]

The Bylaw for the Supervision and Control of Street Vendors, Pedlars and Hawkets, a draft bylaw

proposing guidelines for the management and control of hawking in the Western Cape, was submitted to the minister of trade and industry, Mr Trevor Manuel, in September 1994. Drawn up by the Cape Chamber of Commerce and Industry and the Cape Town City Council and approved by informal trading associations and formal businesses in the province, the bylaw was drafted in response to tensions between hawkers and formal businesses regarding limited trading space. (The Businesses Amendment Act of 1994 allowed for municipalities to formulate their own bylaws.)<sup>101</sup> [<sup>101</sup> Cape Chamber of Commerce and Industry, Business Bulletin, 7 November 1994, 7 August 1995; *Cape Times* 21 March 1995]

Achib said in August 1995 that the average monthly income of South African hawkers had fallen from R800 to R500 between 1993 and 1995, owing to rising numbers of foreign hawkers, particularly from the Republic of China. Local hawkers could not compete with foreigners, who imported cheap goods from Taiwan and other eastern countries. Achib would lobby the government to protect its members from unfair competition, either through repatriation of illegal immigrants operating as hawkers or by formulating conditions whereby foreign hawkers would be obliged to enter partnerships with local counterparts.<sup>102</sup> [<sup>102</sup> *New Nation* 18 August 1995]

In September 1995 the South African Council for Hawkers and Informal Business (Sachib) was formed when 4 000 members left Achib. The national organiser of Sachib, Mr Mthuthuzeli Madalane, stated that the split had resulted from, among other things, the collapse of Achib's 'micro-business bank' concept, which had aimed to provide loans to Achib members for trading purposes.<sup>103</sup> [<sup>103</sup> *Business Day* 20 September 1995] The president of Achib, Mr Lawrence Mavundla, denied that the banks had collapsed, saying that Achib was negotiating with the South African Post Office to open accounts with overdraft facilities. Achib also had a sponsorship agreement with the Independent Development Trust to train the directors of the banks, Mr Mavundla said.<sup>104</sup> [<sup>104</sup> *Ibid*]

In the same month Sachib launched a 'one million signatures' campaign in the Johannesburg CBD as part of an anticrime initiative to increase community awareness of the struggle by hawkers against crime in the CBD. Mr Madalane said that the organisation had identified the most crime-ridden areas of the CBD and was hoping for more support from formal businesses in the area.<sup>105</sup> [<sup>105</sup> *Ibid* 21 September 1995]

## **Shebeens and Taverns**

A spokesman for the South African Liquor Traders' Association (Salta), Mr David Mokoena, said that although shebeens should be decriminalised, deregulation should not 'overlook business principles'. Mr Mokoena added that the agencies issuing liquor licences should first consult liquor associations and township communities to enable a more even spread of shebeens in the townships and to prevent shebeens operating close to schools.<sup>106</sup> [<sup>106</sup> *The Star* 8 May 1995]

A forum which aimed to empower women in the informal liquor industry was launched in Soweto in July 1995 as an affiliate of Salta. The co-ordinator of the forum, Ms Fanny Mokoena, said that it would become involved in social responsibility projects, while members would further their education in an



attempt to diversify their businesses and create more jobs within the industry. Members would contribute to crime prevention in the townships by helping formulate laws to prevent youths from visiting shebeens and taverns. The forum had resolved that the age restriction for entry to a liquor establishment should be increased to 21 years and that liquor licences should be granted only to those traders trained by a credible association in South Africa, Ms Mokoena said.<sup>107</sup> [<sup>107</sup> *Sowetan* 20 July 1995 ]

The Liquor Amendment Act, passed in September 1995, repealed all liquor legislation still applicable in the former 'independent' homelands and provided for the institution of provincial liquor boards which would be responsible for implementing and enforcing liquor legislation. Earlier, in August 1995, Mr Manuel said that following the enactment of the Liquor Amendment Act, further provisions in the Liquor Act, such as restrictions on the number of liquor licences in townships, would be reviewed for at least one year before making any amendments.<sup>108</sup> [<sup>108</sup> *Business Day* 31 August 1995:Liquor Amendment Bill, September 1995 ]

## Spaza Shopowners

A joint project, undertaken by Imperial Flexi Fleet, Mercedes-Benz, Metro Cash 'n Carry and Super Trux to establish 600 mobile supermarkets in townships countrywide on a franchise basis and to make spaza shops more competitive, was launched in the Western Cape in March 1995. Fifty percent of the franchises (to operate under the name Black Wings over Africa) would be established in Gauteng, 10% in KwaZulu/Natal, and 10% in Cape Town and Namibia collectively. Franchisees would be required to provide collateral of R25 000 and would receive a 'fully equipped' mobile supermarket (trucks linked by a computerised till to Metro), start-up capital and stock credit of R500 000. Nedbank would provide access to marketrelated credit to cover start-up costs.<sup>109</sup> [<sup>109</sup> *Cape Times* 31 March 1995]

According to a director of Super Trux, Mr Michael Schapira, the project would help spazas to adapt their operations from a closed to an open market. Spazas had a narrow product range and inflated prices which made them vulnerable to more organised competitive businesses, he said. Mr Schapira added that the project would encourage competition among spazas not only through regular deliveries of products but also by offering a wider product range at lower prices.<sup>110</sup> [<sup>110</sup> *Ibid* ]

## Stokvels

Stokvels are groups of voluntary contributors putting a fixed amount of money into a common fund on a weekly basis, withdrawal of contributions usually being determined by random rotation (drawing of lots) or according to need. The advantage of stokvels is that all members, except for the last participant, receive funds earlier than would have been possible through individual savings.<sup>111</sup> [<sup>111</sup> Moore and Schoombe, 'Bank credit to the informal sector']

According to Markinor, a market research company, there were more than 24 000 stokvels in the major metropolitan areas in 1993 with a combined monthly buying power of R80m. In 1995 stokvels were

circulating R200m monthly, while the repayment rate within the organisations was about 98%. A director of the National Stokvels' Association of South Africa (Nasasa), Mr Steven Japp, said in March 1995 that about 25% to 30% of the black adult population were members of some form of stokvel such as investment syndicates and burial societies.<sup>112</sup> [<sup>112</sup> *Finance Week* 15 March 1995; telephonic interview with Mr Steven Japp, director, National Stokvels' Association of South Africa, 20 November 1995]

The president of Nasasa, Mr Andrew Lukhele, said in the same month that Nasasa had insured 10 000 stokvel members with the African Life Assurance Company (Aflife) since its acquisition of 51% of Aflife in 1994. Nasasa represented about 11 500 stokvels in South Africa. According to Mr Japp, the important role played by Nasasa in South African capital markets through structures such as The People's Benefit Scheme (see 1994/95 Survey, p186.) was acknowledged by financial authorities, including the South African Reserve Bank. Nasasa was receiving increased co-operation from financial institutions, Mr Japp said.<sup>113</sup> [<sup>113</sup> *Ibid*]

## Small Farmers

The minister of agriculture, Dr Kraai van Niekerk, said in May 1995 that there were 60 000 commercial farmers, 70 000 small farmers (those with an annual income of between R7 000 and R20 000), and 500 000 subsistence farmers in South Africa.<sup>114</sup> [<sup>114</sup> *Cape Times* 10 May 1995]

The **Small Farmer Development Corporation** launched its first project in March 1995 when it acquired 1 348ha of farm land in Ceres (Western Cape) for R2,5m. (The corporation had been set up in 1994 by the private sector to assist with the establishment of viable small farmers from previously disadvantaged communities.) The land would be used to settle some 200 small commercial farmers.<sup>115</sup> [<sup>115</sup> *Sowetan* 9 March 1995]

The MEC for agriculture and environmental affairs in the Free State, Mr Cas Human, said in March 1995 that sufficient state-owned land in the province had been allocated to set up some 3 300 black commercial farmers between 1995 and 2000 (about 265 farmers would be settled in 1995). The project would be funded through the reconstruction and development programme and the provincial budget.<sup>116</sup> [<sup>116</sup> *The Star* 24 March 1995]

The Gauteng provincial legislature initiated a R35m commercial farming project in July 1995, involving the allocation of 36 000ha of state-owned land north of Pretoria for settlement by black farmers. The project aimed to provide land for stock and game farmers and to establish small agriculture-related businesses, schools and other infrastructure nearby. According to the manager of the project, Mr Kenny Fihla, the provincial government would begin to develop the area by mid-1996 and to settle people permanently by the end of the same year.<sup>117</sup> [<sup>117</sup> *Ibid* 20 July 1995]

Dr van Niekerk said in August 1995 that the Department of Agriculture was implementing a programme in co-operation with the provinces to establish and support emerging commercial farmers. The

programme included the following:<sup>118</sup> [<sup>118</sup> *The Citizen* 19 August 1995]

- amendment of the Agricultural Credit Act of 1966 and other legislation such as the Marketing Act of 1968 to make the legislation applicable countrywide;
- allocation of funds from the department's budget for loans to prospective black farmers; and
- allocation to prospective farmers of state land administered by the department.

Mr Kosie van Zyl, chairman of the Agricultural Credit Board (which had been charged with drafting the Agricultural Credit Bill), said in August 1995 that the bill would change the focus of the credit board's assistance (including loans for the purchase of equipment, land, livestock and vehicles, and for development capital) from established commercial farmers to small-scale and emerging farmers. Those who had previously benefited from board funding would have to rely on banks for financial assistance. According to Mr van Zyl, the current Agricultural Credit Act had been a 'crutch' for commercial farmers, providing for the state to intervene in cases where banks wanted to foreclose on farmers, as well as for selective provision of loans and disaster aid to these farmers. Mr van Zyl added that the bill would be published for public comment in December 1995.<sup>119</sup> [<sup>119</sup> *Business Day* 1 September 1995]

The Department of Agriculture said in October 1995 that it would provide R150m in credit to small and emerging farmers in 1995. It would also phase out state financing to farmers who already had access to commercial finance. About 1 300 previously disadvantaged farmers would be settled on state agricultural land on a trial basis and would receive financial assistance, training in farming methods and market access. The department's directorate of financial assistance would investigate ways of settling money owed to the state by commercial farmers.<sup>120</sup> [<sup>120</sup> *The Citizen* 4 October 1995]

**Sakhile Development Trust Projects**, a funding initiative to assist black farmers to acquire land from white farmers, launched a project in March 1995 whereby 20 white-owned farms in the Eastern Cape were purchased for R75m. The farms, which covered 31 000ha, would be sub-divided into 40 plots to ensure viability and efficiency. According to a consultant who had helped to establish Sakhile, Dr Mongezi Guma, prospective farmers would not need access to capital provided they showed 'potential' and 'dedication'. The project would be supported by development and financial institutions including the Agricultural Credit Board, the Development Bank of Southern Africa (DBSA) and the Independent Development Trust (IDT).<sup>121</sup> [<sup>121</sup> *Weekend Argus* 25 March 1995]

**Project Vulamehlo**, an initiative to provide training for small-scale emerging farmers to enable them to improve their productivity and the quality of their produce, was launched in April 1995. In terms of the project, funded by First National Bank, farmers would be sent to Chile, Indonesia, Kenya, Zambia and Zimbabwe for training in farm methods.<sup>122</sup> [<sup>122</sup> *The Citizen* 12 April 1995]

In May 1995 the **Department of Agriculture** said in a report on broadening access to agriculture that an extensive banking network would be established to finance development of small farmers. A wholesale finance intermediary (such as the DBSA, the IDT, the Kagiso Trust or the Land and Agricultural Bank of South Africa) would be appointed to channel funds to small farmers through a chain of simple-service, sustainable and accessible retail outlets in remote rural areas.<sup>123</sup> [<sup>123</sup> *Cape Times* 10 May 1995]

Also in May, the Department of Agriculture launched a campaign entitled 'Broadening Access to Agricultural Thrust', aimed at assisting development of subsistence farmers through promotion of training and provision of finance. The campaign would have a budget of R12m for 1995/96 and would promote access to the R150m fund available for agricultural credit, while seeking to develop black farmers' associations and to address the problems faced by agricultural colleges in training emergent farmers.<sup>124</sup> [<sup>124</sup> *Ibid*]

Mr Stephen Mokoena, general manager of the **National African Farmers Union (Nafu)** (which represented some 40 000 mostly smallscale farmers in the former homelands), said in May 1995 that Nafu had negotiated an agreement with the Department of Land Affairs to form a task team to investigate making state-owned land available for resettling black farmers. Mr Mokoena added that although Nafu was not opposed to a single provincial organisation representing all farmers, the amalgamation of black and white farmers' unions could further marginalise black farmers and their organisations.<sup>125</sup> [<sup>125</sup> *Sowetan* 25 May 1995]

In September 1995 the president of Nafu, Mr Matome Maponya, said at a meeting with the president, Mr Nelson Mandela, that a moratorium on land in the former homelands earmarked for black farmers should be lifted (the former government had allocated this land to black farmers but had suspended its sale or lease). Nafu was also concerned about black farmers who did not have the finance to repay loans and whose land was being bought back by white farmers. In addition, black farmers leasing land were not being given the option of buying the land, while other Nafu members were finding difficulty in gaining access to Land Bank loans and other support services, Mr Maponya said.<sup>126</sup> [<sup>126</sup> *Business Day* 27 September 1995]

## Taxis

The Department of Transport said in June 1995 that there were more than 480 taxi associations operating in South Africa and that the taxi industry provided transport for half the country's commuters (13m passengers daily). According to the department, there were 70 000 legal and 40 000 illegal operators within the industry.<sup>127</sup> [<sup>127</sup> *The Citizen* 25 May, *The Star* 19 June 1995]

The secretary general of the Foundation for African Business and Consumer Services, Mr David Moshapalo, said in May 1995 that the minibus taxi industry should be regulated and integrated into South Africa's transport system to improve its financial viability and reduce taxi-related violence.<sup>128</sup> [<sup>128</sup> *The Star* 26 May 1995]

The National Taxi Task Team (NTTT) was formed in March 1995 to investigate ways of improving the economic viability of the taxi industry, its future structure and its role in the national transport system. The NTTT comprised representatives of national, provincial and local governments and taxi associations in South Africa and was chaired by the chief director of management services at the Department of Transport, Mr Dipak Patel.<sup>129</sup> [<sup>129</sup> *Business Day* 23 March 1995]

In June 1995 the NTTT drew up a document suggesting ways to regulate the taxi industry. According to these proposals, offices should be set up in the provinces to control the issue of permits to taxi operators. A training programme on administrative, business, driving and safety skills should be implemented throughout the country. The programme should initially be funded by the government to allow taxi bodies to become sufficiently established to fund such programmes themselves. The government should not, however, extend subsidies to the taxi industry as it was already oversubscribed. The proposals were approved by the minister of transport, Mr Mac Maharaj, in July 1995.<sup>130</sup> [<sup>130</sup> *The Star* 19 June 1995; *Business Day*, *The Citizen* 19 July 1995]

In September the Gauteng Taxi Initiative (GTI), comprising representatives of taxi associations in Gauteng, metropolitan taxi forums, taxi passengers, the government and specialist advisers, presented its recommendations on regulation of the taxi industry to the NTTT. These included the following:<sup>131</sup> [<sup>131</sup> *Business Day*, *The Star* 19 September 1995]

- possession of legal permits by taxi operators should be compulsory. Local road transportation boards, which had issued permits in numbers disproportionate to the size of the market, should be replaced by permit boards;
- entry into the taxi industry should become more difficult;
- employees within the taxi industry should undergo advanced training which stressed business, professional and driving skills;
- taxi routes and their corresponding taxis should be numbered; and
- taxi associations should be registered and should adhere to a strict code of conduct.

The standing committee on transport in Gauteng said in September 1995 that the provincial government would lobby strongly for regulation of the taxi industry, as legislation was needed to combat taxi violence (94 people had died in taxi-related violence in 1994 in Gauteng). In the same month the committee established a provincial taxi violence monitoring committee to assist the central departments of transport and safety and security in investigating taxi violence.<sup>132</sup> [<sup>132</sup> *Business Day* 14 September 1995]

Between January and September 1995, 145 people were killed and 208 injured in taxi-related violence in South Africa.<sup>133</sup> [<sup>133</sup> *Sowetan* 11 September 1995, *The Citizen* 13 September 1995]

See also chapters on *Living Conditions* and *Politics and Security*.

## PRIVATISATION

In January 1995 the Inkatha Freedom Party (IFP) submitted a proposal to a constitution theme committee that a commission should be established to supervise constitutionally mandated privatisation. The IFP added that a clause should be included in the final constitution precluding government's providing a service that private enterprise could perform better.<sup>134</sup> [<sup>134</sup> *Business Day* 3 February 1995]

In February 1995 a black-controlled investment group, Thebe Investment Corporation (Thebe), set up a unit which aimed to play a major role in developing the government's privatisation strategy and educating the public about the privatisation process. The unit, which would be housed in a subsidiary of Thebe, Msele Finance Holdings, would play a predominantly advisory role, while also exploring possible stakes in state assets for privatisation.<sup>135</sup> [<sup>135</sup> *Ibid* 13 February 1995]

Guidelines on the restructuring of parastatals were presented for approval to the cabinet by the minister for public enterprises, Ms Stella Sigcau, in August 1995. The guidelines were subsequently submitted to a team of senior ministers appointed by the president, Mr Nelson Mandela, to recommend on economic policy issues including privatisation.<sup>136</sup> [<sup>136</sup> *Ibid* 15 August 1995]

In August 1995 the Department for Public Enterprises published a discussion document which outlined proposals for a public sector restructuring and privatisation programme, emphasising the restructuring of parastatals to facilitate black economic empowerment. Restructuring, the document said, would enhance the efficiency of public enterprises, government and the economy; promote long-term, sustainable economic growth; increase competition; and guard against monopolistic behaviour.<sup>137</sup> [<sup>137</sup> *Financial Mail* 8 September 1995; *Sunday Times* 10 September 1995]

The document added that restructuring could, in addition, provide an opportunity for blacks and employees to participate in ownership of parastatals based on their classification as assets with a 'clear public policy', a 'public policy' or no public policy.<sup>138</sup> [<sup>138</sup> *Sunday Times* 10 September 1995] According to the document, parastatals should be delineated into three categories, as follows:<sup>139</sup> [<sup>139</sup> *Financial Mail* 8 September 1995; *Sunday Times* 10 September 1995]

- assets with a 'clear public policy' or which played a crucial role in socio-economic delivery, such as Air Traffic, the Airports Company, Eskom, Portnet, the South African Broadcasting Corporation, the South African Post Office, SpoorNet and Telkom. According to the document, transferring these parastatals from public to private ownership without regulatory protection could result in the state's

being unable to 'realise' targets of the reconstruction and development programme;

- assets with a 'public policy' or a strategic value to the state, such as Armscor, the Atomic Energy Board, Denel, Mossgas, Petronet, South African Airways (SAA) and the Strategic Fuel Fund; and
- profitable and nonprofitable assets with no public policy and which did not play a critical role in socio-economic delivery, such as Alexkor, Autonet, Safcol and Sun Air (all profitable) and Abakor, Aventura, Parcel Express and Transkei Airways (nonprofitable). Only these parastatals would be earmarked for sale.

In December 1995 the executive deputy president from the majority party, Mr Thabo Mbeki, said that the government would privatise key public enterprises. The announcement followed a decision by the cabinet to sell off Mossgas and phase out subsidies to Sasol by 1999. Recommendations included:<sup>140</sup> [<sup>140</sup> *The Star* 8 December 1995, *The Cillizen* 9 December 1995]

- seeking strategic equity partners for public corporations, specifically the Airports Company, SAA and Telkom. The majority and controlling shares would remain with the government;
- selling enterprises which were not considered strategic for state involvement and which operated in a highly competitive environment. These included Autonet, Sun Air and Transkei Airways;
- internally restructuring other enterprises to allow them to become more efficient and effective before further moves were considered by the cabinet. These included Portnet, Spoornet, the South African Rail Commuter Corporation and the South African Roads Board.

The government and organised labour later agreed to set up a committee to negotiate a 'national framework agreement' for the restructuring of state assets, after the Congress of South African Trade Unions and two other major trade union federations opposed the government's privatisation plans (see also chapter on *Employment and Industrial Relations*).<sup>141</sup> [<sup>141</sup> *Business Day*, *The Star Business Report* 12 December 1995]

## **REGULATION OF BUSINESS**

### **Johannesburg Stock Exchange**

The president of the Johannesburg Stock Exchange (JSE), Mr Roy Andersen, said in April 1995 that the restructuring of the JSE to promote black economic empowerment was being undertaken through a number of initiatives, including the following:<sup>142</sup> [<sup>142</sup> *Finance Week* 6 April 1995]

- changes to the listing requirements on the venture capital sector. The capital required to qualify for a

listing on this sector would be reduced from R2m to R500 000 to make it easier for small businesses to list;

- changes to the listing requirements on the financial redevelopment sector. Companies seeking a listing on this sector would not need a profit history, provided that investors were made aware of the risks involved;
- the provision of skills training to increase the number of black stockbrokers on the JSE;
- retention of membership of sole proprietor broking firms through which a one-person broking business could be set up for the purchase of three JSE rights at a maximum cost of R25 000 each; and
- the promotion of a 'host broker' concept, whereby an established firm could form a relationship with a newly established black stockbroker and monitor and support the new broker with regard to trading risks, thereby reducing capital requirements.

Mr Andersen added that there had been disagreement among representatives of business on the retention of pyramid companies and low voting shares. Organisations such as the National African Federated Chamber of Commerce and Industry believed that pyramid structures should be unbundled while others (such as New Africa Investments Limited (Nail)) argued that these structures were necessary to promote black economic empowerment, as they allowed black entrepreneurs to retain control of their companies while raising large amounts of equity finance. The issue had been referred to the minister of trade and industry, Mr Trevor Manuel, for consideration, Mr Andersen said.<sup>143</sup> [<sup>143</sup> Ibid]

The chairman of Nail, Dr Nthato Motlana, said that black business would oppose changes to JSE regulations, particularly those affecting pyramid structures. Dr Motlana said that blacks were becoming more established in big business and that further growth could be facilitated by the same rules that had helped to establish white conglomerates. Pyramids had allowed companies with small shareholder stakes to control larger companies and, if abolished, would make it impossible for blacks to own companies or to help transfer wealth to disadvantaged people, Dr Motlana said.<sup>144</sup> [<sup>144</sup> *Weekly Mail and Guardian* 20 January 1995]

The secretary general of the African National Congress, Mr Cyril Ramaphosa, said that the government would have to pass legislation to break the 'stranglehold' of South Africa's conglomerates, which were blocking foreign investment, hampering growth and frustrating black entrepreneurs.<sup>145</sup> [<sup>145</sup> *Business Day* 31 July 1995]

Mr Andersen said in May 1995 that rules on listing of pyramid structures and low voting shares were likely to remain because of this disagreement.<sup>146</sup> [<sup>146</sup> Ibid 8 May 1995, *Mail and Guardian* 13 October 1995]

## National Gambling Bill



Draft legislation setting out guidelines for the gambling industry, the National Gambling Bill, was tabled in Parliament in September 1995. The bill provided for a maximum of 40 casinos in South Africa and a provincial allocation of casinos so that smaller provinces would have a proportionally bigger share to assist them in their developmental objectives. According to the bill, there would be six casinos in Gauteng; five each in the Eastern Cape, the Western Cape, KwaZulu/Natal and the North-West; four each in the Free State and Mpumalanga; and three each in the Northern Cape and the Northern Province.<sup>147</sup> [<sup>147</sup> *The Citizen* 27 September 1995]

The bill further provided that no person or company could hold more than 16 casino licences nationally, or more than two licences in any single province. Anyone currently holding more licences than specified in the new bill would be given two years to decrease their holdings to the required number. Furthermore, the state or any of its organs would have to divest of any financial interest in companies holding gambling licences.<sup>148</sup> [<sup>148</sup> *Ibid*]

The bill also provided for the establishment of a National Gambling Board, comprising 19 members, which would be responsible for ensuring compliance with national standards in the gaming industry and which would set up a gaming inspectorate. The board would also monitor the gaming market to ensure that no one obtained a 'dominant' share of the market and to advise the minister and provincial MECs on gaming developments, modernisation and improvements.<sup>149</sup> [<sup>149</sup> *Ibid*]

The minister of general services, Mr Chris Fisser, said in the same month that although the bill would set national norms and standards for gaming, it would not derogate from the competency of the provinces to adopt legislation to provide for gambling in their borders.<sup>150</sup> [<sup>150</sup> *Ibid*] The bill had not been passed at the time of writing.

## **Consumers Protection Bill**

The Consumers Protection Bill, which aimed to strengthen the rights of consumers when faced with unethical business practices, provided for the creation of the following, among other things:<sup>151</sup> [<sup>151</sup> *Mail and Guardian* 11 August 1995]

- a consumer court in each province, which would be empowered to levy fines of up to R200 000, impose sentences of up to five years' imprisonment and prohibit a firm from engaging in harmful practices;
- a consumer affairs office in the economic affairs department of each province, which would conduct research and provide advice and consumer education. Powers of search and seizure would be extended to investigating officers in provincial consumer affairs offices;
- provincial consumer forums comprising representatives of consumer interest groups to liaise with

provincial consumer affairs offices through an interprovincial consumer affairs committee;

- advice offices in more localised centres which would receive complaints from consumers and provide them with information; and
- law suits free of charge whereby a number of individuals who had suffered similar damages from a harmful business practice could bring a single legal action in a consumer court.

The bill had not been tabled at the time of writing.

## Legislation on Competition

The minister of trade and industry, Mr Trevor Manuel, said in March 1995 that a committee had been set up to investigate existing legislation on anticompetitive practices, the possibility of amending this legislation or implementing new legislation with a stronger anti-trust focus, and the use of existing bodies such as the Competition Board to prevent anti-competitive behaviour.<sup>152</sup> [<sup>152</sup> *Cape Times* 3 March 1995, *Sunday Times* 19 March 1995]

In April 1995 Mr Manuel said that the Maintenance and Promotion of Competition Act of 1979 was ineffective. A central deficiency was that any action recommended by the Competition Board must be approved and implemented by the minister of trade and industry. Although his department had increased the powers of the Competition Board since taking control of it in October 1994, a more powerful body with quasi-judicial authority was needed to undertake full investigations of uncompetitive behaviour. Penalties provided for by the act needed to be made stricter, while a clearer definition of horizontal price collusion and the vertical integration of companies was required.<sup>153</sup> [<sup>153</sup> *Cape Times* 5 April 1995 ] Mr Manuel said anti-trust legislation should have the following purposes:<sup>154</sup> [<sup>154</sup> *Ibid*, *Business Day* 31 July 1995]

- facilitation of equity participation, black empowerment and a wider availability of scrip;
- improvement of consumer protection; and
- breaking down of overconcentration of ownership.

Mr Manuel added that although the purpose of legislation would be to make South Africa more internationally competitive, pyramid companies could also serve a constructive purpose and there was a need for 'balancing' to ensure South Africa did not 'destroy' its global competitiveness.<sup>155</sup> [<sup>155</sup> *Cape Times* 5 April 1995 ]

A policy document submitted to Mr Manuel by the National Party in the same month stated that

‘injudicious’ action aimed at dismembering conglomerates would undermine business confidence and discourage foreign investment. According to the document, concentrations and conglomerates were not necessarily to the disadvantage of the economy and the scope for selling off assets to independent entrepreneurs was ‘fairly limited’. Action was, however, needed to improve competition. The document recommended that competition policy be removed from the authority of the minister of trade and industry and placed under an independent agency to be formed from the restructuring of the Competition Board.<sup>156</sup> [<sup>156</sup> Ibid]

The chairman of the Competition Board (which began formulating proposals on a new competition policy in 1994), Dr Pierre Brooks, said in August 1995 that a new and stricter competition policy was being established and that legislation would be presented to Parliament before 1996. Ways of enforcing policy would be changed (competition authorities rather than the police would control enforcement) and penalties for transgressions would be stricter. Although the government had not reached a firm decision on the use of legislation to target conglomerates on the Johannesburg Stock Exchange, a special policing mechanism separate from the Competition Board would be considered if this approach was taken, Dr Brooks said.<sup>157</sup> [<sup>157</sup> *The Star* 2 August 1995, *Mail and Guardian* 25 August 1995 ]

Mr Manuel said in the same month that the introduction of an effective competition policy was impossible without the abolition of exchange controls. He added that a draft bill on competition policy would first be debated in the National Economic Development and Labour Council (Nedlac) and would therefore be submitted to Parliament only in 1996.<sup>158</sup> [<sup>158</sup> *Business Day* 21 August 1995 ]

Mr Michael Spicer of the Anglo American Corporation of South Africa (Anglo) said in September 1995 that a combination of privatisation and the abolition of exchange controls was needed to enhance competition in South Africa. Competition policy (in the proposed Competition Bill) had become ‘politicised’ by targeting large South African corporations as the major obstacle to competition and proposing ‘harsh’ punitive measures, Mr Spicer said.<sup>159</sup> [<sup>159</sup> *The Star* 22 September 1995 ]

The chairman of Sanlam and president of the South Africa Foundation, Mr Marinus Daling, said in October 1995 that the government should not use common legislation to enforce competitive behaviour, to break down conglomerates and to empower blacks economically. In addition, it was not ‘practical or desirable’ to force companies to ‘deconglomerate’ through law. Exchange controls had played a significant role in conglomeration and their removal would encourage unbundling and foreign investment into South Africa, Mr Daling said.<sup>160</sup> [<sup>160</sup> Ibid 5 October 1995 ] Following a meeting with Mr Manuel, the chairman of Anglo, Mr Julian Ogilvie Thompson, and the head of Business South Africa, Mr Dave Brink, in October 1995, Mr Daling said that Mr Manuel had made it clear he was not ‘anti-big’, which suggested anti-conglomerate measures were unlikely to feature in new competition legislation.<sup>161</sup> [<sup>161</sup> *Business Day* 10 October 1995 ]

The minister of finance, Mr Chris Liebenberg, said in the same month, however, that legislation should be introduced to reduce the vertical ownership of companies by major conglomerates. The problem in

South Africa was not one of monopolies but large companies that were horizontally and vertically integrated. Although investors were not concerned about big companies, they felt 'uncomfortable' buying from a subsidiary owned by a big company, Mr Liebenberg said.<sup>162</sup> [<sup>162</sup> *The Star* 12 October 1995 ]

Mr Manuel said at a conference on competition policy held at the University of Cape Town in August 1995 that new competition legislation would be based on the following:<sup>163</sup> [<sup>163</sup> *Ibid* 19 September 1995]

- a recognition that linkages between firms were more indicative of uncompetitive behaviour than the size or market share of a single firm;
- acknowledgement of anti-competitive behaviour as hampering economic growth and as deserving of 'harsh' punishment;
- the establishment of a competition tribunal, a quasi-judicial body chaired by a judge, for adjudication of anti-competitive behaviour;
- grouping of policy formulation and enforcement under the same authority, since the police currently had limited enforcement capability; and
- a recognition that those harmed by anti-competitive conduct be permitted to claim damages.

A draft of the Competition Bill, compiled by Dr Brooks and two legal experts, Mr Willem Pretorius and Professor Dennis Davis, was submitted to Mr Manuel in September 1995.<sup>164</sup> [<sup>164</sup> *Business Day* 21 September 1995, *Sunday Times* 24 September 1995 ]

According to the draft bill, conglomerates would be permitted to retain their structure but would not be allowed to abuse their 'dominant' position in the market or to become involved in restrictive practices through pricefixing or market-sharing agreements. ('Dominant' referred to one company with a market share of at least one third, two or three companies with 50% of a market, or five companies with two thirds or more of a market.) The bill therefore widened the ambit of the current legislation, which targeted monopolies (one business effectively controlling an industry or market).<sup>165</sup> [<sup>165</sup> *Ibid* ]

The bill further prohibited the appointment of a director who could influence the decision making of another undertaking where such a decision could result in an advantage to the company over its competitors. The bill also prohibited horizontal, vertical or conglomerate acquisitions that 'significantly' hindered competition in a market. Exceptions could, however, be made if the economic advantages of such an acquisition outweighed its negative impact on competition. Acquisitions where the total assets or the turnover of the participants exceeded R200m would have to be reported to the competition authorities. The draft further provided that the Competition Board be granted legislative powers and the ability to impose stricter fines on companies which engaged in anti-competitive behaviour. A separate

quasi-judicial competition tribunal, chaired by a judge, would be established for the adjudication of anti-competitive behaviour.<sup>166</sup> [<sup>166</sup> Ibid ]

At the time of writing, the bill was being debated by Nedlac and had not been tabled in Parliament.<sup>167</sup> [<sup>167</sup> Ibid]

## Trade

### Policy

A report on the competitiveness of South African industry, compiled by the Monitor Group (an international consultancy), was presented to the parliamentary standing committee on trade and industry in April 1995. The report had been commissioned by the National Economic Forum (now the National Economic Development and Labour Council (Nedlac)), which had been charged in 1994 with drafting a policy to improve competitiveness in South African industry.<sup>168</sup> [<sup>168</sup> *Sunday Times* 19 March 1995; *Business Day*, *The Star* 6 April 1995]

In May 1995 the minister of trade and industry, Mr Trevor Manuel, outlined a programme to make South African industry more competitive. The programme proposed the following six initiatives:<sup>169</sup> [<sup>169</sup> *Cape Times* 17 May 1995]

- ‘weaning’ manufacturers from protectionism. According to Mr Manuel, it was not sufficient for manufacturers simply to meet the requirements of the General Agreement on Tariffs and Trade (Gatt) as Gatt rules would change repeatedly in the next five to ten years;
- upgrading technology and training to improve production;
- making local business more aware of the effects of individual trade blocs, including trade arrangements in southern Africa;
- creating competitiveness between local companies and exposing them to foreign competitors (the Maintenance and Promotion of Competition Act of 1979 would be revised to achieve this. See also *Legislation on competition* above);
- improving the country’s industrial design standards; and
- making manufacturers aware of the need to make their product branding more internationally competitive.

Mr Manuel said in the same month that following the implementation of the first reductions in tariffs in terms of Gatt on 27th January 1995 (see also *General Agreement on Tariffs and Trade/World Trade*

*Organisation* below), several South African companies had stopped operating, while others were threatening to close down. The government would, however, continue implementing measures to meet its Gatt commitments, including a continuing reduction of protective tariffs, phasing out of the General Export Incentive Scheme (GEIS) over three years, and the adoption of policies to compel and to assist companies to become internationally competitive. Mr Manuel said that his department was using supply-side measures, such as improving training, work organisation and technology, to make companies more competitive. Steps were also being taken to set up a national accreditation system to certify which bodies would be involved in raising manufacturing standards.<sup>170</sup> [<sup>170</sup> *The Star* 18 May 1995 ]

In the 1994 annual report of the Department of Trade and Industry, published in May 1995, the director general of trade and industry, Dr Zaverah Rustomjee, said that the department would encourage South Africa's movement from a 'low-wage, low-consumption' economy, based on an 'old' technology capacity and dependent on the export of primary commodities, to an economy characterised by high wages and higher consumption, the development and use of 'leading' technology, and the export of finished and more complex goods and services. According to Dr Rustomjee, the department had the following policy objectives:<sup>171</sup> [<sup>171</sup> *Ibid* 23 May 1995]

- a 5% growth rate by 1999;
- creating up to 500 000 sustainable, non-agricultural jobs by 1999;
- raising exports of manufactured goods significantly; and
- substantially increasing net domestic and foreign investment in the manufacturing sector.

The department had begun a process to facilitate these objectives in 1994 by reviewing the following:<sup>172</sup> [<sup>172</sup> *Business Day, The Star* 23 May 1995]

- internal trade policy, including consumer protection, trade regulation, intellectual property rights and company law;
- restructuring of South African industry. High tariff protection had resulted in local companies' being characterised by poor work organisation and a lack of international marketing skills. Parity pricing and a concentration of ownership in the mineral sector had resulted in a failure to spread the benefits of South Africa's mineral wealth. Firms were still lobbying for protective tariffs and the retention of GEIS rather than engaging in critical self-examination and international benchmarking of their production processes. These factors had contributed to an uncompetitive manufacturing sector;
- foreign trade policy. The department aimed to change South Africa's role as a supplier of raw and semi-processed commodities to developed markets and to reduce its dependence on imported capital goods

from those same markets; negotiations with the European Union would be driven by a need to restructure South Africa's relations in southern Africa on the basis of equity, mutual benefit and balanced trade; and

- the structure and efficiency of the department itself.

Dr Rustomjee said in June 1995 that companies would receive government help only if they undertook to become more internationally competitive. They would qualify for assistance if they contributed significantly to supply-side improvements in areas such as human resource and technological development and research, and work organisation. Dr Rustomjee added that the Department of Trade and Industry was setting benchmarks for assistance in areas including the following:<sup>173</sup> [<sup>173</sup> *Cape Times* 8 June 1995]

- the Duty Credit Control Certificate (DCC) scheme (which allowed the clothing industry to reclaim duty paid for the import of primary inputs). To qualify for refunds under the DCC scheme, applicants would have to reach certain targets;
- GEIS. Although no targets had yet been set for GEIS, the department wanted to know how much GEIS assistance was needed to make a company more competitive, as opposed to contributing towards profit; and
- regional industrial development programmes.

The industry and technology strategy director of the Department of Trade and Industry, Mr Alan Hirsch, said in August 1995 that the government would provide supply-side assistance for a limited period only. Industries undergoing restructuring could use these measures, then awaiting approval from the representatives of the departments of trade and industry and finance and on Nedlac, to help develop their human resources, investment, technology and training. Finance would come from savings made from GEIS and the finance facilities of the Industrial Development Corporation (IDC), Mr Hirsch said.<sup>174</sup> [<sup>174</sup> *Business Day* 31 August 1995 ]

In October 1995 the IDC introduced its first supply-side measure. The 'world player' scheme was a package of low interest rate finance available to manufacturers committed to reducing their ad valorem import tariffs by at least 10% between 1995 and 1999. The scheme would allow companies to modernise existing plant and machinery, to expand their industries and to establish new ventures to improve their international competitiveness. The IDC would approve loans of R150m in 1996 and R400m in 1997 (a maximum of R40m would be provided for each project with a low interest rate for the first three years).<sup>175</sup> [<sup>175</sup> *Ibid* 18 October 1995] In the same month, however, the executive director of the Clothing Federation of South Africa (Clofed), Mr Hennie van Zyl, said that the IDC's proposed scheme would be more beneficial to the textile than to the clothing industry. While the textile industry was capital

intensive, the clothing industry was more labour intensive and did not invest heavily in plant and equipment, Mr van Zyl said.<sup>176</sup> [<sup>176</sup> Ibid 24 October 1995 ]

## **General Agreement on Tariffs and Trade/World Trade Organisation**

The General Agreement on Tariffs and Trade (Gatt) was superseded by the the World Trade Organisation (WTO) on 1st January 1995.<sup>177</sup> [<sup>177</sup> *Business Day* 6 January 1995, 7 February 1995, 23 March 1995, 7 April 1995; *The Star* 26 September 1995] South Africa became a member of the WTO in January 1995 and committed itself to tariff simplification in order to comply with the organisation. Inter alia, this means the reduction of South Africa's 12 000 tariff lines to 6 000 between 1995 and 2000. About 98% of South Africa's goods are bound. South Africa began implementing reductions in tariffs on 27th January 1995.

In terms of the Board on Tariffs and Trade Amendment Act, passed in August 1995, the definition of 'dumping', in compliance with Gatt, was extended to include goods entering South Africa or the common area of the Southern African Customs Union at an export price which was less than the 'normal value' of the goods. The 'export price' of a product was the price paid for the product less any tax, discount or rebate, while the 'normal value' of the product was the comparable price paid in the ordinary course of trade for similar consumer goods in the country of origin.<sup>178</sup> [<sup>178</sup> Board on Tariffs and Trade Amendment Act, *Government Gazette* no16642, 31 August 1995]

## **Trade Liberalisation**

### **Clothing and Textile Industry**

The textile and clothing industry established a joint committee in March 1995 to promote the development of small, medium and micro-enterprises (SMMEs) within that industry. The new committee, formed from the clothing and textile federations, would help distribute fabrics to small clothing manufacturers. According to the president of the South African Textile Federation (Texfed), Mr Mervyn King, the committee would also investigate the financing, price mechanisms and size of SMMEs, as well as their accessibility to training and to cheaper textile inputs.<sup>179</sup> [<sup>179</sup> *Sowetan* 28 March 1995]

Mr Manuel said in June 1995 that a programme to restructure the clothing and textile industry over a ten-year period would include the following measures, among others:<sup>180</sup> [<sup>180</sup> *Business Day*, *Cape Times*, *The Citizen*, *The Star* 13 June 1995 ]

- phasing out of protective tariffs over an eight-year period at a minimum rate of 10% a year. (The eight-year period was a compromise between the demands of the textile industry, which had requested ten years, and the clothing industry, which had asked for five. Gatt allowed a period of 12 years.) Tariff rates for clothing would drop from 90% to 40%, household textiles from 55% to 30%, fabrics from 45% to 22%, yarn from 2% to 15%, and polyester from 25% to 7,5%;



- implementation of intensive programmes through institutions such as the IDC to upgrade training, technology and management skills;
- continuation of the DCC scheme from 1995 until 1998. In terms of the scheme, clothing manufacturers would receive rebates on import duties of primary material if they invested in training and productivity programmes; and
- implementation of a 50% subsidy on management consultancy fees for five years (until 2000) to help companies to restructure.

In August 1995 the government said it would reduce the period for the phasing down of tariffs within the clothing and textile industry from eight to seven years. The national negotiator for the South African Clothing and Textile Workers' Union (Sactwu), Mr Lionel October, said in the same month that the government had ignored requests by Sactwu and Texfed to finalise supply-side measures before reducing tariffs and that workers would be severely disadvantaged because of the lack of social adjustment programmes. (Sactwu had proposed that a committee be set up to investigate supply-side measures, such as investment in training, upgrading of technology and new forms of work organisation, in combination with trade liberalisation over a two-month period.) Mr October added that since South Africa had chosen to reduce protective tariffs in a shorter time than required by Gatt, supply-side measures and social adjustment programmes should be finalised before proceeding with the phase-down, which was scheduled to start on 1st September 1995.<sup>181</sup> [<sup>181</sup> *Business Day* 14, 23 August 1995 ]

In the same month the Department of Trade and Industry said that an agreement granting Zimbabwean clothing and textile products improved access to South African markets, signed by South Africa and Zimbabwe in March 1995, would come into effect at the end of October 1995. The agreement followed intensive lobbying by the Zimbabwean clothing and textile industry for Zimbabwe to increase tariffs on South African products if an existing agreement (in effect before December 1964) was not reviewed. (In terms of the agreement, tariffs on Zimbabwean clothing products averaged 30%. These rose to 90% after December 1992.) Although the new trade preferences would not be as extensive as the original agreement, treatment would still be better than most-favoured-nation status (the most basic trade preferences). At the time of writing the trade preferences had not been implemented, however, as details of the agreement had not been finalised.<sup>182</sup> [<sup>182</sup> *The Citizen* 2 March 1995; *Business Day* 24 August 1995, 26 September 1995, 16 October 1995]

The chief director for foreign trade relations in the Department of Trade and Industry, Mr Faizel Ismail, said in August 1995 that the government would set up a monitoring mechanism, including business and labour representatives, to ensure that the proposed reinstatement of Zimbabwean trade preferences did not harm the South African clothing and textile industry or threaten jobs in the country (for example, the mechanism would prevent import 'leakages' into the country). An impact study, to be completed in September, would assess the effect the Zimbabwean concessions would have on South African jobs and industries and would determine those Zimbabwean imports requiring quotas and other safeguards.<sup>183</sup> [<sup>183</sup>

*Business Day* 28 August 1995] At the time of writing, the trade preferences had not been implemented as details on the agreement had not been finalised.<sup>184</sup> [<sup>184</sup> Ibid 26 September 1995]

Mr October said in the same month that Sactwu's support for the planned extension of the concessions would depend on a guarantee that no jobs would be lost and on the inclusion of 'social clauses' (such as the right to strike and to join trade unions and the right to collective bargaining) in the agreement.<sup>185</sup> [<sup>185</sup> Ibid 28 August 1995]

Texfed and Clofed said in an advertisement published in August 1995 that South Africa's preferential trade deal with Zimbabwe would put more than 350 000 jobs at risk and would 'make a mockery' of the seven-year phase-down period for the clothing and textile industry. According to the advertisement, Zimbabwean companies already enjoyed considerable advantages over those in South Africa; for example, Zimbabwean manufacturers had access to duty-free raw materials at world prices for exports to South Africa. The agreement with Zimbabwe had, in addition, referred to the use of quotas, which were not acceptable under Gatt or WTO rules. The Department of Customs and Excise had been unable to control smuggling in South Africa's ports (with only 1% of imports inspected); this undermined the assurance that there would be no import leakages into the country, the advertisement said.<sup>186</sup> [<sup>186</sup> Ibid 30 August 1995]

The executive director of Texfed, Mr Brian Brink, said in September 1995 that the reinstatement of preferential trade tariffs for textile imports from Zimbabwe would open the 'sluice gates' for rerouted dumped goods from the Far East and could cause many job losses in South Africa.<sup>187</sup> [<sup>187</sup> Ibid 11 September 1995 ] Following a meeting between Clofed, Texfed, Sactwu, and the departments of trade and industry, and customs and excise in October 1995, at which the Department of Trade and Industry agreed to implement safeguards to limit job losses (including a monitoring mechanism to be administered by Clofed, Texfed, Sactwu and the two departments, and import quotas), Clofed and Texfed agreed to support the preferential trade tariffs for Zimbabwe.<sup>188</sup> [<sup>188</sup> Ibid 3 November 1995 ] Implementation of the preferential tariffs would, however, be delayed until early 1996.

## ***Motor Industry***

Amendments to the Customs and Excise Act of 1964 were gazetted on 1st September 1995 as part of an attempt to rationalise the motor industry by generating higher-volume production and improving capacity utilisation. Import duties on light motor vehicles would be reduced from 115% to 65% (immediately) and to 40% by 2002; on light motor vehicle components to 49% (immediately) and to 30% by 2002; on heavy motor vehicles to 40% (immediately) and to 20% by 2000; and on heavy motor vehicle components to 30% (immediately) and to 15% by 2000. Motor vehicle manufacturers would be granted a 27% duty-free allowance for components and further rebates for the export of components or vehicles to increase the number of vehicles manufactured locally. (Gatt required a reduction in the import duty on motor vehicles from 100% to 50% over eight years.)<sup>189</sup> [<sup>189</sup> *Enterprise* September 1995; *Government Gazette* 16654, 1 September 1995; fax communication from Mrs Helena Claasens, officer. Board on Tariffs and

Trade, 21 November 1995]

## **Southern African Arrangements**

### ***Southern African Customs Union***

The director general in the Office of the President, Professor Jakes Gerwel, said in March 1995 that Mr Manuel would renegotiate the annual R10bn revenue-sharing Southern African Customs Union (Sacu) agreement in consultation with the Southern African Development Community (SADC) to determine the role of SADC in the agreement. Earlier in the same month the auditor general, Mr Henri Kluever, had said in Parliament that South Africa's share of the excise duties collected for Sacu at its entry points had decreased from 75% in 1983/84 to 42% in 1993/94. According to Mr Kluever, South Africa's share and the high growth in the allocations of most other Sacu members had indicated that the basis of division was prejudicial to South Africa.<sup>190</sup> [<sup>190</sup> *The Argus* 30 March 1995]

In July 1995 ministers from Sacu's five member states (Botswana, Lesotho, Namibia, Swaziland and South Africa) endorsed proposals aimed at democratising the administration of the union in areas such as the determination of import tariffs (presently set according to the recommendations of South Africa's Board on Tariffs and Trade). In August 1995 a Sacu task team began negotiations to finalise a review of the Sacu agreement.<sup>191</sup> [<sup>191</sup> *The Star* 4 July 1995; *Business Day* 1,25 August 1995 ] Negotiations were continuing at the time of writing.

### ***Southern African Development Community***

The deputy minister of finance, Mr Alec Erwin, said in May 1995 that South Africa had begun to draw up a set of proposals to open up SADC to trade and investment, to remove trade and investment barriers in the community and to contribute towards the establishment of a regional economic bloc. Issues such as the development of a common currency and exchange control still needed to be addressed but this would be a gradual process, Mr Erwin said.<sup>192</sup> [<sup>192</sup> *Cape Times* 12 May 1995]

The industry and trade co-ordinator of SADC, Mr Abraham Pallangyo, said in August 1995 that the optimum approach for SADC would be the creation of a free trade area among its 12 member states (Mauritius became the twelfth SADC member in the same month), which would contribute towards the development of a common market. Mr Pallangyo added that SADC was negotiating a proposal for the establishment of a free trade area, which was expected to be finalised by February 1996, while a final trade agreement could be concluded by August 1996.<sup>193</sup> [<sup>193</sup> *The Star* 24 August 1995]

The president, Mr Nelson Mandela, said in August 1995 at a SADC meeting that although South Africa supported full regional economic integration, immediate trade liberalisation could lead to negative trends in migration of capital, skills and labour. Full economic integration could give manufacturers access to a market of 100m people, but trade liberalisation had to be accompanied by measures to address the

historical imbalances in wealth and development between and within countries, Mr Mandela said.<sup>194</sup> [<sup>194</sup> *Business Day* 29 August 1995]

At the same meeting, the president of Botswana, Mr Ketumile Masire, said that regional integration could be facilitated by mobilising people to implement SADC programmes, harmonising political and economic policies and compromising on progressive elimination of barriers to liberalise the movement of people, capital and goods. The SADC finance and trade sectors, co-ordinated by South Africa and Tanzania respectively, should define SADC's role and the opportunities and challenges created by the conclusion of Gatt talks, Mr Masire said.<sup>195</sup> [<sup>195</sup> *Ibid*]

Representatives at the meeting agreed to meet the Common Market for Eastern and Southern Africa (Comesa) (a 22-member economic bloc operating in eastern and southern Africa), a first significant step towards clarifying the future of the two organisations.<sup>196</sup> [<sup>196</sup> *Ibid*] Comesa aimed to create a common market in eastern and southern Africa by removing all trade barriers in the region by 2000 and establishing a customs union in 2004 to facilitate free movement of capital and labour. Tensions among the 22 Comesa member states stemming from rivalry for markets had hampered the development of a free trade approach. South Africa had declined to join Comesa but nine other SADC states were members.<sup>197</sup> [<sup>197</sup> *Ibid* 25 August 1995]

The secretary general of Comesa, Mr Bingu wa Mutharika, said in September 1995 that South Africa could face higher tariffs and other trade barriers if it did not join Comesa. Mr Mutharika added that in 1995 South African exports to Africa accounted for almost a quarter of the country's total exports, while imports to South Africa from Africa were negligible.<sup>198</sup> [<sup>198</sup> *Sunday Times* 10 September 1995 ]

The chief director for foreign trade relations in the Department of Trade and Industry, Mr Faizel Ismail, said in September 1995 that South Africa had assured the other Sacu and SADC members that their interests would not be harmed by a South African–European Union trade agreement.<sup>199</sup> [<sup>199</sup> *Business Day* 27 September 1995]

## **HEALTH AND WELFARE**

### **BIRD'S EYE VIEW**

The year under review was characterised by intensive debate on the state's role in the health care sector. In June 1995 a report on the restructuring of the national health system, which aimed to provide universal primary health care for all South Africans, proposed, among other things, the introduction of an essential drug list and mandatory health insurance for a defined hospital benefit package.

Another report on health expenditure and finance in South Africa, published jointly by the Health Systems Trust and the World Bank, found that public health services were biased towards curative

hospital-based care. Additional funds would be required from the government and donors to improve primary care services substantially within the next few years, the report found. During the period under review the department placed a moratorium on heart transplants in all provinces other than the Western Cape in order to save funds which could be used for primary health care.

Legislation was passed in 1995 which made provision for the establishment of interim councils for nurses, chiropractors, homeopaths and allied health professionals, pharmacists, and doctors and dentists to replace the old councils in South Africa and the former homelands. An interim council for social work was also established.

In 1995/96 some R1,2bn was allocated by the government to health services—a drop of 27% in nominal terms on the 1994/95 revised estimate. The amounts allocated to health in the Free State, Gauteng and the Western Cape were considerably smaller than in the past so as to achieve equity between all provinces within five years.

Health care workers continued to leave South Africa in 1995. The emigration of doctors and medical professionals rose by some 454% from 1993 to 1994, mainly because of unsatisfactory working conditions. The Department of Health aimed to alleviate the shortage of doctors in public hospitals by importing doctors from other countries, such as Cuba, for a three-year period.

A study by the South African Medical Research Council found that the cause of death in provinces reflected different levels of regional development. In Mpumalanga and the Northern Cape a high proportion of deaths were illdefined—which reflected poor access to health services in these provinces.

The AIDS epidemic continued in 1995 and was primarily caused by heterosexual contact. Most of the reported cases (90%) were African. The Department of Health doubled its AIDS budget in 1995 from the previous year and distributed millions of condoms to combat the disease.

*A Draft White Paper for Social Welfare* was published by the Department of Welfare in November 1995. It recommended new guidelines and principles for social welfare policies to alleviate poverty and to meet the basic needs of vulnerable groups (such as the aged, children, the disabled and women).

## KEY POINTS

- According to the South African Medical Research Council, the infant mortality rate (IMR) in 1993 was 81 deaths per 1 000 live births (95 in rural areas and 57 in metropolitan areas). However, the Department of Health estimated an average IMR of 44,1 in 1993.
- A survey of malnutrition among schoolchildren in South Africa in 1994 found that more than 1m children between five and nine years of age were malnourished. The Eastern Cape had the largest number of malnourished children, followed by KwaZulu/Natal and the Northern Province.

- An estimated 1,8m people were HIV positive in 1995 and the number of new infections was doubling every 15 months. Between January and September 1995, 1 285 new cases of AIDS had been reported to the Department of Health.
- Almost 90% of all reported AIDS cases involved Africans, followed by whites (6%), coloured people (4%) and Indians (0,2%).
- The proportion of deaths caused by cancer increased from 8,8% of all deaths in 1978 to 10,7% in 1992.
- According to a report published by the Health Systems Trust and the World Bank in 1995, the public sector contributed 39% of the funds spent on health care and the private sector 61%, of which medical aid schemes paid two thirds. However, only 17% of the population belonged to a medical aid scheme and only 23% had access to private health care services on a regular basis.
- According to the report, 93% of dentists, 89% of pharmacists, 66% of specialists and 62% of general practitioners worked in the private sector.
- Hospital strikes occurred in most of the provinces in September 1995 when thousands of nurses demanded salary increases of between 25% and 33%. However, the minister for health, Dr Nkosazana Zuma, said that the government did not have funds for salary increases in 1995/96.
- A national poliomyelitis immunisation programme was launched in June 1995 as part of a programme to eradicate the disease completely by 1998. More than 3m children were immunised against the disease in that month.
- A study by the Human Sciences Research Council found that in 1995 more than 9m children were living in poverty in South Africa, of whom 96% were African, 3,4% coloured, 0,4% Indian and 0,3% white. In the Eastern Cape and KwaZulu/Natal some 24% of children were living in poverty and some 21% in the Northern Province.

## **HEALTH INDICATORS**

### **Infant Mortality Rates**

South Africa's infant mortality rate (ie deaths of children under one year old per 1 000 live births) dropped by 19% over the ten years from 1985–95, according to official statistics.

Among Africans the infant mortality rate also dropped by 19% over that period, according to the Department of Health. Among whites the rate dropped by 10%. However, the infant mortality rate dropped most among coloured people, by 28%, in 1985–94. (The calculations are off different bases.) By 1989 South Africa had already achieved an infant mortality rate of fewer than 50, a target set by the

World Health Organisation.<sup>1</sup> [<sup>1</sup> Department of Health, *Health Trends in South Africa*, 1994] Whereas the African rate was seven times the white rate in 1985, in 1994 it was still six times the white rate. The following table and graph show the full picture from 1985–94 according to population group:<sup>2</sup> [<sup>2</sup> Ibid]

*Infant mortality rates according to race: 1985–94*

African

Coloured

Indian

White

Average

1985

64,0

41,7

15,4

9,2

53,5

**1986**

62,0

32,4

13,3

6,9

50,5

1987

60,0

51,9

19,9

12,3

51,7

**1988**

59,0

59,2

17,4

12,8

51,6

1989

57,0

39,4

12,7

8,8

47,7

**1990**

55,0

42,8



11,0

8,7

46,5

1991

54,0

38,0

11,0

8,6

45,3

**1992**

54,0

36,0

10,0

8,5

45,1

1993

53,0

33,0

9,0

8,4

44,1

**1994**

52,0

30,0

9,0

According to a study by the South African Medical Research Council (MRC), however, infant mortality rates are higher than the official data suggest. In the period 1990–94, says the MRC, the average infant mortality rate was 81, while the African infant mortality rate was 86. The estimated rate in rural areas (94) was 65% higher than that in metropolitan areas (57). The infant mortality rate of people with low levels of education (ie from grade 1 to standard 6) was found to be significantly higher (95) than that of people with high levels (ie standard 9 and up) of education (58). The infant mortality rate in urban areas was 69. The MRC noted that between 1980 and 1991 no discernible decline in infant or under-five mortality rates had occurred for the population as a whole.<sup>3</sup> [<sup>3</sup> Mazur R E, *Population Structure, Fertility and Childhood Mortality in South Africa: Lessons to be Learned from Analysis of the Poverty Survey*, South African Medical Research Council, May 1995]

The following table, using MRC data, shows the infant mortality rate, under-five mortality rate and life expectancy in South Africa in 1990–94 by location and level of education:<sup>4</sup> [<sup>4</sup> Ibid]

*Average infant and child mortality rates, and life expectancy at birth: 1990–94*

Infant mortality rate<sup>a</sup>

Child mortality rate

Life expectancy (years)

Area

Rural

94

139

54,5

Urban

69

96

60,9

Metropolitan

57

78

64,2

*Education<sup>b</sup>*

None – standard 6

95

140

54,2

Standard 7 – standard 8

62

85

62,9

Standard 9 and higher

58

79

64,0

Average

81

116

57,8

a

Infant mortality rate refers to the deaths of children under one year old per 1 000 live births. Child mortality rate refers to deaths of children under five years old per 1 000 live births.

b

Refers to the education level of the mother.

The MRC said that no estimates of the infant mortality rate in the nine provinces were available as they were often too unreliable.

The figures provided by the Department of Health for 1994 were 47% lower than those of the MRC. The MRC said, however, that its higher figures could be attributed partly to the use of a more 'appropriate method' to determine infant mortality rate in the MRC study and partly to under-enumeration of children born in i

## Diseases

The Department of Health provided the following figures on notifiable diseases in the nine provinces between 1st January and 20th October 1995:<sup>6</sup> [6 Department of Health, *Epidemiological Comments*, September 1995]

*Notifiable diseases in South Africa according to province: January–October 1995*

Province

Malaria

Measles

Meningococcal infection

Tetanus

Eastern Cape

9

941

22

3

**Free State**

24

96

7

4

Gauteng

151

335

13

1

**KwaZulu/Natal**

1 276

197

3

3

**Mpumalanga**

740

175

3

2

**North-West**

113

56

1

0

**Northern Cape**

1

19

3

0

**Northern Province**

702

54

0

4

Western Cape

25

217

145

1

*Outside South Africa<sup>a</sup>*

119

0

0

0

Total

3 160

2 0

*Notifiable diseases in South Africa according to province: January–October 1995 (continued)*

Province

Tuberculosis

Typhoid

Viral hepatitis

Eastern Cape

7 562

58

83

**Free State**

5 841

3

26

Gauteng

5 837

47

145

**KwaZulu/Natal**

5 214

100

77

Mpumalanga

1 717

191

54

**North-West**



2 769

7

6

Northern Cape

1 687

0

20

**Northern Province**

419

60

33

Western Cape

15 027

5

290

*Outside South Africa<sup>a</sup>*

8

1

1

Total

46 081

472

735

a

Source of infection outside the borders of South Africa but cases reported in South Africa.

The following table shows the number of notifiable diseases recorded as of October 1995 according to popula

*Notifiable diseases<sup>a</sup> in South Africa according to population group: January–October 1995*

Population group

Malaria

Measles

Meningococcal infection

Tetanus

African

2 854

1 738

56

16

Coloured

9

152

115

1

Indian

7

33

1

1

White

213

120

20

0

Unknown race

77

47

5

0

Total

3 160

2 090

*Notifiable diseases<sup>a</sup> in South Africa according to population group: January–October 1995 (continued)*

## Population group

## Tuberculosis

## Typhoid

## Viral hepatitis

## African

30 171

444

234

## Coloured

14 182

4

229

## Indian

390

8

17

## White

458

14

212

Unknown race

880

2

43

Total

46 081

472

735

a

HIV/AIDS is not a notifiable disease although the department keeps statistics on it.

A study by the South African Medical Research Council (MRC) on the causes of death in the nine provinces in 1990, published in 1995, found major differences in the disease profiles of the various provinces. These, it said, reflected varying levels of regional development. The cause-of-death profiles of Gauteng and the Western Cape were similar to countries such as Brazil and Thailand, while the Free State, Mpumalanga and the Northern Province had profiles resembling those of other African coun

The study showed that people in the Western Cape were more likely to die of heart disease and strokes, while more residents of Gauteng and KwaZulu/Natal were likely to die as a result of violence than in any other province. In KwaZulu/Natal violence (including homicide) accounted for 13,8% of total deaths and in Gauteng for 7,7% of all deaths. Ischaemic heart disease ranked first in the Western Cape as a cause of death, accounting for 11,8% of deaths. Cerebrovascular disease accounted for 10,5%. Deaths from diseases related to the respiratory system ranked first in Gauteng (8,4%).<sup>9</sup> [9 South African Medical Research Council, *Estimated Cause of Death Profiles for the Nine Provinces Based on 1990 Data*, February 1995] In the North-West respiratory diseases other than tuberculosis and lung cancer caused 12% of deaths and intestinal infections 8,1%. In the Eastern Cape the highest proportion of diseases were related to the respiratory system (10,7%). In the Free State the highest proportion of deaths was caused by respiratory

diseases (12,5%) and intestinal infections (9%). In the Northern Cape 15,1% of diseases were related to the respiratory system, 9,7% of deaths were caused by cerebrovascular disease and 5,8% by tuberculosis.

In both Mpumalanga and the Northern Province a high percentage of deaths (37,7% and 57,4% respectively) fell into the ill-defined category, which reflected poor access to health services and inadequacies in medical certification of cause of death. The MRC report noted that the figures, which were based on 1990 data, did not reflect the human immuno-deficiency virus (HIV) and AIDS epidemic or all diseases attributed to smoking.<sup>10</sup> [<sup>10</sup> Ibid]

According to a researcher at the MRC, Dr Debbie Bradshaw, the overall mortality profile in South Africa reflected a combination of poverty-related diseases, chronic diseases related to a Western lifestyle and the effects of trauma. Poverty and lifestyle-related diseases had to be combated through an extended primary health care network, Dr Bradshaw said. Dr Derek Yach, group executive of the community health research group at the MRC, said that the regional diversity of mortality profiles 'highlighted the need for a health plan which was nationally coherent yet sensitive to provincial variations'.<sup>11</sup> [<sup>11</sup> *Business Day* 24 May 1995]

The minister for health, Dr Nkosazana Zuma, said in April 1995 that 'lifestyle diseases' were responsible for nearly half the deaths in South Africa. The major causes of death were cerebrovascular and heart disease, and tobacco and nutrition-induced cancers. Chronic lifestyle diseases and, in particular, smoking cost the country an estimated R5bn a year. Dr Zuma said that the country needed programmes which addressed the issue of unhealthy lifestyles and equipped people with knowledge and skills to promote their well being.<sup>12</sup> [<sup>12</sup> Ibid 25 April 1995]

## **AIDS**

### ***Policy***

The programme director of the national HIV/AIDS and sexually transmitted diseases (STD) programme in the Department of Health, Dr Quarraisha Abdool Karim, said in July 1995 that the government's budget for HIV/ AIDS had doubled to R85m in 1995 (from R40,6m in 1994), of which a quarter was allocated to nongovernmental and community-based organisations. The state's strategy to fight the disease included teaching young people 'life skills', mass communication on how to prevent the disease, increased access to condoms, improved treatment of STD and the development of programmes to help those who had been infected.<sup>13</sup> [<sup>13</sup> *The Citizen* 13 July 1995] The government was distributing 97m male condoms and 90000 female condoms free of charge in the 1995/96 financial year, Dr Abdool Karim said.<sup>14</sup> [<sup>14</sup> *The Star* 20 June 1995]

In August 1995 a draft policy document was published which sought to prohibit the screening of prospective employees for HIV as a precondition of employment, as well as discrimination against

employees who were HIV positive. The document was to be studied by the National Economic Development and Labour Council and it was suggested that it could be appended to the Labour Relations Act of 1995 as a code for business.<sup>15</sup> [<sup>15</sup> *The Citizen* 22 August 1995]

## **Statistics**

Between January and mid-October 1995 a total of 1 285 cases of AIDS had been reported to the Department of Health. The following table shows the number of reported cases from 1982 to October 1995, according to province.<sup>16</sup> [<sup>16</sup> Department of Health, *Epidemiological Comments*, September 1995]

### *Cases of AIDS according to province: 1982–95*

1982–89

1990

1991

1992

1993

1994

1995<sup>a</sup>

Total

Eastern Cape

5

10

32

69

146

255

19

536

**Free State**

16

8

38

45

60

421

322

910

**Gauteng**

196

118

153

253

174

82

10

986



**KwaZulu/Natal**

65

140

171

352

865

1 912

625

4 130

**Mpumalanga**

3

9

64

40

120

188

53

477

**North-West**

1

3

5

16

78

255

113

471

Northern Cape

2

3

10

10

64

73

1

163

**Northern Province**

2

5

2

7

128

229

102

475

Western Cape

66

39

44

63

86

85

40

423

Total

356

335

519

855

1 721

3 500

1 285

8 571

a

Up to 17th October 1995.

The following table shows the total number of AIDS cases by mode of transmission and according to population group from 1982 to Octo

*Cases of AIDS by population group and by mode of transmission: 1982 to October 1995*

African

Coloured

Indian

White

Unknown

Total

Haemophiliac

5

1

0

18

0

24

## Heterosexual

4 982

209

9

49

21

5 270

## Homo/bisexual

93

31

4

404

3

535

## IVDU<sup>a</sup>

1

0

0

2

0

3

### Mother to child

863

16

0

0

4

883

### Transfusion

10

2

0

18

0

30

### Unknown transmission

1 749

43

3

13

18

1 826

Total

7 703

302

16

504

46

8 571

a

Intravenous drug users.

Almost 90% of all reported AIDS cases involved Africans, followed by whites (6%), coloured people (4%) and Indians (0,2%). In most cases (61%) AIDS was transmitted by means of heterosexual contact. However, among whites 80% of reported AIDS cases were transmitted by homosexual or bisexual contact. Some 48% of the reported cases were female and 50% were male, while the sex of 2% was u

Dr Abdool Karim said in July 1995 that the number of people infected with HIV had increased tenfold over the previous five years. Figures for HIV infection were doubling every 15 months. Based on surveys conducted on women attending antenatal clinics, on the presumption that this would be a reflection of the HIV epidemic in the population as a whole, some 1,2m South Africans were HIV positive in October 1994. An estimated 1,8m people were HIV positive in 1995.<sup>19</sup> [<sup>19</sup> *Business Day* 13 July 1995] By the end of 1994 the level of HIV infection of the population in the provinces was as follows: KwaZulu/ Natal, 14,4%; Mpumalanga, 12,2%; Free State, 9,2%; North-West, 6,7%; Gauteng, 6,4%; Eastern Cape, 4,5%; Northern Province, 3%; Northern Cape, 1,8% and Western Cape, 1,2%.<sup>20</sup> [<sup>20</sup> *South African Medical Journal*, July 1995]

The following chart shows the estimated level of HIV infection by province, as a proportion of each province's population:

The chairman of Gencor, Mr Brian Gilbertson, said in September 1995 that 30 workers in the company were dying of AIDS each month. Medical personnel of the company estimated that about 20% of the workforce of about 20 000 on its gold, platinum and coal mines was infected with HIV. Dr Abdool Karim said that migrant workers and their spouses were three to five times more at risk of HIV infection than other workers because of social conditions on the mines, such as single-sex hostels, the presence of prostitutes and the lack of a stable family life.<sup>21</sup> [<sup>21</sup> *Business Day* 4 September 1995]

According to the head of Baragwanath Hospital's maternity unit, Dr James McIntyre, the national level of HIV infection had increased from 4,25% in 1993 to 7,57% in 1994. More women were infected than men and the bulk of infection was shifting to younger people, particularly girls in their teens and women in their early twenties.<sup>22</sup> [<sup>22</sup> *Ibid* 22 August 1995] In 1995, 10% of women who gave birth at Baragwanath Hospital were infected with the virus. Dr McIntyre expected that 50 000 mothers in Soweto alone would die over the next six years of AIDS.<sup>23</sup> [<sup>23</sup> *Sunday Times* 9 July 1995]

## **Projections**

A senior general manager of Metropolitan Life, Mr Peter Doyle, said in August 1995 that 1m people were infected with HIV and that 20 000 cases of full-blown AIDS could be expected in 1995, of which 10 000 would die in the same year. He estimated that there were at least five times more South Africans sick with AIDS than the official figures suggested.<sup>24</sup> [<sup>24</sup> *Ibid* 27 August 1995]

Speaking in Parliament in June 1995, Dr Zuma said that 15% of all pregnant women in South Africa (and 30% in KwaZulu/Natal) would be infected with HIV by March 1996 and would have died of AIDS before their children left school.<sup>25</sup> [<sup>25</sup> *Business Day* 22 June 1995] According to Dr Zuma, by 2000 there would be about 2,6m HIV-positive people in South Africa and about 416 000 people would have died of the disease.<sup>26</sup> [<sup>26</sup> *Ibid* 18 August 1995]

## **New Trends**

In April 1995 the national AIDS programme of the National Progressive Primary Health Care Network collapsed, owing to a reported lack of funding. According to the co-ordinator of the programme, Mr Michael Worsnip, the programme was the only one that had dealt with AIDS at community level on a national scale.<sup>27</sup> [<sup>27</sup> *Cape Times* 25 April 1995]

According to a divisional manager of Old Mutual, Mr Butch Judge, group life premiums could be expected to increase by an average of 7% to 10% in 1996, while retirement schemes which had a high proportion of members who belonged to high-risk groups could increase their charges by 15% because of increased HIV infection.<sup>28</sup> [<sup>28</sup> *Ibid* 2 June 1995] Professor Edwin Cameron of the Centre for Applied Legal Studies at the University of the Witwatersrand accused the insurance industry of attempting to insulate itself from the impact of AIDS by refusing to provide life insurance to homosexuals and to



people inflicted with HIV. Professor Cameron said that the Life Office Association of South Africa should consider providing 'appropriate' packages for people with HIV, which included the payment of post-test counselling.<sup>29</sup> [<sup>29</sup> *South African Medical Journal*, December 1994]

Mercantile and General Reinsurance, which compiled statistics on AIDS for the entire insurance industry, said in October 1995 that the number of insurance claims involving AIDS had risen more slowly than the number of reported cases of AIDS in the population. A 27% rise in the number of AIDS-related claims was reported from January to June 1995 (to 1 051). Some R50m had been paid out by June 1995 in AIDS-related claims and the average payment was R43 000. A quarter of the claimants fell in the 30–34 year age group. Claims by men accounted for 89% of all claims. The proportion of married claimants continued to rise and was almost equal to the proportion of single claimants.<sup>30</sup> [<sup>30</sup> *Business Day*, *The Star* 9 October 1995]

The chairman of the South African Boxing Commission, Mr Mike Mortimer, confirmed in July 1995 that in 1994, 33 boxers who had been infected with HIV had been refused professional boxing licences. Figures for 1995 were not available. Since 1994 all boxers had been required to take annual HIV tests as part of their medical examinations.<sup>31</sup> [<sup>31</sup> *The Star* 17 July 1995]

The South African National Defence Force (SANDF) announced in the same month that all potential soldiers would be tested for AIDS and if a soldier refused he or she would be immediately discharged. The SANDF said that the decision was not 'discriminatory but represented the employer's prerogative to determine the medical profile which should apply to all employees'.<sup>32</sup> [<sup>32</sup> *Cape Times* 7 July 1995]

In September 1995 the Congress of South African Trade Unions demanded that mine management stop testing prospective employees for HIV and AIDS immediately since testing discriminated against infected workers and their families.<sup>33</sup> [<sup>33</sup> *The Citizen* 2 September 1995]

In July, Lawyers for Human Rights called on the minister of correctional services, Dr Siphon Mzimela, to revise the 'discriminatory policy' of segregating HIV-positive prisoners and to distribute condoms in prisons to halt the spread of the virus. The organisation believed that 'archaic' prison policies resulted in fewer prisoners undergoing HIV testing for fear of 'punitive' segregation measures if their results were positive.<sup>34</sup> [<sup>34</sup> *The Argus* 8 July 1995] The African National Congress spokesman on prisons, Mr Carl Niehaus, also supported the ending of such segregation in prisons and the provision of condoms to prisoners.<sup>35</sup> [<sup>35</sup> *The Star* 3 August 1995]

In September, the Transvaal Provincial Division of the Supreme Court in Pretoria awarded damages of R1 000 to a former prisoner who had been tested for HIV by prison authorities without his knowledge or consent. Mr Justice F C Kirk-Cohen found that the man's right to privacy had been violated and that he had not given 'informed consent', which was required for the testing.<sup>36</sup> [<sup>36</sup> *The Citizen* 21 September 1995]

A senior manager of Southern Life, Ms Janina Slawski, said in August 1995 that gross domestic product would decline by 1,5% a year and that disposable income was likely to fall in the future, owing to the AIDS epidemic. Ms Slawski estimated that AIDS-related costs could consume 30% of the health budget by 2010. By 2000 total direct costs of the epidemic would amount to an estimated R20bn and indirect costs to more than R80bn. The expected escalating health costs would put 'a strain on other areas of the reconstruction and development programme', such as electrification and housing.<sup>37</sup> [<sup>37</sup> Ibid 18 August 1995]

It was reported that Johannesburg Hospital was turning away babies who were dying of AIDS-related illnesses in favour of children whose lives could be saved. A paediatrician at the hospital, Dr Lorna Jacklin, said that as many as six out of every ten children admitted could have AIDS. The overcrowded conditions and the shortage of staff necessitated that children with AIDS, who faced a certain death, be turned away in favour of those who could be treated successfully.<sup>38</sup> [<sup>38</sup> *Sunday Times* 30 July 1995]

## Cancer

In 1994 the Department of Health noted in a publication called *Health Trends in South Africa* that the proportion of total deaths caused by cancers increased from 8,8% of all deaths in 1978 to 10,7% of all deaths in 1992. In 1990, 18% of all deaths of whites were caused by cancer, followed by 12% of coloured deaths, 9% of Indian deaths and 8% of African deaths.<sup>39</sup> [<sup>39</sup> Department of Health, *Health Trends in South Africa 1994*, April 1995]

The number of deaths caused by different forms of cancer in various years from 1982 to 1992 was as follows:<sup>40</sup> [<sup>40</sup> Ibid]

### *Deaths from various forms of cancer: 1982–92*

1982

1984

1986

1988

1990

1992

Breast

987

1 093

1 170

1 291

1 079

1 252

Cervical

840

1 014

1 000

1 373

965

1 105

Lung

2 773

3 015

3 161

3 655

2 879

3 398

Oesophageal

1 998

2 187

2 098

2 710

1 799

2 041

**Stomach**

1 228

1 232

1 106

1 361

993

1 172

**Total**

7 826

8 541

8 535

10 390

7 715

8 968

In 1992 some 19 000 people died of cancer. Lung cancer caused 17,8% of all cancer-related deaths; oesophageal cancer, 10,7%; breast cancer, 6,6%; lymphatic cancer, 6,4%; stomach cancer, 6,2%; colon and rectum cancer, 6%; liver cancer, 5,9%; cervical cancer, 5,8%; prostate cancer, 5,2%; and other forms of cancer, 29

## **Malaria**

The Department of Health reported in August 1995 that the decrease in the number of reported malaria cases between 1989 and 1992 had been reversed in 1993. In 1992, 2 872 cases were reported, which increased to 13 285 in 1993.<sup>42</sup> [<sup>42</sup> Ibid] According to the principal medical officer of the directorate epidemiology at the Department of Health, Dr G Uyirwoth, the 1991/92 drought caused unfavourable breeding conditions for mosquitoes, resulting in fewer malaria cases. The situation was reversed in 1993, when rainfall was higher.<sup>43</sup> [<sup>43</sup> Personal communication with Dr G Uyirwoth, principal medical officer, directorate epidemiology, Department of Health, 29 November 1995] In 1994 the incidence rate of malaria per 100 000 of the population was highest in Mpumalanga (105,8), followed by KwaZulu/ Natal (52,9), the Northern Province (37,9) and Gauteng (3,8). The incidence rate per 100 000 people averaged 25,4 for South Africa.<sup>44</sup> [<sup>44</sup> Department of Health, *Epidemiological Comments*, August 1995]

In 1994, 93% of all malaria notifications came from the three malariaendemic provinces, ie KwaZulu/ Natal (44%), Mpumalanga (30%) and the Northern Province (19%). The incidence rate of malaria among Africans in 1994 was 32 per 100 000 people, four times the rate for whites (8,4). The incidence rate among coloured people and Indians was very low (0,3 and 0,4 respectively).<sup>45</sup> [<sup>45</sup> Ibid]

In the period January–September 1995, 10 286 cases of malaria had been reported.<sup>46</sup> [<sup>46</sup> Ibid]

In June 1995 the South African Travel Medicine Advisory Group declared the Kruger National Park a high-risk endemic area for a new strain of drug-resistant malaria. According to a member of the advisory group, Dr Adrian Brink, visitors to the park could no longer rely on traditional forms of malaria prophylaxis. The new chloroquine-resistant malaria strain had reportedly been brought into South Africa from Mozambique.<sup>47</sup> [<sup>47</sup> *Business Day* 28 June 1995]

## **Malnutrition**

In 1994 the Department of Education undertook a national anthropometric survey of schoolchildren to assess the extent and location of malnutrition in the provinces. The nutritional status of school entrants was regarded as an indication of the nutritional conditions and socio-economic development of the general population. The survey found that acute malnutrition (wasting) was not a major problem since only 2,6% of children (122 546) suffered from it. However, some 424 197 children were found to be underweight, and 622 157 stunted. If these figures were added together they indicated that more than 1m

children between five and nine years of age were malnourished.<sup>48</sup> [48 Department of Health, *Epidemiological Comments*, April 1995]

The following table shows the number and proportion of children who were underweight, stunted and wasted according to province in 1994.<sup>49</sup> [49 Ibid]

*Provincial breakdown of malnourished children: 1994*

Underweight<sup>a</sup>

Stunted<sup>b</sup>

Wasted<sup>c</sup>

Total

Number

Proportion<sup>d</sup>

Number

Proportion<sup>d</sup>

Number

Proportion<sup>d</sup>

Number

Eastern Cape

76 391

9,2%

134 968

16,8%

19 531

2,5%

230 889

**Free State**

28 687

8,0%

38 859

11,2%

6 073

1,8%

73 619

**Gauteng**

40 310

4,6%

60 199

7,1%

17 315

2,1%

117 824

**KwaZulu/Natal**

61 314

5,6%

125 002

11,8%

19 573

1,9%

205 888

**Mpumalanga**

23 033

6,2%

40 977

11,4%

6 292

1,8%

70 302

**North-West**

51 525

12,0%

58 576

14,1%

17 776



4,4%

127 877

Northern Cape

20 302

20,9%

18 045

19,2%

4 935

5,4%

43 282

**Northern Province**

67 762

10,4%

84 475

13,4%

19 004

3,1%

171 241

Western Cape

54 873

12,0%

61 056

13,8%

12 047

2,8%

127 977

Total/Average

424 197

9,0%

622 157

13,2%

122 546

2,6%

1 168 899

a

Underweight reflects the cumulative effects of episodes of malnutrition and of infections since birth or even before birth.

b

Stunting reflects long-term growth deficiency caused by either chronic food deficiencies or repeated infections and is used to assess chronic malnutrition in children.

c

Wasting reflects acute current malnutrition and is the index used in most nutritional emergencies, as well as in

long-term situations of malnutrition, such as famine.

d

Proportion of children who were underweight, stunted or wasted as a proportion of the number of children in each province.

In the Northern Cape, the Western Cape, the North-West, the Northern Province and the Eastern Cape the **proportion** of stunted children was higher than the national average (13,2%). The proportion of children who were wasted was also higher than the national average in these provinces, with the exception of the Eastern Cape. The Northern Cape had the highest proportion of children for all three indicators compared with the other provinces.<sup>50</sup> [<sup>50</sup> Ibid]

However, according to the Department of Health, estimates of the total **number** of children who were malnourished according to the three indicators above showed that the largest number were in the Eastern Cape, followed by KwaZulu/Natal and the North

The pie chart below provides a proportional breakdown of malnourished children by province:

## Measles

In 1993, 12 870 cases of measles were reported in South Africa. The incidence rate of measles was 32 per 100 000 of the population, which was the highest incidence rate of all notifiable conditions after tuberculosis. The incidence rate was highest in the Northern Province (71 per 100 000 of the population), followed by the Eastern Cape (53), the Northern Cape (52) and the Western Cape (37). The coloured population was most affected by the disease (with an incidence rate of 36), followed by Africans with 35. The incidence rate for whites was 20, while the rate for Indians was only five.<sup>52</sup> [<sup>52</sup> Department of Health, *Health Trends in South Africa 1994*, April 1995]

The number of cases reported in 1994 (3 390) decreased by 74% from 1993 (12 870). The number of people dying from measles also declined from 53 in 1992 to 19 in 1993 and 12 in 1994. The Department of Health noted that the drop in the number of cases occurred in spite of the fact that reported measles immunisation coverage fell from 85% of children in 1993 to 77% in 1994. In order to prevent future epidemics in South Africa sustained immunisation coverage rates of at least 92% needed to be maintained. According to the department, younger age groups were the main targets of the measles immunisation strategy launched in 1991 and were therefore, less affected by the disease.<sup>53</sup> [<sup>53</sup> Department of Health, *Epidemiological Comments*, April 1995]

## Tuberculosis

A symposium on tuberculosis (TB) was held in September 1995 at which it was said that South Africa had one of the highest incidences of TB in the world, with up to 7 000 people dying from the disease each year. The South African Medical Research Council (MRC) predicted that TB would be the biggest killer of HIV-positive patients by 2000 as AIDS fostered latent TB infection. An emerging strain of drug-resistant TB, the poor management of TB control programmes, rapid urbanisation and poverty would only exacerbate the problem, the MRC said.<sup>54</sup> [<sup>54</sup> *Business Day* 27 September 1995]

The following table shows the number of TB cases reported from 1990 to 1993 and the incidence rate per 100 000 of the population according to population group (figures for 1994 were not available):<sup>55</sup> [<sup>55</sup> Department of Health, *Epidemiological Comments*, January 1995]

*Cases reported and the incidence rate of TB according to population group: 1990–93*

1990  
 1991  
 1992  
 1993  
 Number  
 IR<sup>a</sup>  
 Number  
 IR<sup>a</sup>  
 Number  
 IR<sup>a</sup>  
 Number  
 IR<sup>a</sup>  
 African  
 59 093

212

54 481

190

58 205

198

62 293

207

Coloured

19 604

604

21 501

652

22 172

663

24 201

713

Indian

580

59

547

55

558

55

519

51

White

882

18

810

16

967

19

964

19

Unknown race

49

—

154

—

397

—

1 321

–

Total

80 208

216

77 493

204

82 299

212

89 298

225

a

Incidence rate per 100 000 of the population.

Although most cases of TB were reported among Africans, between 1990 and 1993 the incidence rate for coloured people was consistently the highest. Over the same period the incidence rates for both whites and Indians were far below the national average.

According to the Department of Health, the TB incidence rate in 1993 was highest in the Western Cape (703 per 100 000 of the population), followed by the Free State (472), the Northern Cape (417) and the Eastern Cape (281). The incidence rate was lowest in the Northern Province (53). The department said that no reason had been found to date to explain the higher incidence rate in the southern provinces.<sup>56</sup> [56 Ibid]

In January 1995 the Department of Health launched a national TB register which would be a 'standardised record of information on diagnosis and treatment' and would for the first time provide a clear indication of the incidence of TB in the country. According to the programme leader of the

national TB research programme of the MRC, Dr Bernard Fourie, information had previously not been collected nationally in a standardised way, which made accurate interpretation of statistics ‘practically impossible’.

## Typhoid Fever

In 1994, 820 cases of typhoid fever were notified in South Africa—a drop of 50% on the number notified in 1993. The Department of Health noted that a ‘sustained and substantial’ decline in the number of cases had occurred since 1989, when 2 640 cases were notified. This figure was much lower than the average of between 3 000 and 6 000 cases which had been notified annually from 1920 to 1989. The number of deaths resulting from the disease also declined from 132 registered deaths in 1989 to 64 in 1992 (ie by 52%).

According to the department, the number of notified cases in Gauteng, the Eastern Cape, the North-West, the Northern Cape and the Western Cape had remained fairly constant between 1985 and 1994. However, there had been a dramatic decline in the number of reported cases in KwaZulu/Natal and the Northern Province, where drops of 93% and 94% respectively had been recorded between 1985 and 1994. In 1985, 81% of all notified typhoid cases were recorded in KwaZulu/Natal and the Northern Province but by 1994 the figure had declined to only 37% (the proportion of typhoid cases in Mpumalanga in 1994 was 34%, although the number of cases had dropped by 57% from 1985 to 1994). The number of reported cases nationally also dropped by 85% from 1985 to 1994. The national incidence rate of typhoid fever dropped from 17 per 100 000 people in 1985 to two in 1994 (by 88%).<sup>58</sup>

[<sup>58</sup> Department of Health, *Epidemiological Comments*, February 1995]

## HEALTH RESOURCES

### Finance

A report entitled *Health Expenditure and Finance in South Africa*, published jointly by the Health Systems Trust and the World Bank in 1995, found that although in 1992/93 South Africa spent R30bn on health services (ie 8,5% of gross domestic product (GDP)), its people were less healthy than those in comparable countries at a similar level of economic development. The public sector contributed 38,7% of the funds spent on health care in South Africa, donors 0,5% and the private sector 60,8%—of which medical aid schemes paid two thirds. The report noted that medical aid schemes spent 15 times more per person on their beneficiaries than the government spent on a person using public-health facilities in South Africa’s poorest 75 magisterial districts. Only 17% of the population belonged to a medical aid scheme and only 23% had access to private health services on a regular basis. Medicines accounted for one third of all health care expenditure by private medical aid schemes. Medical aid scheme contributions by members had increased from 7% of average formal sector salaries in 1982 to 15% in 1992. Also, with the exception of nurses, there were more health professionals in the private health sector than in the public health sector (ie 93% of dentists, 89% of pharmacists, 66% of specialists and 62% of general practitioners were in the private sector).<sup>59</sup> [<sup>59</sup> Health Systems Trust and the World Bank, *Health*



*Expenditure and Finance in South Africa*, 1995]

The report said further that public health services were biased towards curative hospital-based care. Some 81% of government health expenditure was allocated to hospitals, of which 44% went to tertiary or academic hospitals. Non-hospital primary health care services accounted for only 11% of total recurrent public health expenditure. Average public health care expenditure per person was not distributed equitably between provinces or regions as per capita expenditure in the richest districts was on average 3,6 times more than in the poorest districts.<sup>60</sup> [<sup>60</sup> Ibid]

The report estimated that an additional R1,5bn to R2,5bn would have to be spent annually on public sector primary care services to ensure full national coverage by a number of preventive programmes and to extend basic health services to all who needed these services. The report suggested that a substantial proportion of the cost of expanding primary care services would have to be financed out of savings on hospital services, particularly in academic and tertiary hospitals (academic hospitals were attached to medical schools, while tertiary hospitals would include academic hospitals as well as hospitals which had specialist units and intensive care units). Additional funds would be required from government budgets and donors to ensure that primary care services were improved substantially within the next few years and until other sources of finance had been found.<sup>61</sup> [<sup>61</sup> Ibid]

## **The Budget**

Altogether R16,89bn was allocated to health in 1995/96, representing 11% of total government expenditure (an increase of 0,5 percentage points on 1994/95 figures) and 3,4% of GDP (down from 3,5% in 1994/95). Health received the second highest allocation, after education, in the consolidated national and provincial budget in both 1994/95 and 1995/96.<sup>62</sup> [<sup>62</sup> Department of Finance, *Budget Review*, 15 March 1995]

In 1995/96 an amount of R1,19bn was allocated to the national Department of Health, representing a drop of 27% in nominal terms on the 1994/95 revised estimate. The decrease was partly the result of the devolution of certain primary health care functions to provincial governments, according to the *Budget Review*. (Most expenditure on health took place at provincial level.)

## **Provincial Health Budgets**

In 1995/96 a total of R15,4bn was allocated to provincial health services, including some R680m for the provision of free health care, R65m for the clinicbuilding programme and R500m for the primary school nutrition feeding scheme. The amount represented a 10% increase on expenditure in 1993/94. An additional R400m had been included in the 1995/96 reconstruction and development programme vote for transfer to the health departments of the Free State, Gauteng and the Western Cape to facilitate the change from tertiary to primary health care (ie the shift from more specialised and expensive curative hospital-based care to primary health care), according to the *Budget Review*.<sup>63</sup> [<sup>63</sup> Ibid] However,

according to the minister for health, Dr Nkosazana Zuma, an amount of R500m had been made available for this purpose.<sup>64</sup> [<sup>64</sup> *Hansard* (NA) 10 cols 2885–2919, 19 June 1995]

The following preliminary allocations were made to the various provincial departments of health in 1995/96:<sup>65</sup> [<sup>65</sup> Republic of South Africa, *Estimate of Expenditure to be Defrayed from the National Revenue Account during the Financial Year Ending 31 March 1996*]

*Preliminary allocations to provincial departments: 1995/96*

R

Proportion

Eastern Cape

1 974 219 000

13,8%

**Free State**

1 060 189 000

7,4%

Gauteng

3 241 925 000

22,7%

**KwaZulu/Natal**

2 907 793 000

20,3%

Mpumalanga

604 707 000

4,2%

**North-West**

917 737 000

6,4%

Northern Cape

262 306 000

1,8%

**Northern Province**

1 444 376 000

10,1%

Western Cape

1 893 317 000

13,2%

Total<sup>a</sup>

14 306 569 000

100,0%

a

Excludes carry-through cost of 1994/95 salary improvements. Figures may not add up owing to

Dr Zuma announced in March 1995 that in future the Free State, Gauteng and the Western Cape would receive 'significantly less in the [health] budget' than in the past and that provinces which included the former homelands would receive the largest increases. The national health budget had been drawn up

according to a formula in which population size was the main criterion: the provinces with the highest per capita incomes would receive proportionally less than provinces with lower per capita incomes to establish a more equitable allocation between the provinces, Dr Zuma said.<sup>66</sup> [<sup>66</sup> *Business Day*, *The Citizen* 15 March 1995] The department aimed to achieve equity between the provinces over a period of five years. However, a researcher at the health economics unit at the University of Cape Town, Ms Di McIntyre, described this objective as ‘an ambitious task, considering that the United Kingdom took two decades to close its relatively smaller gap in health care provision’.<sup>67</sup> [<sup>67</sup> *Business Day* 4 April 1995]

According to a researcher at the Centre for Health Policy at the University of the Witwatersrand, Dr Alex van den Heever, the plan to achieve equity between the provinces failed to take into account the fact that both Gauteng and the Western Cape treated many patients who came from outside their provincial borders.<sup>68</sup> [<sup>68</sup> *Ibid* 27 March 1995] Dr van den Heever said that Gauteng’s health budget had been cut by a nominal 10%, or 22% in real terms. Although the central government had allocated R330m to Gauteng health services to help the province bridge the transition phase, a further R290m was needed to keep services at constant levels. The bridging finance was a one-off allocation and the Gauteng health services ‘faced a disaster unless a similar allocation was used in 1996/97’, he said.<sup>69</sup> [<sup>69</sup> *Ibid*]

It was reported that the Free State would receive R32m and the Western Cape R170m in bridging finance for health services for 1995/96.<sup>70</sup> [<sup>70</sup> *Ibid* 15 March 1995] However, according to the MEC for health in the Western Cape, Mr Ebrahim Rasool, the province’s health department would have a budget deficit of R192m even after bridging finance had been granted.<sup>71</sup> [<sup>71</sup> *The Citizen* 7 February 1995]

The nine provincial departments of health made the following allocations for health in 1995/96:<sup>72</sup> [<sup>72</sup> Eastern Cape Province, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; Province of the Eastern Transvaal, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; Province of KwaZulu/Natal, *Budget 1995/96*; North-West Province, *Estimate of Expenditure to be Defrayed from the Provincial Revenue Account During the Financial Year Ending 31 March 1996*; The Province of the Northern Cape, *Estimate of Expenditure to be Defrayed from the Provincial Revenue Account During the Financial Year Ending 31 March 1996*; Northern Transvaal Province, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; PretoriaWitwatersrand-Vereeniging, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; Province of the Western Cape, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*]

*Health expenditure in the provinces: 1995/96*

Admin-istration R(000)

Community health services R(000)

Hospital services R(000)

Auxiliary/ associated services R(000)

Other R(000)

Total R(000)

Eastern Cape

101 668

370 710

1 418 457

84 946

0

1 975 781

**Free State**

N/A

N/A

N/A

N/A

N/A

N/A

**Gauteng**

47 683

393 526

2 279 495

415 615

0

3 090 274<sup>a</sup>

**KwaZulu/Natal**

66 128

1 017 130

1 810 152

203 442

372

3 097 224

**Mpumalanga**

62 540

134 806

345 259

53 639

670 423

1 266 667

**North-West**

96 721

766 502<sup>b</sup>

0<sup>c</sup>

54 755

885 914<sup>d</sup>

1 803 892

Northern Cape

41 785

55 467

167 245

2 331

372

267 200

**Northern Province**

195 895

750 162<sup>e</sup>

345 220<sup>f</sup>

153 099<sup>g</sup>

0

1 444 376

Western Cape

91 572

274 558

1 409 538

97 683

372

1 873 723

a

The total amount was reduced by R46,045m, which was recoverable from national health internal charges.

b

Falls under district health services.

c

An amount of R63,72m was allocated to state-aided hospitals under the administration vote and R716m to hospital services at primary and secondary levels under the district health services vote.

d

Includes R6m for population development.

e

Falls under primary health care services.

f

Includes R245,52m allocated to regional and specialist hospital services and R99,70m for provincial hospital services.

g

Falls under health care support services.

N/A —



## Medical Aid Schemes

Republic Ratings (a credit risk agency) said in January 1995 that 13 out of 14 medical aid schemes which had agreed to a formal risk rating by the agency emerged as financially strong. The ratings were in sharp contrast to similar ratings of 31 medical aid schemes in 1994, when almost a third had been considered to be 'vulnerable'. The managing director of Republic Ratings, Mr Dave King, identified the following structural problems experienced by medical aids:<sup>73</sup> [<sup>73</sup> *Weekend Star* 14 January 1995]

- sharply escalating medical costs resulted in higher premiums and declining membership;
- defects in the medical aid system discouraged efficiency and led to abuse by service providers, members and the administrators;
- substitute products, such as catastrophe insurance schemes, led to younger and healthier members leaving the schemes and increased the proportion of pensioners in the schemes; and
- there were relatively poor financial controls.

Mr King said in March 1995 that medical aid members' annual contributions had increased by more than 1 000% over the previous ten years. From 1982 to 1993 the average annual contribution had increased from R442 to R5 220. This figure represented an annual growth of 25% a year compared with an average annual growth of 14% in the consumer price index (CPI). Mr King estimated that medical aid contributions as a proportion of annual wages would increase from 8% in 1991 to more than 25% by 2000 if the trend continued at the same rate. Such an increase would effectively exclude most employees from medical aid cover. According to Mr King, medical aid membership figures had started declining in 1989 as more younger people either insured themselves or took out 'catastrophe' cover only.<sup>74</sup> [<sup>74</sup> *The Star* 9 March 1995]

The *South African Medical Journal (SAMJ)* reported in March 1995 that total contributions to medical aid schemes and benefits paid out increased by 28% and 27% respectively between 1991 and 1992. This was twice as much as the 13,9% increase in the CPI over the same period. The major areas of increase in medical aid scheme expenditure between 1991 and 1992 were medicines (39%), medical specialists (30%) and private hospitals (28%).<sup>75</sup> [<sup>75</sup> *South African Medical Journal*, March 1995]

In 1992/93 approximately R17,9bn (5,2% of GDP) had been spent on buying health insurance cover and paying for health services in the private sector, the *SAMJ* said. Expenditure in the private health sector was estimated to account for 61% of total health expenditure in South Africa. Some R923m was paid to insurance companies and R12bn to medical aid schemes (including contributions by private sector employees and civil servants). Approximately 22% of expenditure (R3,9bn) was direct payments to health service providers by households.

A survey by the Representative Association of Medical Aid Schemes (Rams), published in 1995, found that medical schemes had achieved a 'far stronger' financial position in 1994 than in 1993, following the deregulation of the Medical Schemes Act of 1993, which allowed schemes to introduce flexible health-cover packages. The survey also found that membership of medical aid schemes had increased by 3,6% in 1994 from 1993. Over the same period the accumulated funds per member for the industry had increased by 2,3% to R1 308, which had raised the industry's reserves for claims settlement from 2,4 to three months. According to the survey, medical costs per member at private hospitals had increased by 32% in 1994, but costs at provincial hospitals had dropped by 10%. The executive director of Rams, Mr Reg Magennis, expected a further increase in private hospital costs in the future. He predicted that many medical aid schemes would enter into 'preferred provider arrangements' with hospitals, clinics and doctors, whereby schemes would guarantee that they would finance their members' attendance of specific hospitals in exchange for discounts on certain services.<sup>76</sup> [<sup>76</sup> *Business Day* 13 September 1995]

## Health Services

### Medical Personnel

The following health care personnel were registered with the South African Medical and Dental Council (SAMDC), the South African Nursing Council (SANC) and the South African Pharmacy Council between 1990 and 1994:<sup>77</sup> [<sup>77</sup> Department of Health, *Health Trends in South Africa*, 1994; information provided by the South African Medical and Dental Council (SAMDC), the South African Nursing Council (SANC) and the South African Pharmacy Council, 23 October 1995]

#### *Registered health care workers: 1990–94a*

Dentists<sup>b</sup>

Doctors<sup>b</sup>

Nurses<sup>c</sup>

Pharmacists<sup>b</sup>

Supplementary<sup>d</sup>

Total

1990

3 775

23 139

148 558

9 073

26 255

210 800

1991

3 944

24 614

151 610

9 280

27 912

217 360

1992

3 998

25 375

155 679

9 277

29 727

224 056

1993

4 024

25 967

157 497

9 388

33 517

230 393

1994

4 029

26 452

158 538

9 511

35 373

233 903

a

Figures include registered health care personnel not resident in South Africa. The number of registered health care personnel in South Africa may, therefore, be lower. See Other health personnel below.

b

Includes the former 'independent' homelands.

c

Includes most nurses working in the former 'independent' homelands.

d

Supplementary health care professionals are primarily involved in preventive, promotive and rehabilitative work.  
Includes the former 'independent' homelands.

The number of registered pharmacists increased by 4,8% between 1990 and 1994. The numbers of both registered dentists and nurses showed an increase of 6,7%, while the number of doctors increased by 14,3% over the same period. The number of supplementary health personnel showed the greatest increase between 1990 and 1994

## **Doctors**

The *SAMJ* reported in January 1995 that neither the SAMDC, the Department of Statistics nor the Medical Association of South Africa (Masa) had accurate figures for the number of doctors in the country. Reasons cited for this were that deaths and retirements were not regularly reported to the SAMDC, doctors who emigrated or who were on extended leave abroad frequently did not inform the SAMDC, and not all medical graduates registered with the council. On average 1 000 medical students qualified each year, of whom approximately 600 were added to the pool of doctors in South Africa. However, the annual growth rate of medical graduates (1,2%) was below the annual population growth rate (2,3%). (These figures did not, however, take account of the influx of foreign doctors.)<sup>78</sup> [<sup>78</sup> *South African Medical Journal*, January 1995]

The MEC for health in Gauteng, Mr Amos Masondo, said in April 1995 that some 500 foreign doctors were employed by the province in its hospitals. Most came from Bangladesh, Bulgaria, Pakistan, Poland, Zaire and Zambia. According to the Democratic Party spokesman for health for Gauteng, Mr Jack Bloom, some of these doctors were unqualified and a 'possible danger to patients', as most of them came from the 'under-developed world', which he said had low medical standards. Mr Bloom said that some hospitals, particularly in black areas, showed a 'disturbing reliance' on foreign doctors, who usually had only limited registration (ie they had to work in a specified geographic area for a maximum period of one year under the supervision of a registered doctor) with the SAMDC.<sup>79</sup> [<sup>79</sup> *Business Day* 19 April 1995] The chairman of the Senior Hospital Doctors' Association of South Africa (Sehdasa), Dr Stefan Morell, responded that the real problem was not the quality of foreign doctors but the failure of the government to improve the working conditions of doctors in the public sector. According to Dr Morell, the 'patient load was increasing while vacancies remained unfilled, facilities were deteriorating and budgets were cut—causing many doctors to leave South Africa'.<sup>80</sup> [<sup>80</sup> *Ibid* 20 April 1995] Dr Morell said that his association had urged the introduction of a probationary period for foreign doctors of one or two years, after which they would have to write examinations for full registration.<sup>81</sup> [<sup>81</sup> *Sunday Times* 30 April 1995]

Dr Jonny Taitz, chairman of the Junior Doctors' Association of South Africa (Judasa), said in July 1995 that junior doctors and medical students were willing to serve in rural areas to improve the quality of rural health care, provided that they were given adequate incentives. However, young doctors were

opposed to the compulsory community service recommended by the government as this would lead to larger numbers of doctors leaving the country (see *Providers of primary health care* below). According to Dr Taitz, the main motivation for young doctors to work overseas was financial, as most medical students had to pay off study loans of R40 000 or more.<sup>82</sup> [<sup>82</sup> *Sunday Tribune* 30 July 1995] Representatives of the Academic Doctors' Group, Judasa, the Registrars' Association of Medical Faculties of South Africa and Sehadasa subsequently rejected unanimously compulsory community service and agreed that service should be voluntary and incentive-based.<sup>83</sup> [<sup>83</sup> *South African Medical Journal*, June 1995]

In July 1995 the Department of Health announced that intern posts at leading academic hospitals, including the Baragwanath, Groote Schuur, J G Strijdom, Johannesburg General and Tygerberg hospitals, would be cut in order to spread training and resources to 'under-served' provinces such as KwaZulu/Natal and the Northern Province. Medical staff and students at these academic hospitals subsequently accused the department of a 'lack of transparency' in its decision making and of causing further deterioration of conditions at central hospitals by cutting staff complements. It was also suggested that interns would receive 'inadequate' training in peripheral areas.<sup>84</sup> [<sup>84</sup> *The Star* 18 September 1995]

Masa said in the same month that a working group had been appointed by the minister for health, Dr Nkosazana Zuma, to investigate the deteriorating working conditions of doctors, their increasing workloads, severe budget cuts and staff shortages. According to Masa, the agenda of the working group included mechanisms for improving doctors' negotiating position (as doctors could not strike), service contracts, working conditions, disparities in pay and the low levels of overtime pay. Compulsory community service and the redistribution of intern posts in 1996 would also be discussed.<sup>85</sup> [<sup>85</sup> *South African Medical Journal*, July 1995; *The Star* 10 August 1995]

It was reported in September 1995 that the Department of Health had launched a campaign to attract urban doctors to rural areas by providing tax concessions, financial perquisites, extra leave and free further education. At the time of writing the plan had not been finalised.<sup>86</sup> [<sup>86</sup> *Cape Times* 19 September 1995]

An investigation in September 1995 by the *Cape Times* into the working conditions of doctors at one of the province's hospitals showed that qualified doctors training to be specialists were taking home 'as little as R3300 a month after tax', before repaying their medical student loans, which averaged about R1 200 a month. These doctors worked about 120 hours a week and sometimes worked shifts of 48 hours without sleep.<sup>87</sup> [<sup>87</sup> *Ibid*]

Dr Zuma said in October 1995 that more than 1 200 health care personnel, including 148 doctors and specialists, had left South Africa in the previous two years. The emigration of doctors and medical professionals had increased from 126 in 1993 to 698 in 1994 (ie by 454%). Almost 200 health care professionals had left in the first three months of 1995.<sup>88</sup> [<sup>88</sup> *Business Day* 11 October 1995] Dr Zuma also said that 387 doctors had left the service of state hospitals from January to July 1995, 254 of them in the Western Cape. The reasons included the decision to emigrate, insufficient pay, heavy workloads, going

into private practice, the absence of long-term career prospects, threats by and disruptions of services by trade unions, and unsatisfactory working conditions.<sup>89</sup> [<sup>89</sup> *The Citizen* 11 October 1995]

In November 1995 the Department of Health said that groups of foreign-trained doctors would be imported to work in South Africa on a contract basis to address the critical shortage of doctors in the public sector. According to the department, the Cuban and German governments had indicated their willingness to canvass groups of doctors to work in South Africa. The department proposed that a new system of limited registration for foreign doctors be considered.<sup>90</sup> [<sup>90</sup> *Ibid* 8 November 1995]

Dr Zuma announced in November 1995 that between 100 and 200 Cuban doctors would arrive in South Africa from January 1996 to help 'alleviate the country's critical shortage of general practitioners'. The doctors would initially be offered one-year contracts with the state health service but these could later be renewed for a further two years.<sup>91</sup> [<sup>91</sup> *The Star* 23 November 1995, *The Citizen* 30 November 1995] A spokesman for Masa, Professor Dave Morrell, said that while Masa accepted the recruitment of the Cuban doctors, the government should first improve the working conditions and remuneration of doctors already in the public sector.<sup>92</sup> [<sup>92</sup> *The Citizen* 24 November 1995] The South African Medical Practitioners' Association, representing mainly African doctors, accepted the use of Cuban doctors as a 'short-term solution' to the shortage of doctors in rural areas. However, such doctors should be allowed to work only in the public sector, and should be given limited registration which should be renewed annually, the association added.<sup>93</sup> [<sup>93</sup> *Sowetan* 1 December 1995]

The first meeting of the Interim National Medical and Dental Council of South Africa, which replaced the SAMDC and similar councils in the former Ciskei and the Transkei, took place in September 1995. The interim council was to be in place for two years and its main function would be to advise the minister for health on the establishment of a permanent council and on legislative changes to accommodate this process.<sup>94</sup> [<sup>94</sup> Personal communication with the SAMDC, 28 October 1995] The interim council was to recognise all registrations by the three constituent councils, including those of foreign doctors who had received full registration with the Transkei Medical Council.<sup>95</sup> [<sup>95</sup> *South African Medical Journal*, December 1994]

## **Nurses**

The table below shows the total number of nurses registered with the SANC (which included most nurses in the former homelands) in 1993 and 1994.<sup>96</sup> [<sup>96</sup> Department of Health, *Health Trends in South Africa*, 1994; information provided by the SANC, 23 October 1995]

*Registered nurses: 1993–94*

1993

1994

Increase (decrease)

Registered nurses

78 006

79 654

2,1%

Enrolled nurses

30 274

30 065

(0,7%)

Nursing auxiliaries

49 217

48 819

(0,8%)

Total

157 497

158 538

0,7%

It was reported in February 1995 that a single controlling body for South African nurses was to be established for the first time. The interim nursing council would replace the four existing nursing councils and provide uniform regulations for the nursing profession throughout South Africa. The councils in Bophuthatswana, the Ciskei and the Transkei, and the SANC would then be abolished.<sup>97</sup> [97]



*The Natal Mercury* 1 February 1995] According to a spokesman for the SANC, the interim council was formally established in August 1995 and would be replaced by an elected permanent council within two years.<sup>98</sup> [<sup>98</sup> Information provided by a spokesman for the SANC, Mr David Harmse, 25 October 1995]

The Democratic Nursing Organisation of South Africa (Denosa) was established in January 1995 to replace South Africa's 11 nursing associations. An interim national board was established to organise elections for a new board by January 1996. Denosa would eventually represent approximately 180 000 nurses in South Africa, once the various nursing associations had been disbanded. However, according to the South African Nursing Association, a majority of its 92 000 members had voted against disbanding and had thereby delayed the whole process. At the time of writing the association was still discussing its future.<sup>99</sup> [<sup>99</sup> Personal communication with the South African Nursing Association, 25 October 1995]

In September 1995 the cabinet rejected nurses' demands for an immediate pay rise of 33% across the board, following strikes in various provinces (see *Strikes* below). The minister for the public service and administration, Dr Zola Skweyiya, said that although nurses' grievances were supported by the government, no funds were available in the 1995/96 financial year for salary increases. However, Dr Zuma announced that a cabinet proposal to increase nurses' salaries in the 1996/97 financial year would be put to the central bargaining chamber of the public service.<sup>100</sup> [<sup>100</sup> *The Citizen* 29 September 1995]

A national nurses' forum was established in September 1995 following countrywide strikes by nurses. Nurses were dissatisfied with unions, such as the National Education, Health and Allied Workers' Union (Nehawu) and the Hospital Personnel Trade Union of South Africa (Hospersa), which had allegedly 'failed to represent their interests' in the annual negotiations over public sector salaries in the central bargaining chamber. However, nurses had failed to establish a single union in time to participate in the bargaining chamber and were, therefore, represented by Hospersa and Nehawu in the negotiating process

A draft nurses' charter was formulated by Nehawu in October 1995. The charter aimed to 'change the culture and discipline of all health workers' and to contribute to developing a code of conduct for the health sector and the public service in general. A patients' charter was also being developed.<sup>102</sup> [<sup>102</sup> *The Star* 13 October 1995]

### ***Traditional Healers***

It was reported in November 1995 that the Rand Afrikaans University (RAU) would be offering a three-year diploma programme in traditional health care for practising inyangas and sangomas. The programme was believed to be the first of its kind in South Africa and possibly the only one of its kind in the world. The programme would include classes in botany, herbology, pharmacology and entrepreneurship. It would also provide traditional healers with basic skills in modern medicine, including hygiene and the use of sterilised tools.<sup>103</sup> [<sup>103</sup> *Sowetan* 6 November 1995]

## **Other Health Personnel**

According to the SAMDC, the following numbers of health personnel (other than dentists, doctors, nurses and pharmacists) were registered in South Africa (including the former 'independent' homelands) in 1993 and 1994: 104 [104 Department of Health, *Health Trends in South Africa*, 1994]

### *Health personnel: 1993–94*

1993

1994

Increase (decrease)

Ambulance and emergency-care assistants<sup>a</sup>

3 219

4 449

38,2%

**Anaesthetic practitioners**

8

8

0,0%

Biokinetic practitioners

111

126

13,5%

**Biomedical engineers**

11

10

(9,1%)

Chiropodists

160

161

0,6%

**Clinical biochemists**

29

27

(6,9%)

Clinical technologists

368

387

5,2%

**Dental therapists**

158

180

13,9%

Dieticians

779

862

10,7%

**Electro-encephalographic technicians**

66

61

(7,6%)

**Food inspectors**

32

29

(9,4%)

**Health inspectors**

2 630

2 678

1,8%

**Masseurs**

34

33

(2,9%)

**Medical orthotists and prosthetists**

283

292

3,2%

Medical physicists

79

85

7,6%

**Medical scientists**

390

372

(4,6%)

Medical technologists

4 052

4 152

2,5%

**Occupational therapists**

1 781

1 888

6,0%

Optical dispensers

137

138

0,7%

**Optometrists**

1 296

1 382

6,6%

Oral hygienists

757

787

3,8%

**Physiotherapists**

3 301

3 430

3,9%

Psychologists

7 169

6 869

(4,2%)

**Radiation technologists**

9

9

0,0%

Radiographers

3 699

3 883

5,0%

**Remedial gymnasts**

3

3

0,0%

Speech therapists, audiologists and audiometrists

975

1 031

5,7%

**Other**

1 981

2 041

3,0%

Total

33 517

35 373

5,5%

a

Registration of ambulance and emergency care assistants was only started in recent years and the 38,2% increase between 1993 and 1994 was, therefore, attributed to old and new personnel registering

A study by the Department of Pharmacy Practice at the University of Potchefstroom, which was published in 1995, found that pharmacists treating self-limited ailments saved members of the public potentially between R372m and R1,16bn a year. (Self-limited ailments referred to diseases which were not regarded as life-threatening, which did not normally lead to serious complications and corresponded to non-prescriptive medication. Up to date some 94 diseases had been classified as self-limited ailments). The study showed that 78% of all requests received by pharmacists were for the treatment of a medical condition and the rest were for specific pharmaceutical products. According to Professor Anton Dryer, the head of the department, the findings supported the view that 'pharmacies were often the first port of call for the treatment of or for obtaining advice regarding self-limiting ailments' (see also *Medicines* below).<sup>106</sup> [<sup>106</sup> Personal communication with Professor Anton Dryer, head of the Department of Pharmacy Practice at the University of Potchefstroom, 30 November 1995; *The Citizen* 1 June 1995]

## Hospitals

The following table shows the number of hospital beds in private and public hospitals in 1993 according to province:<sup>107</sup> [<sup>107</sup> K S Chetty, 'An integrated analysis of health facilities in the nine provinces of South Africa', *South African Medical Journal*, 4 April 1995]

*Number of hospital beds according to province: 1993*

Number of beds

Beds per 1 000 of population

Eastern Cape

23 157

3,5

**Free State**

11 493



4,1

Gauteng

41 297

6,0

**KwaZulu/Natal**

32 826

3,8

Mpumalanga

6 058

2,1

**North-West**

11 518

3,3

Northern Cape

3 090

4,0

**Northern Province**

12 846

2,5

Western Cape

19 664

5,4

Total

161 949

4,0

The total number of hospital beds had declined from 4,4 beds per 1 000 of the population in 1988 to four in 1993.<sup>108</sup> [<sup>108</sup> Ibid] However, according to Dr K S Chetty of the Department of Community Health at the University of Cape Town, the total number of hospital beds per 1 000 of the population did not accurately reflect the number of beds accessible to the general population. Private hospital beds were primarily accessible to the 'small proportion of the population who could afford them'. An analysis of the distribution of public sector hospital beds (referral, general and special beds) per 1 000 of the population and acute beds (referral and general beds only) would, therefore, present a more 'appropriate analysis' (General hospital beds referred to general medical and surgical care; referral hospital beds referred to specialist services, including intensive care; and special hospital beds referred to psychiatric hospitals and sanatoria, tuberculosis (TB) hospitals and miscellaneous hospitals such as maternity hospitals and institutions for the aged and chronically

The following table shows the number of public hospital beds and acute beds per 1 000 of the population in 1993:<sup>110</sup> [<sup>110</sup> Ibid]

*Number of public sector hospital beds according to province: 1993*

Public beds per 1 000 population<sup>a</sup>

Acute beds per 1 000 population<sup>b</sup>

Eastern Cape

2,7

2,2

**Free State**

2,6

2,2

Gauteng

3,0

2,4

**KwaZulu/Natal**

2,9

2,5

Mpumalanga

1,5

1,5

**North-West**

2,5

2,1

Northern Cape

2,7

2,2

**Northern Province**

2,1

2,0

Western Cape

3,9

2,3

Total

2,7

2,2

a

Includes referral, general and special hospitals in the public sector.

b

Includes referral and general hospitals only in the public sector.

The number of hospital beds per 1 000 of the population (excluding private hospitals) accessible to the general public (ie 2,7 public beds per 1000 of the population) was considerably lower (32,5%) than the number of available hospital beds if private hospitals were included (4 per 1 000 of the population). Dr Chetty noted that there had been no overall increase in the total number of beds in public hospitals since 1988. However, the number of private beds had almost doubled between 1988 and 1993 as 72 new private hospitals had been built during this period. The public hospital bed-to-patient ratios were highest in Gauteng and the Western Cape because these two provinces had more academic hospitals than the other provinces. If academic hospital beds were excluded, the number of referral beds per 1 000 of the population in the different provinces was more equitable. According to Dr Chetty, with the exception of Mpumalanga, overall there was an adequate number of hospital beds in the provinces. However, there was inequality in the level of care provided in provinces in which there was more than one academic teaching institution and provinces in which there was not more than one such institution. The disparity between levels of care in certain of the provinces had placed an 'unacceptable demand' and burden on tertiary hospitals (ie academic hospitals and referral hospitals providing specialist services) as they had been compelled to perform functions that should have been carried out at other levels. It was suggested, therefore, that the total number of hospital beds in South Africa be maintained at present levels, but that academic hospital beds be rationalised in provinces where there was more than one medica

The Mental Health and Substance Abuse Committee was established in February 1995 by the minister for health. The committee's mandate included investigating alleged malpractice and human rights abuses in psychiatric hospitals. Recommendations were handed to the minister in December 1995.<sup>112</sup> [112 *Sowetan* 24 November 1995]

## **Public Hospitals**

The MEC for health in KwaZulu/Natal, Dr Zweli Mkhize, announced in April 1995 that the building of a new academic hospital in Cato Manor (Durban) would start soon. The hospital would have 800 beds and would replace the King Edward VIII Hospital, which would be downgraded to a regional hospital. The hospital would cost R688m and R32m was allocated for its construction in the 1995/96 financial year.<sup>113</sup> [<sup>113</sup> *Weekend Star* 15 April 1995]

It was reported in May 1995 that the premier of KwaZulu/Natal, Dr Frank Mdlalose, had appointed a commission to investigate allegations of fraud amounting to millions of rands at the Addington Hospital in Durban. The commission would also investigate allegations of corruption, discrimination and victimisation at various provincial hospitals, including the Clairwood, G J Crookes, Edendale, King Edward VIII, King George V, Kokstad, R K Khan, Stanger and Wentworth hospitals.<sup>114</sup> [<sup>114</sup> *Sunday Times* 21 May 1995]

A provincial government technical planning committee in KwaZulu/ Natal proposed in June 1995 that two hospitals in Durban and two elsewhere in the province be closed. The hospitals to be closed included Addington Hospital, allegedly because it was far from most city residents and was costly to maintain. The committee said that the provincial Department of Health would have to pay more than R20m to repair damage to Addington Hospital by salt erosion. Other hospitals to be closed were the McCord Hospital (Durban), Osindisweni Hospital (north coast) and Montobello Hospital (Midlands). However, the committee recommended that five new hospitals be built in Adams Mission, Cato Manor, Hillcrest, Inanda and KwaMashu. The committee said that each hospital in Durban should have 500 beds only. Community health centres were to be upgraded and an additional 13 centres built. At the time of writing discussions were still taking place regarding the committee's recommendations.<sup>115</sup> [<sup>115</sup> *Business Day* 9 June 1995; information provided by the KwaZulu/Natal Department of Health, 10 January 1996]

The task team appointed by the Gauteng Strategic Management Team to investigate the restructuring of the academic health complexes (AHCs) of the University of the Witwatersrand, the University of Pretoria and the Medical University of Southern Africa (Medunsa), suggested in mid-1995 that no medical schools be closed or academic hospitals be stripped of their status. Instead, the task team suggested that a plan be implemented over five years to develop effective management and establish management autonomy at academic hospitals, modify the syllabi to include communitybased education and rationalise services between AHCs to avoid duplication. All secondary hospitals should be allocated to a particular AHC, which should assist the hospitals with 'capacity building'. The number of health service students and postgraduate trainees should remain at present levels until a national policy for health worker education had been developed, the task team suggested.<sup>116</sup> [<sup>116</sup> *South African Medical Journal*, July 1995]

In October Coronation Hospital (Johannesburg) became a 'mother-and- child' hospital when the departments of obstetrics and gynaecology and of paediatrics moved from J G Strijdom Hospital to

Coronation Hospital, following a recommendation made by a commission of inquiry in 1994. The commission had recommended that academic departments be split between the two hospitals, after years of ‘confusion and anger over the disparities in their services’. The two hospitals were only 1km apart and formed part of the apartheid legacy of duplication of services for the different population groups.<sup>117</sup> [117 *The Star* 9 October 1995]

Mr Ben Theron, the national programme manager of the reconstruction and development programme, said in October 1995 that every public hospital and clinic in South Africa would undergo an audit to assess the state of buildings and equipment as health facilities countrywide had become ‘run-down and neglected’. The minister without portfolio, Mr Jay Naidoo, had authorised the provision of R15m to the Department of Health to fund the investigation.<sup>118</sup> [118 *Sunday Times* 8 October 1995]

In November 1995 the director general of health, Dr Olive Shisana, warned that the number of malpractice suits against state hospitals were expected to increase in the near future following ‘years of controversy surrounding the quality of care in state hospitals’. The problem was said to be caused by overworked doctors making mistakes and the poor training of some foreign doctors who had limited registration only with the SAMDC. Dr Shisana said that she had requested the Interim National Medical and Dental Council of South Africa to be ‘vigilant, implement a rigorous system of peer review and mete out punishment to individual doctors where necessary’.<sup>119</sup> [119 *The Star* 6 November 1995]

### **Private Hospitals**

The National Association of Private Hospitals said in June 1995 that the private hospital sector was ready to co-operate with the government and health funders in the provision of cost-effective health care. According to the executive director of the association, Dr Annette van der Merwe, private hospitals should change from ‘static organisations’ to large health service networks. They would maintain health, as opposed to treating illness, and ‘market share’ would be defined less by the number of admissions than by contracted services to a defined population.<sup>120</sup> [120 *Ibid* 13 June 1995]

### **Strikes**

During the period under review strikes took place at various medical institutions and related mainly to unsatisfactory working conditions and salary issues. Strikes were reported at the following hospitals:

- Garankuwa Hospital (North-West) in January 1995;<sup>121</sup> [121 *Sowetan* 5 January 1995]
- hospitals in Elim, Kgapane, Mankweng, Maphutha L Malatji and Nkhensani (Northern Province) also in January;<sup>122</sup> [122 *Ibid* 6 January 1995]
- St Andrew’s Hospital (Harding, KwaZulu/Natal) in the same month;<sup>123</sup> [123 *The Natal Witness* 12 January

1995]

- Holy Cross Hospital (Flagstaff, Eastern Cape) and Cecilia Makiwane Hospital (Mdantsane, Eastern Cape), also in January;<sup>124</sup> [<sup>124</sup> *Daily Dispatch* 14, 26 January 1995]
- Nkqubela Chest Hospital (Mdantsane, Eastern Cape) and Grahamstown Settlers' Hospital (Eastern Cape) in February;<sup>125</sup> [<sup>125</sup> *Ibid* 25 February 1995]
- Santa Hospital (Matatiele, KwaZulu/Natal) in March;<sup>126</sup> [<sup>126</sup> *Cape Times* 7 March 1995]
- Madadeni Hospital (Newcastle, KwaZulu/Natal) in April;<sup>127</sup> [<sup>127</sup> *Ibid* 11 April 1995]
- Witbank Provincial Hospital (Mpumalanga) in the same month;<sup>128</sup> [<sup>128</sup> *Sowetan* 12 April 1995]
- Tygerberg Hospital (Cape Town) also in April;<sup>129</sup> [<sup>129</sup> *The Citizen* 20 April 1995]
- Barberton Hospital (Mpumalanga) also in April;<sup>130</sup> [<sup>130</sup> *Sowetan* 20 April 1995]
- Charles Johnson Memorial Hospital (Nqutu, KwaZulu/Natal) in the same month;<sup>131</sup> [<sup>131</sup> *The Natal Witness* 21 April 1995]
- Frere Hospital (East London, Eastern Cape) in May;<sup>132</sup> [<sup>132</sup> *Daily Dispatch* 13 May 1995]
- Cala Hospital (Umtata, Eastern Cape) in the same month;<sup>133</sup> [<sup>133</sup> *Ibid* 22 May 1995]
- Grahamstown Themba Santa Association Centre (Eastern Cape) in June;<sup>134</sup> [<sup>134</sup> *Eastern Province Herald* 20 June 1995]
- some 13 clinics in Soweto (Gauteng) also in June; and<sup>135</sup> [<sup>135</sup> *Saturday Star* 19 August 1995]
- nearly 60 clinics throughout the Free State, including clinics in Bethlehem, Bloemfontein, Frankfort, Kroonstad, Ladybrandt, Odendaalsrus, Phuthaditjhaba, Sasolburg and Virginia in August.<sup>136</sup> [<sup>136</sup> *Sowetan* 22 August 1995]

In addition, at the beginning of September 1995, 1 700 nurses at Baragwanath Hospital (Soweto) went on strike to demand a 25% salary increase, pay parity for those employed by central government and those employed by local authorities (who earned higher salaries), and a revised tax system for nurses.<sup>137</sup>

[<sup>137</sup> *Business Day, The Citizen* 6 September 1995] Nurses were reported to be dissatisfied with an agreement between the central bargaining council and Nehawu and Hospersa, which had provided for a general salary increase of 5% for nurses. The strike spread rapidly to other provincial hospitals and clinics in Gauteng<sup>138</sup> [<sup>138</sup> *Business Day* 7, 8 September 1995] and was followed by strikes at hospitals in the Eastern Cape, the Free State, KwaZulu/Natal, the North-West, the Northern Cape and the Western Cape.<sup>139</sup> [<sup>139</sup> *The Star* 30 September 1995, *Sunday Tribune* 1 October 1995]

Nurses at hospitals in Gauteng agreed to return to work after reaching an agreement with the Gauteng provincial government to establish a national consultative forum for health workers which would investigate, among other things, nurses' salaries.<sup>140</sup> [<sup>140</sup> *The Citizen* 9 September 1995] However, at the first meeting of the forum later in September Dr Zuma informed nurses that the government did not have funds for salary increases in 1995. The government also refused to discuss salary issues with nurses, saying that wage talks could take place only with recognised unions in the national central bargaining council.<sup>141</sup> [<sup>141</sup> *Ibid* 19 September 1995]

At the end of September nurses again went on a 24-hour strike in some 20 hospitals across the country, following the failure of the government to respond to a demand for a 33% wage increase, which was made after the failure of the national consultative forum to resolve the issue of nurses' salaries. However, nurses went back to work the next day after the Department of Health threatened to dismiss all striking nurses.<sup>142</sup> [<sup>142</sup> *The Star* 29 September 1995]

It was reported in October 1995 that more than 6 000 nurses in the former Transkei (Eastern Cape) had been fired after refusing to heed an ultimatum by the provincial Department of Health to end an 11-day-old strike. The nurses demanded salary increases for promoted nurses and employment for about 700 student nurses. Nurses subsequently had to reapply for their positions. At the time of writing many of the dismissed nurses had been accepted as volunteers at hospitals while waiting for their applications to be processed.<sup>143</sup> [<sup>143</sup> *Sowetan, The Star* 10 October 1995; *The Citizen* 20 October 1995]

## Primary Health Care

The Centre for Health Policy at the University of the Witwatersrand said in April 1995 that the estimated expenditure on primary health care (PHC) in 1995 would be R7,04bn, including the annual cost of capital. Of this amount, approximately R3,6bn would be spent in the public sector, R619m would be spent directly by households and R2,8bn would be spent by individuals with some form of medical insurance.<sup>144</sup> [<sup>144</sup> Centre for Health Policy, University of the Witwatersrand, *Paying for Health Care: A Comprehensive Primary Health Care Approach—An Alternative to National Health Insurance*, April 1995] According to the Department of Health, some R4m would be spent on PHC at national, provincial and local level in the 1995/96 financial year and services relating to AIDS, communicable disease control, family planning, mental health, oral health and school health would be provided.<sup>145</sup> [<sup>145</sup> Information provided by the Department of Health, 22 December 1995]



The reconstruction and development fund had allocated R472,8m and R500m in 1994/95 and 1995/96 respectively to the Free Health Care Programme (for pregnant women and children under six years), according to a review of the first year of the reconstruction and development programme (RDP).<sup>146</sup> [<sup>146</sup> *The RDP: The First Year Reviewed*, 27 April 1995] By the end of March 1996, 152 new clinics were to be built, 29 were to be upgraded by means of additions, 144 mobile units were to be purchased and 3 141 existing clinics were to be provided with equipment and small-scale upgrading, according to the deputy director of health facility planning at the Department of Health, Ms P A Bester.<sup>147</sup> [<sup>147</sup> Personal communication with Ms P A Bester, deputy director of health facility planning, Department of Health, 24 January 1996]

Dr Shisana announced in August 1995 that within a month the construction and upgrading of about 176 clinics in underserved areas around South Africa would begin. The projects would be funded by R90m which had been allocated by the RDP during the 1994/95 and 1995/96 financial years. The projects would be completed by July 1996. An amount of R163m, which had been obtained by cutting the budgets of academic hospitals by 5%, would be used for running the clinics in 1995, Dr Shisana said.<sup>148</sup> [<sup>148</sup> *Business Day* 21 August 1995]

According to the Department of Health, PHC includes control of communicable diseases and sexually transmitted diseases (STDs), immunisation programmes and family planning services. The department said that R30m was spent in 1994 on providing free medication for the treatment of tuberculosis and STDs, as well as vaccines for the expanded programme on immunisation.<sup>149</sup> [<sup>149</sup> Department of Health, annual report, 1994]

According to the annual report, R216m was allocated to 394 local authorities to provide PHC services in 1994. A further R3m was made available to local authorities to erect and equip four community health centres, to purchase and equip five mobile clinics, enlarge one existing clinic, and to purchase and upgrade X-ray facilities. A further amount of R24m was allocated to PHC services which were rendered by local authorities.<sup>150</sup> [<sup>150</sup> Ibid]

## Family Planning

The Department of Health said that in 1994 family planning had been fully integrated with PHC services.<sup>151</sup> [<sup>151</sup> Ibid]

According to the department, the Northern Province had the highest fertility rate (ie the average number of children per woman) in 1994 (5,8), followed by the Eastern Cape (4,8), the North-West (4,5), KwaZulu/Natal and Mpumalanga (4,3 each) and the Free State (3,7). Gauteng (3), the Northern Cape (2,9) and the Western Cape (2,7) were the only provinces where fertility rates were declining steadily towards the optimum fertility rate of 2,1, at which rate population size remains relatively stable. The department noted that in 1994 the crude birth rate (ie the number of births per 1 000 of the population) in South Africa (excluding the former 'independent' homelands) was 34 for Africans, 22 for coloured

people, 20 for Asians and 14 for whites.<sup>152</sup> [<sup>152</sup> Department of Health, *Health Trends in South Africa*, 1994]

The Association for Voluntary Sterilisation of South Africa said in July 1995 that the 'vital issue of fertility regulation was at risk of being sidelined by [the government's] focus on free health care for pregnant women and children under six and national programmes on AIDS and STDs'. The association said that the shift in priority had caused a 'major breakdown' of previously well-established family planning and sterilisation facilities.<sup>153</sup> [<sup>153</sup> *The Star* 11 July 1995]

According to the Department of Health, a high teenage pregnancy rate adversely affects the health of infants, mothers and the family. The teenage pregnancy rate (ie number of live births to mothers under 20 years of age as a proportion of the total number of live births) in South Africa was highest in the Northern Province (16,4%), followed by KwaZulu/Natal (15,3%), the Free State (14,9%), Mpumalanga (13,5%), the Eastern Cape (13,1%), Gauteng (12,9%), the Northern Cape (12,8%), the North-West (12,6%) and the Western Cape (11,8%).<sup>154</sup> [<sup>154</sup> Department of Health, *Health Trends in South Africa*, 1994]

The former head of the family planning unit at Tygerberg Hospital (Cape Town), Dr Johan Roux, said in September 1995 that 33% of pregnant women in South Africa were teenagers and there was 'no hope of limiting population growth unless teenage pregnancy could be controlled'. According to Dr Roux, only 10% of teenagers visited family planning clinics and the rate of teenage pregnancies would increase unless teenagers received better sex education and family planning clinics were made more accessible to them.<sup>155</sup> [<sup>155</sup> *Cape Times* 23 September 1995]

In the same month the Democratic Party (DP) spokesman on health, Mr Mike Ellis, said that the DP supported the change of emphasis in population policy from fertility control to a comprehensive approach which recognised that an improvement in the quality of life and the empowerment of women were the only ways to lower the population growth rate effectively. However, the population growth rate was still 'unacceptable', Mr Ellis added, and posed a serious threat to the success of the RDP. The DP called on the government to initiate a 'vigorous' family planning campaign to augment the RDP. Such a campaign should make people aware of the benefits of family planning and how to obtain access to state family planning devices, and it should also focus the education of school pupils on the issue.<sup>156</sup> [<sup>156</sup> *The Star* 11 July 1995]

## Medicines

In April 1995 the South African Pharmacy Council (SAPC) asked the Department of Health to introduce legislation to permit generic substitutions for prescribed medicines. The council said that expenditure on medicines by the private sector accounted for 31% of total health care costs, the highest proportional expenditure on medicines in the world. In some cases private sector wholesalers paid up to 58 times more for the same medication than the state, which bought it on tender. Generic products were on average 46% cheaper than nongeneric products. The council proposed that generic substitution by pharmacists be permitted by amending the Pharmacy Act of 1974 and the Medicines and Related

Substances Act of 1965 to ensure, among other things, that:<sup>157</sup> [<sup>157</sup> Ibid 21 April 1995]

- substituted medicines were registered with the Medicines Control Council; and
- the council compiled and periodically updated a list of nonsubstitute medications which should not be used by pharmacists.

The SAPC expected the proposal, if accepted, to provide cheaper medication to patients.<sup>158</sup> [<sup>158</sup> Ibid]

The Pharmaceutical Society of South Africa (PSSA) said in March 1995 that it was investigating a new pricing scheme which would eliminate the profit incentive in the sale of medicines at retail level. Instead of the 50% retail mark-up on medicines pharmacists would charge cost price and a professional handling fee, expected to be below R10 per prescription. The result was expected to be a substantial reduction in the price of medicines and it would effectively ‘put dispensing doctors out of business’, according to the society. Responding to the plan, a spokesman for the General Practitioners’ Group said that dispensing doctors’ prices for medicines were often lower than those in retail outlets because doctors were prepared to dispense medicines in the most cost-effective way and to pass any saving on to their patients. The PSSA accused wholesale pharmaceutical suppliers of supplying doctors with medicines at lower prices than pharmacies. It alleged that some doctors then sold medicines illegally to pharmacists by offering prices below what pharmacists could obtain from wholesalers.<sup>159</sup> [<sup>159</sup> *Cape Times* 7 March 1995]

The Competition Board announced in 1995 that it was to investigate allegations of noncompetitive practices in the supply and distribution of medicines. The decision followed complaints from numerous sources (particularly small retail pharmacists).<sup>160</sup> [<sup>160</sup> *Business Day* 26 January 1995] According to Mr I W Meyer, the chief director of the Competition Board, the investigation would focus on the following three aspects:<sup>161</sup> [<sup>161</sup> *South African Medical Journal*, July 1995]

- the relationship between pharmaceutical wholesalers and franchised retail outlets;
- the relationship between pharmaceutical wholesalers and medical scheme clearing houses in the supply and distribution of pharmaceutical products to members and beneficiaries of medical schemes; and
- the relationship between medical schemes and suppliers of pharmaceutical products, and in particular, the issue of preferred providers (where schemes arrange with pharmacies and dispensing doctors for their members to purchase medicines from them).

The *South African Medical Journal* reported in August 1995 that the introduction of a list of essential drugs, which would be supplied to pharmacists at cost price, as proposed by the Committee of Inquiry into a National Health Insurance System, would have a ‘considerable impact’ on the pharmaceutical

industry and on dispensing doctors (see *Health Policy* below). According to the committee, the essential drug list (EDL) should be introduced into public health care facilities by April 1996, followed a year later by its introduction in private practice. The list would include the medicines used to prevent and manage 90%–95% of the most prevalent medical conditions in the country.<sup>162</sup> [<sup>162</sup> Ibid, August 1995]

A spokesman for the PSSA, Mr Ivan Kotze, supported the principle of providing EDL medicines to pharmacies through the state tender system, but warned that small retail pharmacies would not be able to survive on a dispensing fee alone and that they would have to look at providing a comprehensive service and at forming group practices and partnerships. A Dutch consultant, Dr Wilbert Bannenburg, estimated that the introduction of the EDL into the private health sector could cost the pharmaceutical industry as much as 12% of its turnover. In the process 3 500 private pharmacies could lose some R46m, while dispensing doctors could lose some R40m, or about R10 000 per doctor.<sup>163</sup> [<sup>163</sup> Ibid]

In September 1995 the Representative Association of Medical Aid Schemes (Rams) and pharmaceutical manufacturers' representatives asked manufacturers to publish drug prices which excluded distribution and dispensing costs in order to create a more transparent pricing system. Manufacturers had been using a system of discriminatory pricing, in terms of which the price offered by manufacturers to buyers had varied for reasons other than the volume sold. The pharmaceutical manufacturers said in response that they hoped to obtain the voluntary abolition of such pricing by the end of March 1996. However, if this did not happen they would attempt to ensure the publication of a single price for each drug.<sup>164</sup> [<sup>164</sup> *Business Day* 26 September 1995]

## Vaccination

According to the 1994 annual report of the Department of Health, children receive immunisation against diphtheria, measles, poliomyelitis, tetanus, tuberculosis and whooping cough under the expanded immunisation programme (which was re-evaluated in 1994). The main objectives of the immunisation programme in the 1990s were to achieve:<sup>165</sup> [<sup>165</sup> Department of Health, annual report, 1994]

- a 90% coverage of each vaccine in primary childhood series (ie immunisation of children under one year) by 2000;
- the eradication of polio by 1998;
- a reduction to fewer than 4 000 reported cases of measles for a period of five consecutive years starting in 1996; and
- the reduction of neonatal tetanus to fewer than one case per 100 000 live births in all districts by 1997.

In 1994 the immunisation coverage rates for South Africa were estimated to be 85% for TB; 81% for

diphtheria, whooping cough and tetanus; 81% for polio; and 77% for measles.<sup>166</sup> [<sup>166</sup> Ibid]

The Department of Health announced in February 1995 that the immunisation schedule had to change to bring South Africa into line with internationally accepted views and practices on immunisation. The revised schedule would include an additional vaccine, against Hepatitis B, which would be given to all children born after 1st January 1995.<sup>167</sup> [<sup>167</sup> Department of Health, *Epidemiological Comments*, February 1995]

## Combating of Diseases

See also *Diseases* above.

The Department of Health announced in June 1995 that a national polio immunisation campaign, which targeted children under five years of age, had been launched as part of a programme to eradicate the disease completely by 1998.<sup>168</sup> [<sup>168</sup> *The Star* 2 June 1995] According to the department, in July 1995 results from six provinces indicated that during the campaign 82% of an estimated target of 3 742 000 children had been immunised against the disease. The second phase of the campaign took place in July 1995.<sup>169</sup> [<sup>169</sup> *The Citizen* 20 July 1995]

Professor Piet Jooste, a spokesman for the Milk Quality Panel (a nongovernmental body of experts), said in June 1995 that the advent of a free market in milk had led to a rise in milk-borne diseases and that the state should begin a consumer awareness campaign to inform the public in this regard. According to Professor Jooste, up to 250 000 litres of unsafeguarded milk were being sold daily, and a commensurate increase had been reported in cases of milk-borne diseases such as brucellosis.<sup>170</sup> [<sup>170</sup> Ibid 29 June 1995]

## Termination of Pregnancy

In August 1995 the ad hoc select committee on abortion and sterilisation recommended that the abortion laws be changed to allow abortion on request up to 14 weeks into the gestational period, and between 14 and 24 weeks 'under certain broadly specified conditions' (see also chapters on *Government, the Constitution, and Human Rights and Population*).<sup>171</sup> [<sup>171</sup> *The Mercury* 15 August 1995] The report recommended that counselling be made available to all women wanting an abortion, but that it should not be mandatory, except in the case of minors. The consent of a woman's husband or male partner should also not be mandatory for abortion to take place.<sup>172</sup> [<sup>172</sup> *The Citizen* 12 August 1995] According to the director general of health, Dr Olive Shisana, discussions were to be held to establish a process through which the recommendations could become law. The legislative amendments were expected to take place in the 1996 parliamentary session.<sup>173</sup> [<sup>173</sup> *The Mercury* 15 August 1995]

The select committee's report was rejected by the DP spokesman on health, Mr Mike Ellis, who said that the DP supported abortion only up to 12 weeks. Mr Ellis found the suggestion of abortion up to 24 weeks 'unacceptable'.<sup>174</sup> [<sup>174</sup> *The Natal Witness* 16 August 1995] Other parties, including the African Christian

Democratic Party, the Freedom Front and the National Party (NP), also opposed the report. The NP said that the issue of abortion should be decided in the Constitutional Court. The Inkatha Freedom Party was divided on the issue, while the African National Congress said that it would debate the substance of the report at a later date, although it accepted the report.<sup>175</sup> [<sup>175</sup> *The Citizen* 31 August 1995]

According to research done by the Department of Community Health at the University of Cape Town, more than 33 000 ‘procedures were performed in respect of removal of residues in public hospitals’, of which the majority related to backstreet abortions. The South African Medical Research Council (MRC) estimated that every year more than 44 000 women presented themselves at South African hospitals with incomplete abortions which were the result either of spontaneous miscarriage or of illegally induced abortions. However, this figure was an underestimate of the total number of women who underwent abortions, the MRC said. It was further estimated that 425 women died each year as a result of septic abortions and that almost 13 000 could be regarded as having undergone abortions in ‘unsafe conditions’.<sup>176</sup> [<sup>176</sup> *Saturday Star* 19 August 1995]

Speaking in Parliament in May 1995, Dr Zuma said that 26 675 legal abortions had been performed in 1993, although the actual figure could be higher. According to Dr Zuma, it was impossible to determine which cases involved spontaneous abortion and which involved illegal abortion.<sup>177</sup> [<sup>177</sup> *Hansard* (NA) 7q cols 749–750, 9 May 1995]

## Occupational Health

At the end of March 1995 the Commission of Inquiry into Safety and Health in the Mining Industry (the Leon commission) published its report, which recommended that new legislation on safety in the mining industry be drafted ‘immediately’, in order to contain the ‘unacceptable level of death and injury’ (see also chapter on *Employment and Industrial Relations*).

The report found that in 1993, 578 miners had died in accidents—more than one per 1 000 workers. In the same year 8 532 workers had been seriously injured—ie more than 15 per 1 000 workers. According to the report, 4 000 miners developed tuberculosis each year, ie a rate of 58 per 1000 workers after 15 years of employment. Also, after ten years of exposure between 40% and 80% of workers involved in drilling operations developed hearing problems. A study of shaft sinkers, shift bosses and stopers showed that after 8 000 shifts there was a 30% risk of developing silicosis, which could lead to a fatal form of lung fibrosis.<sup>178</sup> [<sup>178</sup> *Mail and Guardian* 19 May 1995]

With regard to occupational diseases in the mines the report found no evidence to indicate any decline in the incidence of such diseases over the previous 20 years. There was also no evidence to suggest that present legislation or enforcement agencies offered any prospect of control of occupational diseases in the mining industry. The commission’s recommendations included the following:<sup>179</sup> [<sup>179</sup> *South African Labour Bulletin*, May 1995]

- a special effort should be made to identify undetected cases of occupational diseases among former mineworkers;
- occupational health facilities and academic medical centres should offer benefit examinations to former mineworkers;
- occupational disease data should be collected by mining companies and the state should standardise and publish the information on an annual basis;
- the regulation of ventilation requirements in mines should be reviewed urgently; and
- an effective system of medical surveillance of occupational diseases in the mining industry should be implemented.

The National Occupational Safety Association (Nosa) said in April 1995 that it had initiated a modified grading system which involved inspecting companies without prior notification to ensure that safety standards were being maintained on a continuous basis. According to the managing director of Nosa, Mr Leo Strydom, a number of factories were expected to lose their five-star rating for safety, which could result in some companies' having to pay higher insurance rates. Mr Strydom said that Nosa aimed to become more 'industry specific' in the future and that it planned to develop special ratings for the agricultural, chemical, marine and mining industries, as well as for hospitals, office blocks and schools.<sup>180</sup> [<sup>180</sup> *Sunday Times* 30 April 1995]

In July 1994 the National Union of Mineworkers called for additional compensation for workers injured in past mining accidents and for those suffering from occupational diseases. The union had started discussions with the government and the compensation commissioner about creating a fund to give additional compensation to injured miners. According to research by the Centre for Applied Legal Studies at the University of the Witwatersrand, injury pensions awarded in 1982 had only 37% of their original purchasing power ten years later, resulting in thousands of miners living in desperate financial conditions.<sup>181</sup> [<sup>181</sup> *The Mercury* 14 July 1995]

## HEALTH POLICY

### National Level

#### Policy

In August 1995 the director general of health, Dr Olive Shisana, identified the following goals of the Department of Health regarding restructuring of the health sector:<sup>182</sup> [<sup>182</sup> *South African Medical Journal*, 8 August 1995]

- the unification of fragmented health services at all levels into an integrated national health system;
- the reduction of disparities and inequities in health status and service delivery and the provision of improved access to primary health care (PHC) services;
- the prioritisation of child, maternal and women's health; and
- the mobilisation of communities, nongovernmental organisations and the private sector to support the national health insurance system.

In June 1995 the Committee of Inquiry into a National Health Insurance System presented its report, entitled *Restructuring the National Health System for Universal Primary Health Care*, to the minister for health. The report aimed to improve accessibility to and the efficiency of publicly funded PHC services. The proposals in the report were to be implemented over a five-year period. The report also made recommendations regarding the private health care sector. The report's recommendations are examined under various headings below.

Several organisations made recommendations on a future health plan for South Africa to the committee, including the Medical Association of South Africa (Masa) and the Centre for Health Policy at the University of the Witwatersrand.<sup>183</sup> [183 Committee of Inquiry into a National Health Insurance System, *Restructuring the National Health System for Universal Primary Health Care*, June 1995]

In its submission to the committee of inquiry in May 1995 Masa suggested that health care reform be introduced on an incremental basis. Its recommendations were based on the premise that neither the public nor the private sector alone could accommodate the health care needs of the entire population, but that the two sectors should jointly provide health care. According to Masa, the government's first priority should be to define a core package of basic health care, which included primary, secondary and tertiary health services. The core package should include curative, preventive, promotive and rehabilitative care. A national advisory committee, consisting of consumers, economists, epidemiologists, ethicists, health care professionals and other experts, should be established to assist in defining the core package. The funding of care should be regulated by a single act, to which all organisations participating in the funding of care should adhere. Managed health care principles should be introduced, whereby consumers, funders and providers worked together to promote cost-effective care.<sup>184</sup> [184 Medical Association of South Africa, *A Strategy for Health Care Reform in South Africa*, May 1995; *South African Medical Journal*, April 1995]

Masa suggested further that a strategy to attract health professionals to underserved areas should be implemented and should include the upgrading of public sector facilities, improving salaries and working conditions, reactivating frozen posts and creating more posts. Masa suggested that no additional taxes be levied to fund health care but that it be funded out of general tax and private medical insurance.



To ensure the extension of services in the medium term, a social health insurance system could be introduced for all employed people, regardless of individual health risk. This could be paid jointly by employees and employers.<sup>185</sup> [<sup>185</sup> Ibid]

The Centre for Health Policy said in its submission to the Committee of Inquiry into a National Health Insurance System in April 1995 that national health insurance was not a feasible option for South Africa because the economy could not fund the general provision of PHC. The centre suggested that the following steps be implemented before any national financing mechanism for the provision of an essential package was decided upon:<sup>186</sup> [<sup>186</sup> Centre for Health Policy, *Paying for Health Care*, April 1995]

- an essential package of services relating mainly to PHC services should be defined;
- the cost of the essential package should be determined, taking into account the financial consequences of different financing and provision mechanisms;
- the cost of providing the package universally according to some population or regional criteria should be assessed;
- the present gaps in the provision of the essential package should be determined by using data collated from the existing distribution of facilities and personnel;
- the reasons for the gap (financial or nonfinancial) should be determined;
- mechanisms for eliminating the gap should be evaluated, with national or social health insurance being only one of the possibilities considered;
- the possibilities of effective cross-subsidisation, in conjunction with other financing mechanisms, should be assessed;
- logistical requirements for ‘the real-time implementation of service extensions’ should be evaluated; and
- reforms in the private sector regulatory structure should be introduced simultaneously.

The Centre for Health Policy recommended further that every registered medical aid scheme should offer a core-benefit package to which every person earning above a certain income should be required to contribute. There should also be a levy on private health fund contributions. The core-benefit package offered by the private sector should offer all levels of care but the public sector should be the preferred provider of secondary and tertiary care. The system would guarantee pensioners and sufferers from chronic conditions full medical cover, linked to their ability to pay.<sup>187</sup> [<sup>187</sup> Ibid]

## **Primary Health Care**

The Committee of Inquiry into a National Health Insurance System proposed that the publicly funded PHC system provide a comprehensive package of PHC services, including access to essential medicines, ambulance services, district hospital services, environmental health services and other preventive, promotive and monitoring services. However, the scope of the PHC package would be determined by resource constraints and it could change over time.<sup>188</sup> [<sup>188</sup> Report of the Committee of Inquiry into a National Health Insurance System, *Restructuring the National Health System for Universal Primary Health Care*, June 1995]

The minister for health, Dr Nkosazana Zuma, said in June 1995 that the package of PHC services would include basic optometry, basic rehabilitation, child and maternal health care, treatment of communicable and chronic diseases, curative services for minor ailments, treatment of endemic diseases, family planning, health education, immunisation, mental health, nutrition, primary investigative services in radiology and pathology, screening for common diseases and trauma services.<sup>189</sup> [<sup>189</sup> *Cape Times* 20 June 1995 ]

All permanent residents would have access to PHC. Personal consultation services and all nonpersonal services would be provided free of charge at the point of service although a payment could be required for medicines. The report recommended that district health authorities administer the system and that they should become purchasers of health care from a combination of public and accredited private providers.<sup>190</sup> [<sup>190</sup> Report of the Committee of Inquiry into a National Health Insurance System, *Restructuring the National Health System for Universal Primary Health Care*, June 1995 ]

## **Providers of Primary Health Care**

The committee's report said that public providers of PHC would include all existing public health facilities and that PHC nurses (ie professional nurses with additional training) would be the frontline providers of clinical services. Accredited private providers would comprise teams of doctors, PHC nurses and allied health personnel. The report estimated that about 2100 additional nurses would be required in 1996/97 to implement the plan, increasing to some 17 800 additional nurses in 2000/01. In addition 980 more medical practitioners would be required in 1996/97, increasing to about 2 600 in 2000/01. The report noted that the 'fundamental problem of poor conditions of service' would have to be addressed in order to attract more full-time medical staff to the PHC system. Recommendations to help fill the gap included a proposal that new medical graduates be required to spend a period working in the public sector before being allowed to enter private practice.<sup>191</sup> [<sup>191</sup> *Ibid*]

## **Medicines**

The committee suggested that an essential drug list (EDL), consisting of medicines required for the prevention and management of 90%–95% of the common illnesses in the country, should be introduced. PHC medicines on the EDL would be made available at state tender costs via retail pharmacies, for

which pharmacists would be entitled to charge a dispensing fee only. The report recommended that EDL medicines be available at PHC facilities by April 1996 and in the private sector by April 1997.<sup>192</sup> [<sup>192</sup> Ibid]

## ***Funding***

The committee of inquiry estimated that an additional R1,36bn would be required in 1997/98, increasing to R3,39bn in 2000/01, to fund the 'PHC gap', ie the difference between the projected total costs and the total funding available for PHC. Projected costs were based on an average of two visits per person per year in 1996, increasing to 3,5 visits in 2000. The report did not make specific recommendations on how to fund the 'gap' but it did identify the following options:<sup>193</sup> [<sup>193</sup> Ibid]

- general tax revenues;
- dedicated funding from excise duties and/or value added tax;
- dedicated tax funding derived through modification of the tax treatment of medical aid contributions;
- dedicated payroll taxes; and
- imposition of a user charge on voluntary private health insurance contributions.

## ***The Private Sector***

The committee also proposed regulatory reform of the private sector, including:<sup>194</sup> [<sup>194</sup> Ibid]

- mandatory health insurance for a defined hospital benefit package;
- increased risk pooling and cross-subsidisation from the 'sick to the healthy' and from the young to the old in medical aid schemes;
- increased competition between schemes, increasing efficiency of scheme management and improving monitoring of schemes;
- construction of new private hospitals to be authorised by provincial authorities, as well as regulation of the supply of expensive technology to hospitals;
- ownership of pharmacies to be opened up to non-pharmacists;
- remuneration of pharmacists and dispensing doctors to be based on a professional fee unrelated to the costs of the items dispensed;

- introduction of licensing procedures to control access to private practice in oversubscribed areas and encourage private practice in underserved areas;
- all contributions by employers and employees to medical aid funds to be considered part of an employee's taxable income; and
- fixing the amount of medical expenditure allowed as a deduction from taxable income and increasing the threshold above which medical expenses would be tax deductible.

According to the deputy director general of health, Dr Ayanda Ntsaluba, the report would be followed by a document containing broad directions regarding policy which would be discussed by the provincial MECs for health. Changes to the system which did not require new legislation would be implemented immediately and a white paper prepared which would spell out policy.<sup>195</sup> [<sup>195</sup> *South African Medical Journal*, October 1995]

### ***Criticism and Alternative Proposals***

The South African Medical and Dental Practitioners' Association (SAMDDPA), representing mainly black medical personnel, expressed concern about the report's plans to replace doctors with nurses by allowing specially trained nurses to act as PHC practitioners. The SAMDDPA said that this measure would 'effectively entrench apartheid', since privately funded patients—mainly white—would still be able to receive primary care from doctors whereas patients relying on the public sector—mainly black—would have to accept treatment from nurses. The organisation said that it believed that the proposal did not address the problem of a shortage of doctors. It also suggested that the proposed EDL would deprive black dispensing doctors of large incomes that were currently possible with the special deals they received from drug manufacturers. The suggestion to place an additional levy on medical aid scheme members would make medical aid less affordable, the SAMDDPA said.<sup>196</sup> [<sup>196</sup> *Financial Mail* 8 September 1995]

Masa welcomed the committee's report, saying that it recognised the right of the individual to freedom of choice regarding health care options and it encouraged co-operation between the public and private health sectors.<sup>197</sup> [<sup>197</sup> *The Argus* 21 June 1995]

### **Legislation**

The Nursing Amendment Act, which provided for the establishment of the Interim Nursing Council, was assented to by the president in April 1995 (see *Nurses* above).<sup>198</sup> [<sup>198</sup> Nursing Amendment Bill, B 4B-95]

The Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act, assented to by the president in August 1995, provided for the establishment of the Chiropractors, Homeopaths and

Allied Health Professions Interim Council.<sup>199</sup> [<sup>199</sup> Chiropractors, Homeopaths and Allied Health Service Professions Amendment Bill, B 5B-95]

The Pharmacy Amendment Act, which provided for the establishment of the Interim Pharmacy Council of South Africa, was assented to by the president in April 1995.<sup>200</sup> [<sup>200</sup> Pharmacy Amendment Bill, B 6B-95]

The Medical, Dental and Supplementary Health Service Professions Amendment Act, which provided for the establishment of the Interim National Medical and Dental Council of South Africa, was assented to by the president in July 1995 (see *Doctors* above).<sup>201</sup> [<sup>201</sup> Medical, Dental and Supplementary Health Service Professions Amendment Bill, B 8B-95]

According to Dr Zuma, legislation to implement the PHC system would be passed in 1996.<sup>202</sup> [<sup>202</sup> *Sunday Times* 25 June 1995]

## Provincial Level

### Gauteng

The Gauteng standing committee on health confirmed in August 1995 that a moratorium on heart transplants in provincial state hospitals, which had been announced earlier in 1995 by the minister for health, Dr Nkosazana Zuma, would not be lifted. Funds spent on heart transplants should rather be used for PHC. The announcement followed the controversy surrounding a heart transplant surgeon, Dr Fanus Serfontein, who had performed a number of heart transplants in state hospitals in Gauteng despite the moratorium.<sup>203</sup> [<sup>203</sup> *The Citizen* 16 August 1995] All such operations were to be performed at Groote Schuur Hospital in Cape Town, said a spokesman for the Gauteng Department of Health. According to the MEC for health in Gauteng, Mr Amos Masondo, the provincial health department would consider establishing a heart transplant unit once a proper motivation and needs analysis had been done and once the capacity of Groote Schuur Hospital had been exceeded.<sup>204</sup> [<sup>204</sup> *Business Day* 2 August 1995]

In July 1995 the South African Medical and Dental Practitioners' Association accused Dr Serfontein of being 'irresponsible'. The association said that it supported the moratorium on transplant operations on the basis that 'expensive operations were performed at the expense of thousands of poor people'.<sup>205</sup> [<sup>205</sup> *Sowetan* 19 July 1995] However, the Medical Association of South Africa called for an immediate lifting of the moratorium in August 1995, describing it as 'unreasonable and so impractical' that it was unenforceable.<sup>206</sup> [<sup>206</sup> *The Citizen* 2 August 1995] Both the Democratic Party and the National Party criticised the Gauteng Department of Health for placing a moratorium on 'first-world' medical procedures in an effort to divert limited finances to PHC.<sup>207</sup> [<sup>207</sup> *Business Day* 17 July 1995]

### Northern Province

The Northern Province Department of Health and Welfare announced that from 1st September 1995 clinics in the province would stop charging for treatment in order to improve access to PHC services. However, fees would still be payable for treatment at hospital outpatients and admissions departments.<sup>208</sup> [<sup>208</sup> *The Star* 30 August 1995]

## WELFARE

### Finance

#### The Budget

In 1995/96 a total of R13,4bn was allocated to welfare services—an increase of 9,8% on the amount budgeted in 1994/95. However, in terms of the functional classification of the consolidated national and provincial budgets, R16,7bn was allocated to social security and welfare—representing 11% of the total consolidated budget (an increase of 1,6 percentage points from 1994/95) and 3,4% of gross domestic product (about the same proportion as in 1994/95). An amount of R75m was allocated to the national Department of Welfare. Welfare services and the provision of social grants were devolved to the provinces in terms of the transitional constitution.<sup>209</sup> [<sup>209</sup> Department of Finance, *Budget Review*, 15 March 1995]

A total of R11,54bn was allocated for the payment of social grants—an increase of 7,4% on the 1994/95 financial year. According to the *Budget Review*, a thorough review of the ‘social security dispensation’, including the development of a more co-ordinated and cost-effective social grants system, was needed.<sup>210</sup> [<sup>210</sup> *Ibid*]

#### **Provincial Welfare Budgets**

The nine provincial departments of health made the following allocations for health in the 1994/95 and 1995/96 financial years:<sup>211</sup> [<sup>211</sup> Eastern Cape Province, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; Province of the Eastern Transvaal, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; Province of KwaZulu/Natal, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; North-West Province, *Estimate of Expenditure to be Defrayed from the Provincial Revenue Account During the Financial Year Ending 31 March 1995*; The Province of the Northern Cape, *Estimate of Expenditure to be Defrayed from the Provincial Revenue Account During the Financial Year Ending 31 March 1996*; Northern Transvaal Province, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; PretoriaWitwatersrand-Vereeniging, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*; Province of the Western Cape, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996*]

*Allocations to provincial welfare services: 1994/95 and 1995/96*

199199IncEastern Cape

2 467 692 000

2 526 167 000

2,4%

**Free State**

N/A

N/A

N/A

**Gauteng**

1 748 772 000

1 793 603 000

2,6%

**KwaZulu/Natal**

2 685 566 000

2 880 678 000

7,3%

**Mpumalanga**

578 576 000

670 423 000

15,9%

**North-West**

788 400 000

879 905 000

11,6%

Northern Cape

323 117 000

385 951 000

19,4%

**Northern Province**

N/A

1 376 669 000

N/A

Western Cape

1 536 620 000

1 956 568 000

27,3%

N/A — Not available.

The amounts allocated by the provinces to the various sectors of welfare in 1995/96 were as follows:<sup>212</sup>  
[<sup>212</sup> Various estimates of expenditure of the provinces for 1995/96]

*Provincial welfare expenditure by sector: 1995/96*

EasFreGauAdministration

104 302 000



N/A

74 792 000

Auxiliary and associated services

2 000 000

N/A

200 000

Development activities

–

N/A

13 053 000

Social assistance<sup>a</sup>

172 668 000

N/A

218 178 000

Social security<sup>b</sup>

2 205 394 000

N/A

1 437 783 000

Social welfare services<sup>c</sup>

41 803 000

N/A

49 597 000

Total

2 526 167 000

N/A

1 793 603 000

*Provincial welfare expenditure by sector: 1995/96 (continued)*

KwaMpuNorAdministration

101 144 000

31 053 000

27 770 000

Auxiliary and associated services

302 000

—

0

Development activities

—

—

—

Social assistance<sup>a</sup>

109 377 000

9 243 000

23 840 000

Social security<sup>b</sup>

2 641 742 000

602 911 000

816 275 000

Social welfare services<sup>c</sup>

27 741 000

27 216 000

12 020 000

Total

2 880 678 000

670 423 000

879 905 000

*Provincial welfare expenditure by sector: 1995/96 (continued)*

NorNorWesAdministration

21 471 000

28 823 000

93 731 000

Auxiliary and associated services

60 000

—

1 039 000

Development activities

2 687 000

17 830 000

1 150 000

Social assistance<sup>a</sup>

23 676 000

—

179 729 000

Social security<sup>b</sup>

324 515 000

1 270 079 000

1 641 232 000

Social welfare services<sup>c</sup>

13 542 000

59 937 000

39 687 000

## Total

385 951 000

1 376 669 000

1 956 568 000

a

Includes assistance to homes for the aged, children, the disabled, drug addicts, welfare organisations and transit centres for offenders.

b

Includes grants for the disabled, family and child care, old-age grants and payment for relief of distress.

c

Includes management and maintenance of services in homes, places of safety or treatment centres for the aged, children, the chronically ill, drug dependents, families and offenders.

– Indicates that this particular item was not included in the relevant provincial budget.

## Welfare Services

### Social Pensions

Some R9,52bn was paid out to almost 2,3m people for the year ended 31st March 1994, according to official figures.<sup>213</sup> [213 *Special Report of the Auditor General on Controls Over the Payment of Social Pensions*, RP 131/1995, 31 March 1995 ]

In March 1995 the auditor general, Mr Henri Kluever, published a special report on the payment of social pensions. This followed a request by members of the joint standing committee on public accounts in Parliament, after irregularities and ‘disturbing practices and developments’ were found during audits of the former provincial administrations, own affairs administrations and former ‘independent’ and non-independent homelands. Mr Kluever said that the special report indicated ‘fundamental shortcomings’ in the systems and internal control measures regarding the payment of social pensions. ‘[An] effective revision of the system of social pensions should be carried out to establish legitimacy, determine overpayments and to investigate irregularities,’ he said. Irregularities included fraud by members of the

public, manipulation of the system by officials for personal gain, gross negligence and maladministration allowing fraud to go undetected, and insufficient management and detail controls.<sup>214</sup> [214 Ibid]

The minister for welfare and population development, Mr Abe Williams, said in August 1995 that a total of R15m had been stolen or embezzled from his department from 1993 to 1995 in pension payments. In Mpumalanga about R4,2m had been stolen in armed robberies at payout points and storage strong-rooms. Losses in the Eastern Cape amounted to about R2,7m over this period, while the next highest losses were in the Northern Province (R2,5m), KwaZulu/Natal (R1,4m), the Free State (R1,2m), Gauteng (R1,1m), the Western Cape (R588 204), the Northern Cape (R586 645) and the North-West (R438 905).<sup>215</sup> [215 *Business Day*, *The Citizen* 3 August 1995]

In November 1995 Mr Williams said that investigations were being carried out in the Free State, Gauteng, KwaZulu/Natal, Northern Cape and Northern Province, after corruption, theft and fraud in the social pension scheme were uncovered. Mr Williams said that 'officials of pension services had been suspended' and registration and payment of people not eligible for pensions was being investigated. In Mpumalanga 45 cases of fraud and 39 cases of pensions' being paid to people that had already died, had been reported, while in KwaZulu/Natal 45 cases of fraud were being investigated.<sup>216</sup> [216 *The Star* 10 November 1995]

Later in the same month Mr Williams said that all pensioners would have to reregister in order to curb fraud in the social welfare system. Reregistration would enable the department to introduce a new computerised payout system.<sup>217</sup> [217 *The Citizen* 22, 23 November 1995]

The government appointed a committee in June 1995 to investigate all major aspects of the pension system including the R340bn private sector industry, the underfunded state employee pension fund and the escalating demand for social pensions.<sup>218</sup> [218 *The Mercury* 15 June 1995] The committee's terms of reference included the investigation of funding and investment management, the reduction of the state's social pension expenditure and taxation including the non-payment of tax by civil servants on lump sum retirement benefits.<sup>219</sup> [219 *Business Day* 22 June 1995, *The Mercury* 15 June 1995]

The Committee on Strategy and Policy Review of Retirement Provision in South Africa (the Smith committee) submitted its report to the minister of finance, Mr Chris Liebenberg, in December 1995. Recommendations made by the committee included the following:<sup>220</sup> [220 *Business Day*, *Sowetan* 27 December 1995]

- improving the efficiency of state assistance;
- encouraging people to provide for themselves and to use their pensions more effectively;
- establishing a representative forum on national retirement provision;

- establishing a national social grants register and computerising payments;
- revising of the means test for eligibility for old age grants and improving the administration of old age assistance; and
- restructuring of benefits to civil servants.

Mr Williams announced in July 1995 that social grants would increase by 5% from 1st July 1995. Old-age grants, disability grants, war-veteran grants and care dependency grants would increase to R410 a month, maintenance grants to R410 for parents and R127 for children, foster child grants to R288 and grant-in-aid to R66. Earlier, in March 1995, the Department of Finance said that the pensions of civil pensioners who retired on or before 1st April 1994, would be increased by 6,5% from 1st April 1995. The pensions of those pensioners who retired after 1st April 1994, but before 1st April 1995, would be increased by 0,54% from 1st April 1995.<sup>221</sup> [<sup>221</sup> Department of Finance, *Budget Review*, 15 March 1995]

### ***Old-Age Pensions and Old-Age Homes***

In April 1995 Mr Williams said that only people who needed chronic medical attention should be accommodated in state-subsidised old-age homes. Almost half the total welfare budget was allocated to care for the aged and therefore had to be reassessed.<sup>222</sup> [<sup>222</sup> *Die Burger* 8 April 1995] Mr Williams said that South Africa could not afford to pay elderly people pensions and subsidise their accommodation in a home. Subsidies to old-age homes would be phased out over five years, he said.<sup>223</sup> [<sup>223</sup> *The Star* 20 November 1995]

Speaking at the Institute of Retirement Funds of South Africa in Johannesburg in May 1995, Mr Liebenberg said that the government could face a crisis in the provision of welfare and pensions. The government had a responsibility to care for the aged and the poor, but lacked the resources to deal with the growing demand, he said. The social services and welfare budget was increasing at an annual rate of 22,6% and amounted to R13bn or just under 3% of gross domestic product in 1994/95. Mr Liebenberg added that in 1991, only 4% of the entire population were over 65 years old, and a minor shift in life expectancy could have a major impact on the government's responsibility towards the aged. A commission had been appointed to look into the restructuring of retirement benefits.<sup>224</sup> [<sup>224</sup> *Cape Times* 23 May 1995]

### **Alcoholics and Drug Addicts**

In July 1995 the South African Narcotics Bureau reported that there had been a dramatic increase in the amount of cocaine, hashish and heroin entering the country. In 1992, 1,34kg of heroin had entered the country, compared with 1,84kg in 1993 and 24,74kg in 1994 (see chapter on *Politics and Security*).<sup>225</sup>

[<sup>225</sup> *Saturday Star* 29 July 1995]

The Drug Advisory Board said in its first annual report, for the period 23rd November 1993 to 30th November 1994, that the executive committee of the board was not in favour of providing a facility whereby clean needles were made available to drug addicts. The report said that an estimated 1m people in South Africa were alcoholics. Seven percent of all drivers and 12% of all pedestrians had alcohol blood levels that exceeded the legal limit.<sup>226</sup> [<sup>226</sup> Drug Advisory Board, *First Report for the Period 23 November 1993 to 30 November 1994*, Department of Welfare and Population Development, January 1995]

## Children

A study published by the Human Sciences Research Council in 1995 showed that more than 9m children in South Africa lived in poor households (ie households earning less than the stipulated poverty line). The following tables and graphs show the number of children living in poor households by province and population group:<sup>227</sup> [<sup>227</sup> Human Sciences Research Council, *A Profile of Poverty, Inequality and Human Development in South Africa*, 1995]

*Poverty among children by province: 1993*

Province

Number of poor children

Proportion of all children in province

Proportion of total poor children

Eastern Cape

2 182 949

70,2%

24,0%

**Free State**

635 735

57,1%



7,0%

Gauteng

555 426

24,7%

6,1%

**KwaZulu/Natal**

2 159 992

55,9%

23,8%

Mpumalanga

636 157

52,1%

7,0%

**North-West**

585 890

49,2%

6,4%

Northern Cape

130 048

52,4%

1,4%

**Northern Province**

1 923 925

74,1%

21,2%

**Western Cape**

276 138

22,2%

3,0%

**Total<sup>a</sup>**

9 086 260

54,0%

100,0%

a

Figures may not add up owing to

*Poverty among children by population group: 1993*

Number of poor children

Proportion of children in population group

Proportion of total poor children

African

Rural

6 850 324

69,5%

75,4%

Urban

1 154 061

56,9%

12,7%

Metropolitan

705 537

40,4%

7,8%

Subtotal<sup>a</sup>

8 709 922

63,9%

95,9%

*Coloured*

Rural

22 949

27,3%

0,3%

Urban

174 264

38,8%

1,9%

Metropolitan

112 482

14,0%

1,2%

Subtotal<sup>a</sup>

309 695

23,1%

3,4%

*Indian*

Rural

—

—

—

Urban

28 014

13,0%

0,3%

**Metropolitan**

6 898

4,7%

0,1%

**Subtotal<sup>a</sup>**

34 912

9,6%

0,4%

*White*

**Rural**

—

—

—

**Urban**

15 214

3,1%

0,2%

**Metropolitan**

16 517

1,9%
0,2%
Subtotal <sup>a</sup>
31 731
2,1%
0,3%
Total <sup>a</sup>
9 086 260
54,0%
100,0%

a

Figures may not add up owing to rounding.

The table shows that more than 8,7m (95,9%) children living in poverty-stricken households were African, 3,4% were coloured, 0,4% were Indian and 0,3% were white. Of the 8,7m African children living in poverty, more than 75% were in rural areas. The Eastern Cape, KwaZulu/ Natal and the Northern Province had the highest proportions of poor children—24%, 23,8%

In July 1994 the South African Police Service's child protection unit (CPU) said that 2 293 cases of child rape nationally had been recorded in the first three months of 1995.<sup>228</sup> [228 *New Nation* 14 July 1995] In a memorandum handed to Mr Williams 33 national social and child welfare organisations reported that the CPU alone dealt with 23 664 cases of child abuse in 1994, an increase of 103,4% since 1990. From 1993 to 1994 officially reported child rape cases increased by 62,7%, assault by 72,9%, child neglect and abandonment by 73% and attempted murder by 82,2%. A spokesman for the CPU said that the figure could be an underestimation, as many cases were not reported to the police.<sup>229</sup> [229 *The Citizen*, *The Star*, *The Natal Witness* 11 August 1995]

The Department of Welfare announced in November 1995 that secure facilities to detain children facing serious criminal charges would be provided in each province as a matter of urgency. This followed the

escape of hundreds of children from places of safety which acted as detention centres since the release of 2 000 children from prisons in May 1995. Each province would use an existing facility which would be converted into a 'secure care centre'.<sup>230</sup> [<sup>230</sup> *The Citizen* 24 November 1995]

## **Welfare Policy**

### **National Level**

#### ***Policy***

A *Draft White Paper for Social Welfare* was published by the Department of Welfare in November 1995 setting out guidelines, key principles and recommendations. The department had also drafted proposals to develop a national five-year strategic plan based on the draft white paper.<sup>231</sup> [<sup>231</sup> Department of Welfare, *Draft White Paper for Social Welfare: Executive Summary*, November 1995]

The white paper noted that a third of all households lived below the poverty datum line, increasing the pressure on the welfare system to meet basic needs. The department aimed to provide 'appropriate social welfare services' which included developmental, preventive, protective and rehabilitative services, facilities, and social security and social relief programmes. Social welfare policies and programmes would be targeted to alleviate poverty and to meet the basic needs of vulnerable groups and groups with special needs (such as children and the disabled).<sup>232</sup> [<sup>232</sup> *Ibid*]

#### ***Administration***

Civil society, together with the private sector, would be involved in delivering welfare services, the report said, with the emphasis on developing 'family and community-based programmes' to address needs. The national Department of Welfare would determine national policy and standards, finance social welfare and introduce legislation, while provincial departments would determine provincial policy and legislation and deliver social welfare services. Nongovernmental organisations and communitybased organisations which rendered social services would be formally integrated into the welfare system.<sup>233</sup> [<sup>233</sup> *Ibid*]

#### ***Legislation***

According to the white paper, ten of the 15 welfare laws administered by the national department would be assigned to the provinces. Five welfare acts (the Child Care Act of 1983, the Fund-raising Act of 1978, the Prevention and Treatment of Drug Dependency Act of 1992, the Probation Services Act of 1991 and the Social Work Act of 1978) would not be assigned to the provinces but remain national responsibility.<sup>234</sup> [<sup>234</sup> *Ibid*]

#### ***Finance***

According to the draft white paper, 88% of the welfare budget was spent on social security, 8% on welfare assistance and 4% on capital expenditure. The increase in the welfare budget as a whole was attributed to the introduction of parity in the 1994/95 financial year in the payments of social grants between the different population groups. Parity among population groups had not yet been reached, however, in maintenance grants, and increases in this area 'could have significant fiscal implications'. The draft white paper proposed that social welfare become more cost-effective by applying low-cost 'community-based strategies' as opposed to providing institutional care such as old-age homes, children's homes and other residential facilities.<sup>235</sup> [235 Ibid]

## ***Delivery System***

The draft white paper identified the provision of social security and social programmes to enhance social integration as the key social welfare programmes. Social security referred to cash and in-kind benefits to people who have permanently or temporarily lost their earning power and are, therefore, not able to avoid poverty. The department provided social assistance (which included old-age pensions) in such cases. Some 2,8m people were receiving old-age pensions in May 1995.

The white paper identified the following groups of people needing special attention: the aged, children, disabled people, 'vulnerable' families, mentally retarded people, substance abusers, women, youth and people suffering from chronic diseases. It recommended that the issue of crime be addressed by aiming services at 'restorative justice taking into account the victims' perspective and focusing on their needs'. Community-based alternatives for detained prisoners awaiting trial would be established and a new juvenile justice system had to be developed.<sup>236</sup> [236 Ibid]

The minister for welfare and population development, Mr Abe Williams, said in November 1995 that a committee had been appointed to develop a plan of action to 'reprioritise welfare programmes and to phase out racial inequity in services financed by the government'. Special attention would be given to the situation in the former homelands, which constituted the poorest parts of the country and which were 'extremely' underdeveloped and under-resourced.<sup>237</sup> [237 *Business Day* 15 November 1995]

## ***Legislation***

In June 1995 the Child Care Draft Amendment Bill was published for comment (see chapter on *Government, the Constitution, and Human Rights*). The bill provided for the establishment of prosecutors as children's court assistants, as well as for legal representation for children in children's court proceedings. The bill also provided for children older than 18 years to continue their stay in children's homes up to the age of 21 years in order to finish their education. (Previously such children had to leave the children's home at the age of 18.) The bill made provision for certain types of work to be excluded from the general prohibition on the employment of children and the regulation of these types of work.<sup>238</sup> [238 *Government Gazette* no 16509, 30 June 1995] The bill had not been passed at the time of



writing.

The Social Work Amendment Act was assented to by the president in October 1995. It provided for the establishment of the South African Interim Council for Social Work to replace the South African Council for Social Work. The interim council would make recommendations to the minister for welfare and population development regarding the constitution of a newly elected council for social workers, student social workers and social auxiliary workers.<sup>239</sup> [<sup>239</sup> Social Work Amendment Bill, B 51B-95]

According to the draft white paper, a comprehensive national welfare act, a new fund-raising act and a new prevention and treatment of drug dependency act would be in place by the end of 1997.<sup>240</sup> [<sup>240</sup> Department of Welfare, *Draft White Paper for Social Welfare*, November 1995]

## KEY PROJECTIONS

- The minister for health, Dr Nkosazana Zuma, said in June 1995 that 15% of all pregnant women (and 30% of pregnant women in KwaZulu/Natal) would be infected with the human immunodeficiency virus (HIV) by March 1996 and all would have died before their children left school. By 2000 there would be about 2,6m HIV-positive people in South Africa and about 416 000 would have died of the disease.
- According to Mr Dave King, the managing director of Republic Ratings (a credit risk agency), medical aid contributions as a proportion of annual wages would increase from 8% of average salaries in 1991 to more than 25% of average salaries by 2000 if the trend of the previous ten years continued.
- A Dutch consultant, Mr Wilbert Bannenburg, estimated that the introduction of an essential drug list could cost the 3 500 private pharmacists in the country some R46m and dispensing doctors R40m (or R10 000 per doctor) in lost revenue.
- An additional 2 100 primary health care nurses and 980 medical practitioners would be required in 1996/97 to implement the primary health care plan, increasing to 17 800 nurses and 2 600 medical practitioners in 2000/01, according to estimates of the Committee of Inquiry into a National Health Insurance System.
- The national primary health care plan would cost an estimated additional R1,36bn in 1997/98, increasing to R3,39bn in 2000/01, according to the committee.

## EMPLOYMENT AND INDUSTRIAL RELATIONS

### BIRD'S EYE VIEW

The period under review was characterised by intensive negotiations between business, labour and the government, on the drawing up of new labour legislation. The National Economic Development and

Labour Council, established as a negotiating forum for business, labour, the government and community organisations on all social and economic policy issues, reached agreement on the bill, before it was tabled in Parliament. The Labour Relations Act of 1995 was assented to by the president in November 1995.

A Labour Market Commission was established as an advisory body to formulate a white paper on future labour market policy.

The implementation of affirmative action programmes in the private and the public sector continued during 1995. Surveys of private sector organisations indicated that more companies had adopted affirmative action programmes than in previous years. In November 1995 the *White Paper on the Transformation of the Public Service* was published, detailing the restructuring of the public service, which included an affirmative action programme targeting black people, women and the disabled.

The Commission of Inquiry into Safety and Health in the Mining Industry, chaired by Mr Justice Ramon Leon, published its findings in 1995, highlighting the high number of deaths, injuries and diseases in the mining industry. Later in the year, the Mine Health and Safety Bill, based on recommendations made by the Leon commission, was approved by the cabinet. Recommendations included the establishment of a tripartite structure between the government, employers and unions to draft new legislation improving safety and working conditions in mines.

Towards the end of the year the government announced its intentions to privatise key public enterprises such as South African Airways and Telkom. The plans were strongly opposed by trade unions, however. As a result a committee was set up by the government and labour to negotiate a 'national framework agreement' for the restructuring of state assets.

Mandays lost because of industrial action in 1995 dropped to their lowest level in eight years, according to industrial relations consultants Andrew Levy and Associates. Despite public perception of chaos in the labour market, about 59% fewer mandays were lost as a result of strikes in 1995 than in 1994. The public sector was responsible for 71% of the mandays lost in 1995.

Unemployment remained a cause for concern as it continued to increase during the period under review. The Central Statistical Service said that more than 4,6m people were unemployed in 1994. The minister of labour, Mr Tito Mboweni, said that an annual growth rate of 8%–10% was needed to absorb the annual new entrants to the labour market and to lower the level of unemployment.

## KEY POINTS

- The Central Statistical Service (CSS) said that in 1994 the economically active population (EAP) of South Africa was approximately 14,3m, compared with 13,4m in 1993 (an increase of 6,7%).
- According to the Bureau of Market Research (BMR) at the University of South Africa, some 1,6m

people (or 16,3% of all people working) were in the informal sector in 1994.

- Of the 9,6m people working in South Africa in 1994, 61% were men and 39% women, according to the CSS.
- The CSS estimated the unemployment rate for 1994 to be 32,6%. The unemployment rate among Africans was the highest at 41,1%, compared with 23,3% among coloured people, 17,1% among Asians and 6,4% among whites.
- About 48,7% of unemployed people were younger than 30, 98% did not have post-school qualifications and 87% had no job skills or training, the CSS said.
- According to a report by a human resources consultancy, FSAContact, more than 94% of organisations surveyed had affirmative action programmes in place in 1995, compared with 84% in 1994, 74% in 1993 and 58% in 1992.
- According to the Department of Labour, the number of registered trade unions increased by 12 to 213 at the end of 1994, with a membership of almost 2,47m workers. There were 65 unregistered trade unions at the end of 1994, with a membership of 510 000 workers. Total union membership represented between 24% and 26% of the EAP.
- The average disposable income of Africans was only 13% of that of whites in 1995, according to the BMR. Asian disposable income was 42% of that of whites, while the disposable income of coloured people was 28% of that of whites.
- A study by the Human Sciences Research Council found that in 1993 the poorest 40% of households in South Africa earned less than 6% of total personal income, while the richest 10% earned in excess of half. Although Africans' share in total personal income was less than 30%, they accounted for more than 75% of the population, while whites, who accounted for 12,9% of the population, had 58,5% of total personal income.
- The governor of the South African Reserve Bank, Dr Chris Stals, said that although economic growth for the first nine months of 1995 was 3,5%, total employment increased by only 1,7%, while population growth was 2,4%.

## **POLICY**

In 1994 the minister of labour, Mr Tito Mboweni, announced a five-year programme of labour reform for the country. The first step in this process was the drafting of a new labour relations act to replace the Labour Relations Act of 1956, the Public Service Labour Relations Act of 1994, the Education Labour Relations Act of 1993 and the Agricultural Labour Act of 1993. The second step would be the redrafting of the Basic Conditions of Employment Act of 1983, including a re-examination of maximum working

hours, and the possible merging of this act with the Wage Act of 1957. This was to be followed by the redrafting of the Manpower Training Act of 1981 (to be renamed the Human Resources Training Act), which would entail a national skills audit to determine which skills were available, and would include an examination of skills and industrial development on a regional basis. A further step in the process would be the introduction of an employment equity law which would be aimed at removing all forms of discrimination in employment, including the vestiges of job reservation. The labour reform process would also involve revision of the Unemployment Insurance Act of 1966.<sup>1</sup> [<sup>1</sup> *The Star* 22 September 1995]

The National Economic Development and Labour Council (Nedlac) was launched on 18th February 1995, in terms of the Nedlac Act of 1994 (see 1994/95 Survey, p454.). The new negotiating forum took over the functions of the National Economic Forum and the National Manpower Commission.

The aim of Nedlac is to bring about agreements on all social and economic policy issues. The body consists of four chambers, namely the labour market chamber, the trade and industry chamber, the public finance and monetary policy chamber and the development chamber. Each of the four constituencies, namely labour, business, government and community organisations will have equal representation on the Nedlac executive council. The negotiating chambers are constituted differently, with community representation in the development chamber only. The minister of labour, Mr Tito Mboweni, appointed Mr Jayendra Naidoo as the executive director of Nedlac.<sup>2</sup> [<sup>2</sup> *New Nation* 17 February 1995; *RSA Review* September 1995 vol no 8; *Sowetan* 20 February 1995; *The Shopsteward* August/September 1995]

Mr Mboweni also announced the establishment of a Labour Market Commission (LMC), an advisory body which would formulate a white paper on future labour market policy. The LMC's terms of reference were:<sup>3</sup> [<sup>3</sup> **Fast Facts** no 11 November 1995]

- to formulate the role of public policy on wages and other incomes;
- to examine the relationship between labour market and industrial relations policies and productivity;
- to develop a framework for dealing with the 'negative social implications of economic restructuring';
- to develop policy concerning labour market discrimination and equality of opportunity; and
- to determine the conditions of access by foreigners to the South African labour market.

The LMC was assisted in its work by a technical expert from the International Labour Organisation. It is expected that the commission will publish its findings in 1996.

## **ECONOMICALLY ACTIVE POPULATION**

According to the 1994 *October Household Survey*, conducted by the Central Statistical Service (CSS),

there were 14,3m economically active people. The CSS defined the economically active population (EAP) as employees in the formal and informal sector, the self-employed, and unemployed people, ie people 15 years or older who were not in paid employment or selfemployment.<sup>4</sup> [<sup>4</sup> Central Statistical Service, *October Household Survey 1994*, statistical release, PO317, 30 March 1995]

The following tables provide a breakdown of the EAP by race, sex and province in October 1994:<sup>5</sup> [<sup>5</sup> CSS, *October Household Survey 1994*, PO317]

*Economically active population by race and sex: October 1994*

Male

Female

Total<sup>a</sup>

African

5 427 756

4 486 167

9 913 922

Asian

265 567

142 909

408 476

Coloured

827 372

665 971

1 493 343

## White

1 454 462

1 026 844

2 481 306

## Total

7 975 157

6 321 891

14 297 048

a

Figures may not add up owing to round

## *Economically active population by sex and province: October 1994*

### Province

#### Male

#### Female

#### Total<sup>a</sup>

### Proportion of total EAP

#### Eastern Cape

887 906

877 475

1 765 381

12,3%

**Free State**

528 548

433 932

962 480

6,7%

**Gauteng**

2 059 688

1 420 685

3 480 373

24,3%

**KwaZulu/Natal**

1 493 776

1 245 412

2 739 188

19,2%

**Mpumalanga**

559 117

385 740

944 857

6,6%

**North-West**

703 716

487 029

1 190 745

8,3%

**Northern Cape**

168 406

111 325

279 731

2,0%

**Northern Province**

572 746

642 762

1 215 508

8,5%

**Western Cape**

1 001 253

717 531

1 718 784

12,0%



Total

7 975 157

6 321 891

14 297 048

100,0%

a

Figures may not add up owing to

According to the CSS, Africans accounted for the largest proportion of the EAP in 1994, namely 69,3%. Whites accounted for 17,4%, coloured people for 10,4% and Asians for 2,9%. Of the nine provinces, Gauteng had the highest proportion of the EAP (24,3%), followed by KwaZulu/Natal (19,2%), the Eastern Cape (12,3%) and the Western Cape (12%). The Northern Cape (2%) and the Free State (6,7%) had the lowest proportions of the EAP. The chart below shows EAP by province in October 1994:

According to a report by the National Manpower Commission, the average annual growth rate of the EAP over the period 1980 to 1994 was 2,9%. The growth in the EAP was highest among Asians (3,4%), followed by Africans and coloured people at 3,1% and whites at 2,1%.<sup>6</sup> [<sup>6</sup> National Manpower Commission, Commemorative Issue 1979–95, January 1995]

## Structure of the Workforce

### Private and Public Sectors

The South African Reserve Bank provided the following breakdown of the average number of workers in the private and public sectors over a five-year period from 1990 to 1994:<sup>7</sup> [<sup>7</sup> South African Reserve Bank (SARB), *Quarterly Bulletin*, September 1995]

*Public and private sector employment: 1990–94<sup>a</sup>*

Year

Public sector

Increase (decrease)

Private sector

Increase (decrease)

Total

Increase (decrease)

1990

1 724 591

—

3 851 995

—

5 576 586

—

1991

1 766 131

2,4%

3 709 388

(3,7%)

5 475 519

(1,8%)

1992

1 786 913

1,8%

3 574 246

(3,6%)

5 361 159

(2,1%)

1993

1 764 710

(1,2%)

3 479 717

(2,6%)

5 244 427

(2,2%)

1994

1 780 009

0,9%

3 431 533

(1,4%)

5 211 542

(0,6%)

a

Average number of employees over four quart

According to the reserve bank, employment in the public sector increased by 3,6% between 1990 and 1992. Although employment in the public sector dropped by 1,2% in 1993, it increased by 0,9% in 1994. The bank said that the average level of employment in 1994 was 0,6% lower than in 1993. While public sector employment increased from 1990 to 1994, employment in the private sector in 1994 was only 89% of its 1990 level.<sup>8</sup> [<sup>8</sup> *The Citizen* 22 September 1995] The line graph below shows trends in public and private sector employment:

## The Informal Sector

According to the Bureau of Market Research at the University of South Africa, approximately 1,6m (16,3%) of the total number of people working were involved in the informal sector in 1994. Of those, 22,8% were in Gauteng and 21% were in KwaZulu/Natal. According to the CSS, the informal sector's contribution to gross domestic product was 6,7% in 1994.<sup>9</sup> [<sup>9</sup> CSS, *October Household Survey 1994*, PO317] The following table shows the distribution of informal sector workers by province in 1994:<sup>10</sup> [<sup>10</sup> Bureau of Market Research (BMR), *The Nine Provinces: A SocioEconomic Profile 1995*, 22 September 1995]

*Informal sector workers by province: 1994*

Number

Proportion of total

Eastern Cape

213 400

13,6%

**Free State**

168 400

10,7%

Gauteng

358 300

22,8%

**KwaZulu/Natal**

331 000

21,0%

**Mpumalanga**

76 000

4,8%

**North-West**

122 900

7,8%

**Northern Cape**

29 800

1,9%

**Northern Province**

111 700

7,1%

**Western Cape**

163 000

10,4%

**Total<sup>a</sup>**

1 574 600

100%

a

Figures may not add up owing to

## Male/Female Breakdown

The following table provides a breakdown of the male/female distribution of workers by occupation in October 1994:<sup>11</sup> [11 CSS, *October Household Survey 1994*, PO317]

*Proportional male/female distribution of workers by occupation: October 1994<sup>a</sup>*

### Main occupational group

Male

Female

Total

Legislators, senior officials and managers

415 501

115 998

531 498

### Professionals

314 157

307 949

622 105

Technicians and associated professionals

422 997

409 789

832 786

**Clerks**

436 726

733 380

1 170 106

**Service workers and shop and market sales workers**

572 742

434 840

1 007 583

**Skilled agricultural and fishery workers**

116 364

16 378

132 742

**Craft and related trade workers**

1 017 500

165 611

1 183 110

**Plant/machine operators and assemblers**

950 926

180 351

1 131 276

Elementary occupations<sup>b</sup>

1 553 740

1 363 292

2 917 033

**Armed forces**

39 215

7 625

46 840

Occupation unspecified

46 819

19 073

65 891

Total<sup>c</sup>

5 886 687

3 754 285

9 640 972

a

Includes formal employment only.



b

Refers to unskilled workers

c

Figures may not add up owing to rounding.

The table shows that of the 9,6m workers, 61% were men and 39% were women. The highest proportions of male workers were found in elementary occupations (26,4%), crafts and related trades (17,3%), and in jobs as plant/machine operators and assemblers (16,2%). The highest proportions of female workers were found in elementary occupations (36,3%) and clerical positions (19,5%). Some 5,3% of men were in professional occupations, compared with 8,2% of women.

However, there were about 3,5 times as many men as women in the legislators, officials, and managers category, and five times as many operating machines and do

## Urban/Rural Breakdown

According to the CSS, 49% of the African workforce were in urban areas, compared with 97% of the Asian workforce and 82% of the coloured workforce. Among the rural African workforce, 43% were unemployed, while 39% of the urban African workforce were unemployed.

The following table provides a comparative breakdown of the workforce by location and population group in October 1994:<sup>12</sup> [<sup>12</sup> *Ibid*]

*Distribution of the workforce by location and population group: October 1994*

Workers

Unemployed<sup>a</sup>Total<sup>b</sup>

African

Urban

2 966 184

1 898 770

4 864 953

Rural

2 869 994

2 178 975

5 048 969

Subtotal<sup>b</sup>

5 836 177

4 077 745

9 913 922

*Asian*

Urban

326 458

68 152

394 610

Rural

12 023

1 843

13 866

Subtotal

338 480

69 995

408 476

*Coloured*

Urban

902 840

326 923

1 229 763

Rural

242 089

21 491

263 580

Subtotal

1 144 929

348 414

1 493 343

*White*

Urban

N/A

N/A

N/A

Rural

N/A

N/A

N/A

Subtotal

2 321 385

159 922

2 481 306

Total

9 640 972

4 656 076

14 297 048

a

Refers to the expanded definition of unemployment ie people 15 years and older who were not in paid employment or self-employed, were available for paid employment or self-employment and had the desire to work and to take up employment or self-employment.

b

Figures may not add up owing to rounding.

N/

## Provincial Breakdown

The survey by the CSS in October 1994 showed that Gauteng had the highest proportion of all workers (25,7%), followed by KwaZulu/Natal (19,3%), the Western Cape (14,7%), the Eastern Cape (10%),

North-West (7,8%), the Free State (7,5%), the Northern Province (6,7%), Mpumalanga (6,2%) and the Northern Cape (2%).

The survey also showed that 76,5% of Asian workers were in KwaZulu/Natal, 68,2% of coloured workers were in the Western Cape, and 43,6% of white and 22,8% of African workers were in Gauteng.

The following table provides a provincial breakdown of the workforce in October 1994:<sup>13</sup> [<sup>13</sup> *Ibid*]

*Provincial breakdown of the workforce: October 1994*

Province

Workers

Proportion of provincial total

Unemployed<sup>a</sup>

Unemployment rate

Total

Eastern Cape

966 046

54,7%

799 335

45,3%

1 765 381

**Free State**

727 872

75,6%

234 607

24,4%

962 480

Gauteng

2 479 832

71,3%

1 000 541

28,7%

3 480 373

**KwaZulu/Natal**

1 857 841

67,8%

881 347

32,2%

2 739 188

Mpumalanga

600 655

63,6%

344 202

36,4%

944 857

**North-West**

754 562

63,4%

436 184

36,6%

1 190 745

**Northern Cape**

188 801

67,5%

90 931

32,5%

279 731

**Northern Province**

644 364

53,0%

571 144

47,0%

1 215 508

**Western Cape**

1 421 000

82,7%

297 784

17,3%

1 718 784

Total

9 640 972

67,4%

4 656 076

32,6%

14 297 048

a

Refers to expanded definition of unemployment, ie people 15 years and older who were not in paid employment or self-employed, were available for paid employment or self-employment, and had the desire to work and to take up employment or self- em

## **Immigrants and Emigrants, Migrant Workers and Illegal Workers**

### ***Immigrants and Emigrants***

In its 1994 annual report, the Department of Home Affairs said that of the 6398 immigrants that entered South Africa in 1994, 2 568 (or 40%) were economically active. The following table provides an occupational classification of immigrants for 1993 and 1994:<sup>14</sup> [<sup>14</sup> *Department of Home Affairs, annual report, 1994*]

#### *Occupational classification of immigrants: 1993 and 1994*

Occupation

1993



1994

Increase (decrease)

Professional

1 454

1 103

(24,1%)

Managerial and administrative

842

490

(41,8%)

Clerical and sales

770

400

(48,0%)

Transport, delivery and communication

23

19

(17,4%)

Agricultural

13

20

53,8%

Service workers

161

115

(28,6%)

Manufacturing

871

421

(51,7%)

Total

4 134

2 568

(37,9%)

The highest proportion of economically active immigrants were employed in professional occupations in 1993 (35,2%) and 1994 (43%). The number of immigrants in the agricultural sector increased by 53,8%, while the other main occupational groups all showed significant decreases between 1993

In 1994, 10 235 people emigrated from South Africa, 47,5% of whom were economically active. The highest proportion of economically active emigrants were in professional, semi-professional and technical occupations (40,3%). South African had a net loss of 2 292 economically active people in 1994 (see chapter on *Population*).<sup>15</sup> [<sup>15</sup> *Ibid*]

### ***Migrant Workers***

In 1984, 38,2% of the 534 303 migrant workers on member mines of the Chamber of Mines of South

Africa were from other countries. In 1994, 45% of the 368 463 workers were from other countries. Between 1984 and 1994, the number of foreign workers on coal mines and gold mines decreased by 66,9% and 19,6% respectively, while the number of foreign workers on other mines for the same period increased by 59,8%. Of the 368 463 workers employed on member mines in 1994, 23,7% were from Lesotho, 13,7% from Mozambique, and 4,2% and 3,2% from Swaziland and Botswana respectively. Employment on chamber mines dropped by 31% over the ten-year period.

The following table provides a breakdown of the countries of origin of employees on member mines of the Chamber of Mines in 1994, compared with 1984:<sup>16</sup> [*Chamber of Mines of South Africa, Statistical Tables, 1994*]

*Country of origin of employees on member mines of the Chamber of Mines of South Africa: 1984 and 1994*

Country of origin

*Gold mines*

1984

1994<sup>a</sup>

Increase (decrease)

South Africa

253 548

155 586

(38,6%)

Botswana

17 257

10 043

(41,8%)

Lesotho

95 675

80 200

(16,2%)

Malawi

15 120

—

—

Mozambique

44 195

42 686

(3,4%)

Swaziland

10 833

14 208

31,2%

Zimbabwe

2

—

—

Other areas

219

275

25,6%

**Subtotal**

436 849

302 998

(30,6%)

*Country of origin*

*Coal mines*

**South Africa**

46 583

14 704

(68,4%)

**Botswana**

8

—

—

**Lesotho**

9 514

2 385

(74,9%)

## Malawi

208

—

—

## Mozambique

1 277

1 208

(5,4%)

## Swaziland

634

243

(61,7%)

## Zimbabwe

7

1

(85,7%)

## Other areas

—

15

—

**Subtotal**

58 231

18 556

(68,1%)

*Country of origin*

*Other mines*

**South Africa**

30 120

32 363

7,4%

**Botswana**

1 477

1 920

30,0%

**Lesotho**

3 123

4 836

54,9%

**Malawi**

2 004

—

—  
**Mozambique**

2 292

6 725

193,4%

**Swaziland**

206

896

335,0%

**Zimbabwe**

—

—

—

**Other areas**

1

169

16 800,0%

**Subtotal**

39 223

46 909



19,6%

Total

534 303

368 463

(31,0%)

a

Figures

The following table and graph provide a breakdown of the average number of employees in service on Chamber of Mines gold mines from 1970 to 1994:<sup>17</sup> [<sup>17</sup> Ibid]

*Average annual number of employees on Chamber of Mines gold mines: 1970–94*

Year

Average number of employees in service

Increase (decrease)

1970

416 846

—

**1971**

416 785

0,0%<sup>a</sup>

1972

405 102

(2,8%)

**1973**

422 635

4,3%

1974

396 084

(6,3%)

**1975**

370 595

(6,4%)

1976

395 007

6,6%

**1977**

416 951

5,6%

1978

434 422

4,2%

**1979**

449 702

3,5%

1980

469 257

4,3%

**1981**

478 938

2,1%

1982

475 769

(0,7%)

**1983**

487 761

2,5%

1984

498 421

2,2%

**1985**

513 832

3,1%

1986

534 255

4,0%

**1987**

530 574

(0,7%)

1988

515 739

(2,8%)

**1989**

505 262

(2,0%)

1990

473 685

(6,2%)

**1991**

424 250

(10,4%)

1992

406 792

(4,1%)

**1993**

386 653

(5,0%)

1994

391 288

1,2%

a

Decre

***Illegal Workers***

According to a report by the Institute for Strategic Studies at the University of Pretoria, most Mozambicans who entered South Africa were employed illegally as farm labourers in Mpumalanga, as were Zimbabweans in the Northern Province. Farmers in the Northern Province border areas employed between 7 000 and 8 000 Zimbabwean farm labourers annually to assist with harvesting of crops. The Mozambican Labour Office estimated that 20 000 Mozambicans were working on farms in Mpumalanga in 1993. Many of these labourers made their way to urban centres in Gauteng and KwaZulu/Natal after a few months of working on farms.<sup>18</sup> [<sup>18</sup> Institute for Strategic Studies, University of Pretoria, 'The Impact of Illegal Aliens on Safety and Security in South Africa', in *ISSUP Bulletin*, July 1995] Once in urban centres, Zimbabweans were sought after as skilled labourers in the formal sector, while Mozambicans were preferred on construction sites, the report said. Many illegal aliens from African countries tried to enter the informal business sector by hawking such things as curios and artefacts. Many of the workers illegally employed were often exploited, accepting work at wages far below recommended union rates. Employers often reported illegal workers who were complaining about not being paid or getting low wages to immigration officers or border tracing units, the report said.<sup>19</sup> [<sup>19</sup> Ibid] Accurate figures for the number of illegal aliens in South Africa were not available. Estimates ranged from 2m to 8m (see chapter on *Population*).

The Department of Home Affairs said that 90 692 illegal aliens were repatriated from South Africa in 1994, compared with 96 600 in 1993. According to the department, repatriations had decreased because many immigration officers had been utilised in the issuing of identity documents and other electoral tasks during the 1994 general election, instead of tracing and removing illegal aliens. Most people repatriated in 1994 were citizens of Mozambique (78,6%), Zimbabwe (14,2%) and Lesotho (4,5%) (see also chapter on *Population*).

In June 1994 the cabinet committee for security and intelligence instituted a special investigation into the entry of illegal aliens into South Africa.<sup>20</sup> [<sup>20</sup> Department of Home Affairs, annual report, 1994; *The Argus* 16 January 1995] The Aliens Control Amendment Act, passed by Parliament in September 1995, provided for more effective control over visas as well as for an increase in the powers of immigration officials (see chapter on *Population*).<sup>21</sup> [<sup>21</sup> *The Citizen* 15 September 1995]

The National Union of Mineworkers (NUM) said in October 1995 that it would challenge the act, in particular its impact on migrant workers, in the Constitutional Court. The president of the NUM, Mr James Motlatsi, said that the union had made numerous approaches to the minister of home affairs, Chief Mangosuthu Buthelezi, to demand that all workers enjoy the same rights (see also chapter on *Population*). Mr Motlatsi said that the act stipulated that immigrants were entitled to apply for permanent residence after working in the country for five years, yet African migrant workers who had worked in the country for decades were denied permanent residence as their ‘20 years [of service] were regarded as 20 times 12 separate months’. He added that the NUM had submitted evidence to the Labour Market Commission on the issue of permanent residence and the ‘scandal’ of the hostel system whereby African migrant workers were crowded ten to 16 people per room while white migrant workers had their own houses and lived with their families.<sup>22</sup> [<sup>22</sup> *Business Day*, *The Citizen* 18 October 1995]

Later in the month Chief Buthelezi said that people who had participated in the general election in April 1994 with temporary voter’s cards, including about 90 000 migrant mineworkers, would be allowed to apply for permanent residence in South Africa until 31st March 1996.<sup>23</sup> [<sup>23</sup> Department of Home Affairs, press release, 31 October 1995] This followed discussions between the NUM; the president, Mr Nelson Mandela; and Chief Buthelezi, after the NUM had campaigned to permit migrant mineworkers to vote in the local government elections on 1st November 1995. A spokeswoman for the NUM, Ms Judith Weymont, said that although the agreement had been reached too late to allow migrant mineworkers to vote in the local elections, mineworkers had won an ‘enormous victory’.<sup>24</sup> [<sup>24</sup> *The Citizen* 30 October 1995]

## Unemployment

### Statistics and Trends

The *October Household Survey* of the Central Statistical Service (CSS), estimated the unemployment rate in 1994 to be 32,6%. (The expanded definition of unemployment refers to persons 15 years and older who are not in paid employment or self-employed; are available for paid employment or selfemployment; and have the desire to work and to take up employment or selfemployment.) There were no comparable figures for 1993 as the ‘independent’ homelands were not included in surveys prior to 1994. In 1994 the unemployment rate among Africans was 41,1%, compared with 23,3% among coloured people, 17,1% among Asians and 6,4% among whites. Almost half the unemployed people (48,7%) were younger than 30 years, 97,7% did not have post-school qualifications and 87% possessed no skills or training for any kind of job. An estimated 400 000 pupils left school at the end of 1994, of whom only 3%–4% would find employment in the formal sector, the CSS said.

In 1994 Africans accounted for 87,6% of all the unemployed. Coloured people accounted for 7,5%, while whites and Asians accounted for 3,4% and 1,5% respectively.<sup>25</sup> [<sup>25</sup> CSS, *October Household Survey 1994*, PO317]

An independent survey by management consultants FSA-Contact found that 5% of first time job-seekers would be able to find employment in the formal sector in 1995. In 1994 less than 3% of job-seekers were successful.<sup>26</sup> [<sup>26</sup> *Cape Times* 26 June 1995]

The following table and graph provide a breakdown of unemployment by race and sex:<sup>27</sup> [<sup>27</sup> CSS, *October Household Survey 1994*, PO317]

*Unemployment<sup>a</sup> by race and sex: October 1994<sup>b</sup>*

Male

Female

Total<sup>c</sup>

African

Number

1 824 085

2 253 661

4 077 745

Rate

33,6%

50,2%

41,1%

*Asian*

Number

35 399

34 596

69 995

Rate

13,3%

24,2%

17,1%

*Coloured*

Number

163 283

185 131

348 414

Rate

19,7%

27,8%

23,3%

*White*

Number

65 703

94 218



159 921

Rate

4,5%

9,2%

6,4%

*Total*

Number

2 088 470

2 567 606

4 656 076

Rate

26,2%

40,6%

32,6%

a

Refers to expanded definition of unemployment.

b

Includes former 'independent' homelands.

c

Figures may not add up ow

The following table provides a breakdown of the number of people unemployed and the rate of unemployment by province and location:<sup>28</sup> [28 Ibid]

*Urban/rural unemployment<sup>a</sup> by province: October 1994*

Province

Number of unemployed<sup>b</sup>

Unemployment rate

Eastern Cape

Urban

263 460

32,4%

Rural

535 875

56,3%

Subtotal

799 335

45,3%

*Free State*

Urban

175 541

29,6%

Rural

59 066

16,0%

Subtotal

234 607

24,4%

*Gauteng*

Urban

978 283

29,3%

Rural

22 258

16,4%

Subtotal

1 000 541

28,7%

*KwaZulu/Natal*

Urban

370 399

26,6%

Rural

510 948

37,9%

**Subtotal**

881 347

32,2%

*Mpumalanga*

**Urban**

107 348

30,5%

**Rural**

236 855

39,9%

**Subtotal**

344 202

36,4%

*North-West*

**Urban**

151 930

31,3%

**Rural**

284 254

40,3%

**Subtotal**

436 184

36,6%

*Northern Cape*

**Urban**

74 381

38,1%

**Rural**

16 550

19,6%

**Subtotal**

90 931

32,5%

*Northern Province*

**Urban**

38 074

23,3%

**Rural**

533 070

50,7%

Subtotal

571 144

47,0%

*Western Cape*

Urban

285 288

19,7%

Rural

12 495

4,7%

Subtotal

297 784

17,3%

*Grand total*

Urban

2 444 705

27,8%

Rural

2 211 371

40,1%

Total

4 656 076

32,6%

a

Refers to expanded definition of unemployment.

b

F

The highest rate of unemployment was in the Northern Province (47%) and the lowest in the Western Cape (17,3%). Numerically, however, Gauteng had more than 1m unemployed, or 21,5% of the total number of unemployed, followed by KwaZulu/Natal, with 881 347 or 18,9%. The Eastern Cape had the highest rural unemployment rate (56,3%) and the Northern Cape had the highest urban unemployment rate (38,1%).

The graph below shows the urban and rural unemployment rate in 1994:

In February 1995 the minister of labour, Mr Tito Mboweni, said in the Senate that ‘to lower the present level of unemployment significantly and to accommodate the annual new entrants to the labour market, an annual economic growth rate of at least 8%–10% is necessary’. According to the South African Reserve Bank, the economic growth rate for 1994 was 2,3%. The Bureau for Economic Research (BER) at the University of Stellenbosch forecast an annual average growth rate of 2,8% until 1999. Job opportunities would increase by an average of 1,4% annually. By 1999 there would be only an additional 500 000 job opportunities in the formal sector, the BER said (see also chapter on *The Economy*).<sup>29</sup> [<sup>29</sup> *Hansard* (S) 1 q cols 17–19, 28 February 1995]

In its 1995 annual economic report, the reserve bank said that employment growth had been slow to respond to the upturn in economic activity in 1993 and 1994. Only in the second quarter of 1994 had employment begun to advance, at an annualised rate of 0,6%. This rate of increase improved to 2,5% in the third quarter, but dropped to 0,9% in the fourth quarter. The reserve bank attributed this to the rationalisation of labour and the reluctance of firms to hire new workers until the economic upturn was ‘firmly established’. Employment in the private sector responded slowly to economic growth. In the fourth quarter of 1994, about 41 000 fewer people were employed by the private sector than at the end of the recession of 1989–93. The drop in job opportunities in the private sector, combined with the

estimated 420 000 job losses in the 1989–93 recession, brought the aggregate level of formal sector employment more or less back to where it was in mid-1982. Contrary to developments in the private sector, employment in the public sector continued to show ‘a sharp upward trend’.<sup>30</sup> [<sup>30</sup> SARB, annual economic report, 1995]

The reserve bank added that despite continued growth in the construction sector and the rise in electricity generation, employment levels in these sectors as well as in gold mining, remained below the levels reached at the beginning of the recession in the second quarter of 1989. Structural weaknesses, such as low levels of education and training of workers, increases in capital-intensive production and the reluctance of private sector employers to increase their staff, were harming the economy’s ability to absorb labour.<sup>31</sup> [<sup>31</sup> Ibid]

According to the reserve bank, from mid-1993 to the end of 1994, large numbers of job-seekers from neighbouring countries compounded the problem, causing unemployment to rise ‘substantially’.

According to an economist at the Development Bank of Southern Africa, Mr Carel Meintjies, South Africa would need an economic growth rate of 7% annually to absorb the existing workforce and the workforce entering the market every year. He said, however, that the ratio of employment growth to economic growth would increase as a result of the labour-intensive projects envisaged by the reconstruction and development programme. The formal sector’s labour absorption capacity had decreased from 80,9% in 1960 to 29% in 1980 and to 11,5% thereafter. In the agricultural sector, the number of workers per R1m of gross domestic product (GDP) decreased by 62,7%, from 249 in 1970 to 93 in 1990. The manufacturing sector showed a decrease of 19,6%, from 66 workers to 53 workers per R1m of GDP.<sup>32</sup> [<sup>32</sup> *Business Day* 6 January 1995]

The director of the BER, Dr Ockie Stuart, said in June 1995 that unemployment would rise over the next five years because the economy could not be restructured ‘overnight’. Dr Stuart was commenting on a statement made by Professor Lawrence Schlemmer, former vice president of the Human Sciences Research Council, that African unemployment would continue to rise unless there was an average of a 4%–5% growth in GDP. According to Dr Stuart, Professor Schlemmer’s figures were too low. If the structure of the economy did not change, growth of 6%–7% would be needed to absorb new entrants to the labour market. The chances of that happening were very slim. Although a number of unemployed people would find jobs in the informal sector, or be self-employed, this was not a healthy development in the economy, Dr Stuart said.<sup>33</sup> [<sup>33</sup> *The Star* 7 June 1995]

The governor of the reserve bank, Dr Chris Stals, said in February 1996 that although economic growth was 3,5% in the first nine months of 1995, total employment increased by only 1,7%, while population growth was 2,4%.<sup>34</sup> [<sup>34</sup> *The Star Business Report* 5 February 1996]

## Unemployment Insurance Fund



The following tables provide a breakdown of income and expenditure of the Unemployment Insurance Fund (UIF) from 1990 to 1994:<sup>35</sup> [35 Fax communication from the Department of Labour, 11 October 1995]

*Unemployment Insurance Fund income: 1990–94*

Year

Contributions Rm

Interest Rm

State Rm

Other Rm

Total Rm

Increase

1990

1 016

169

7

24

1 216

–

1991

1 180

183

7

20

1 390

14,3%

1992

1 304

158

7

53

1 522

9,5%

1993

1 447

91

7

38

1 583

4,0%

1994

1 705

37

7

30

1 779

12

*Benefits paid from the Unemployment Insurance Fund: 1990–94*

Year  
Unemployment Rm  
Illness Rm  
Maternity Rm  
Dependants Rm  
Total Rm

1990

588

85

141

41

855

1991

926

102

156

47

1 231

1992

1 215

115

172

56

1 558

1993

1 650

141

176

64

2 031

1994

1 464

125

172

67

1 828

Unemployment payouts increased by 149% in the period 1

According to a senior researcher at the National Labour and Economic Development Institute (Naledi), the research wing of the Congress of South African Trade Unions, widening the scope of the UIF to include high earners would boost the fund by R55m a year. At a social welfare conference in April 1995, Mr Ravi Naidoo of Naledi, said that a survey conducted by Naledi suggested that employers 'boycotted' payments to the UIF, as contributions had dropped by 25% over two years. This figure was well above retrenchment estimates. Mr Naidoo added that closing the gap was essential to ensure that the fund continued to meet demands. The director of administration for the UIF, Mr Gerrit van Wyk, said that other means of funding the UIF should urgently be sought to ensure the fund could meet the basic needs of South Africa's unemployed. He added that the fund was a handout system which did nothing to create jobs or stimulate growth, and had to therefore extend its scope to job placement, training and retraining.<sup>36</sup> [<sup>36</sup> *Business Day* 4 April 1995]

Mr Mboweni said in November 1995 that the UIF could not cope with the number of unemployed in the country and needed to be revamped. Unemployment was likely to continue into the next century and therefore it would be better to develop a 'holistic unemployment plan', much like the German model, which was linked to job placement, career counselling and apprenticeships. This would encourage co-operation and discourage people from committing fraud, Mr Mboweni said.<sup>37</sup> [<sup>37</sup> *The Citizen* 11 November 1995]

A special survey, *Salary and Wage Movements and Labour Trends*, published by FSA-Contact in January 1995 showed that the decline in retrenchments seen in 1994 would continue during 1995. Of the 9,5% labour turnover in 1994, retrenchments and redundancy accounted for 16%, down from 25% in 1993. The incidence of emigration increased from 1% in 1993 to 4% in 1994. Labour turnover in 1994 was mainly through natural attrition, the largest proportion (47%) employee-instigated. Twenty-two percent of turnover was uncontrollable because of death, retirement or pregnancy.<sup>38</sup> [<sup>38</sup> *Ibid* 5 January 1995, *Eastern Province Herald*, *The Natal Mercury* 6 January 1995]

## Affirmative Action

At the opening of Parliament on 17th February 1995, Mr Mandela stated that the public service should assist the government in addressing racial and gender imbalances within the service. The public service would not be fully acceptable to the people or responsive to their needs unless it reflected the composition of the population. Mr Mandela added that the government would implement measures to ensure that those who had been disadvantaged by apartheid were given the capacity to develop their talents.<sup>39</sup> [<sup>39</sup> *Hansard* (joint sitting) 1 col 8, 17 February 1995]

At a conference of visiting African-American business people in April 1995, the minister without portfolio, Mr Jay Naidoo, said that the government would not 'dictate' to private companies how to

implement affirmative action programmes. According to Mr Naidoo, the government would do this only in the public sector to ensure that it was representative of the South African population.<sup>40</sup> [<sup>40</sup> *Die Burger* 8 April 1995]

In April 1995 Portnet announced that it would waive its affirmative action policy as an emergency measure to halt a congestion crisis at Cape Town harbour's container terminal. According to Portnet, the main reasons for the problem were an inadequately trained labour force, labour disputes and absenteeism. Cape Town's port manager, Mr Neels Hubinger, said that more than 100 skilled workers had to be employed over a 15-month period to get the terminal back on track. Mr Hubinger added that 70% of all workers were black, but that most of them were untrained. It took up to two months of training for them to get qualifications. The South African Railway and Harbours Workers' Union, however, denied that it was labour's fault, blaming instead lack of management foresight in preparing the terminal for increased volume and the failure to upgrade skills.<sup>41</sup> [<sup>41</sup> *Weekend Argus* 29 April 1995]

Submissions made in June 1995 by parties to the theme committee of the Constitutional Assembly dealing with the character of the democratic state indicated that most parties were in support of affirmative action being included explicitly in South Africa's final constitution. The National Party and the African Christian Democratic Party said that affirmative action should apply for a limited period only, while the African National Congress submitted that the constitution should contain permanent provisions for correcting racial and gender imbalances. The Democratic Party, while not referring to affirmative action explicitly, supported the economic provisions in the transitional constitution which emphasised 'the entrenchment of the notion of substantive equality and the removal of discriminatory practices'. The Freedom Front did not refer to affirmative action at all.<sup>42</sup> [<sup>42</sup> *Business Day*, *The Citizen* 6 June 1995]

The Department of Public Works announced in August 1995 that it would be launching a points scheme in September 1995 whereby firms would be awarded contracts on the basis of their affirmative action policies. The department would create a pilot roster of available architects, engineers and surveyors and other professionals in the construction sector. Firms would be awarded points and ranked on the roster according to, among other things, their affirmative action policies, alliances with black firms, training, and mentorship for the disadvantaged. The old roster of consultants would be maintained, but 'choice' contracts would be awarded according to position on the new roster on a rotating basis. The roster would also be used to pair established and previously disadvantaged firms. To guard against corruption, the department would request extensive details of firms, audit their performances and impose penalties on those bending the rules.<sup>43</sup> [<sup>43</sup> *The Star Business Report* 21 August 1995]

## **Restructuring of the Public Service**

The *White Paper on the Transformation of the Public Service* published in November 1995 stated that the public service needed to be transformed into a coherent, representative, competent and democratic instrument for implementing government policies and meeting the needs of people in line with the process of reconciliation, reconstruction and development.

The main shortcomings of the public service were identified as:<sup>44</sup> [44 Department of Public Service and Administration, *White Paper on the Transformation of the Public Service*, 15 November 1995]

- a lack of representativeness and legitimacy;
- poor and discriminatory service delivery;
- centralised control and top-down management;
- lack of accountability and transparency;
- absence of effective information systems;
- low productivity;
- poorly paid and demotivated staff;
- conflicting labour relations;
- a lack of professional ethos and work ethic;
- resistance to change;
- impatience at the pace of change;
- a shortage of skills and capacity; and
- financial constraints.

The government of national unity identified the following priorities for the transformation process:<sup>45</sup> [45 Ibid]

- rationalising and restructuring to ensure a unified, integrated and leaner public service;
- institution building and changes in management philosophy and practice to promote greater accountability and effectiveness;
- representativeness and affirmative action;

- transforming service delivery to meet basic needs and to redress past imbalances;
- enhancing accountability and the democratisation of the state;
- human resource development and training;
- improving pay and employment conditions as well as labour relations; and
- the promotion of a professional service ethos.

The white paper said that according to the priority assigned by the government to create a public service more representative of South African society, a programme of affirmative action would be implemented. The main target groups would be black people, women and the disabled. Regarding quotas, the white paper aligned itself with recommendations in the *White Paper on Reconstruction and Development*, tabled in Parliament in November 1994, which stated that the public service would be representative of South African society in terms of race and sex by the end of the decade. The white paper added that within four years at least 50% of all public service personnel at management level should be black, while 30% of new recruits to middle and senior management levels should be women. Within ten years 2% of public service personnel should be people with disabilities.<sup>46</sup> [46 Ibid]

In line with the objectives of the reconstruction and development programme, each national and provincial government department would have to draw up a detailed affirmative action plan defining its targets for the first two years and present annual reports which would be subject to parliamentary scrutiny. Special measures would be taken in cases where departments failed to show visible progress in achieving their affirmative action targets. Furthermore, the white paper envisaged that affirmative action programmes would be strengthened by legislation to 'ensure the active and correct implementation of such programmes'.<sup>47</sup> [47 Ibid]

The white paper also stated that the government aimed to improve employment conditions by the introduction of an 'adequate' minimum wage, equal pay for work of equal value and the application of performance-related pay. Pay scale differentials would be reduced by 'significant' increases at the bottom and 'restraint' at the top. Working conditions for women and the disabled would be improved by the repeal of discriminatory practices.<sup>48</sup> [48 Ibid]

The white paper said that once the costs of transforming the public service had been calculated, they would be financed by being absorbed into existing departmental budgets, or by raising additional funds from the private sector and external donors. The affirmative action programme would require funds for early retirement and retrenchment packages, relocation of staff, and for training and retraining.<sup>49</sup> [49 Ibid]

A survey by the Central Statistical Service, published in October 1995, said that the total number of



workers in the public sector (including the South African Post Office, Telkom and Transnet) at the end of March 1995 was 1 885 443. From March 1994 to March 1995 the number of African workers in the public sector had increased by 35%, while the number of white workers had decreased by 5,4%. Of the 1 885 443 workers in the public sector, 51,7% were African, followed by whites (22,5%), coloured people (9,6%) and Indians (1,9%). The remaining 12,5% were unspecified.<sup>50</sup> [<sup>50</sup> CSS, *Employment and salaries and wages: public sector, March 1995* statistical release, PO251, 23 October 1995]

In February 1995, 19 public sector unions engaged in central bargaining chamber talks with the government, accepted in principle an affirmative action policy. According to Mr Paseka Ncholo, adviser to the minister for the public service and administration, Dr Zola Skweyiya, the policy provided for the recruitment, training and advancement of South Africans previously excluded on the basis of race, sex or disability and would be implemented in such a way that the rights of the serving personnel would not be affected.<sup>51</sup> [<sup>51</sup> *Mail and Guardian* 3 February 1995]

The minister said in April 1995 that a major public service retrenchment exercise would be finalised by the end of the year, following restructuring and rationalisation. He denied that the move represented a turnaround on the government's previous assertion that security of tenure for public sector employees in service before the election in April 1994, was guaranteed by the transitional constitution. 'The guarantee applies only until the rationalisation study is completed,' Dr Skweyiya said.<sup>52</sup> [<sup>52</sup> *Business Day* 13 April 1995]

Mr Casper van Rensburg, general manager of the Public Servants' Association of South Africa, representing about 103 000 employees, confirmed that the transitional constitution did not guarantee employment for public sector employees, but said that the rationalisation of the public service did not present an immediate threat to government employees except for those in the former homelands. Mr van Rensburg said he believed that integrating the former 'independent' homelands could pose serious problems as 'the functions already established for the administration of the TBVC states cannot all be absorbed into the new provincial structures'.<sup>53</sup> [<sup>53</sup> *The Star* 20 April 1995]

Dr Skweyiya said in June that constitutional job guarantees for public servants would fall away after October 1995, on the completion of the national and provincial governments' rationalisation studies. He estimated that the public service would eventually be cut by 5%–7%. Dr Skweyiya justified removing the job guarantee by reference to the section of the transitional constitution which stated that the public service must be 'broadly representative of the South African community'. According to Dr Skweyiya, it was 'a creative way to deal with this [job guarantee] stumbling block'. The Public Servants' Association of South Africa said it had no serious problems with the government's rationalisation plans and accepted them.<sup>54</sup> [<sup>54</sup> *Business Day* 12 June 1995]

In May 1995 the national commissioner of the South African Police Service (SAPS), General George Fivaz, announced 194 new senior appointments to improve the representativeness of the SAPS. The list included 27 affirmative action appointees under mentorship of senior officers. They would be known as executive assistants and trained for appointments to other senior posts.<sup>55</sup> [<sup>55</sup> *Business Day*, *The Star* 1 June 1995]

(See also chapter on *Politics and Security*.)

In August 1995 Dr Skweyiya said that by early July 1995, 1 721 of the 11 000 public service posts advertised in July 1994, had been filled. Of those appointed, 1 452 were from ‘under-represented groups’. A total of 1241 posts were being reallocated to provincial administrations or new departments, while 1 001 posts had been scrapped. The greatest number of vacancies existed in the provincial administrations, with the Free State, Gauteng and KwaZulu/Natal failing to fill 4 815 posts. Departments which had taken up their full quota of new positions included arts and culture, defence, transport, water affairs and forestry, and the office of the executive deputy president from the majority party. The Department of Public Works had the greatest number of vacancies, while the Department of Finance had appointed the most people to new posts. Of the 413 management level posts advertised, 177 had been filled by the beginning of July 1995, almost half of which had been through the transfer or promotion of serving officials.<sup>56</sup> [<sup>56</sup> *The Citizen, Business Day* 8 August 1995]

Dr Skweyiya blamed government departments for the delay. Between 1,3m and 1,5m applications had been received for the advertised posts. The departments were to have appointed candidates to the positions by 30th March 1995, but many failed to do so.<sup>57</sup> [<sup>57</sup> *Saturday Star* 10 May 1995] Eight government departments missed the end of October deadline for the finalisation of public service rationalisation plans.<sup>58</sup> [<sup>58</sup> *Business Day* 14 November 1995]

In its first published annual report, for the 1994/95 financial year, the South African National Defence Force (SANDF) said that there were more Africans in the defence force than whites, coloured people and Indians. Of the 75 479 uniformed full-time personnel, 39 473 (52%) were African, 28192 (37%) were white, 6 983 (9%) were coloured people and 832 (1%) were Indian.<sup>59</sup> [<sup>59</sup> *The Citizen* 8 November 1995]

The following table provides a breakdown of the number of SANDF ranks allocated to former Umkhonto we Sizwe (Umkhonto) and Azanian People’s Liberation Army (Apla) members as at January 1996:<sup>60</sup> [<sup>60</sup> Brigadier W J Le Crerar, director of internal communication of the South African National Defence Force, ‘The Transformation of the South African National Defence Force and its Role in Stabilizing South Africa’, paper presented at a breakfast briefing of the South African Institute of Race Relations, 30 January 1996]

*SANDF ranks allocated to former Umkhonto/Apla members: January 1996*

Rank

Number

Lieutenant general

2

Major general

9

Brigadier

22

Colonel

52

Lieutenant colonel

125

Major

275

Captain

455

Lieutenant

520

Second lieutenant

3

Cha

## **Private Sector**

In January 1995 the minister of labour, Mr Tito Mboweni, announced that specialist directorates would be established in the Department of Labour to oversee the promotion of equal opportunities in the workplace. Mr Mboweni told a conference held by the National Union of Mineworkers that it was too early to talk about affirmative action legislation, but the formation of the directorates indicated the serious light in which his department viewed discrimination in the workplace. According to Mr

Mboweni, affirmative action was an interim measure and would be pursued only until workplaces were no longer 'areas of hostility, discrimination and inequality'.<sup>61</sup> [<sup>61</sup> *Business Day* 23 January 1995]

The Black Management Forum (BMF) said in January 1995 that it was holding talks with the Department of Labour, Business South Africa and organised labour to draw up affirmative action policy guidelines. According to BMF's organisational transformation consultant, Mr Mpho Makwana, a 'balanced system of incentives and sanctions' was being considered, including the possibility of fines for companies which did not adapt employment practices. The implementation body would be a statutory affirmative action agency consisting of public servants and controlled by a governing body. A director general, reporting to Mr Mboweni, would oversee the process.<sup>62</sup> [<sup>62</sup> *Ibid* 24 January 1995]

A 1994 survey of public and private sector organisations by management consultants FSA-Contact showed that of the 86 participating companies, 84% had adopted some form of affirmative action, compared with 74% in 1993 and 58% in 1992. The survey, entitled *Salary and Wage Movements and Labour Trends*, showed that 85% of the participants with formal affirmative action programmes measured their success by the number of people from disadvantaged groups they employed or promoted. At senior management level the proportion of black employees had risen from 3,5% in 1993 to 18% in 1994, and that of Asian employees from 4,5% to 14%. About 49% of middle-level management positions were held by blacks. The proportion of black employees among what was called 'all other staff' ie not management, had declined from 60% to 37%, while that of whites had increased from 24% to 34%.<sup>63</sup> [<sup>63</sup> *The Star, The Citizen* 25 January 1995]

A lecturer in human resource management at the University of the Witwatersrand, Mr Matthew Grossett, conducted a survey in 1995 among 1500 medium to large businesses to determine the status of affirmative action policies. Mr Grossett said that in 1995:<sup>64</sup> [<sup>64</sup> Telephonic conversation with Mr Matthew Grossett, human resource management lecturer, University of the Witwatersrand, Johannesburg, 23 November 1995]

- 84,3% of the organisations surveyed had affirmative action policies;
- 85% adopted an affirmative action policy out of fear of government action/legislation;
- 80% adopted the policy to find favour with the government;
- 68% believed it had no direct benefit to the organisation;
- 100% saw black men and women as the main beneficiaries; and
- 13% saw coloured and Indian men and women as beneficiaries.

In January 1995 the South African Law Commission handed its final report on group and human rights

to the minister of justice, Mr Dullah Omar. The report recommended that provisions promoting affirmative action be included in legislation. A researcher at the law commission, Mr Gordon Hollamby, said, 'We see affirmative action as an application of equality before the law. It does not make sense to have just a few factors, like race and gender.' The director of labour affairs of the South African Chamber of Business, Mr Gerrie Bezuidenhout, said that business was in favour of voluntary affirmative action. Legislation on quotas would not be acceptable. A spokesman for the Congress of South African Trade Unions, Mr Neil Coleman, said that the federation strongly backed affirmative action and supported 'some' legislation.<sup>65</sup> [<sup>65</sup> *The Star* 17 January 1995]

The Mine Workers' Union said in February 1995 that it would take part in affirmative action if it was fairly applied. A white paper on black advancement was formally adopted at the union's annual congress. The organising secretary of the union, Mr Flip Buys, said, 'We support the upliftment and development of blacks. Our concern is the unfair application of the principle of advancement.' This would include advancement on a purely racial basis without taking merit into account.<sup>66</sup> [<sup>66</sup> *The Citizen* 1 February 1995]

In March 1995 the chairman of the Afrikaanse Sakekamer, Mr Hannes Jansen, appealed for moderation in affirmative action 'in the face of the possible economic nightmare it could lead to'. Mr Jansen said that 'we do not necessarily have people who have the experience and expertise to take up senior positions', and it would be a sad day 'if these people are appointed purely because of political ideals and on the grounds of colour'. Mr Jansen added that it bothered him that South Africa would lose competent people in critical posts as a result of ill-considered political ideals.<sup>67</sup> [<sup>67</sup> *The Star Business Report* 13 March 1995]

The National African Federated Chamber of Commerce and Industry (Nafcoc) submitted a business manifesto to the executive deputy president from the majority party, Mr Thabo Mbeki, in April 1995, calling for government intervention in black business. The document called for legislation to support its '3-4-5-6 programme' which proposed that by 2000, 30% of the seats on companies' boards, listed on the Johannesburg Stock Exchange go to blacks, 40% of equity of these companies be held by blacks, 50% of inputs be sourced from black enterprises, and a minimum of 60% of management be black.<sup>68</sup> [<sup>68</sup> *Business Day* 6 April 1995] (See also 1991/92 *Survey*, pp179–180. and 1994/95 *Survey*, pp198–199.)

The managing director of the Johannesburg Consolidated Investment Company (JCI), Mr Bill Nairn, announced in April 1995 that existing staff would not be replaced with black people following its unbundling in May. Mr Nairn said that 'no investor would be interested in getting involved in JCI without its most important asset...the guys who run it'. He added that no one had left JCI as a result of fears of black advancement, but 'as JCI grows it will be looking to fill vacancies with black people in keeping with the country's structure'. According to Mr Nairn, 5% of JCI's managers and senior supervisors were black, 50% of its learner officials, learner miners and apprentices were black, and 74% of its intake of apprentices were black.<sup>69</sup> [<sup>69</sup> *The Star Business Report* 14 April 1995]

In a document published in April 1995 by the Centre for Policy Studies, a senior researcher, Mr Khehla

Shubane, said that a policy aimed at uplifting economically disadvantaged people would have a greater positive effect than affirmative action, which targeted a few educated, middle-class blacks. Mr Shubane suggested that a policy of encouraging a culture of learning should be adopted to ensure recruitment based on merit, while bending the rules for the very poor to ensure their economic participation. This would be a short-term strategy based on earning capacity, not race. Mr Shubane criticised affirmative action for targeting race groups rather than individuals. He added that racially devised standards would once again give power to the wrong people, namely the bureaucrats who administered the system, and in addition would be demeaning to those blacks who succeeded despite apartheid and were now judged by the same standard as those whose positions were not based on merit. Mr Shubane stated that advocates of affirmative action should move their focus from blacks to the poor.<sup>70</sup> [<sup>70</sup> *Business Day* 19 April 1995]

In March 1995 the Graduate School of Business at the University of Cape Town published a report which showed that of the participating companies, less than 4% of managers were African men, while 0,5% of managers were African women. *The Breakwater Monitor*, a nationally applied research project jointly managed by the Graduate School of Business and 130 South African firms focusing on developments in affirmative action implementation, was established in 1991. In 1995 the 130 participating companies collectively employed more than 1m employees.

The report found that in the period October 1992 to September 1994, the number of white men in management positions declined by 3,5%, while the number of African, coloured and Asian men increased at rates of 69%, 19,6% and 25% respectively.

According to the report, in the same two-year period, the number of women at management level increased by more than 14%, pushing the overall representation of women at management level up to 9,3%. African women managers increased by 75%, comprising 5,6% of all women managers. The number of white women managers showed an increase of 8,8% during the two-year period, but represented less than 90% of all women managers for the first time. Coloured women managers showed a growth rate of 66,7%, comprising 3% of all women managers.<sup>71</sup> [<sup>71</sup> University of Cape Town—Graduate School of Business, *The Breakwater Monitor*, March 1995]

The following table shows proportional representation by race at management level in 1992, 1994 and the projected figures for 2000:<sup>72</sup> [<sup>72</sup> *Ibid*]

*Management composition by race group: October 1992, September 1994 and September 2000*

October 1992

September 1994

September 2000<sup>a</sup>

Increase (decrease)<sup>b</sup> 1994–2000

African

2,3%

3,8%

32,8%

730%

Asian

1,6%

2,2%

6,9%

217%

Coloured

2,5%

3,0%

6,9%

128%

White

93,4%

90,9%

53,5%

(41%)

a

Projected.

b

Percentage increase from September 1994 to September 2000.

The *Breakwater Monitor* said that if recent affirmative action trends continued, 32,8% of managers would be African by 2000, an increase of 730% from September 1994, while white managers would drop by 41%, from 90,9% in September 1994 to 53,5% in 2000.<sup>73</sup> [<sup>73</sup> Ibid]

In September 1995 the chief executive officer of the committee for Cape Town's 2004 Olympic Games bid, Mr Chris Ball, announced that only affirmative action candidates would be eligible for future Olympic bid company jobs. According to Mr Ball, efforts were being made to get a mix of people throughout the committee. Men and women were equally represented on the committee, white employees being in the minority. Mr Ball added that in addition to experience, employee potential had to be considered when making appointments.<sup>74</sup> [<sup>74</sup> *The Citizen* 9 September 1995]

According to an *Affirmative Action Monitor* report by FSA-Contact, more than 94% of the organisations surveyed had affirmative action programmes in place in 1995. A consultant at FSA-Contact, Ms Harriet Webster, said in September 1995 that companies attributed the slow appointment of blacks to senior and middle-level management positions to a severe shortage of qualified people. The retention of these employees was difficult as many companies experienced 'poaching' of affirmative action employees. A large proportion of companies recruited affirmative action staff, although many viewed the development and training of their own staff as an important part of affirmative action policy. More than 95% of the companies reported that their programmes were 'reasonably successful', while 2% said they were 'totally unsuccessful'. Twelve percent reported a drop in standa

## Productivity

The South African Reserve Bank said in its quarterly bulletin for September 1995 that the rate of increase in labour productivity (ie the number of units of output obtained per unit of labour input) in the non-agricultural sectors of the economy had risen from 0,4% in 1991 to 2,8% in 1993 and declined to 2,4% in 1994. The rise was the result of a decrease in the number of people working in the formal sector of the economy. While the average annual rate of increase since 1991 (1,7%) was higher than the annual rate during the 1980s (0,3%), the year-on-year rate of increase in real production per worker decreased from 4% in the fourth quarter of 1993, to 1,9% in the fourth quarter of 1994. According to the bank, this was a result of a significant increase in the number of mandays lost through strikes and work stoppages



in the second half of 1994.

In 1994 the increase in labour productivity was lower than the real remuneration per worker, resulting in a 0,7% increase in real unit labour costs (in 1993 real unit labour costs declined by 2,9%). This had serious implications for inflation and the economy's capacity to create jobs, the bank said.<sup>76</sup> [<sup>76</sup> SARB, *Quarterly Bulletin*, September 1995]

The following table provides a breakdown of the percentage changes in labour productivity and in real earnings per employee in the manufacturing sector from 1972 to 1992:<sup>77</sup> [<sup>77</sup> National Productivity Institute, *Productivity Focus*, 1994, June 1994]

*Labour productivity and earnings in manufacturing: 1972–92*

Year

Increase/(decrease) in labour productivity

Increase/(decrease) in real earnings per employee

1972

1,9%

0,7%

**1973**

3,7%

1,4%

1974

0,6%

3,3%

**1975**

0,0%

2,6%

1976

(1,4%)

3,2%

**1977**

(1,9%)

0,2%

1978

6,4%

0,7%

**1979**

5,7%

1,2%

1980

5,1%

3,6%

**1981**

1,0%

3,2%

1982

(4,6%)

3,4%

**1983**

(2,5%)

0,0%<sup>a</sup>

1984

2,6%

2,7%

**1985**

(3,2%)

(3,6%)

1986

0,8%

(4,1%)

**1987**

1,4%

(0,5%)

1988

5,0%

3,4%

**1989**

(0,2%)

2,4%

1990

(1,5%)

0,0%

**1991**

(0,2%)

(2,4%)

1992

(0,7%)

0,9%

a

Increase

According to the National Productivity Institute, between 1972 and 1992 multifactor productivity dropped by 5%. In the same period labour productivity increased by 19%, while capital productivity dropped by 30%. The following table and graph show capital productivity, labour productivity and multifactor productivity in the private economy from 1972 to 1992:<sup>78</sup> [78 Ibid]

*Productivity in the private economy: 1972–92<sup>a</sup>*

Year

Multifactor productivity<sup>b</sup>

Labour productivity

## Capital productivity

1972

99,5

103,3

93,6

**1973**

99,3

102,2

91,0

1974

100,3

103,9

90,1

**1975**

97,4

104,4

85,8

1976

95,2

104,3

82,0

**1977**

92,8

103,0

78,2

1978

94,3

105,4

77,2

**1979**

95,6

107,5

77,3

1980

98,7

112,1

78,1

**1981**

99,1

115,2

77,8

1982

93,9

111,2

73,0

**1983**

90,1

109,2

67,8

1984

93,3

114,6

69,2

**1985**

92,2

115,1

67,2

1986

91,2

114,0

66,4

**1987**

91,9

115,4

66,6

1988

95,3

120,4

68,6

**1989**

96,7

122,1

69,6

1990

95,6

121,4

68,3

**1991**

96,0

124,1

67,4

1992



94,4

123,1

65,6

a

The base year is 1970.

b

Capital and labour indices are combined to give an aggregate labour and capital input index which is the mul

## Skills Levels

See chapter on *Education*.

## Wages and Incomes

### Income Levels, Statistics and Trends

The South African Advertising Research Foundation developed a system in 1989, called the Living Standard Measure (LSM), which measured living standards better than single variables only (ie population group, sex or age). The All Media and Products Survey reports for 1995 were based on the revised system. The population is categorised into three LSM supergroups, A, B, and C. They are as follows:<sup>79</sup> [<sup>79</sup> South African Advertising Research Foundation, *All Media and Products Survey 95 and Trends 1991–95*, September 1995]

- A—‘The established achievers’: the most urbanised group residing predominantly in metropolitan areas and in Gauteng and the Western Cape. Half the coloured people and three quarters of Indians are in this group. The majority are married, white adults, 35 years old and over, and they live in houses/townhouses/flats which they own. They are literate adults who tend to have university or post-matriculation qualifications. This group has more full-time white-collar workers than other groups. The average monthly household income is R4 599.
- B—‘The emergent market’: this group is urban and predominantly nonmetropolitan, with an above average incidence in Gauteng and the Free State. The majority of the group is African and mainly single, male and 16–49 years old. The majority live in houses which they do not own. There is an above average incidence of hostel/compound/backyard room residence. This group is mainly literate, more

than half having some high school education. Employment is principally in the blue-collar sector, with an average household income of R1 072 per month.

- C—‘The less privileged’: this group is predominantly rural, with an above average incidence outside Gauteng. They are either young, African single adults, 16–24 years old, or older African adults over 50 years old. The majority own the huts in which they live but have no water/electricity supplies. They have the lowest level of literacy—three out of five have either never been to school or have only some primary school education. The majority are unemployed, students or retired. The average monthly household income is R549.

Average monthly income per household did not increase in real terms between 1994 and 1995. More than 24% of households were earning below R500 in 1995. Most households falling into LSM C (56,1%) earned under R500, while 60% of the LSM A group earned R2 500 and more.

The following table provides a breakdown of income groups in South Africa according to LSM supergroups:<sup>80</sup> [<sup>80</sup> Ibid]

*Income groups: 1995*

IncTotal population

LSM A

LSM B

LSM C

1–499

24,1%

2,7%

26,6%

56,1%

500–899

18,2%

5,3%

24,7%

30,0%

900–1 399

17,1%

11,9%

26,8%

11,0%

1 400–2 499

14,3%

19,9%

15,9%

2,4%

2 500–3 999

8,6%

17,5%

4,1%

0,3%

4 000–5 999

6,8%

15,8%

1,3%

0,2%

6 000–8 999

5,6%

13,6%

0,4%

–

9 000 +

5,3%

13,3%

0,1%

–

Average

R/month: 1994

2 256

4 775

1 146

599

Average

R/month: 1995

2 364

4 599

1 072

549

## Change 1994–95

4,8%

(3,7%)

(6,5%)

(8,3%)

A study published by the Bureau of Market Research at the University of South Africa in June 1995 found that the personal disposable income of whites had fallen sharply since 1990, while there had been almost no improvement in the economic welfare of Africans individually. Between 1960 and 1994, whites' share of total personal income dropped from 70,1% to 52,7%, while that of Africans rose from 22,4% to 34,7%. The share of Asians rose from 2% to 4,1%, and that of coloured people from 5,5% to 8,5%. Real disposable income per capita of Africans rose by only 0,3% between 1990 and 1994.<sup>81</sup> [<sup>81</sup> BMR, *The National and Regional Personal Income of South Africa by Population Group*, University of South Africa, June 1995]

The national income per capita for whites was estimated at R17 914 in 1995 compared with R17 843 in 1993—an increase of 0,4%. In 1995 the national income per capita for Africans was estimated at R2 415, compared with R2 361 in 1993—an increase of 2,3%. African income per capita increased at nearly six times that of whites.<sup>82</sup> [<sup>82</sup> BMR, *South Africa's Nine Provinces*, 1995; telephonic conversation with Professor H de J van Wyk, BMR, 7 February 1996]

The average disposable income of Africans was 13% of that of whites in 1995, highlighting the wide gap in income levels between population groups. In 1960, however, the average disposable income of Africans was only 8,5% of that of whites. According to the study, the wide gap in average disposable incomes between the population groups was a result of differences in skill structures and levels of education, the number of economically inactive people in each population group and different unemployment rates. Asian personal disposable income was 42% of that of whites, while that of coloured people was 28%.<sup>83</sup> [<sup>83</sup> BMR, *South Africa's Nine Provinces*, 1995]

A study by the Human Sciences Research Council (HSRC) found that in 1993 the poorest 40% of households in South Africa earned less than 6% of total personal income, while the richest 10% earned in excess of half. Although Africans' share in total personal income was less than 30%, they accounted for more than 75% of the population, while whites, who accounted for only 12,9% of the population, had 58,5% of total personal income. The per capita income of whites was almost 12 times higher than that of Africans. The following table provides a breakdown of incomes by population group:<sup>84</sup> [84 Human Sciences Research Council, *A Profile of Poverty, Inequality and Human Development*, 1995]

*Income by population group: 1993*

Population group

Population share

Income share

Per capita income<sup>a</sup>

Disparity ratio<sup>b</sup>

African

76,2%

29,3%

2 717

11,8

Asian

2,6%

4,8%

12 963

2,5

Coloured

8,3%

7,4%

6 278

5,1

White

12,9%

58,5%

32 076

1

Total

100,0%

100,0%

7 062

4,5

a

Average annual per capita income of the population in rands.

b

White to other.

In September 1995, a vice president of the South African Institute of Race Relations, Professor Lawrence Schlemmer, said that although racial income inequality had been narrowing steadily, class

inequality was widening. Between 1975 and 1991 the poorest 40% of Africans became 40% poorer, while the top 20% became 40% richer. Inequality among Africans was 90% as wide as overall inequality among all the population groups, he

## Wages

The head of FSA-Contact's remuneration consulting division, Mr Jim Steer, said in December 1995 that the wage gap between the highest and lowest earners in South Africa was appropriate for a first/third world country. South Africa with its labour-intensive economy could not be compared with countries with capital-intensive economies, such as the United States, the United Kingdom and New Zealand, where the gap was much smaller. Although South Africa had a low level of productivity, wages of the lowest earners compared favourably with other labour-intensive countries. Mr Steer said that attempts to legislate a narrowing of the gap were unlikely to succeed.<sup>86</sup> [<sup>86</sup> *The Star Business Report* 14 December 1995]

In its *Wage Settlement Survey Quarterly Report* published in September 1995, Andrew Levy and Associates said that the average level of wage settlement across all industries for January–September 1995 was 11,5%, compared with 10% in 1994, 10% in 1993, 12,6% in 1992 and 16,9% in 1991. Although the level of settlement decreased marginally during 1995, the rate of inflation as measured by the consumer price index dropped from 11% in April to 9% in July 1995.<sup>87</sup> [<sup>87</sup> Andrew Levy and Associates, *Wage Settlement Survey Quarterly Report*, September 1995]

The South African Reserve Bank said in its 1995 annual report that the rate of increase in the nominal remuneration per worker decreased from 18,4% in 1989 to 15,2% in 1992. It dropped to 10,5% in 1993 but increased to 11,9% in 1994. The rate of increase in real wages and salaries per worker accelerated from 0,4% in 1990 to 1,5% in 1991 and 1,7% in 1992. An absolute decrease of only 0,2% in real remuneration per worker in 1993 was followed by a rapid rate of increase of 3% in 1994.<sup>88</sup> [<sup>88</sup> SARB, annual economic report, 1995]

In February 1995 the governor of the reserve bank, Dr Chris Stals, called for caution on wage adjustments as excessive wage increases over many years had created relative price distortions in the economy. The country was now not competitive with the outside world in many areas. Dr Stals added that excessive wage increases and pressure for further excessive increases were impeding efforts to increase economic growth and create jobs.<sup>89</sup> [<sup>89</sup> *The Citizen* 15 February 1995]

Andrew Levy and Associates said in February 1995 that their research indicated that companies were budgeting for wage increases of 7%–13% and were expecting to settle at between 9,5%–10,5%. An industrial relations information service, IR Network, said in its March 1995 quarterly wage analysis that the majority of companies surveyed had budgeted for 10% wage increases for 1995.<sup>90</sup> [<sup>90</sup> *Business Day* 24 March 1995] A Sanlam economist, Mr Johan Louw, said in June 1995 that because of improved productivity, wage rises would not have an impact on inflation in 1995, but warned that if unions did not moderate their wage demands it could fuel inflation in 1996.<sup>91</sup> [<sup>91</sup> *Mail and Guardian* 23 June 1995]



In November 1995 the Labour Market Commission heard submissions from organisations on a statutory national minimum wage. (The commission's terms of reference included examining wages and employment and the demand for labour and drafting a white paper on a comprehensive labour market policy.)<sup>92</sup> [<sup>92</sup> *Business Day* 22 November 1995] In its submission, the Congress of South African Trade Unions said that it supported sectoral minimum wages rather than a national minimum wage. Sectors where no collective bargaining took place or where workers were unorganised or exploited should be regulated by a minimum wage system but should not exclude collective bargaining. The National Union of Mineworkers set R650 as a target minimum wage, while the South African Agricultural, Plantation and Allied Workers' Union called for an R850 minimum wage for farmworkers.<sup>93</sup> [<sup>93</sup> *Ibid* 22, 23 November 1995; *Sowetan* 23 November 1995]

The South African Agricultural Union and the National Maize Producers' Organisation said that a minimum wage for unskilled farmworkers would lead to massive unemployment as many farmers were unable to pay higher wages.<sup>94</sup> [<sup>94</sup> *The Citizen* 22 November 1995] The South African Chamber of Business (Sacob) and the Afrikaanse Handelsinstituut opposed a national minimum wage, submitting that it did not succeed in alleviating poverty. Sacob said that it favoured the most flexible system of wage determination—which did not undermine collective bargaining, catered for the diversity of sectors and regions, and accommodated the needs of small businesses. South Africa could not be locked into a national minimum wage in the face of increased international competition and the need for job creation.<sup>95</sup> [<sup>95</sup> *Business Day*, *The Citizen*, *The Star* 23 November 1995 ]

The following table provides a breakdown of annual real earnings of workers in the manufacturing sector by population group in various years from 1975 to 1994:<sup>96</sup> [<sup>96</sup> Bureau for Economic Research, *Trends*, December 1995]

*Real earnings of workers in the manufacturing sector by population group in various years from 1975 to 1994*

1975

1980

1985

1990

1994

African

## Real earnings (R)

8 480

10 305

11 390

12 620

12 696

## Change in real earnings<sup>a</sup>

2,6%

4,2%

-1,9%

-0,8%

0,0%

*Asian*

## Real earnings (R)

12 671

14 229

16 350

18 471

20 529

## Change in real earnings<sup>a</sup>

5,9%

3,7%

-4,3%

2,3%

1,1%

*Coloured*

Real earnings (R)

11 329

12 427

13 173

13 705

14 082

Change in real earnings<sup>a</sup>

1,1%

5,2%

-2,0%

2,4%

0,8%

*White*

Real earnings (R)

42 881

45 486

45 472

43 288

42 947

Change in real earnings<sup>a</sup>

0,5%

5,1%

-5,0%

1,1%

0,9%

*Total*

Real earnings (R)

16 917

18 635

19 650

19 854

20 796

Change in real earnings<sup>a</sup>

2,2%

4,0%  
 -3,0%  
 0,0%  
 2,1%  
 a

Average change ov

## Household Subsistence Levels

The Institute for Planning Research said that the increase in the household subsistence level (HSL) in the low-income categories from September 1994 to September 1995 was 5,8%. The consumer price index weighted annual increase for this group was 6,9% over the same period. Kimberley (R1083,35), Germiston (R1082,56) and East London (R1 075,41) were the most expensive centres for low-income groups to live in, while Pietermaritzburg (R949,05), Uitenhage (R959,17) and Port Elizabeth (R979,57) were the cheapest, as measured by the HSL.<sup>97</sup> [<sup>97</sup> Institute for Planning Research, *The Household Subsistence Levels in the Major Urban Centres of the Republics of South Africa and Namibia*, University of Port Elizabeth, September 1995]

The average increase in the HSL for the lower middle-income group from September 1994 to September 1995 was 4,4%. The most expensive centres for lower middle-income groups to live in, as measured by the HSL, were Durban (R1 332,21), Bloemfontein (R1 306,29) and Pretoria (R1273,91), while the cheapest centres were King William's Town (R1197,52), Uitenhage (R1 175,23) and Port Elizabeth (R1 136,92).<sup>98</sup> [<sup>98</sup> Ibid]

HSLs for a low-income family of six and a lower middle-income family of five for September 1994 and September 1995, as calculated by the Institute for Planning Research at the University of Port Elizabeth, are shown in the tables below:<sup>99</sup> [<sup>99</sup> Ibid]

*Household subsistence levels for lower-income families: September 1994 and September 1995*

Centre

SepSepIncBenoni

971,35

1 061,14

9,2%

**Bloemfontein**

998,14

1 061,84

6,4%

**Boksburg**

984,90

1 060,88

7,7%

**Brakpan**

973,88

1 059,67

8,8%

**Brits**

1 060,31

1 072,18

1,1%

**Cape Town**

992,29

1 056,63

6,5%

Durban

964,14

1 035,01

7,4%

**East London**

1 030,30

1 075,41

4,4%

George

976,13

1 034,11

5,9%

**Germiston**

970,29

1 082,56

11,6%

Johannesburg

982,17

1 055,11

7,4%

**Kimberley**

1 057,10

1 083,35

2,5%

**King William's Town**

941,88

994,55

5,6%

**Krugersdorp**

970,57

1 052,60

8,5%

**Mossel Bay**

986,98

1 056,76

7,1%

**Pietermaritzburg**

929,69

949,05

2,1%



Port Elizabeth

966,07

979,57

1,4%

**Pretoria**

1 003,91

1 040,02

3,6%

Springs

943,86

990,34

4,9%

**Uitenhage**

971,66

959,17

(1,3%)

Umtata

991,14

1 013,16

2,2%

**Vaal Triangle**

951,94

1 037,61

9,0%

*Household subsistence levels for lower middle-income families: September 1994 and September 1995*

**Centre**

**SepSepIncBloemfontein**

1 266,75

1 306,29

3,1%

**Cape Town**

1 133,92

1 220,80

7,7%

**Durban**

1 249,90

1 332,21

6,6%

**East London**

1 285,10

1 238,40

(3,6%)

George

1 174,73

1 221,18

4,0%

**Johannesburg**

1 146,81

1 262,55

10,1%

Kimberley

1 233,52

1 239,84

0,5%

**King William's Town**

1 112,48

1 197,52

7,6%

Mossel Bay

1 138,67

1 216,14

6,8%

**Port Elizabeth**

1 093,28

1 136,92

4,0%

Pretoria

1 217,74

1 273,91

4,6%

**Uitenhage**

1 103,37

1 175,23

6,5%

**THE LABOUR RELATIONS ACT OF 1995**

In February 1995 a draft negotiating document in bill form on the Labour Relations Act (LRA) and an explanatory memorandum were presented to the minister of labour by a ministerial legal task team, and thereafter tabled before the National Economic Development and Labour Council (Nedlac), the Public Service Bargaining Council (PSBC) and the Education Labour Relations Council (ELRC). The documents were published in the *Government Gazette* on 10th February 1995, inviting comment from the public. Some 280 submissions were received from the public and government departments. Labour, employer and state representatives on Nedlac also tabled formal responses to the draft. There followed intensive negotiations aimed at reaching consensus on the bill. A tripartite committee of principals was appointed by Nedlac to oversee and speed up the negotiating process.

There were initially significant differences between labour and business over the content of the bill.

Labour argued for the following:<sup>100</sup> [<sup>100</sup> Karl von Holdt, 'The LRA Agreement', *South African Labour Bulletin*, September 1995]

- compulsory and not voluntary centralised bargaining. Labour wanted bargaining councils established by statute for each sector and area of the country;
- union-based codetermination, ie membership of workplace forums (see *Workplace forums* below), be confined to union members only;
- inclusion of the closed shop. The bill scrapped provision for the closed shop permitted in the old LRA on the grounds that it would not pass constitutional muster, but provided instead for an agency shop;
- the right to strike over unfair dismissals and other disputes of right. The bill prohibited strikes over these issues on the grounds that it was inappropriate to allow for industrial action where issues in dispute were to be resolved via arbitration or the Labour Court (see *Labour Court* below); and
- a ban on replacement labour.

Business proposals were aimed mainly at limiting union strike rights arguing that:<sup>101</sup> [<sup>101</sup> Ibid]

- there should be no protection for unprocedural, sympathy or socioeconomic strikes;
- dismissals should be permitted where a protected strike threatened a business's viability;
- there should be a pre-strike ballot;
- there should be a right to strike for collective bargaining issues only; and
- business should have the right to employ replacement labour.

The differences between the parties led to deadlock, and the Congress of South African Trade Unions (Cosatu) launched protest marches in the main city centres—the biggest was in Johannesburg, when on 6th June 1995 some 70 000 workers marched through the streets. Business threatened to walk out of negotiations. The deadlock was broken when the government intervened with new proposals. These related in the main to centralised bargaining, specifically the establishment of statutory councils (see *Statutory councils* below), the requirement for employers to disclose relevant information during negotiations, and the reintroduction of the closed shop but in a different form. A final agreement was reached after further rounds of negotiations, although two outstanding areas, sympathy strikes and replacement labour, were left to the government for a final decision.<sup>102</sup> [<sup>102</sup> Various press reports]

As a result of the above negotiations and public submissions, amendments were made to the bill on the following issues:

- the introduction of a different type of closed shop;
- the establishment and registration of statutory councils;
- the regulation of secondary strikes;
- the regulation of the use of temporary replacement labour in strikes and lockouts;
- the inclusion of lists of matters over which there has to be consultation and joint decision making between employers and workplace forums;
- the inclusion of mechanisms for ensuring flexibility in the establishment and functioning of workplace forums;
- the structure of the labour courts;
- the regulation of organisational rights; and
- the disclosure of information for the purposes of consultation and collective bargaining.

Commenting on the outcome, Business South Africa's negotiator, Mr Bokkie Botha, said that the result was 'not problematic for business', although it was 'not the bill business would have written'. Cosatu's general secretary, Mr Sam Shilowa, said that the draft bill was a radical departure from the past but needed substantial changes. Labour had won some 'big victories'.<sup>103</sup> [<sup>103</sup> Von Holdt, 'The LRA agreement' September 1995]

On 21st July 1995 Nedlac tabled a report recommending the adoption of the draft bill by the cabinet subject to the amendments, and the committee of principals was delegated by Nedlac to consider the amendments. Public hearings were held by the parliamentary committee on labour, resulting in further amendments to the draft bill.<sup>104</sup> [<sup>104</sup> Explanatory Memorandum of the Labour Relations Bill, B85B-95, p284 ] Strong objections to the bill were voiced by the Democratic Party (DP). The leader of the DP, Mr Tony Leon, said that the bill would create overregulated, compulsory collective bargaining which would give the minister sweeping and draconian powers to extend industrial council agreements to non-members such as small businesses. The essence and thrust of the bill was skewed in favour of organised business and in particular organised trade union federations. Neither did the bill create the flexibility which the country and its industry needed to link pay increases to increased productivity. In fact, it enhanced and encouraged the very restrictive practices, particularly in the labour market, which would rob workers of

the only thing they had to sell—their productivity, Mr Leon said.<sup>105</sup> [<sup>105</sup> *The Citizen* 30 August 1995]

The DP summarised its proposed amendments as follows:<sup>106</sup> [<sup>106</sup> Democratic Party press release, 11 September 1995]

- explicit recognition in the objects of the legislation for the needs of the unemployed, the consumer and for viable economic principles;
- acknowledgement that the right of association for employers and employees should be accompanied by an equal right to dissociate from unions or employer organisations;
- specific percentages of support (more than 50%) to be demonstrated by unions instead of the vague wording of ‘sufficient representativeness’ before the rights of collective bargaining were conferred;
- prohibition of closed shop agreements in contrast to their enshrinement in the bill;
- ‘massive curtailments’ and proper safeguards on the powers to extend collective agreements to non-parties;
- reasonable limitations on the right to strike (the DP said that the bill provided for a more far-reaching statutory extension of the right to strike than was found in most countries in the world);
- strict confinement of secondary strikes; and
- a proper and transparent appointment mechanism for Labour Court judges, specifically that the Judicial Service Commission would be engaged in the appointment of judges to the Labour Court.

The parliamentary committee voted in favour of the bill with the DP opposing and the National Party reserving its position. The main amendments made to the bill as a result of the parliamentary process were the deletion of the seven-day notice period required by employers when planning to use replacement labour and the tightening of provisions regarding the appointment of an independent committee to consider exemptions when a collective agreement was extended to non-parties.<sup>107</sup> [<sup>107</sup> *Business Day* 12 September 1995]

In September 1995 the IFP voiced its objections to the bill, saying that it promoted ‘a highly centralised industrial relations dispensation’. An IFP Senator, Mr Narend Singh, said that the IFP would oppose the bill in Parliament primarily for this reason. Other IFP objections to the bill included the following:<sup>108</sup> [<sup>108</sup> *Hansard* (S) 14 cols 2858–2861, 14 September 1995]

- it was not flexible enough for South Africa to be competitive in the world economy;

- it would create a rigid labour market resulting in an increase in the cost of labour and therefore an increase in unemployment;
- non-unionised workers and the unemployed were not involved in the drafting process and consequently their interests were largely ignored by the bill;
- it would serve to further ‘politicise and inflame’ the relationship between organised labour and management;
- it had failed to limit the size and funding of the Commission for Conciliation, Mediation and Arbitration; and
- the bill had been passed by Parliament too quickly.

The IFP also objected to provisions in the bill concerning secondary strikes, closed and agency shops, and replacement labour.

The bill was passed by the National Assembly in September 1995 by 289 votes to 42. The DP, the IFP, and the Freedom Front voted against it, while the NP supported it with reluctance.<sup>109</sup> [<sup>109</sup> *The Citizen* 14 September 1995 ] It was assented to by the president in November 1995.

## **Scope of the Act**

The act includes all employees except members of the national defence force, the National Intelligence Agency, and the South African Secret Service. The reference to ‘members’ means that employees engaged in service capacities, for example cleaners, within those services will be included under the act. The act does not include independent contractors.

## **Freedom of Association**

The act recognises the freedom of every employee to form and join trade unions and employers to form and join employer organisations. Trade unions and employer organisations have the right to determine their own constitutions and rules. The act provides for collective agreements to contain provisions regarding closed shops and agency shops. While the old act made provisions for closed shop agreements, the provisions for agency shops are new.

## **Closed Shops**

Closed shop agreements may only be concluded if the trade union is representative, ie the union or



unions should have as members the majority of employees employed by the employer concerned. The act provides that a closed shop agreement will be binding only if:

- a ballot is held and two thirds of the employees who voted, vote in favour of the closed shop;
- there is no provision in the agreement requiring membership of the representative trade union before employment commences; and
- it provides that no part of the dues deducted may be paid to a political party or used for any expenditure that does not advance or protect the socio-economic interests of employees.

Because of the implications which a closed shop has for continued employment (to retain employment an employee must join a union party to a closed shop), there are certain safeguards for employees. While an employer may dismiss an employee who refuses to join a trade union party to a closed shop agreement, an employee may not be refused membership of or expelled from a union unless this is fair and in accordance with the union's constitution. Furthermore, employees may not be dismissed if they refuse to join a union on grounds of conscientious objection. Such employees, however, may be required to pay an agency fee (see *Agency shops* below). An employee who believes that he or she is unfairly dismissed may seek relief in the Labour Court.

Provision is also made for review of the closed shop. The representative trade union must hold a ballot to determine whether the closed shop agreement should continue if one third of the employees covered by the agreement sign a petition calling for the agreement's termination, and if three years have lapsed since the date on which the agreement commenced or the last ballot concerning such an agreement was conducted. The agreement will be terminated if the majority of employees who vote, vote to terminate it. The act also makes provision for the admission of further registered unions representing a significant interest in or substantial number of employees covered by the closed shop agreement. If the existing parties to the agreement refuse to admit the applicant union, such a union may refer the dispute to the Commission for Conciliation, Mediation and Arbitration (CCMA) set up in terms of the act (see *Commission for Conciliation, Mediation and Arbitration* below).

## **Agency Shops**

A representative trade union or unions enjoying majority status at the workplace and an employer or employer organisation may also conclude an agency shop agreement requiring the employer to deduct an agreed agency fee from the wages of non-union employees. This may be done without the authorisation of the employees in question. Agency shop agreements are binding only if non-union employees are not compelled to become members of the union, the agency fee is not more than the subscription paid by the trade union members, the amount deducted is paid into a separate fund administered by the representative trade union, and no part of the amount is paid to a political party as an affiliation fee or to support election of a candidate for political office and is not used for purposes that

do not advance the socio-economic interests of the employees. A conscientious objector may request that the employer pay the fee into a fund administered by the Department of Labour.

An employer or employer organisation that alleges that a trade union is no longer representative for the purposes of the agency fee must give the trade union 90 days to establish that it is representative. If it is unable to do so then the agency shop will terminate.

## **Organisational Rights**

The old act made no provision for organisational rights for trade unions and their officials. However, via the unfair labour practice jurisdiction in terms of the LRA, the industrial court developed a body of jurisprudence regarding organisational rights, which was codified in the new LRA. The act grants access to the workplace to office bearers or officials of a representative trade union (ie any registered union which is sufficiently representative of the employees in the workplace), provides for the deduction of trade unions' dues, and provides for an employee who is an office bearer to take reasonable leave during working hours to undertake trade union functions. Where a trade union or unions acting jointly represent the majority of workers in the workplace, they may elect trade union representatives depending on the size of the workplace to assist employees in disciplinary enquiries if so asked, monitor the employer's compliance with workplace-related provisions of the act, report any alleged contravention of workplace-related provisions of the act, and perform any other function agreed on between the union and the employer. Representatives are entitled to reasonable time off during working hours to carry out or be trained for union functions.

Where a trade union has a majority of the workers in the workplace as members, the employer, when consulting such a union, is obliged to disclose all relevant information that will allow the trade union to engage effectively in collective bargaining or consultation. Certain categories of information are exempted from this requirement, however. Disputes over disclosure may be referred to the CCMA. Neither the right of access nor the requirement regarding disclosure of information apply to workers in the domestic sector.

The parties by agreement may draw up a collective agreement regulating organisational rights, in which case that agreement will supersede the statutory provisions.

## **Bargaining Councils**

The new act provides for the establishment of bargaining councils by trade unions and employer organisations for a sector and area on a voluntary basis. Individual employers may not be parties to bargaining councils, with the exception of the state. The registrar may register a council only if it is sufficiently representative within its scope of proposed registration. The scope of a bargaining council in terms of sector and area will be decided by Nedlac.

The councils are similar to the industrial councils established under the old act—all existing industrial

councils are deemed to be bargaining councils under the new act. The change in the name has been occasioned by the fact that the councils can straddle the private and public sectors. Their functions will be to provide a forum for collective bargaining, to facilitate dispute resolution, and to establish and administer pension, provident and other welfare funds. A new function will be for them to develop proposals for Nedlac on policy and legislation that might affect the sector and their area of operation and to confer on workplace forums additional matters for consultation (see *Workplace forums* below). Included in the provisions relating to the constitution of such a council is that it must provide for the representation of small and medium enterprises.

As previously, the minister of labour may extend the terms of an agreement to include non-parties to the agreement. However, there are certain conditions for such extension, including that most employees in the registered scope of the council must be members of the unions which are parties to it, and that employer organisations that are parties to it must employ most of the employees within the registered scope of the council. In addition, the agreement must provide for the appointment of an independent body to grant exemptions from its terms to non-parties. The agreement must also contain criteria to be applied by the independent body when considering applications for exemptions, such criteria having to be fair and to promote the primary objectives of the act. The bargaining council in its appointment of the independent panel must have due regard to nominations made by institutions listed in a schedule to the act.

The minister may, however, extend the agreement to a non-party (even if the unions and employers do not cover most workers in the sector and area in question but are 'sufficiently representative' within the registered scope of the council) if he is satisfied that failure to extend it 'may undermine collective bargaining at sectoral level'.<sup>110</sup> [<sup>110</sup> *Fast Facts* no 11 November 1995]

As far as the public service is concerned, the act provides for a Public Service Co-ordinating Bargaining Council for the service as a whole, and a bargaining council for any sector of the public service. The co-ordinating council may designate a sector of the service for the establishment of the bargaining council.

## **Statutory Councils**

The act provides for the establishment of a new kind of council, called a statutory council. This provision was in response to criticisms by Cosatu of the draft bill, which, it said, did little to promote collective bargaining. Cosatu demanded that a bargaining council should be statutorily established for every sector and area in South Africa and that all employers should be obliged to participate in such structures in some form or other. The statutory councils provided for in the act represent a compromise on Cosatu's position, the federation acknowledging, after negotiations within Nedlac, that the compulsory establishment of bargaining councils was not feasible.<sup>111</sup> [<sup>111</sup> *Current Labour Law*, Juta, 1995, p35]

A statutory council is an embryonic bargaining council, and may be established by either a trade union or an employer organisation, in contrast to a bargaining council, which has to be established by agreement between both parties. The relevant trade union or employer organisation must represent or employ 30% of employees in a sector and area. The registrar may register a statutory council only if

there is no other council for the sector and area. Where parties are reluctant to participate in the establishment of such a council, the act sets out a number of steps, culminating in a ministerial appointment process to effect the council's establishment. 112 [112 Ibid, p36]

A statutory council's powers and functions include the performance of dispute resolution functions; the promotion and establishment of training and education schemes; and the establishment and administration of pension, provident, medical aid, sick pay, holiday, and unemployment schemes or funds. Absent is the function of collective bargaining. However, a statutory council, in terms of its constitution, may agree to the inclusion of any of the functions of a bargaining council, which could include collective bargaining. Where a statutory council is not sufficiently representative, it may submit an agreement to the minister of labour who must treat it as a recommendation made by the Wage Board in terms of the Wage Act of 1957. He may promulgate the council's recommendation as a determination under the Wage Act. The determination must provide for exemptions to be considered by an independent body appointed by the minister and criteria for exemption. A statutory council may resolve to apply to register as a bargaining council.

The act provides that any registered trade union or employer organisation may apply for admission to a council as a party. Where the application is refused, the applicant may apply to the Labour Court for an order admitting it as a party to the council.

## **Strikes and Lockouts**

As was previously the case, the right to strike or lockout has to be preceded by conciliation measures. Parties may only strike or lockout if the issue in dispute has been referred to a council or to the CCMA for resolution and if the dispute remains unresolved or a period of 30 days has lapsed since the referral of the dispute. A new provision requires either party to give the other 48 hours' notice of the action to be taken against them. There is no longer a requirement that the parties hold a ballot before protected industrial action can be held. If the dispute concerns a refusal to bargain, then it must first be submitted for advisory arbitration. A refusal to bargain includes refusal to recognise a trade union, refusal to agree to the establishment of a bargaining council, withdrawal of recognition of a collective bargaining agent, resignation of a party from a bargaining council, or a dispute about appropriate bargaining units, appropriate bargaining levels, or bargaining subjects.

The procedural requirements do not have to be met if the dispute has been dealt with in accordance with the constitution of a council, the strike or lockout conforms with the procedures of a collective agreement, if either party takes action in response to an unprocedural action by the other party, and if the employer fails to respond to a requirement not to change conditions of work unilaterally, pending the consideration of such a dispute by a council or the CCMA. As previously, there are certain prohibitions on taking such action. One of these is where the dispute occurs in an essential service or maintenance service (see *Essential services* and *Maintenance services* below).

## **Secondary Strikes**

The definition of a strike in the old act was wide enough to encompass secondary or sympathy strikes. This is the case with the new act as well. However, provisions have been introduced which regulate such action. Firstly, the primary strike must comply with the procedural requirements. Secondly, the secondary employer must receive seven days' notice of the action. Thirdly, the nature and extent of the secondary action must be reasonable in relation to its possible direct or indirect effect on the business of the primary employer. Persons involved in a strike or lockout in conformity with the act do not commit a delict or a breach of contract, nor may an employer dismiss an employee for taking part in a protected strike. However, this does not cover an employee's conduct during a strike or dismissal for a reason based on operational requirements. In other words, a person who damages the employer's property during a protected strike may be fairly dismissed, and strikers may be retrenched if the employer's business is severely affected as long as the requirements for dismissal for operational requirements in the act are met.

Where a strike or lockout is not held in accordance with the procedures, the Labour Court may grant an interim interdict to restrain persons from taking part in it, and may also order compensation for any loss attributable to the strike or lockout having regard to whether attempts were made to comply with the provisions of the act, whether the strike or lockout was premeditated, whether the action was in response to unjustified conduct by another party, whether there was compliance with an interdict, the interests of orderly collective bargaining, the duration of the action, and the financial position of the employer, trade union or employees respectively.

## **Picketing**

A peaceful picket by its supporters and members may be authorised only by a registered trade union. The picket may be held only in support of a protected strike or in opposition to a protected lockout. A picket may be held in any public place outside the employer's premises, or inside such premises with the employer's permission, such permission not to be 'unreasonably withheld'. If requested to do so, the CCMA must attempt to secure agreement between the parties to the dispute on rules that should apply to the picket. Pickets complying with the act do not constitute delicts or breaches of contract.

## **Essential Services**

As with the old act, the new act inhibits strikes in essential services except where collective agreements have provided for 'the maintenance of a minimum service within an essential service'. (A strike in essential and maintenance services would be considered 'unprotected', ie the Labour Court may grant interdicts against the strike or lockout, and participation in the strike may constitute a fair reason for dismissal.) In contrast to the old act the new act no longer lists such services, but defines them according to the International Labour Organisation's definition as those in which a strike would endanger the safety and health of the whole or part of the population. The act provides for the establishment of an essential services committee which will define essential services after public representations. The committee may also ratify a collective agreement which provides for a minimum service to be maintained in a service designated as an essential service in which case the minimum service will be

regarded as the essential service. The employees employed in the minimum service will not be able to strike but their fellow employees will be able to do so. Where a dispute arises in an essential service, it may be referred to a council of the CCMA for resolution through arbitration. If an arbitration award has implications for the state—for instance where the dispute occurs in the public service—the act provides that the award may be declared binding only after it has been tabled in Parliament.

## **Maintenance Service**

The act introduces the concept of a maintenance service. A service is a maintenance service if the interruption of that service will lead to the physical destruction of any workplace, plant or machinery. If there is no collective agreement relating to a maintenance service, an employer may apply in writing to the essential services committee for a determination that the whole or part of an employer's business be declared a maintenance service. Strikes in maintenance services are inhibited (see *Essential Services* above). Employers in maintenance services may not employ replacement labour.

## **Protest Action Promoting or Defending the Socio-Economic Interests of Workers**

The act regulates actions that in the past would have been termed 'stayaways' where these relate to workers' socio-economic interests. The action must be called by a registered trade union or federation of trade unions, and Nedlac must be given 14 days' notice of the proposed action, the reasons for it and its nature. The matter giving rise to the intended protest action must first be considered by Nedlac or any other appropriate forum in an attempt to resolve the dispute. Such protest action would qualify as a protected strike. However, the employee forfeits the protection against dismissal if he takes part in protest action in breach of an order of the Labour Court.

The Labour Court has sole jurisdiction to restrain any person from taking part in protest action where such action does not comply with the procedures, or to grant a declaratory order halting the action having considered the nature of the action, steps taken by the trade union to minimise harm caused by the action, and conduct of the parties involved.

## **Workplace Forums**

An innovation in the act is the introduction of workplace forums. Such forums may be established in workplaces with more than 100 employees, and can be triggered only by a representative trade union, which has to apply to the CCMA to establish the forum. The CCMA may then convene a meeting with the applicant, the employer and any registered trade union that has members employed in the workplace to conclude a collective agreement between the parties. That agreement will then provide for the functioning of the forum and the rest of the provisions in the act relating to workplace forums will not apply. Where, however, the parties are unable to reach agreement, the CCMA must establish the forum and the provisions of the act will then apply.

The constitution of a forum must provide for the following, among other things:

- a formula for determining the number of seats in the forum;
- for election of representatives to the forum, their terms of office, and the filling of vacancies on the forum;
- reasonable time off with pay for forum duties;
- for the employer to provide facilities to enable the forum to perform its functions;
- for full-time members of the forum where there are more than 1 000 employees in a workplace; and
- for the representative trade union or employer to change the constitution of the forum by agreement. The constitution of the forum binds the employer. The act provides for regular meetings of the forum and report-back meetings to employees.

The act envisages three types of interaction between employers and the forum. Firstly, the employer must provide the forum with information regarding the financial situation of the company and plans and prospects for the future. Secondly, the act provides for matters over which the workplace forum is entitled to be consulted by the employer as follows:

- restructuring, including the introduction of new technology and work methods;
- changes in the organisation of work;
- partial or total plant closures;
- mergers or transfers of ownership;
- dismissals based on operational requirements;
- exemptions from any collective agreement or law;
- job grading;
- criteria for merit increases or the payment of discretionary bonuses;
- education and training;
- product development plans; and

- export promotion.

A bargaining council may confer on a workplace forum additional matters in workplaces that fall within the registered scope of the council. Unions and employers may also conclude a collective agreement conferring on the workplace forum the right to be consulted about any additional matters in the workplace. On matters for consultation, the employer must allow the forum to make representations and alternative proposals, he must consider and respond to the proposals, and where he disagrees with the proposals he must give reasons for doing so.

Thirdly, the act provides for joint decision making on the following issues:

- disciplinary codes and procedures;
- workplace rules of conduct not related to work performance;
- measures to protect and advance persons 'disadvantaged by unfair discrimination'; and
- changes to the rules regulating social benefit schemes.

A representative trade union and employer may conclude an agreement conferring on the forum the right to joint decision making in respect of additional matters in that workplace, or remove any of the above matters from the list requiring joint decision making. If there is no consensus the employer may refer the dispute to arbitration via an agreed procedure or to the CCMA.

The act provides that an employer must disclose to the workplace forum all relevant information that will allow the forum to engage effectively in consultation and joint decision making. An employer is not required to disclose information that is legally privileged, that he cannot disclose without contravening a prohibition imposed on him by any law or order of any court, that is confidential and if disclosed may cause substantial harm to an employee or the employer, or that is private personal information relating to an employee unless that employee consents to the disclosure. Disputes over disclosure may be referred to the CCMA. Where there is a dispute about an alleged breach of confidentiality the CCMA may order that the right to disclosure of information in that workplace be withdrawn for a period specified in the arbitration award. The act provides for the dissolution of workplace forums through a ballot if requested by a representative trade union. In other words, workplace forums may be triggered and dissolved only by a representative trade union and not by the employer.

There are special provisions relating to workplace forums in the public service. Such forums will be regulated in a schedule promulgated by the minister for the public service and administration.

In commenting on the establishment of such forums, Professor Halton Cheadle, leader of the ministerial



legal task team that drafted the act, said that as the explanatory memorandum accompanying the act pointed out, institutions such as workplace forums aimed not to undermine collective bargaining but to supplement it. They would achieve this purpose by relieving collective bargaining of functions to which it was not well suited. Workplace forums expanded work representation beyond the limits of collective bargaining by providing workers with an institutionalised voice in managerial decision making. These institutions and processes had been greeted with scepticism wherever they had been introduced. On the one hand, trade unions feared that they might undermine collective bargaining, while employers regarded them as interference in their managerial prerogative. Yet trade unions always called for increased worker participation in managerial decision making, while employers always sought greater co-operation and flexibility from their workforces. Quoting studies abroad, Professor Cheadle said that work councils could contribute to economic performance in three different ways: they generated trust between employers and employees, they increased the flow of information within the enterprise, and they aided in the diffusion and implementation of advanced production practices.<sup>113</sup> [<sup>113</sup> *Ibid*, pp64–66]

The Afrikaanse Handelsinstituut said in a report to the minister of labour, that the purpose of workplace forums was to promote productivity and joint decision making on how the business should prosper. By allowing only one party (the representative union) the ‘statutory right to initiate such forums may detract from the purpose of workplace forums’.<sup>114</sup> [<sup>114</sup> *Afrikaanse Handelsinstituut, Comments on the Finalisation of the Labour Relations Bill, 25 July 1995*]

The acting national director of the Independent Mediation Service of South Africa, Mr Bruce Robinson, said that the provisions on workplace forums would be impossible to implement if the approach was made compulsory.<sup>115</sup> [<sup>115</sup> *Business Day* 17 May 1995] A number of union leaders feared workplace forums would undermine unions, as unions would be required to give up their monopoly of representation to a process where all employees, including non-unionised workers, could vote and take part in joint decision making.<sup>116</sup> [<sup>116</sup> *Ibid* 8, 10 March 1995]

## **Commission for Conciliation, Mediation and Arbitration**

A further innovation in the act is the establishment of the Commission for Conciliation, Mediation and Arbitration (CCMA). The CCMA will be independent of the state, any political party, trade union, employer organisation or federation of trade unions or employer organisations. Its functions are to resolve through conciliation any dispute referred to it in terms of the act, or where conciliation has failed to arbitrate if that is appropriate in terms of the act.

In virtually all the cases where a dispute is referred to the CCMA the first step is conciliation. If conciliation fails, the commissioner must resolve the dispute through compulsory arbitration if this is provided for. Alternatively, the parties themselves can decide to refer the dispute to arbitration.

The CCMA may, if asked, advise a party to a dispute about the procedure to be followed in terms of the act or assist a party to a dispute to obtain legal advice, assistance or representation; offer to resolve a

dispute; accredit councils or private agencies; subsidise accredited councils or accredited agencies; conduct and/or oversee any election or ballot; publish guidelines in relation to any matter in the act; conduct and publish research into matters relevant to its functions; and assist with sexual harassment disputes in the workplace. If asked it can act in an advisory capacity regarding the establishment of collective bargaining structures, the establishment of workplace forums and the functioning of such forums, the prevention and resolution of disputes and employees' grievances, disciplinary procedures, procedures in relation to dismissals, the process of restructuring the workplace, affirmative action and equal opportunity programmes, and sexual harassment in the workplace.

The effect of accrediting bargaining councils in relation to dispute resolution will be to shift a significant part of the cost of dispute resolution from the CCMA to bargaining and statutory councils, and is consistent with the act's overall theme of self-regulation.<sup>117</sup> [<sup>117</sup> *Current Labour Law*, op cit, p4] Certain disputes—that is those about organisational rights, agency and closed shops, demarcations, picketing during strikes or lockouts, and the disclosure of information to workplace forums—are not justiciable by the CCMA.<sup>118</sup> [<sup>118</sup> *Ibid*, op cit, p42]

The governing body of the CCMA will consist of a chairperson and nine other members, each nominated by Nedlac and appointed by the minister to hold office for a period of three years. Three of the representatives will be from the labour caucus in Nedlac, three from organised business and three from the state. There will also be a director. The governing body must appoint as commissioners as many adequately qualified persons as it considers necessary to perform the functions of the CCMA. They may be appointed on either a full-time or a part-time basis. The CCMA will be funded by the state. Any accredited council or agency may apply to the CCMA for a subsidy.

## Labour Court

The act establishes a new Labour Court with powers equal to those of a provincial division of the Supreme Court. Previously, the industrial court did not have such status but was a quasi-administrative body. Problems arose as there was dual jurisdiction on labour matters exercised by the ordinary courts and the labour courts, often leading to contradictory results. In addition, the industrial court was not subject to the doctrine of precedent.

The Labour Court will have jurisdiction to consider a wide range of disputes including: those concerning infringement of the right of freedom of association; the dismissal of strikers; dismissals based on the economic, technological and structural requirements of a business; dismissals for alleged invalid reasons; unfair labour practice; disputes regarding alleged unfair discrimination; and disputes over non-compliance with the constitution of a trade union or employer organisation. In addition, the court will have concurrent jurisdiction with the Supreme Court to review the decisions of commissioners and in respect of any alleged violation of any fundamental right entrenched in Chapter 3 of the transitional constitution as it relates to the LRA.<sup>119</sup> [<sup>119</sup> *Ibid*, op cit, pp44–45]

The judge president and the deputy president of the Labour Court must be judges of the Supreme Court and must have experience in labour law. A judge of the court must be a judge of the Supreme Court or be a person who has been a legal practitioner for a cumulative period of ten years and have knowledge of labour law. The act also establishes a Labour Appeal Court, which is the only court competent to hear appeals from the Labour Court.

## **Unfair Dismissal**

The act states that every person has the right not to be unfairly dismissed. Certain dismissals will be automatically unfair: where the employee takes part in a protected strike; where an employee refuses to do the work of another employee engaged in a protected strike or lockout; where the employer compels the employee to accept a demand in respect of any matter of mutual interest between the employer and employee; where the employee takes action against the employer by exercising any right conferred by the act or participates in any proceeding in terms of the act; the employee's pregnancy, intended pregnancy or any reason related to her pregnancy; and unfair discrimination against an employee directly or indirectly on any arbitrary ground including but not limited to age, belief, colour, conscience, culture, disability, ethnic or social origin, family responsibility, language, marital status, political opinion, race, religion, sex, or sexual orientation. Despite the last provision a dismissal may be fair if the reason for it is based on an inherent requirement of the particular job, or the person has reached the normal retirement age. A dismissal may be unfair if the employer fails to prove that the reason for the dismissal is a fair reason related to the employee's conduct or capacity; or based on the employer's operational requirements; or if the employer fails to prove that the dismissal was effected in accordance with a fair procedure. The act contains a code of good practice setting out guidelines for a fair dismissal for misconduct and incapacity and for fair dismissal procedures.

Where an employer contemplates dismissing an employee for operational requirements he must consult any person whom he is required to in terms of a collective agreement, or a workplace forum, or a registered trade union, or the employee concerned or his or her representative, in that order. The consulting parties must attempt to reach consensus on appropriate measures to avoid the dismissals, to minimise the number of the dismissals, to change the timing of the dismissals and to mitigate the adverse affects of the dismissals, the method for selecting employees to be dismissed and severance pay for the dismissed employees. The employer must disclose in writing to the other consulting party all relevant information, including the reasons for the dismissals, the alternatives considered, the number likely to be affected, the proposed method for selecting those to be dismissed, the time when the dismissals will occur, the severance pay proposed, any assistance that the employer proposes to offer to the employees likely to be dismissed, and the possibility of the future re-employment of the employees who are to be dismissed. The employer must give reasons for not agreeing to suggestions of the other party. In the final analysis, however, the decision about the dismissals remains the prerogative of the employer.

There are three remedies for a person who has been unfairly dismissed: reinstatement, re-employment and payment of compensation. The Labour Court must order reinstatement unless the person does not

want to be reinstated; the circumstances surrounding the dismissal are of such a nature that a continued employment relationship is intolerable; it is not reasonably practicable to reinstate or re-employ the employee or the dismissal was only procedurally unfair. An employee who is dismissed on grounds of operational requirements of the business is entitled to severance benefits of at least one week's remuneration for every year of continuous service with the employer concerned. An employer may apply for exemption from this section.

## **Unfair Labour Practice**

The act does away with the provisions relating to unfair labour practice in its application to collectives, such as trade unions and employer organisations. (Residual unfair labour practice remains in schedule 7 of the act. It is intended that this be moved to a new law dealing with individual labour matters as the new Labour Relations Act regulates relations between collectives.) In terms of this provision in the old act, the Industrial Court had the power to declare certain practices unfair, even if they were lawful. As the definition was broad, the court had wide discretion to determine unfair labour practices. The new act codifies much of the unfair labour practice jurisprudence in the provisions dealing with a refusal to bargain, requirements for fair dismissals and organisational rights, among other things. The new act does, however, contain a schedule which provides for a residual unfair labour practice in relation not to the collective but to the individual rights of the worker. The intention is to transfer these provisions to legislation dealing with the individual rights of the worker when such legislation is drafted.

An unfair labour practice is any unfair act or omission that arises between an employer and employees that involves unfair discrimination, either directly or indirectly, against an employee on grounds including, but not limited to, the following:

- age, belief, colour, conscience, culture, disability, ethnic or social origin, family responsibility, language, marital status, political opinion, race, religion, sex, or sexual orientation;
- the unfair conduct of the employer relating to the promotion, demotion, or training of an employee;
- the unfair suspension of an employee or any other disciplinary action short of dismissal; and
- the failure or refusal of an employer to reinstate or re-employ a former employee in terms of any agreement.

A major innovation in the residual unfair labour practice is that it covers applicants for employment. The provisions will have significant implications regarding the practices and procedures relevant to placement, such as advertising vacancies, screening, and testing applicants, and selection of the successful candidate for employment.

## **Criticisms of the Act**

A number of criticisms have been made of the act, both regarding the process of drafting and the content of the legislation. Criticisms over the process were directed at the fact that prior to the drafting of the bill, there should have been a process whereby the policy and principles upon which the act would be based should have been discussed via 'thorough, open and transparent consultation...so that the widest range of views, standpoints, ideas and information could be canvassed'.<sup>120</sup> [<sup>120</sup> *J Brand and M Brassey, 'Jumping the Gun: Problems in the Drafting of the New LRA', South African Labour Bulletin*, vol 19 no 2, p38] Criticism was also levelled at the process of consultation with the public during debate on the draft bill. Dr Duncan Innes, a labour consultant, stated that contrary to the description of the process in the explanatory memorandum, the 283 submissions received from the public never formed part of the main Nedlac negotiations between the government, business and labour, and that it was only after the parties had concluded their negotiations and reached agreement at Nedlac that public submissions were examined by the drafting team. Only minor amendments were incorporated at that stage, while more contentious issues were referred to the committee of principals for guidance regarding incorporation. He stated, however, that the committee was unable to sanction major changes at that stage as the negotiating process had already produced an agreement which the committee of principals could not change.<sup>121</sup> [<sup>121</sup> *The Star* 13 September 1995]

One of the main criticisms of the act related to the feasibility of the CCMA. Critics pointed out that the proposed system of dispute resolution, which was probably the most sophisticated in the world, would cost from three to ten times more than the current system, which was itself breaking down for want of money. It was unclear, they stated further, where the money would come from to fund such a system.<sup>122</sup> [<sup>122</sup> Brand and Brassey, op cit, p39]

Concern was also expressed by paralegal organisations assisting farmworkers that the CCMA's services would not extend into rural areas, thus depriving these workers of access to mediation and conciliation services. The Sexual Harassment Education Project proposed that a code of good practice on sexual harassment be included in the act. The drafters stated that consideration would be given to the inclusion of such a code as an appendix at a later stage.<sup>123</sup> [<sup>123</sup> Record of oral and written submissions to the parliamentary committee on labour, September 1995]

Criticisms of the bill and the act were voiced by the small business lobby (the Sunnyside Group, Small Builders' Association, and Independent Business Association).

In the explanatory memorandum the drafters stated that the bill had been drawn up with due regard to the different circumstances and needs of small business and that they had been accommodated in a number of ways, as follows:<sup>124</sup> [<sup>124</sup> Explanatory Memorandum op cit p297 ]

- the law of unfair dismissal had been significantly simplified and made accessible to small business through the codification of the law and the inclusion of a code of practice;

- the simple, nonlegalistic and nonjurisdictional procedures for resolving disputes enabled small business to process disputes through the statutory conciliation structures without having to rely on lawyers and consultants;
- the constitutions of registered bargaining councils were required to make adequate provision for the representation of small business;
- industrywide agreements would provide for an independent body promptly to consider applications for exemption from non-parties. The minister could not extend an agreement to non-parties unless the bargaining council provided for this;
- workplace forums could only be established in workplaces employing more than 100 employees; and
- rights and remedies had been clearly set out in the bill. The use of plain language made the law more accessible to users and reduced the need for specialist advice.

Despite these points, the small business lobby raised the following objections to the bill:

- the provision stating that the registrar must be satisfied that the constitutions of bargaining councils provide for the ‘adequate representation’ of small businesses before he may register such councils was too vague;
- the power given to the minister to extend agreements to non-parties (ie parties who are not on the council) was too wide;
- the extension of council agreements to non-parties was undemocratic and the resulting costs to small business (regarding minimum wages and levies) would adversely affect the operation of businesses; and
- the independent bodies to be established by bargaining councils to consider exemptions from agreements were not really independent as they would be established by the same bodies which drew up the agreements.

The leader of the Democratic Party (DP), Mr Tony Leon, said that the bill was ‘extremely biased’ in favour of organised labour and at the expense of small businesses, entrepreneurs and the unemployed. Amendments to the Labour Relations Bill tabled by the DP in September 1995 contained minimum conditions required to ensure the survival of small business and employment creation (see *The Labour Relations Act of 1995* above).<sup>125</sup> [<sup>125</sup> *The Citizen* 23 June 1995, 12 September 1995]

The executive director of the Centre for an Open Economy, Mr Steve Ntsane, said that the bill was a ‘retrogressive step’ which would have a disastrous effect on all small and medium enterprises who had

no say or vote in Nedlac, but who employed the vast majority of workers and created the bulk of new job opportunities.<sup>126</sup> [<sup>126</sup> *Financial Mail* 9 June 1995]

The Afrikaanse Handelsinstituut said that the negotiating process did not sufficiently address the needs of small businesses, which could have a negative effect on job creation and economic growth. Centralised bargaining leading to a controlled labour market would be to the detriment of small businesses as labour costs would increase and job creation would be restricted.<sup>127</sup> [<sup>127</sup> Afrikaanse Handelsinstituut, Comments on the Finalisation of the Labour Relations Bill, 25 July 1995]

The chief executive of the South African Institute of Race Relations, Mr John Kane-Berman, said in November 1995 that the major shortcoming of the new act was that it favoured organised, established interests, while largely ignoring the interests of the ‘largest and fastest growing constituency in the country’—the unemployed. The act, being a product of negotiations between organised labour, business and the government, focused on regulating relations between these parties, while the rights of non-unionised workers and the unemployed were basically disregarded.<sup>128</sup> [<sup>128</sup> *Fast Facts* no 11 November 1995]

## INDUSTRIAL RELATIONS

### Trade Unions

#### Trade Union Membership

The National Manpower Commission (NMC) said in its 1995 report that there had been ‘rapid and consistent’ growth in the membership of registered trade unions from 1979 to October 1994. According to the NMC, the average annual growth rate in trade union membership of 8,5% over this period had been as a result of workers realising the benefits offered by organised labour in the workplace (see *Trade unions* below).<sup>129</sup> [<sup>129</sup> *National Manpower Commission, commemorative issue 1979–95, January 1995*]

The Department of Labour said in its annual report, however, that there had been a decline of 14,5% in registered union membership—in October 1994 almost 2,47m workers belonged to registered trade unions, compared with 2,89m in 1993. The department said the decline could be partly attributed to a decrease in job opportunities, large-scale retrenchments, and a saturation in the growth potential of new trade unions that had entered the labour field since 1980.<sup>130</sup> [<sup>130</sup> *Department of Labour, annual report 1994, 25 April 1995*]

The number of registered trade unions increased by 12 during 1994, bringing the total at the end of that year to 213. According to the department, there were 65 unregistered trade unions at the end of October 1994, with a membership of almost 510 000 workers, compared with the 1993 figure of 528 000. This represented a drop of 3,4%. In 1994 the total union membership figure (registered and unregistered) of 2,98m workers represented approximately 23,7% of the total economically active population.<sup>131</sup> [<sup>131</sup> *Ibid*]

In its 1994/95 annual report, Andrew Levy and Associates estimated union membership in 1994 to be 3,2m. Of an estimated economically active population of 12m–13m people, 26% belonged to trade unions. However, if only employed people were taken into account, the figure would be closer to 50%, the report said. Information given to the International Labour Organisation in 1991 indicated that the level of unionisation in the clothing and textile, leather production, metal and allied, and mining and chemical sectors was more than 60%. The agricultural, building and construction, domestic, financial, food, forestry, paper, printing and packaging, hotels and catering, and retail sectors had a unionisation level of less than 30%, with the level in some sectors as low as 5%.<sup>132</sup> [<sup>132</sup> *Andrew Levy and Associates, annual report 1994–95*]

## Union Groupings

The Congress of South African Trade Unions (Cosatu) remained the largest trade union federation in 1995, with a membership of 1 568 514 workers, compared with 1 317 496 in 1994 (an increase of 19%). The largest union affiliated to Cosatu was the National Union of Mineworkers with 310 596 members, followed by the National Union of Metalworkers of South Africa with 169 598.<sup>133</sup> [<sup>133</sup> *Telephonic conversation with Mr Andrew Sparks, Andrew Levy and Associates, 8 January 1996*]

In August 1995 at a congress held in KwaZulu/Natal, Cosatu merged its two regions in KwaZulu/Natal to form a single provincial structure. The northern and southern KwaZulu/Natal regions claimed a combined membership of 254 000. Cosatu delegates at the congress expressed concern about the federation's standing in KwaZulu/Natal, saying that its affiliates were apathetic and lacked direction. The Cosatu secretariat acknowledged the potential threat of an announcement that unions supporting the Inkatha Freedom Party intended to launch a federation to oppose Cosatu and said that the threat should be 'viewed in a serious light'. It added that the quality of service to members needed to be improved to prevent defections to the opposition federation.<sup>134</sup> [<sup>134</sup> *The Natal Witness 7 August 1995, New Nation 11 August 1995*]

The second largest trade union federation in 1995 was the National Council of Trade Unions (Nactu), with 234 675 members, compared with 315 750 in 1993. The largest trade union affiliated to Nactu was the South African Chemical Workers' Union, with 30 000 members.<sup>135</sup> [<sup>135</sup> *Telephonic conversation with Mr Andrew Sparks, Andrew Levy and Associates, 8 January 1996*] The Federation of South African Labour Unions (Fedsal) was the third biggest trade union grouping, with 212 700 members.<sup>136</sup> [<sup>136</sup> *Ibid*]

A new trade union federation, the United South African Trade Union (Usatu), was formed in February 1995. The general secretary, Ms Audrey Rose, said that the union had been formed to 'give a home' to millions of workers in unaffiliated unions. Usatu claimed to have 14 affiliates and about 100 000 members in different sectors. The new federation would try to get a place at the National Economic Development and Labour Council (Nedlac). Ms Rose said that Usatu was strictly apolitical and for that reason had not joined any of the existing federations.<sup>137</sup> [<sup>137</sup> *Business Day 24 February 1995*]



In October 1995 trade unions supporting the IFP decided to form a federation of unions. Two existing federations (the United Independent Trade Union of Southern Africa and the United Independent and Economic Trade Unions of South Africa) as well as five independent unions (including the National Police Services' Union, the United Security Workers' Union and the United Farm Workers' Union) formed the new body. The federation, which claimed a membership of 220 000, said it would strive for a membership of at least 500 000. The general secretary of the United Independent Trade Union of Southern Africa, Mr Mhlaba Gumede, said that the unions had been denied representation on Nedlac, but hoped that their combined strength would secure participation in the council. Mr Gumede said that the new federation had no formal relationship with the IFP, but member unions were committed to free market principles and federalism, as was the IFP. The IFP labour portfolio committee chairman, Mr Velaphi Ndlovu, said that the IFP would not interfere in the federation and would leave it to operate independently.<sup>138</sup> [<sup>138</sup> Ibid 17 October 1995, *New Nation* 20 October 1995]

Cosatu criticised the formation of the new federation, saying that it would further politicise the labour arena and create an additional obstacle to labour unity. The provincial secretary of Cosatu in KwaZulu/Natal, Mr Paulos Ngcobo, said that the intention of the new federation was 'not to talk about the advancement of workers in South Africa, but to maintain and defend the IFP'. He said that Cosatu by contrast was independent of the African National Congress and the South African Communist Party (with which it had an alliance), in workers' interests.<sup>139</sup> [<sup>139</sup> *Business Day*, *The Citizen* 18 October 1995]

## The Public Sector

A proposed merger between Cosatu-affiliated public sector unions in August 1995 was postponed for three months because of difficulties in finalising a merger agreement.<sup>140</sup> [<sup>140</sup> *New Nation* 18 August 1995; *South African Labour Bulletin*, September 1995, p7] In October 1995 Cosatu said that the merger would take place early in 1996.<sup>141</sup> [<sup>141</sup> *The Shopsteward* October/ November 1995]

In January 1995 the South African National Defence Force (SANDF) announced that it had no immediate plans to recognise the South African National Defence Union (Sandu), formed in October 1994, as proper channels of communication already existed.<sup>142</sup> [<sup>142</sup> *Business Day* 19 January 1995] In the same month the deputy minister of defence, Mr Ronnie Kasrils, said that soldiers in the SANDF would not be allowed to join trade unions.<sup>143</sup> [<sup>143</sup> *The Star*, *Cape Times* 31 January 1995]

In September 1995 Sandu applied to the Constitutional Court to declare the refusal of the SANDF to allow its uniformed members to belong to a labour union 'unconstitutional', on the grounds that the constitution accorded every individual the right to freedom of association, the right to form and join trade unions, and the right to assemble and demonstrate. Documents were served on the minister of defence, Mr Joe Modise, and the chief of the SANDF, General Georg Meiring (see also chapter on *Politics and Security*).<sup>144</sup> [<sup>144</sup> *Business Day*, *The Citizen*, *Sowetan* 13 September 1995; *Sowetan* 14 September 1995]

The SANDF signed an agreement in May 1995, which allowed civilian staff in the army, air force and navy to join the Public Servants' Association of South Africa. Uniformed members of the SANDF were, however, specifically excluded from the agreement.<sup>145</sup> [<sup>145</sup> *The Star* 30 May 1995]

In September 1995 the minister for safety and security, Mr Sydney Mufamadi, announced a new unified labour relations programme for the South African Police Service (SAPS), following the passing of the Police Service Act of 1995 and the Labour Relations Act of 1995. The new system provides for members of non-managerial ranks of the SAPS to join employee organisations. Members of the SAPS in managerial positions may join but cannot represent the union in negotiations. Strikes and lockouts are prohibited, but provision is made for compulsory arbitration in the event of a deadlock.<sup>146</sup> [<sup>146</sup> *The Citizen*, *The Star* 27 September 1995]

## **Agricultural Unions**

In February 1995 Cosatu launched the South African Agricultural, Plantation and Allied Workers' Union. Most of the estimated 30 000 members were previously registered with the Food and Allied Workers' Union, the South African Clothing and Textile Workers' Union and the Paper, Printing, Wood and Allied Workers' Union.<sup>147</sup> [<sup>147</sup> *New Nation* 17 February 1995; *The Shopsteward* April/May 1995] According to Mr Andile Maphekula, president of the new union, there were 1,3m farmworkers in South Africa. The union would aim to unite every union working in the agricultural sector in order to form a 'big, strong' union representing farmworkers.<sup>148</sup> [<sup>148</sup> *The Shopsteward* April/May 1995] Among the union's demands would be a minimum wage of R750 a month for farmworkers.<sup>149</sup> [<sup>149</sup> *New Nation* 17 February 1995] The president of the Transvaal Agricultural Union, Mr Dries Bruwer, said that farmers were opposed to a minimum wage, as workers were paid according to the service they provided.<sup>150</sup> [<sup>150</sup> *Beeld* 14 February 1995] The president of the South African Agricultural Union, Mr Boet Fourie, said in a statement that poverty on farms would not be eradicated by setting a minimum wage, as farmers who could not afford the minimum wage would rationalise their workforce, causing large-scale unemployment.<sup>151</sup> [<sup>151</sup> *Ibid*]

## **Unionists on Company Boards**

The assistant general secretary of the NUM, Mr Gwede Mantashe, was appointed to the board of directors of Samancor, the first major listed South African company to bring in board-level union representation.<sup>152</sup> [<sup>152</sup> *Business Day* 24 October 1995]

## **Employer Organisations**

The Department of Labour said in its 1994 annual report that three new employer organisations had been registered in 1994. The registration of seven had been cancelled because of a 'lack of interest' on the part of their members or because they had merged with other employer organisations. The total number

of registered employer organisations at the end of 1994 was 191. According to the department, there were nine registered employer federations at the end of 1994.<sup>153</sup> [<sup>153</sup> Department of Labour, annual report, 1994]

Conflict between the National African Federated Chamber of Commerce and Industry (Nafcoc) and Business South Africa (BSA) escalated in February 1995, following the exclusion of Nafcoc from BSA's representation on the National Economic Development and Labour Council (Nedlac) (see also 1994/95 Survey, p467.). Nafcoc had withdrawn its membership of BSA in November 1994. After discussions later in February 1995 with the minister of labour, Mr Tito Mboweni, representatives of the organisations agreed to set up a committee to discuss the composition of the council. Nafcoc had initially demanded 50% of the 18 seats set aside for business on the Nedlac executive council. BSA offered Nafcoc only one of the seats allocated to business on the council as BSA wanted each of its 18 affiliates to have one seat each. Nafcoc later reduced its demand from nine seats to seven. In March 1995 the board of governors of BSA rejected Nafcoc's proposal for seven seats, but agreed to a once-off arrangement whereby Nafcoc would be allocated five seats for the Nedlac executive council meeting held on 18th March 1995. Both parties mandated the Nedlac convenor for BSA, Mr Bobby Godsell, and the Nafcoc president, Mr Joe Hlongwane, to search for a permanent solution.<sup>154</sup> [<sup>154</sup> *Business Day* 28 February 1995, 20, 22 March 1995] Although Nafcoc retained its representation on Nedlac structures, a permanent arrangement had not been agreed to at the time of writing (see also chapter on *Business*).<sup>155</sup> [<sup>155</sup> Telephonic conversation with the assistant secretary general of Business South Africa, Ms Corrina Gardiner, Johannesburg, 21 November 1995]

## **Bargaining**

### **Collective Bargaining Institutions**

#### ***Industrial Councils***

The Department of Labour said in its 1994 annual report that no new industrial councils had been registered in 1994. The 86 councils collectively administered 156 industrial council agreements. In the period November 1993 to October 1994 industrial councils regulated the conditions of employment of about 354 000 workers, while some 24 000 employers were subject to industrial council wage agreements at the end of October 1994.<sup>156</sup> [<sup>156</sup> Department of Labour, annual report 1994, 25 April 1995] The number of disputes referred to industrial councils increased from 6 865 in 1993 to 7 639 in 1994. Of the 7 639 cases, only 2 014 (26,4%) were resolved.<sup>157</sup> [<sup>157</sup> *Ibid*] The new Labour Relations Act of 1995 deems all industrial councils to be bargaining councils.

#### ***Bargaining Councils***

Centralised bargaining was one of the issues over which labour and business reached a deadlock in Nedlac during negotiations on the draft Labour Relations Bill.<sup>158</sup> [<sup>158</sup> *Business Day* 26 May 1995] The draft Labour Relations Bill proposed a voluntary system of collective bargaining whereby bargaining councils

could be established only by agreement between employer organisations and trade unions. This provision was carried over into the act, which also renamed industrial councils ‘bargaining councils’ (see *Bargaining councils* above).

## **Workplace Forums**

The new Labour Relations Act of 1995 provided for the establishment of workplace forums to facilitate consultation and joint decision making between workers and management in the workplace (see *Workplace forums* above).<sup>159</sup> [<sup>159</sup> Labour Relations Act of 1995]

## **Collective Bargaining Issues**

### **Closed Shops**

The Chamber of Mines of South Africa announced in March 1995 that it was unilaterally revoking the closed shop agreements it had with the Council of Mining Unions (CMU)—a federation of mining unions representing about 20000 skilled employees, including the Mine Workers’ Union—as well as agreements with about 20 000 officials belonging to the Underground Officials’ Association, the Mine Surface Officials’ Association and the South African Technical Officials’ Association. The decision ended a legacy of white dominance of skilled and supervisory positions on gold and coal mines dating back to 1937, when the closed shop agreements were introduced. According to the industrial relations adviser of the chamber, Mr Adrian du Plessis, the agreements which compelled particular classes of employees to belong to specific unions, were racially and occupationally defined, and were ‘no longer sustainable or defensible’.<sup>160</sup> [<sup>160</sup> *The Star Business Report* 27 March 1995]

The chamber’s decision meant that the National Union of Mineworkers (NUM) and other unions representing black workers—previously restricted to negotiating for unskilled and semi-skilled workers only—would be able to recruit among the ranks of skilled and supervisory miners.

The decision ended two years of discussions with the unions and the officials’ associations and would be implemented according to proposals already with the unions and associations. The proposals provided for a transitional arrangement whereby the unions and associations would retain their rights of representation for two years from the date of cancellation. Workers covered by the closed shop agreement would have to remain members of the designated union for the transition period, but would be able to join a union of their choice at the same time.<sup>161</sup> [<sup>161</sup> *The Citizen* 25 March 1995, *The Star Business Report* 27 March 1995]

The announcement drew angry protests from the mainly white skilled mining unions. An official of the CMU, Mr Ben Nicholson, criticised the manner in which the chamber had handled the cancellation of the closed shop agreement.<sup>162</sup> [<sup>162</sup> *Business Day* 27 March 1995]

## **Education and Training**

In June 1995 the motor manufacturing industry's national bargaining forum concluded an agreement which, according to Mr Mboweni, laid the foundation for reshaping relationships in the industry and ensuring its continued viability.<sup>163</sup> [<sup>163</sup> *Ibid* 30 June 1995] Parties to the agreement were the Automobile Manufacturers Employers' Organisation (representing BMW SA, Delta Motor Corporation, Mercedes Benz SA, Nissan SA, Samco, Toyota SA and Volkswagen SA), the National Union of Metalworkers of South Africa (Numsa) and the South African Iron, Steel and Allied Industries Union. The agreement, which would regulate the conditions of employment for three years, provided for, among other things:<sup>164</sup> [<sup>164</sup> *Ibid*]

- mechanisms to ensure proper implementation of education and training;
- recognition that education and training were vital to increase competitiveness—career progression based on the successful completion of adult basic education and vocational training programmes; and
- a clearly defined dispute resolution mechanism to deal with issues regarding education and training and productivity.

A Numsa negotiator, Mr Gavin Hartford, said, 'In the next three years the agreement guarantees that enormous strides will be made in closing the wage gap and redressing the legacy of poor education and training.'<sup>165</sup> [<sup>165</sup> *Ibid*]

In July 1995 the Chamber of Mines and the NUM signed an industry framework agreement on adult basic education and training. The president of the chamber, Mr At du Plessis, said that each employee would have access to training facilities that would provide the foundation for further learning, development opportunities and career advancement.<sup>166</sup> [<sup>166</sup> *Ibid* 14 July 1995] In terms of the agreement, programmes would be in line with requirements of the National Qualifications Framework (see chapter on *Education*) and modules would include language and mathematics. The general secretary of the NUM, Mr Kgalema Motlanthe, said that the agreement would lay the foundation for transforming the mining industry into 'a nerve centre for education and training'. He added that the objective was to ensure that ordinary workers could progress to become general managers. Programmes providing an integrated approach to training and education aimed to remove all discriminatory barriers within the industry.<sup>167</sup> [<sup>167</sup> *Ibid*]

## **Dispute Resolution**

### **Conciliation Boards**

According to the Department of Labour, a total of 18 774 applications for the establishment of

conciliation boards were received between 1st November 1993 and 31st October 1994, compared with 15 868 in 1993. Boards were established in 74% of these cases, while the remaining applications were rejected as they did not comply with the Labour Relations Act of 1956. Of the applications approved, the boards settled 2 223 (16%) disputes, while in 3 832 (28%) cases deliberations were unsuccessful. A further 751 applications were withdrawn.<sup>168</sup> [<sup>168</sup> *Department of Labour, annual report, 1994*]

## **Commission for Conciliation, Mediation and Arbitration**

The Labour Relations Act of 1995 provided for the establishment of a Commission for Conciliation, Mediation and Arbitration (CCMA) as a juristic person independent of the government, political parties, trade unions, employer organisations or federations, with jurisdiction in all provinces. According to the explanatory memorandum on the bill, the commission was designed as ‘a one-stop shop for resolving disputes’ (see *Commission for Conciliation, Mediation and Arbitration* above).<sup>169</sup> [<sup>169</sup> *Labour Relations Bill B85-95*] The commission had not been appointed at the time of writing.

## **Industrial Court/Labour Court**

The Department of Labour said in its 1994 annual report that the Industrial Court had received 8 400 cases between 1st November 1993 and 31st October 1994, compared with 6 699 cases in 1993. Although 25% more cases had been heard in 1994, 5 033 cases had not been finalised by 31st October 1994. The Labour Appeal Court received 106 cases from 1st November 1993 to 31st October 1994 (115 in 1993), 44 of which were resolved (94 in 1993).<sup>170</sup> [<sup>170</sup> *Department of Labour, annual report, 1994*]

The president of the industrial and agricultural labour courts, Professor Adolf Landman, resigned from both bodies in March 1995 in protest against underfunding. Professor Landman said that the workload of both courts had become impossible to manage and the courts were apparently low on the government’s list of priorities. According to Professor Landman, the combined backlog of the two courts was 5 946 cases. Understaffing was ‘beyond crisis stage’, as staff who felt insecure and uncertain about their future were resigning. However, Professor Landman withdrew his resignation in May after discussions with the deputy director general of labour relations, Mr Les Kettledas, who assured him of the department’s support.<sup>171</sup> [<sup>171</sup> *The Citizen* 29 March 1995, *Business Day* 16 May 1995]

In September 1995 the Independent Mediation Service of South Africa (IMSSA), the Mediation and Conciliation Centre, the Resolutions Board and the Industrial Court announced the launch of a programme aimed at clearing the backlog of more than 6 500 unresolved labour disputes across the country.<sup>172</sup> [<sup>172</sup> *Sowetan* 28 September 1995] High settlement and participation rates were reported countrywide, especially in Durban and the Western Cape, during ‘National Settlement Week’. Problems were experienced in Gauteng and the Eastern Cape in getting respondents to participate in the process.<sup>173</sup> [<sup>173</sup> *Business Day* 28 November 1995]

The Labour Relations Act of 1995 provided for the establishment of a Labour Court within the Department of Justice, with the same status as a division of the Supreme Court and with national, exclusive jurisdiction over labour matters falling under the act (see *Labour Court* above).<sup>174</sup> [<sup>174</sup> Labour Relations Act of 1995]

## Strikes

The Department of Labour said in its annual report for 1994 that the number of strikes in South Africa increased by 1,8% from 790 in 1993 to 804 in the 12 months ending 31st October 1994. This resulted in an estimated loss of 2 232 073 mandays and about R148m in wages. The greatest loss of mandays occurred in the manufacturing sector (50,5% of the total) followed by mining (23,5%). The Witwatersrand had the highest incidence of strikes (26,2%), followed by Pretoria (10,3%), the Cape Peninsula (9,7%), Durban (8,3%) and Port Elizabeth (3,2%). Wage disputes accounted for 27,1% of the strikes, while 25,5% were related to conditions of employment and 16% to disciplinary measures taken by employers. Wage disputes combined together with other reasons led to 11,3% of strikes, while 18,9% were for unknown reasons. Trade union matters accounted for 1,1%.<sup>175</sup> [<sup>175</sup> Department of Labour, annual report, 1994]

Andrew Levy and Associates (ALA) reported in March 1995 that mandays lost because of strike action dropped from 250 000 in the first quarter of 1994 to 60 000 in the first quarter of 1995. The consultancy attributed this to the fact that 1994 was 'atypical' as the number of mandays lost escalated as a result of the political climate and the general election. When adjusted, the figures were as expected and indicated a return to the normal pattern of strikes.<sup>176</sup> [<sup>176</sup> *The Star* 28 March 1995]

In December 1995 ALA reported that the number of mandays lost during industrial action in 1995 declined to its lowest level in eight years. The consultancy said that an estimated 1,6m mandays were lost as a result of strikes during 1995, compared with 3,9m in the same period in 1994. The figure in the corresponding period for 1993 was 3,6m, against 4,2m in 1992 and 3,8m in 1991.<sup>177</sup> [<sup>177</sup> *Business Day* 28 December 1995 ] The public sector was responsible for 71% of mandays lost in 1995, compared with 12,3% in 1994, 67,6% in 1993 and 12,7% in 1992. Wage disputes accounted for 87% of strikes. A senior researcher at ALA, Mr Andrew Sparks, said that the dramatic decline in mandays lost could be attributed to an increase in dispute resolution, especially in the private sector.<sup>178</sup> [<sup>178</sup> *Ibid*]

In February 1995 the president, Mr Nelson Mandela, warned striking workers who broke the law, saying that the police would take firm action against lawlessness. He said that the government acknowledged the right to strike, but violence and disruptions undermining stability and economic growth would not be tolerated.<sup>179</sup> [<sup>179</sup> *Sowetan* 16 February 1995]

On 18th September 1995 almost 30000 members of the South African Municipal Workers' Union went on an illegal strike in Gauteng, Mpumalanga, Northern Province, North-West, and Northern and Eastern Cape, demanding a minimum wage of R850 per month and other salary adjustments. The strikes were

characterised by widespread vandalism and violence.<sup>180</sup> [<sup>180</sup> *The Citizen, Sowetan, The Star* 19 September 1995] Services in all areas were disrupted, including water supplies, refuse removal, sewerage maintenance and hospital services.<sup>181</sup> [<sup>181</sup> *Sowetan* 20 September 1995] Union members in greater Johannesburg joined the strike in solidarity despite having concluded wage talks earlier in the year. The Johannesburg workers also demanded the repeal of annexure J in Local Government Proclamation 42, which the union claimed removed power from metropolitan councils and gave it to metropolitan substructures. Police fired about 20 stun grenades and teargas in the city centre when four live rounds were fired by a striker, and strikers went on a rampage, overturning dustbins and hawkers' tables, blocking streets with broken concrete bins, breaking water mains with picks and assaulting hawkers. Earlier, about 3000 union members had trashed city streets on a march to the offices of the Gauteng MEC for housing, Mr Dan Mofokeng. Strikers who were dissatisfied with Mr Mofokeng's failure to address them spread rubbish in the streets and smeared the MEC's office doors with filth.<sup>182</sup> [<sup>182</sup> *Business Day, The Citizen, The Star* 27 September 1995]

The Gauteng executive council condemned the strikers' action as 'an act of concerted vandalism' which had transgressed 'all acceptable bounds of protest'. The cabinet urged local authorities to consider legal action against union members for damage to property.<sup>183</sup> [<sup>183</sup> *Sowetan, The Star* 28 September 1995] In Pietersburg (Northern Province) a striker died of his wounds after a clash with the police. Four other strikers were treated in hospital after they were wounded in the clash. A municipal official, a police officer and two temporary workers repairing water mains damaged by the strikers, were attacked by strikers. Forty people were arrested for public violence and intimidation.<sup>184</sup> [<sup>184</sup> *The Citizen* 29 September 1995]

Municipal workers in the greater Johannesburg area suspended their strike after the provincial council of the African National Congress recommended to Mr Mofokeng that annexure J of Local Government Proclamation 42 be repealed.<sup>185</sup> [<sup>185</sup> *Business Day* 4 October 1995] Municipal workers in the rest of Gauteng, Mpumalanga, Northern Province and North-West suspended the strike after a wage settlement was reached.<sup>186</sup> [<sup>186</sup> *The Citizen* 5 October 1995] It was agreed that workers at lower levels would receive an increase of 20%, while middle-level workers would get increases of between 11% and 13% and upper-level workers a 7,5% increase.<sup>187</sup> [<sup>187</sup> *Business Day* 5 October 1995]

Industrial action by police and prison officers continued in 1995 (see 1994/95 Survey, pp465–466.). Members of the South African Police Union embarked on a work-to-rule in all nine provinces in support of demands for a 40% pay increase across the board, an increase in payment for shift work, and payment for overtime work. After negotiations between police management, the Police and Prisons Civil Rights Union and the Public Servants' Association of South Africa, the national commissioner of police, General George Fivaz, said that R95m would be set aside for overtime pay and and a one-off payment of R350 would be paid to eligible police officers at the end of May 1995. The additional funds would come from the reorganisation of the police budget (see also chapter on *Politics and Security*).<sup>188</sup> [<sup>188</sup> *The Argus* 13 April 1995, *The Star* 18 April 1995]



A large number of strikes by nurses took place during the year (see chapter on *Health and Welfare*). A number of violent incidents were reported during these strikes. In April 1995 a group of striking nurses and hospital workers at the Madadeni Hospital in Newcastle (KwaZulu/Natal) spread contaminated material in the hospital's maternity ward endangering the lives of patients and staff. The strike was called after money was deducted from salaries because of overpayment. Nurses who did not take part in the strike were allegedly threatened and intimidated.<sup>189</sup> [<sup>189</sup> *The Star* 11 April 1995, *Sowetan* 18 April 1995]

In September 1995 twenty nurses at the Kingsway Hospital in Amanzimtoti (KwaZulu/Natal) were arrested after they emptied bags containing contaminated material on the floor of the hospital entrance and threatened to kill a refuse collector trying to remove the rubbish. It was not clear what the nurses' grievances were.<sup>190</sup> [<sup>190</sup> *The Citizen*, *The Star* 15 September 1995]

## Workplace and Union Issues

### Privatisation

In August 1995 the minister of public enterprises, Ms Stella Sigcau, published a discussion document outlining the motivation and objectives for the restructuring of state enterprises as well as a timeframe for implementation (see chapter on *Business*).<sup>191</sup> [<sup>191</sup> Press release by the ministry of public enterprises: Official Launch of Guidelines for Restructuring of State Enterprises, 30 August 1995 ]

The South African Railway and Harbours Workers' Union said at its annual congress in September 1995 that it would fight any attempt to privatise Transnet or any other state asset.<sup>192</sup> [<sup>192</sup> *Business Day* 29 September 1995] In July 1995 about 2 000 members of the National Union of Metalworkers of South Africa (Numsa) marched on the Union Buildings in Pretoria in protest against the privatisation of Eskom and Iscor. Memoranda were handed to an adviser to the minister of trade and industry and the administrative secretary of the president. Numsa demanded that the privatisation of Eskom be halted.<sup>193</sup> [<sup>193</sup> *The Citizen* 20 July 1995]

According to the assistant general secretary of the Congress of South African Trade Unions (Cosatu), Mr Zwelinzima Vavi, Cosatu would 'fight commercialisation to the bitter end'. He said in April 1995 that privatisation was about maximising profits, with service playing a secondary role, and that it had led to massive job losses at the Post Office and Telkom.<sup>194</sup> [<sup>194</sup> *Ibid* 21 April 1995] In May 1995 the general secretary of Cosatu, Mr Sam Shilowa, said that the government had to take a clear position on the privatisation of public assets, as 'some ministers' were announcing their intentions to promote privatisation even though the government had claimed it would not privatise public assets.<sup>195</sup> [<sup>195</sup> *Sowetan* 30 May 1995] Cosatu said in June 1995 that it would embark on unprecedented mass action if the government privatised state-owned enterprises.<sup>196</sup> [<sup>196</sup> *The Citizen* 7 June 1995]

The minister of labour, Mr Tito Mboweni, said in September 1995 that South Africa's trade unions

would accept privatisation of state-owned corporations, provided that workers were consulted. Mr Mboweni said that the African National Congress would be 'selective' about the parastatals it privatised, and added that although Cosatu had long opposed privatisation, he believed that the federation and the rest of the union movement would be 'sufficiently mature' to accept privatisation if it were to the benefit of 'disadvantaged South Africans'.<sup>197</sup> [<sup>197</sup> *Ibid* 22 September 1995]

In December 1995 the executive deputy president from the majority party, Mr Thabo Mbeki, announced the government's intentions to privatise key public enterprises. The announcement followed a decision by the cabinet to sell off Mossgas and phase out subsidies to Sasol by 1999. Recommendations included:<sup>198</sup> [<sup>198</sup> *The Star* 8 December 1995, *The Citizen* 9 December 1995]

- seeking strategic equity partners for public corporations, specifically the Airports Company, South African Airways and Telkom. The majority and controlling shares would remain with the government;
- selling enterprises which were not considered strategic for state involvement and which operated in a highly competitive environment. These included Autonet, Sun Air and Transkei Airways;
- internally restructuring other enterprises to allow them to become more efficient and effective before further moves were considered by the cabinet. These included Portnet, Spoornet, the South African Rail Commuter Corporation and the South African Roads Board.

The government and organised labour later agreed to set up a committee to negotiate a 'national framework agreement' for the restructuring of state assets, after Cosatu, the Federation of South African Labour Unions (Fedsal) and the National Council of Trade Unions (Nactu) opposed the government's privatisation plans.<sup>199</sup> [<sup>199</sup> *Business Day*, *The Star Business Report* 12 December 1995]

Later in the month Cosatu called for a two-hour nationwide work stoppage on 19th December 1995 and a one-day strike on 16th January 1996, despite continuing talks with the government. It said, however, that it would support restructuring plans if jobs were guaranteed and quality, affordable services were delivered. Mr Shilowa said that further mass action would be considered after an announcement on privatisation by the government on 18th January 1996.<sup>200</sup> [<sup>200</sup> *The Citizen* 15 December 1995] The two-hour work stoppage on 19th December 1995 had little impact as Fedsal and Nactu did not participate, and several industry sectors had closed for the Christmas holidays.<sup>201</sup> [<sup>201</sup> *Ibid* 20 December 1995] In January 1996 labour and government met to discuss a framework for the restructuring of state assets which included the objectives of restructuring, principles to guide the process and possible procedure to be followed. Cosatu suspended its strike planned for 16th January 1996, while government agreed not to make any further statements on the sale of state assets before the finalisation of the national framework agreement.

Talks between labour and government continued later in the month.<sup>202</sup> [<sup>202</sup> *Ibid* 12, 13 January 1996]

## Reconstruction and Development Programme

In March 1995 Cosatu criticised the 1995/96 national budget for failing to shift resources towards the reconstruction and development programme (RDP) significantly. In a written submission to Parliament's joint committee on finance, Cosatu said that when compared with previous budgets, the 1995/96 budget had a number of positive features, 'but judged in terms of the fundamental shift required by the RDP, the budget fails to deliver'.<sup>203</sup> [<sup>203</sup> *The Star* 24 March 1995] The union expressed disappointment with the failure of the budget to reflect the priorities of the RDP, that is, the radical reorganisation of state departments and the reallocation of public resources.<sup>204</sup> [<sup>204</sup> *Mail and Guardian* 31 March 1995] Cosatu rejected the amount allocated to defence in the 1995/96 budget, saying that 'massive resources, which could be reallocated to the RDP, continue to be sucked into the military/intelligence establishment'.<sup>205</sup> [<sup>205</sup> *The Star* 24 March 1995]

## Safety

The Commission of Inquiry into Safety and Health in the Mining Industry (the Leon commission) published its findings in March 1995. The commission was chaired by Mr Justice Ramon Leon.<sup>206</sup> [<sup>206</sup> *The Citizen* 31 March 1995] His report called for urgent attention to be given to reducing the number of deaths, injuries and diseases in the mining industry. The following recommendations were made by the commission:<sup>207</sup> [<sup>207</sup> *South African Labour Bulletin* May 1995]

- the drafting of a health and safety in mines act;
- the promotion of worker participation in health and safety matters at all levels in the industry through the following structures, in which employers, workers and the state would have equal representation:
  - a mine health and safety council;
  - a safety in mines research advisory committee;
  - a mine regulation advisory commission to draft the new act and to review and update health and safety legislation on a regular basis;
  - a mines occupational health advisory committee responsible for monitoring and controlling occupational diseases in the industry; and
  - a mining qualifications authority responsible for the certification of training in the industry;
- the entrenchment of internationally recognised basic health and safety rights of workers in the industry;

- the provision of a system of health and safety representatives elected by workers with statutory duties and rights, as well as one or more health and safety committees on each mine consisting of an equal number of management representatives and elected safety representatives;
- the entrenchment of workers' rights to information on hazards and hazardous substances in the workplace;
- the introduction of the right of workers to refuse dangerous work and to remove themselves from areas which could be dangerous to their health and safety;
- the necessity to reconsider and revamp the training and retraining of the workforce;
- the establishment of a tripartite body to investigate housing and accommodation for workers and their families at the mines, and the promulgation of regulations providing for minimum standards for workers' accommodation;
- immediate and urgent attention to major hazards, including methane explosions in coal mines, mining equipment and transport, noise and radiation, respirable dust hazards in underground mining, and rock and ground falls;
- the implementation of far-reaching changes regarding the identification and surveillance of occupational diseases; and
- the re-examination of the five-star safety rating system on the grounds that it had become discredited in the eyes of employees and the public, and had an imperceptible impact on the overall level of major and fatal injuries in the mining industry.

The minister of mineral and energy affairs, Mr Roelof (Pik) Botha, announced in May 1995 that he had instructed his department to implement those recommendations made by the Leon commission which did not need cabinet approval.<sup>208</sup> [<sup>208</sup> *Business Day* 29 May 1995] In December 1995 the Department of Mineral and Energy Affairs announced that a Mine Health and Safety Bill had been approved by the cabinet. The bill was due to come before Parliament in 1996.<sup>209</sup> [<sup>209</sup> *The Citizen* 1 December 1995]

On 10th May 1995, 104 miners were killed in the biggest mine disaster since 171 workers died at the Kinross mine near Secunda in 1986. At the Vaal Reefs No 2 Shaft near Orkney in the Free State, a locomotive and carriage weighing almost 13 tonnes smashed through four safety devices and landed on a cage carrying 104 men about 1 700m underground. The cable suspending the cage snapped and the cage fell 500 metres to the bottom of the shaft.<sup>210</sup> [<sup>210</sup> *The Star* 11 May 1995] The president, Mr Nelson Mandela, appointed Judge Leon to chair the official commission of inquiry into the disaster.<sup>211</sup> [<sup>211</sup> *Business Day* 16 May 1995] The proceedings of the joint inquest–inquiry started on 1st August 1995.<sup>212</sup> [<sup>212</sup>

Ibid 2 August 1995 ] There was no outcome at the time of writing.

The following table provides a breakdown of the number of fatalities and reportable injuries on Chamber of Mines of South Africa member mines in various years from 1904 to 1994:<sup>213</sup> [213 Fax communication from the Chamber of Mines of South Africa, 6 February 1996]

*Fatalities and reportable injuries on Chamber of Mines of South Africa member mines in various years*

Year

Fatalities

Fatality rate<sup>a</sup>

Reportable injuries

Reportable injury rate<sup>b</sup>

Gold mines

1904

382

4,24

590

7,33

**1914**

637

3,18

2 046

10,21

1924

539

2,55

3 459

16,39

**1934**

610

2,03

11 935

39,79

1944

508

1,41

22 883

63,40

**1954**

635

1,65

21 981

57,06

1964

557

1,26

26 409

59,86

**1974**

489

1,21

22 494

55,68

1984

588

1,15

13 736

26,90

**1994**

372

0,95

6 858

17,49

*Coal mines*

1904

30

3,55

57

0,46

**1914**

52

2,07

—

0,00

1924

85

2,31

397

10,78

**1934**

67

2,64

853

33,66



1944

166

3,39

2 290

46,82

**1954**

93

1,65

3 670

64,99

1964

104

1,36

2 479

32,43

**1974**

84

1,14

1 616

21,84

1984

73

0,63

840

7,20

**1994**

55

0,96

239

4,16

*Other mines*

1904

26

2,30

19

1,68

**1914**

52

4,33

—

0,00

1924

43

0,79

188

3,44

**1934**

12

0,92

278

21,35

1944

25

0,87

566

19,61

**1954**

53

0,75

1 013

14,40

1964

110

1,03

1 225

11,45

**1974**

218

1,16

4 497

23,83

1984

79

0,74

952

8,91

**1994**

59

0,70

804

9,51

a

Number of fatalities per 1 000 employees in service.

b

Number of injurie

## **Social Clauses in Trade Agreements**

In June 1995 the labour constituency of the National Economic Development and Labour Council (Nedlac) led by Cosatu, proposed that the government should only sign trade agreements with countries which accepted trade unions, freedom of association and collective bargaining, and banned discrimination and the use of child labour. Mr Shilowa said that social clauses on worker and human rights were an important feature of South African trade policy.<sup>214</sup> [<sup>214</sup> *Business Day* 18 October 1995] In October 1995 Mr Shilowa criticised the government's submission to Nedlac, which stated that the issue should be pursued at multilateral level, and that demanding social clauses in agreements with less developed countries contradicted humanitarianism.<sup>215</sup> [<sup>215</sup> *Ibid*] Mr Shilowa denied that the inclusion of social clauses in international trade agreements was being used to protect organised labour in South Africa from competition with its counterparts in other countries where labour markets were less sophisticated.<sup>216</sup> [<sup>216</sup> *Ibid* 23 October 1995] Although business and the government both criticised the idea of social clauses in South Africa's international trade agreements, neither publicly ruled it out.<sup>217</sup> [<sup>217</sup> *Ibid* 18 October 1995]

## **REGIONAL DEVELOPMENTS**

At its international policy conference held in April 1995, Cosatu committed itself to developing strong trade union organisations in southern Africa and in Africa. Delegates at the conference committed the union to strengthening the South African Trade Union Co-ordinating Council (SATUCC) and the Organisation of African Trade Union Unity. Cosatu said that a multifaceted approach was needed to address regional economic development and migration, as South Africa could not prosper if its neighbours remained poor. The conference resolved to campaign for measures to deal with these issues, which included:<sup>218</sup> [<sup>218</sup> *The Shopsteward* April/May 1995]

- fair and nondiscriminatory legislation covering migration and border controls;
- heavy penalties on employers exploiting illegal immigrants;
- legal guarantees for equal pay and working conditions for migrant workers;
- integration of migrant workers into communities where they lived;

- measures to regulate the position of migrant workers through voluntary repatriation or amnesty;
- a strategy to deal with the mobility of skilled labour in a way which developed the skills of local labour in the host country;
- a negotiated quota (reviewed on a regular basis) of workers allowed into the region; and
- the development of a regional reconstruction and development programme aimed at building the economy of the entire region.

During a three-day visit to Botswana in September 1995, the president, Mr Nelson Mandela, was warned by the president of the Botswana Confederation of Commerce, Industry and Manpower, Mr Ngo Moroka, that South Africa faced 'serious' consequences if it did not encourage the development of commerce and industry in southern Africa. Mr Moroka said that Botswana's unemployment rate had been rising rapidly since 1993 as major international companies moved their operations to South Africa. Increasing regional unemployment and the failure to encourage development could 'trigger an influx of job-seekers into South Africa', causing serious social problems, he said.<sup>219</sup> [<sup>219</sup> *Business Day* 8 September 1995] The foreign minister of Botswana, Lieutenant General M Merafhe, said that the unemployment problem was causing an increase in violent crime in the country. South Africa and Botswana agreed to establish a permanent commission to deal with, among other things, security and cross-border crime.<sup>220</sup> [<sup>220</sup> *Sowetan* 12 September 1995]

## KEY PROJECTIONS

- According to the Graduate School of Business at the University of Cape Town, if affirmative action trends continued, 33% of managers would be African by 2000, an increase of 730% on the September 1994 figure of 4%. The proportion of white managers would drop by 41% to 53% over the same period.
- The Bureau for Economic Research (BER) at the University of Stellenbosch estimated that the number of job opportunities would increase by an annual average rate of 1,4% until 1999 if economic growth averaged 2,8% a year. By 1999 there would be only 500000 more job opportunities in the formal sector. According to the director of the BER, Dr Ockie Stuart, if the structure of the economy did not change, a 6%–7% growth rate would be needed to absorb new entrants to the labour market.
- The Department of Public Works said that it planned to create 30000 jobs by March 1996 and 68 000 jobs in the following year through its national public works programme. By 2000 the department planned to increase the number of jobs created to 300 000 a year.

## LIVING CONDITIONS

## BIRD'S EYE VIEW

While the government's reconstruction and development programme began making some visible improvements to levels of electrification, postal services and water provision in some areas, little progress was made in the provision of low-income housing during the year under review.

The launch of the Masakhane campaign in February 1995, designed to increase the rate of rent and service payments in South Africa, marked the start of a concerted effort by the government to stabilise South Africa's townships and create the necessary conditions for urban development. April saw the establishment of the Mortgage Indemnity Fund (MIF) designed to protect banks against noncommercial risk in historically unstable areas, and in May the banking sector introduced a fixed-rate mortgage facility for bond applicants earning less than R3 500 a month who wished to borrow less than R65 000. In June the government and mortgage lenders established Servcon Housing Solutions, which aimed to rid banks of non-performing bonds and repossessed properties, the government introduced individual housing subsidies, and the construction industry established a council to protect consumers from substandard housing and satisfy the conditions set by lending institutions.

Despite these developments, fewer than 6% of the intended 50 000 lowincome home loans had been granted by November 1995, and the MIF reported in January 1996 that only 65% of people in African townships were paying for their services. Banks had on their books in November 1995 as many as 70 000 non-performing loans and repossessed properties not vacated by occupants.

More than a year after it was first published in December 1994, the proposed housing white paper had still not been approved by the government. The apparent lack of political support for the proposed incremental housing strategy agreed to initially at the National Housing Summit at Botshabelo in October 1994, and subsequently included in the draft housing white paper, was one of the biggest impediments to mass housing delivery. There were also discrepancies with regard to the actual housing shortage, with estimates in each province varying dramatically.

In January 1996 a special ministerial task team, appointed in August 1995 to identify solutions to housing delivery problems, recommended the consolidation of political backing for national housing policy in order to establish an atmosphere of policy certainty. The team's recommendations also included the relaxation of certain constraints imposed by the national subsidy policy on provincial and local governments and the transfer of greater power to subnational tiers of government and provincial MECs. Short-term central government intervention at provincial and local government level was viewed as a solution to the lack of administrative, technical and managerial capacity at those levels.

The team also recommended relaunching the Masakhane campaign (which had lost momentum) and an aggressive marketing and education initiative to inform the public on how to access government housing subsidies.

The minister of housing, Ms Sankie Mthembi-Nkondo, said that although there was no need for a

fundamental housing policy review, there was a need for constant modification. Ms Mthembi-Nkondo strongly endorsed the proposal that greater power be transferred to subnational tiers of government and provincial MECs.

The government's hope that 2,5m new electrical connections would be provided in South Africa between 1994 and 1999 seemed attainable mainly because of the successes of Eskom's electrification programme, begun in 1990. Eskom expected to reach its target of 300000 new connections for the year, in 1995. Owing to a shortfall of about 30 000 new connections provided by local authorities, however, only 420 000 of the yearly national target of 450 000 connections would be provided in 1995.

The first of 12 presidential lead water projects to provide a basic water supply to 1,7m people in rural areas was launched by the government in March 1995. The projects aimed to bring water to some 1,3m rural households who had to travel far to get water.

According to the green paper on telecommunications policy published in July 1995, the government aimed to provide a telephone within walking distance of every home in South Africa. Between March 1994 and March 1995 Telkom increased the number of telephones in South Africa by 5%. Meanwhile, in accordance with its aim of providing an improved postal service in areas which had been neglected during the apartheid era, the South African Post Office installed more than 1m address boxes around the country between April 1994 and November 1995.

The year under review saw many developments regarding the government's land reform programme. After a long and sometimes striferidden consultation process, the Land Reform (Labour Tenants) Bill was finally approved by the National Assembly in January 1996 before being referred to the senate committee. The year also saw the establishment of the Commission on the Restitution of Land Rights. Between May and September 1995 it received 5 188 land claims, of which 3 001 (58%) were for urban land and 2 187 (42%) were for rural land. A green paper on land reform was published in February 1996.

In an effort to find solutions to the problems plaguing the taxi industry the government established a National Taxi Task Team in March 1995. In July that year the minister of transport, Mr Mac Maharaj, approved the establishment of provincial taxi offices which would take responsibility for the issuing of taxi operating permits. (According to the Department of Transport, there were more than 60 000 illegal taxi operators on the roads.) The government, however, stressed that passenger transport subsidies would not be provided to the taxi industry.

## **KEY POINTS**

- Between May 1994 and October 1995, 10 163 houses were built with state assistance—478 in the Eastern Cape, 1 277 in Gauteng, 1 857 in the Free State, 2 826 in KwaZulu/Natal, 510 in Mpumalanga, 1068 in the Northern Cape, 118 in the Northern Province and 2 029 in the Western Cape. No figures were available for the North-West.



- Some 20,4% of urban households (1m) and 55,4% of non-urban households (2,1m) in South Africa had no ready access to a telephone in October 1994. While 88% of urban and 83% of nonurban white households had a telephone in their homes, only 25% of urban and 2% of non-urban African households had one.
- In 1994 about 73% of houses in urban areas had electricity, compared with 15% in rural areas. The rural areas of the Eastern Cape had the smallest proportion of electrified houses (3%), while the rural areas of Gauteng had the highest (55%).
- Of the total estimated 8,7m dwellings in South Africa, only about 4,8m in both urban and non-urban areas used publicly supplied electricity for lighting.
- The Department of Land Affairs estimated that some 3,5m people had lost their land and property rights through forced removals in South Africa. Some 745 000 of these people had been resident on land in KwaZulu/Natal.
- Between April 1994 and August 1995 the South African Post Office installed more than 800 000 additional address boxes nationally as part of its aim to provide some 5m such boxes by 2000 to previously underserviced areas.
- The most common mode of transport used by workers of all races in urban areas in 1994 was the car or motor bike (39%). Some 38,4% of urban African workers used the minibus taxi and 14,6% used the bus.
- A series of studies conducted by the CSIR, indicated that in 1995 there were some 220000km of previously unrecorded and unmanaged informal roads in townships, informal settlements and rural areas which had developed over time from paths and tracks.
- In 1994 only 8% of non-urban African households enjoyed running water in their homes, compared with 81,4% of whites. Almost all Indian and white households in urban areas had running water in their homes, compared with 54,3% of urban African households.
- Some 12,6% of African households (1,8% in urban areas and 20,4% in non-urban areas) had no sanitation facility in 1994. Among whites, 99,9% used flush lavatories. The comparable figures for coloured people and Indians were 83,3% and 97,1% respectively.

## **DOMESTIC ENERGY**

### **Policy**

In July 1995 the Department of Mineral and Energy Affairs published a green paper on energy entitled *South African Energy Policy Discussion Document*. The paper stated that the department's intention was

to align energy policy with the government's reconstruction and development programme (RDP) by addressing, among other things, the energy requirements of the poor. The department hoped that the green paper would promote a national debate resulting in a white paper on energy policy.<sup>1</sup> [1 Department of Mineral and Energy Affairs, *South African Energy Policy Discussion Document*, July 1995]

The green paper included proposals which could be adopted once government policy on energy was finalised. These included:<sup>2</sup> [2 Ibid]

- the passing of a new energy act which would provide an 'integrated approach to energy governance' and define an overall regulatory framework;
- the inclusion of provincial authorities in energy planning;
- a 'fuelwood security programme' to ensure an affordable and sustainable supply of wood for rural areas, where wood was expected to remain the primary source of energy for a long time;
- the improvement of affordability and safety of illuminating paraffin as a household fuel for poor families; and
- making electricity affordable to households while at the same time charging energy users, wherever possible, for both the energy they consume and the capital costs of energy provision.

## **Distribution Authority**

The National Electricity Regulator (NER) announced in February 1995 that municipalities would have to decide in the next six months how, and by whom, electricity would be distributed in areas under their jurisdiction. This deadline was later extended by nine months to give the regulator more time to find economically viable ways of ensuring electricity distribution nationally. Electricity distribution is an important income item in local government budgeting. Legislation which became effective at the beginning of March 1995 required that all bodies generating and distributing electricity had to be licensed. In August 1995 the chairman of the NER, Dr Ian McRae, said that the NER had received applications for licences from some 398 distributors, ie Eskom and various local authorities.<sup>3</sup> [3 *Business Day* 6 February 1995, 24 August 1995]

## **Legislation**

### **Mineral and Energy Laws Rationalisation Act of 1994**

In December 1994 the president, Mr Nelson Mandela, assented to the Mineral and Energy Laws Rationalisation Act. This made provision for the rationalisation of certain laws relating to mineral and energy affairs in South Africa, by extending their application to all areas of the country and by repealing

laws which had been in force in the various homelands.<sup>4</sup> [4 Mineral and Energy Laws Rationalisation Act, *Government Gazette* no 16138, 7 December 1995]

## Electricity Amendment Act of 1995

The Electricity Amendment Act of 1995, passed in October, amended the Electricity Act of 1987 to provide for the funding and accountability of the NER and the appointment of a chief executive and employees.<sup>5</sup> [5 South African Chamber of Business (Sacob), *This Week in Parliament*, 29 August 1995]

The amendments sought to make the NER autonomous from the government and to enable it to employ its own staff. The Electricity Control Board, which the regulator replaced, had previously been funded by the Department of Mineral and Energy Affairs. The Electricity Amendment Act of 1995 provided that the funds of the regulator consist of licence fees obtained from electricity distributors and generators, donations or contributions received from persons, institutions, and the government, and interest on investments.<sup>6</sup> [6 Electricity Amendment Act, *Government Gazette* no 16727, 4 October 1995; *The Citizen* 30 August 1995]

## Statistics

The following table and graphs provide a provincial breakdown of the proportion of houses which had electrical connections in both urban and rural areas in 1993 and 1994:<sup>7</sup> [7 Eskom, *Statistical Yearbook 1993*, *Statistical Yearbook 1994*]

*Proportion of houses with electricity by province: 1993 and 1994*

*Proportion*

*Urban*

Rural

1993

1994

1993

1994

Eastern Cape

52,9%

59,7%

2,0%

3,1%

**Free State**

46,4%

65,0%

23,7%

27,1%

**Gauteng**

72,5%

75,4%

40,7%

54,5%

**KwaZulu/Natal**

68,9%

73,7%

6,9%

11,0%

**Mpumalanga**

56,4%

56,2%

16,8%

27,7%

**North-West**

54,8%

67,4%

11,4%

12,0%

Northern Cape

59,7%

71,9%

32,6%

36,7%

**Northern Province**

58,7%

69,7%

4,9%

16,4%

Western Cape

81,0%

88,8%

45,1%

48,1%

Total

67,1%

73,4%

10,1%

15,2%

In 1994 about 73% of houses in urban areas had electricity, compared with only 15% in rural areas. The rural areas of the Eastern Cape had the smallest proportion of electrified houses (3%), while Gauteng had the highest (55%). Mpumalanga had the lowest proportion of urban electrified houses in 1994 (56%), while the Western Cape had the hig

In its October 1994 household survey the Central Statistical Service (CSS) assembled detailed information by race on the types of energy used for cooking, heating and lighting in both urban and non-urban areas (including the former homelands). The following tables outline the CSS's findings:<sup>9</sup> [<sup>9</sup> Ibid]

*Types of energy used for cooking — urban and non-urban: 1994*

*Proportion*

*African*

**Coloured**

**Indian**

**White**

Total

Electricity from public supply

Urban

57,7%

83,1%

99,5%

98,7%

75,9%

Non-urban

10,9%

45,7%

72,8%

91,5%

15,3%

Electricity from generator

Urban

0,1%

0,5%

—

0,2%

0,1%

## Non-urban

0,1%

0,2%

—

0,6%

0,1%

## Electricity from battery

### Urban

0,0%<sup>a</sup>

—

—

—

0,0%<sup>a</sup>

### Non-urban

0,0%<sup>a</sup>

—

—

—

0,0%<sup>a</sup>

## Electricity from solar energy



## Urban

0,1%

0,0%<sup>a</sup>

—

—

0,0%<sup>a</sup>

## Non-urban

0,0%<sup>a</sup>

—

—

—

0,0%<sup>a</sup>

## Gas

### Urban

6,4%

5,2%

0,0%<sup>a</sup>

0,6%

4,1%

### Non-urban

5,8%

7,7%

11,7%

4,5%

5,8%

Paraffin

Urban

23,0%

5,6%

0,2%

0,3%

12,5%

Non-urban

25,1%

5,6%

6,5%

0,5%

23,4%

Wood

Urban

3,0%

4,7%

0,1%

0,1%

2,1%

Non-urban

52,5%

39,7%

8,6%

2,2%

50,0%

Coal

Urban

9,8%

0,9%

0,2%

0,1%

5,2%

Non-urban

5,5%

1,3%

0,5%

0,6%

5,1%

Other

Urban

—

0,0% a

—

—

0,0% a

Non-urban

0,2%

—

—

—

0,2%

Total<sup>b</sup>

Urban

100%

100%

100%

100%

100%

Non-urban

100%

100%

100%

100%

100%

a

More than zero but too small to record.

b

Total may not add up owing

*Types of energy used for heating — urban and non-urban: 1994*

*Proportion*

*African*

Coloured

Indian

White

Total

Electricity from public supply

Urban

54,9%

82,4%

99,0%

98,3%

74,3%

Non-urban

10,5%

40,1%

73,2%

91,2%

14,7%

Electricity from generator

Urban

0,1%

0,6%

—

0,2%

0,2%

Non-urban

0,1%

0,2%

0,2%

1,4%

0,1%

Electricity from battery

Urban

0,0% a

0,0% a

—

—

0,0% a

Non-urban

0,0% a

0,1%

—

—

0,0% a

Electricity from solar energy

Urban

0,1%

0,0% a

—

0,0% a

0,1%

Non-urban

0,0% a

0,3%

—

—

0,0% a

Gas

Urban

2,5%

1,8%

0,2%

0,5%

1,7%

Non-urban

2,1%

1,1%



3,0%

2,9%

2,1%

Paraffin

Urban

18,2%

5,9%

0,1%

0,3%

10,1%

Non-urban

18,8%

3,5%

4,4%

0,8%

17,5%

Wood

Urban

8,8%

7,2%

0,2%

0,4%

5,5%

Non-urban

60,0%

51,5%

18,5%

2,2%

58,2%

Coal

Urban

15,2%

1,8%

0,5%

0,3%

8,1%

Non-urban

7,2%

2,9%

0,7%

1,1%

6,8%

Other

Urban

0,1%

0,3%

—

0,0% a

0,1%

Non-urban

0,5%

0,4%

—

0,4%

0,5%

Total<sup>b</sup>

Urban

100%

100%

100%

100%

100%

Non-urban

100%

100%

100%

100%

100%

a

More than zero but too small to record.

b

Total may not add up owin

*Types of energy used for lighting — urban and non-urban: 1994*

*Proportion*

*African*

Coloured

Indian

White

Total

Electricity from public supply

Urban

67,0%

89,9%

99,8%

99,5%

81,8%

Non-urban

15,9%

60,0%

74,2%

92,6%

20,5%

Electricity from generator

Urban

0,4%

1,1%

—

0,2%

0,4%

Non-urban

0,5%

0,7%

0,2%

5,0%

0,6%

Electricity from battery

Urban

0,1%

—

—

—

0,1%

Non-urban

0,0%<sup>a</sup>

0,3%

—

0,1%

0,0%<sup>a</sup>

Electricity from solar energy

Urban

0,0%<sup>a</sup>

—

—

—

0,0%<sup>a</sup>

Non-urban

0,1%

0,8%

—

0,2%

0,1%

Gas

Urban

1,5%

0,4%

—

—

0,8%

Non-urban

1,7%

0,5%

3,8%

0,1%

1,6%

Paraffin

Urban

9,7%

3,9%

—

0,0%<sup>a</sup>

5,4%

Non-urban

30,6%

10,2%

17,2%

1,0%

28,7%

Candles

Urban

20,6%

4,6%



0,2%

0,0% a

11,1%

Non-urban

51,2%

27,2%

4,5%

0,8%

48,3%

Other

Urban

0,7%

0,1%

—

0,3%

0,4%

Non-urban

0,1%

0,2%

—

—

0,1%

Total<sup>b</sup>

Urban

100%

100%

100%

100%

100%

Non-urban

100%

100%

100%

100%

100%

a

More than zero but too small to record.

b

Total may not add up owing to

The survey showed that although publicly sourced electricity was used by more than 55% of urban Africans for all three major energy dependent activities (cooking, heating and lighting), fewer than 16% of non-urban Africans used this type of energy. Furthermore, the survey confirmed that paraffin was still

an important source of energy, especially for Africans, in both urban and non-urban areas. Non-urban Africans, coloured people and Indians still used wood widely for cooking and heating. Candles were used for lighting in non-urban areas by 51% of Africans and 27% of coloured people. Among whites publicly supplied electricity was the primary source of energy for all three major energy dependent activities in both urban and non-urban areas.<sup>10</sup> [<sup>10</sup> Ibid]

Of the total estimated 8,7m dwellings in South Africa, only about 4,8m in both urban and non-urban areas used publicly supplied electricity for lighting—indicating that some 3,9m dwellings (45%) did not have access to publicly supplied electricity.<sup>11</sup> [<sup>11</sup> Ibid] However, Eskom estimated that in 1994 as many as 5m dwellings in South Africa had no access to electricity. According to its estimates, some 15,2% of rural houses had electricity in 1994, while the CSS survey found that as many as 20,5% of non-urban households used publicly sourced electricity for lighting.<sup>12</sup> [<sup>12</sup> Eskom, *Environmental Report 1994*; CSS, *October Household Survey 1994*, PO317]

In February 1996 Eskom provided the following figures on electrification levels in townships in six of the nine provinces in 1995:<sup>13</sup> [<sup>13</sup> Fax communication from Eskom, Mr Sid Cassim, corporate secretary, 23 February 1996]

*Electrification levels: 1995<sup>a</sup>*

Province

Townships where more than 50% of houses have electricity

Townships where less than 50% of houses have electricity

Townships where less than 10% of houses have electricity

Townships where 90% or more houses have electricity<sup>b</sup>

Eastern Cape

85

29

31

3

Free State

39

37

21

18

Gauteng

19

15

3

5

KwaZulu/Natal

15

14

1

3

Northern Cape

13

13

6

5

Western Cape

9

10

3

1

Total

180

118

65

35

a

The above data are not entirely correct but are a reliable indicator of levels of electrification, according to Eskom.

b

Figures are also included in the first

## Health Data

Two community health researchers at the Medical Research Council, Drs Len Lerer and Derek Yach, said in July 1995 that the government's electrification programme could save R800m in treatment for lung disease, burns and paraffin poisoning caused by other forms of energy. Illustrating the dangers of candles, coal, paraffin and wood as sources of energy, Drs Lerer and Yach provided the following statistics:<sup>14</sup> [<sup>14</sup> *Sunday Times* 2 July 1995]

- 60% of clinics in South Africa had no electricity;
- South Africa's burn fatality rate was four times higher than the industrial world's, mainly because of the use of candles;
- for every 100 000 of the population, 25 babies and 35 elderly people died as a result of fire; and

- at least 16 000 children per year were admitted to hospital for paraffin poisoning.

## Energy Consumption

In the year under review some 95% of South Africa's electricity was produced by Eskom, a self-funded state-owned utility, which operates under the Eskom Act of 1987 and the Electricity Act of 1987. The company supplied more than 1m consumers with electricity in 1994 (up from 250 000 at the beginning of 1990), making it the largest direct electricity distributor in the country. Eskom sold 43% of its electricity to local authorities, which in turn sold it to consumers.<sup>15</sup> [<sup>15</sup> Eskom, annual report, 1994; *Computer Mail*, a supplement to *Financial Mail*, February 1995]

During 1994 domestic electricity consumption accounted for 16,8% of electricity usage in South Africa. The following table shows the comparative share of electricity usage by sector during 1993 and 1994:<sup>16</sup> [<sup>16</sup> Eskom, *Statistical Yearbook 1993*, Eskom, *Statistical Yearbook 1994*]

### *Electricity usage by sector: 1993 and 1994*

#### Sector

1993

1994

Increase (decrease)

#### Manufacturing

39,9%

38,2%

(0,6%)

#### Mining

24,9%

23,6%

(1,6%)

## Domestic use

15,3%

16,8%

14,7%

## Commercial and construction

10,1%

11,0%

19,8%

## Traction (eg railways)

3,6%

3,1%

(11,6%)

## Local authority departments

1,5%

1,9%

29,7%

## Rand Water and regional water supply commissions

1,2%

1,5%

27,6%

Other

3,5%

3,9%

16,4%

Total

100%

10

## Targets

In 1994 Eskom committed itself to ten key objectives of the reconstruction and development programme (RDP), including the following:<sup>17</sup> [<sup>17</sup> Eskom, annual report 1994, pp3, 14]

- reducing the real price of electricity by 15%;
- electrifying an additional 1 750 000 homes over the period 1994–99; and
- contributing R50m per year to the electrification of schools and clinics, particularly in rural areas.

The government aimed, through the RDP, to provide electricity to 2,5m additional homes in the period 1994–99. Eskom's contribution to this target would be 1,75m connections (250 000 in 1994 and 300 000 a year for 1995 to 1999), while the balance would be connected predominantly by local authorities at a rate of about 150 000 connections a year over five years (1995–99). Thus altogether 450 000 electricity connections would be made each year between 1995 and 1999. The chairman of Eskom, Dr John Maree, said in March 1995 that his company's provision of 300 000 new connections during 1995 would cost R1bn. A spokesman for Eskom said in December 1995 that the company would attain its target of providing 300000 new electrical connections during 1995. The national target of 450000 new connections would, however, not be attained, owing to an expected shortfall of 30 000 in new connections provided by local authorities.<sup>18</sup> [<sup>18</sup> *Business Day* 28 March 1995, 21 December 1995; *Financial Mail* 28 April 1995; *Sunday Times* 2 July 1995]

If projected electrification targets in the period 1995–99 were achieved the number of households electrified would increase to 65%, according to Mr Allen Morgan, chief executive of Eskom.<sup>19</sup> [<sup>19</sup> Eskom, annual report, p19; *Engineering News* 17 February 1995]



Even if the government met its target of electrifying 2,5m additional houses by 2000 and the number of households grew at an estimated average annual rate of 200 000 (see 1994/95 Survey, p509.) (ie 1m new households by 2000), there would still be 2,4m dwellings without access to electricity by 2000 (against 3,9m at the end of 1994).

Referring specifically to electricity supply in rural areas, Mr Morgan said in the 1994 annual report that Eskom's electrification programme would increase the number of rural households with access to electricity to 30% by the end of 1999.<sup>20</sup> [<sup>20</sup> Eskom, annual report, 1994, p20]

Eskom also reported in its 1994 Environmental Report that the company was researching and developing 'remote area power supply' systems (ie alternative sources of energy such as diesel generation, gas installation, solar photovoltaic, and mini-hydro systems) to supply electricity to remote rural communities. According to the nongrid electrification manager for Eskom, Mr Rodney Buttle, in February 1995 a group had been formed within Eskom to ensure that Eskom achieved its 1995 target of electrifying 1 000 rural schools and clinics in South Africa using nongrid systems such as photovoltaic systems. Dr Maree said in July 1995 that the company had committed itself to electrifying 100 clinics and 400 schools a year for the next five years. In 1994 the company had electrified some 562 schools and 21 clinics.<sup>21</sup> [<sup>21</sup> Eskom, *Environmental Report—1994*; *Engineering News* 26 May 1995, 28 July 1995; *Financial Mail* 5 May 1995]

By 2010 Eskom planned to electrify some 4,25m homes (the figure included the 1,75m to be electrified in 1994–99), while local governments would electrify a further 2,1m. (Between 1999 and 2010 Eskom would electrify 2,5m houses.) These installations would require a total investment of some R23bn, Dr Maree said.<sup>22</sup> [<sup>22</sup> *Business Day* 28 March 1995]

## Progress

In March 1995 Dr Maree said that Eskom was electrifying homes in South Africa at a rate of 1 000 connections a day. The following month Dr Maree said that since Eskom had begun its electrification programme at the end of 1990, the company had electrified 639 741 homes.<sup>23</sup> [<sup>23</sup> Eskom, annual report, 1994, p10; *Business Day* 28 March 1995; *The Argus* 5 April 1995]

The following table shows the number of connections made by Eskom and local municipalities in the four years since the inception of the electrification programme in 1991:<sup>24</sup> [<sup>24</sup> Eskom, annual report, 1994, p20; *Engineering News* 17 February 1995; *Financial Mail* 28 April 1995]

*Annual connections: 1991–94*

1991–92

1993

1994

Total

Eskom

176 557<sup>a</sup>

208 801

254 383

639 741

Farmworker housing<sup>b</sup>

12 698

16 074

16 838

45 610

Municipalities

22 622

69 756

106 950

199 328

Total

211 877

294 631

378 171

884 679

a

Eskom's connections numbered about 31 000 in 1991 (the first year of the electrification programme) and some 145 000 in 1992.

b

About 90% of farmworker housing connections were made by Eskom while the remainder were made by municipalities.

The total number of connections made during 1993 was 39,1% higher than over the two-year period from 1991 to 1992, while the number of connections made in 1994 was 28,4% higher than in 1993. The increase in the rate of connections made by municipalities in 1994 over 1993 was far greater than that of Eskom in the same period (53,3% compared with

## Power Stations

Of the 36 power stations in South Africa, 25 were owned by Eskom, 19 of which were in service at the end of 1994. Those 19 had a total net maximum capacity of 35 936 megawatts.<sup>25</sup> [<sup>25</sup> Eskom, *Statistical Yearbook 1994*, *Engineering News* 17 February 1995, 26 May 1995]

Eskom's nongrid electrification manager, Mr Rodney Buttle, said in May 1995 that 93% of South Africa's energy was generated by coal-fired power stations. Other forms of power generation used by Eskom included hydroelectric and nuclear power.<sup>26</sup> [<sup>26</sup> *Engineering News* 26 May 1995]

The energy management manager of Eskom, Mr Brian Statham, said in May 1995 that Eskom's 12 coal-fired power stations had a generation capacity in excess of the nation's requirements and that as a result three of them had been placed in storage indefinitely. Certain stations would be recommissioned as demand increased, Mr Statham said.<sup>27</sup> [<sup>27</sup> *Ibid*]

## Finance

Some R716m was allocated to the Department of Mineral and Energy Affairs in the 1995/96 national budget. This represented 0,46% of the national budget. In a report submitted to Parliament in May 1995 the mineral and energy committee in the National Assembly stated that the department had not gone far

enough in meeting the key goals of the reconstruction and development programme. The committee said that the budget was inadequate in areas such as energy management and rural energy needs.<sup>28</sup> [<sup>28</sup> *Business Day*, *The Citizen* 9 May 1995; Department of Finance, *Budget Review*, 15 March 1995]

The senior general manager of information at Eskom, Mr Peter Jordi, said in February 1995 that 80% of Eskom's revenue came from the company's top 200 customers.<sup>29</sup> [<sup>29</sup> *Computer Mail*, a supplement to *Financial Mail*, February 1995]

## Non-Payment

The chairman of Eskom, Dr John Maree, said in Eskom's 1994 annual report that non-payment for electricity by consumers was 'still one of the most significant financial threats facing Eskom', but that 'cutting off services to individual non-paying consumers [was] starting to have the desired effect' (see also 1994/95 Survey, p535).<sup>30</sup> [<sup>30</sup> Eskom, annual report, 1994]

Eskom, which reported a debt of R923m in March 1995 because of non-payment of electricity charges, said in the same month that payment for electricity in Soweto had risen from 20% at the end of November 1994 to 65% at the end of March 1995. In October 1995 electricity payment levels in Soweto were reported to be 67%.<sup>31</sup> [<sup>31</sup> *Business Day* 29 March 1995; *The Mercury* 30 March 1995; *Financial Mail* 6 October 1995]

## Tariffs

The price of electricity increased by an average of 7,27% during 1994. During that year Eskom committed itself to reducing the real price of electricity by 15% between 1994 and 2000, in order to become the world's lowest-cost producer of electricity. The company stated in its 1994 annual report that the real average price of electricity was 73% of the price in 1984.<sup>32</sup> [<sup>32</sup> Eskom, annual report, 1994; *Business Day* 6 September 1995]

In January 1995 the National Electrification Forum (Nelf) submitted a report to the National Electricity Regulator on the restructuring of the electricity supply industry. In the report the Nelf proposed the development of a national domestic tariff system that would determine national domestic tariffs according to uniform criteria. A major goal of the proposed national tariff system was to replace the range of existing tariff structures. No new system of tariffs had been implemented at the time of writing (see 1994/95 Survey, p573.).<sup>33</sup> [<sup>33</sup> *Engineering News* 17 February 1995; *Financial Mail* 10 March 1995]

## Regional Co-Operation

The chief executive of Eskom, Mr Allen Morgan, said in Eskom's 1994 annual report that key electricity utility companies in the region had agreed in principle to the establishment of a southern African power pool, and that discussions on the formation of such a pool were 'well advanced'. The Botswana Power

Corporation, the Zimbabwe Electricity Supply Authority, the Zambia Electricity Supply Corporation and Eskom would begin operating within the southern African power pool by the end of 1995. Mr Morgan also said that eventually all member countries of the Southern African Development Community (SADC) and Zaire could potentially join. In July 1995 the energy ministers of the SADC countries met in Cape Town to discuss setting up the pool. The minister of mineral and energy affairs, Mr Pik Botha, said at the meeting that the proposed regional power pool would increase security of supply and reduce the need to invest in expensive power stations in the region.<sup>34</sup> [<sup>34</sup> Eskom, annual report, 1994, p24; *Sunday Times* 2 July 1995; *The Star* 10 July 1995]

With financing from Eskom, the European Investment Bank, the European Union, the Portuguese government and Caisse Française de Développement, electricity supply from the Cahora Bassa hydroelectric power station in Mozambique was to be restored by 1997. The restoration of the power station would serve not only South Africa, but also Malawi, Zambia and Zimbabwe, once those countries were connected to the grid.<sup>35</sup> [<sup>35</sup> Eskom, annual report, 1994, p24]

The energy management manager of Eskom, Mr Brian Statham, said in May 1995 that Eskom intended keeping the amount of energy imported to below 15% of South Africa's energy requirement, but that the exact size of the imported component would depend on prices.<sup>36</sup> [<sup>36</sup> *Financial Mail* 26 May 1995]

Other potential power sources for the sub-Saharan region which received consideration during the year under review included hydroelectric power drawn from the Congo River in Zaire, and gas-fired power stations from the coasts of Namibia and Mozambique.<sup>37</sup> [<sup>37</sup> *Sunday Times* 8 January 1995; *Engineering News* 27 January 1995; *Business Day* 29 March 1995]

## **HOUSING**

### **National Picture**

#### **Statistics**

The minister of housing, Ms Sankie Mthembu-Nkondo, said in October 1995 that in the period May 1994 to October 1995, 10 163 houses had been built with state assistance. This included 478 in the Eastern Cape, 1 277 in Gauteng, 1 857 in the Free State, 2 826 in KwaZulu/Natal, 510 in Mpumalanga, 1 068 in the Northern Cape, 118 in the Northern Province and 2 029 in the Western Cape. No figures were available for the North-West province.<sup>38</sup> [<sup>38</sup> *South African Development Digest* not dated]

In May 1995 Ms Mthembu-Nkondo acknowledged that the construction of houses had been slow in the first year of the government of national unity. Ms Mthembu-Nkondo said that 'we never expected it to be any different' because 'we needed time to sort out the mess we inherited'. However, housing policy debate had occurred widely and a 'workable consensus' had been reached. 'We are determined that

houses should be built in the right places. In a sustainable manner. In a manner which allows people to create living environments they are happy to call home. We now have the policies in place which allow us to do precisely that,' Ms Mthembi-Nkondo said.<sup>39</sup> [<sup>39</sup> *Hansard* (NA) 6, col 1262, 16 May 1995]

Earlier, in March 1995 the minister without portfolio, Mr Jay Naidoo, had said that 'we must remember that the government is not in the business of building houses. It is the private sector that builds houses'. Mr Naidoo said that private sector investment would have to match the government's investment through housing subsidies in order to ensure growth and socio-economic development (see also *Provincial developments* below).<sup>40</sup> [<sup>40</sup> *Hansard* (NA) 3, col 396, 29 March 1995]

## **Hostel Upgrading**

According to a *Business Day* editorial in July 1995, 15 of the country's 181 publicly owned hostels had been upgraded and the government had spent more than 50% of the R425,5m approved for hostel upgrading by the then minister of housing, Mr Joe Slovo, in June 1994. It had been reported in March 1995 that the full amount (R425,5m) had been committed to various hostel projects by the National Hostels Co-ordinating Committee (NHCC). Responsibility for publicly owned hostels had been taken over from the NHCC by the provincial housing boards after their establishment since the passing of the Housing Amendment Act in July 1994 (see also *Hostels* under *Provincial developments* below and 1994/95 Survey, pp557–558.).<sup>41</sup> [<sup>41</sup> *Business Day* 8 March 1995, 27 July 1995]

## **Policy**

There were no major developments in national housing policy during the year under review (see 1994/95 Survey, pp518, 559–561, 562–565.).

Ms Mthembi-Nkondo announced in May 1995 that individual subsidies would be available from 5th June 1995 to people who earned less than R3500. Although the national housing subsidy made provision for both project-based and individual subsidies, the provincial housing boards had approved only project-based subsidies prior to 5th June. The minister also said that consolidation subsidies (for individuals who had received state assistance under previous schemes such as the Independent Development Trust's R7 500 capital subsidy) and institutional subsidies (for housing co-operatives and housing associations) would be provided in addition to project-based and individual subsidies. Explaining the institutional subsidy in the Senate later in May 1995, Ms Mthembi-Nkondo said that 'a group of people who want to build or buy together, possibly a block of flats or some other form of communal housing, [can apply for] their subsidies jointly. Although many of them may not qualify individually for loans, together they [can] approach a bank and try to work something out'.<sup>42</sup> [<sup>42</sup> *Hansard* (NA) 6, col 1266, 16 May 1995; *Hansard* (S) 6, col 953, 18 May 1995]

The institutional subsidy option was also designed to be used by institutions such as churches which wished to build social housing for rent to people who qualified for state housing assistance by virtue of

their low income.<sup>43</sup> [<sup>43</sup> *Hansard* (S) 6, col 953, 18 May 1995]

In July 1995 Ms Mthembu-Nkondo caused uncertainty about national housing policy when she criticised the policy of incremental housing which had been accepted by everyone at the National Housing Summit at Botshabelo in October 1994, and which was included in the national housing white paper (see 1994/95 Survey, pp559–560.). Ms Mthembu-Nkondo said that incremental housing was a short-term solution which would add to the squatter problem when structures were left half-finished, and that it was not an adequate approach for housing African families. Although the minister said that the national policy remained ‘intact’, she added that it should be flexible.<sup>44</sup> [<sup>44</sup> *Sunday Times* 16 July 1995]

Later in July 1995 the director general of housing, Mr Billy Cobbett, said that a national task team would be set up to find solutions to the slow rate of housing delivery, but that no review of fundamental housing policy would be done. In October 1995 Ms Mthembu-Nkondo said that she would ‘support incremental housing as long as it [was] targeted to the appropriate income group’. In January 1996 the task team presented its report to the minister but no official government statement had been made at the time of writing (see also *Bird’s Eye View* above).<sup>45</sup> [<sup>45</sup> *Business Day* 17 August 1995, *Sunday Times* 20 August 1995, *The Citizen* 19 October 1995]

The chairman of the National Housing Board (NHB), Mr Ishmael Mkhabela, said in August 1995 that the board had agreed to recommend to the housing ministry that subsidy payments be made in four tranches to developers who built government-subsidised housing. Single lump-sum payments had previously been made to developers only once individual title had been transferred to the name of the end beneficiary but this had placed severe financial strain on many small and medium-sized developers and builders.<sup>46</sup> [<sup>46</sup> *Business Day* 30 August 1995]

If the NHB’s recommendation was accepted by the ministry the first payment would be made once a detailed engineering design for infrastructure had been approved by the responsible local authority. The second payment would be made once the surveyor general had approved the development plan, the third when the stands had been fully serviced and connected to the bulk supplier, and the final payment once the responsible provincial housing board was satisfied that the project met required standards, the top structure had been completed and individual title had been registered in the name of the end beneficiary of the state subsidy. At the time of writing the Department of Housing had made no announcement regarding the board’s recommendation.<sup>47</sup> [<sup>47</sup> *Ibid*]

In August 1995 the Department of Land Affairs proposed that a settlement and land acquisition subsidy be made available for the purchase of land and the provision of basic infrastructure (see *Settlement and land acquisition subsidy* under *Land* below).

### ***Housing Support Centre Programme***

Ms Mthembu-Nkondo said in Parliament in May 1995 that the government would initiate a housing

support centre programme during the 1995/96 financial year to provide advice, finance, training, job opportunities and reasonably priced materials to ‘the most disadvantaged communities’ in South Africa to help them gain maximum benefit from the government housing subsidy. The housing support centre programme would ‘primarily aim to aid those who currently have no access to credit’. Some R50m had been provided for the establishment of the programme during the 1995/96 financial year. In August 1995 Ms Mthembi-Nkondo said that the nine provincial governments had established task teams to plan the implementation of the programme.<sup>48</sup> [<sup>48</sup> *Hansard* (NA) 6, cols 1269, 16 May 1995; *Hansard* (S) 6, col 953, 18 May 1995; *Business Day* 23 July 1995, 21 August 1995 ]

## Legislation

No new housing legislation was passed during the year under review.

## Finance

Some R1,554bn was allocated to the Department of Housing in the 1995/96 fiscal year, of which R1,52bn (98%) was allocated for housing support. A further R1,4bn was made available by the reconstruction and development programme fund for housing support (to be allocated to the provinces and divided equally between housing subsidies and infrastructure), bringing to R2,92bn the total amount available in the 1995/96 national budget for housing support (a further R33,4m was allocated to administration, urbanisation and associated services). This represented an increase of 80% over the amount voted for housing aid (R1,62bn) in the previous year (see also *Provincial developments* below). The Department of Housing’s share of the national budget rose from 1,3% in the 1994/95 revised budget estimate to 2,7% in 1995/96.<sup>49</sup> [<sup>49</sup> Department of Finance, *Budget Review*, 22 June 1994; *Budget Review*, 15 March 1995; *The Star* 16 March 1995]

It was reported in March 1995 that an additional R486,5m would be carried over to the 1995/96 housing budget from the previous year and that R185m would be allocated for presidential housing projects, thereby raising the amount of money available to the Department of Housing from R2,958bn to about R3,6bn.<sup>50</sup> [<sup>50</sup> *Financial Mail* 24 March 1995; *Mail and Guardian* 15 June 1995]

Ms Mthembi-Nkondo said in April 1995 that R220m had been set aside in the housing budget as ‘seed capital’ for the proposed national housing finance corporation, R700m had been reserved for allocation to the provinces for spending on infrastructure, R50m for the proposed housing support centres programme, and R15m for housing education and information programmes.<sup>51</sup> [<sup>51</sup> *The Natal Witness* 18 April 1995]

In September 1995 the minister said that the government had spent some R1,4bn on housing during the 1994/95 financial year (or 52% of the budget). An amount of R1bn had been rolled over from the 1993/94 budget, bringing to R2,7bn the amount available for housing in the 1994/95 financial year. Some 52% (R1,4bn) of this amount had already been committed to housing projects by the previous



government.<sup>52</sup> [<sup>52</sup> 1994/95 Survey, pp514–515; *Business Day*, *The Citizen* 15 September 1995]

## End-User Finance

### ***Bank and Building Society Lending***

In May 1995 Ms Mthembi-Nkondo announced that on 5th June 1995 banks would start lending to people who earned less than R3 500, as they had agreed to do in the *Record of Understanding* signed in October 1994 (see 1994/95 Survey, p563.). Households with incomes exceeding R3 500 did not qualify for government housing assistance in terms of the national housing policy. Banks had agreed in the *Record of Understanding* to provide 50 000 housing loans within one year (5th June 1995 to 5th June 1996) to people who qualified for state housing subsidies and who could afford loan repayments. However, by November 1995 fewer than 6% of the targeted 50000 loans (ie fewer than 3 000) had been granted. At the annual conference of the Institute for Housing in October 1995 it was reported that the four largest banks in South Africa (Absa Bank, First National Bank, Nedcor Bank and Standard Bank) had granted only about 1 000 bonds to low-income borrowers since 5th June 1995. The rest of the bonds were granted by other members of the Association of Mortgage Lenders such as Community Bank, Saambou Bank and NBS Bank.<sup>53</sup> [<sup>53</sup> *F & T Weekly* 13 October 1995; Information supplied by the Association of Mortgage Lenders, 19 February 1996]

The minister also announced in May 1995 the introduction of a housing savings scheme which would form part of the subsidy and loan scheme available to households earning less than R3 500 but to whom banks were prepared to provide housing bonds. The housing savings scheme would allow eligible clients to save for a minimum of nine months towards putting down a deposit on a house. Clients' savings records over the nine month period would demonstrate their ability to save on a monthly basis. Savings would later become monthly mortgage repayments.<sup>54</sup> [<sup>54</sup> *Hansard* (NA) 6, cols 1266–1267, 16 May 1995; *Sunday Times* 23 July 1995; *Business Day* 6 October 1995, 17 November 1995]

In May 1995 the banks introduced a fixed-rate mortgage option to buyers who earned less than R3 500 a month—this was not made available to all borrowers—for loans of up to R65 000 repaid over ten years (instead of the normal 20-year period). The fixed rates varied from 22,5% on loans between R10 000 and R25 000 to 20% on loans between R50 000 and R65000.<sup>55</sup> [<sup>55</sup> *Business Day* 6 May 1995, *The Citizen* 6 June 1995, *Sunday Times* 23 July 1995]

Earlier, in February 1995 the Association of Mortgage Lenders had established a range of credit guidelines for the assessment of low-income housing finance applications. Among these were the following:<sup>56</sup> [<sup>56</sup> Information supplied by Mr Pieter Marais, Absa Bank, 3 July 1995]

- an applicant's monthly home loan instalment should not exceed 25% of the monthly gross household income;

- an applicant should demonstrate the capacity to meet instalment commitments and rates and services charges by providing proof of regular savings over a minimum period of nine months;
- an applicant should demonstrate regular monthly savings over between nine and 12 months amounting to 5% of the purchase price of the house. Those savings would then be regarded as sufficient for a deposit;
- a credit check on each applicant should be done and the application should be declined if the results were not favourable;
- the bank's risk on a loan should not exceed 80% of the value of the house; and
- the applicant should be required to provide a home builder's defect warranty certificate which should be valid for five years from the date of commencement of construction of the house (see also *Non-payment* below).

The executive director of the National Association of Home-Builders and Urban Developers, Mr Daan Roelvert, predicted that 90% of developers and contractors would withdraw from the low-income housing market as a result of market shrinkage caused by many bond applications being turned down.<sup>57</sup>

[<sup>57</sup> *Business Day* 22, 28 June 1995; *Housing in Southern Africa* July 1995] The convenor of a task team of the Association of Mortgage Lenders, Mr Jopie van Honschooten, acknowledged in June 1995 that the lending criteria had, in many cases, reduced the size of the loan an applicant would qualify for because of the higher interest rate and because fixed interest loans were paid off over only ten years instead of the normal 20-year period. Banks, however, could not offer low-income housing bonds at a lower rate because of the higher costs of administering the smaller loans and the higher risk involved, Mr van Honschooten said.<sup>58</sup> [<sup>58</sup> *The Star* 28 June 1995; *F & T Weekly* 7 July 1995]

Contrary to earlier expectations, lending institutions did not receive very large numbers of applications for low-income housing finance after 5th June 1995. The construction sector blamed the low number of bond applications made by people earning less than R3 500 on the strict credit-lending criteria used by mortgage lending institutions, while the mortgage lenders said that suitably low-priced housing products were not being supplied by the construction sector for potential mortgage borrowers. The president of the Association of Mortgage Lenders, Mr Johan Myburgh, said that up to 95% of people wanting housing required products in the R25 000 to R45 000 price bracket, but that the majority of the houses being supplied were in the R65 000 price range.<sup>59</sup> [<sup>59</sup> Telephonic interview with a spokesman for Absa Bank, Mr Pieter Marais, 3 July 1995; *Sunday Times* 6 August 1995]

The Department of Housing announced at the beginning of July 1995 that it would question the banks' assessment criteria and request that they extend the life of fixed-rate mortgage loans from ten to 20 years. Shortly afterwards committees were established jointly by the government, the construction

industry, and mortgage lenders to review the credit lending criteria used by the banks to assess low-income bond applications and especially their decision to base their affordability tests for small variable bonds on the same criteria used to assess applications for a fixed rate bond.<sup>60</sup> [<sup>60</sup> *Sunday Times* 2 July 1995, *Sowetan* 13 July 1995]

On 21st July 1995 the three parties announced that they had reached agreement on several issues, including the following:<sup>61</sup> [<sup>61</sup> Information supplied by the ministry of housing, the Council of Southern African Bankers, and the Council for Construction in South Africa, 21 July 1995; *The Star* 24 July 1995]

- the requirement of a 5% savings deposit and a maximum loan-to-value ratio of 80% would be made effective only from the beginning of April 1996 and in the interim banks would consider accepting 90% loan-to-value ratios;
- transfer and bond registration costs could be included in the loan granted by the bank provided that the loan-to-value ratio did not exceed 90%;
- specifications for mortgageable properties regarding house and stand size as well as infrastructure and service levels should be modified to accommodate more affordable housing;
- the same lending criteria would be applied to similar borrowers irrespective of whether an area had been granted mortgage indemnity; and
- banks would not require mortgage indemnity in areas where only commercial risks existed and where they had been lending before 5th June 1995.

The three parties also confirmed the mortgage lenders' target of providing 50 000 low-income home loans within the first year (starting 5th June 1995).

In September 1995 the general manager of housing for the Council of South African Bankers (Cosab), Mr Lance Edmunds, said that the Association of Mortgage Lenders was considering proposals for reducing the high interest rates which applied to small, low-income housing loans because high rates might have caused the slow response to the government's housing policy.<sup>62</sup> [<sup>62</sup> *Sunday Times* 17 September 1995]

### ***Non-Payment***

It was reported in January 1996 by the managing director of the Mortgage Indemnity Fund, Mr Nkululeko Sowazi, that some 65% of people in African townships were not paying for their services and that banks had on their books some 70 000 properties in possession and non-performing loans.<sup>63</sup> [<sup>63</sup> *Business Day* 7 November 1995, *The Citizen* 11 November 1995]

The **Masakhane campaign** was officially launched by the president, Mr Nelson Mandela, in Cape Town on 25th February 1995. Mr Stephen Laufer, spokesman for the minister of housing, said in March 1995 that the government had budgeted R10m for the campaign's advertising strategy over the first six months, but that the campaign could run over 18 months in order to create a culture of payment among township residents. The campaign had several broad aims, the most important of which were:<sup>64</sup> [<sup>64</sup> *Business Day* 1 March 1995; *Housing in Southern Africa* April 1995]

- to promote the resumption of rent, service charge and bond payments;
- to create conditions for large-scale investment in housing and services, infrastructure and local development;
- to promote conditions for effective and sustainable local governance;
- to accelerate the delivery of basic services and housing; and
- to stimulate economic development in both urban and rural areas.

Although the campaign showed signs of early success—it was reported in June 1995 that payments for municipal services had risen from 33% in December 1994 to 45,8% in June 1995 in Gauteng townships—later information collected showed service payment levels dropping in 24 out of 37 African townships in Gauteng. The deterioration in service payments between June and September 1995 was worst in townships that included Diepmeadow in Soweto (from 35% to 22%), Ratanda near Heidelberg (from 38% to 21%), Vosloorus on the east Rand (from 38% to 19%), Kagiso on the west Rand (from 83% to 23%), and Soshanguve outside Pretoria (from 81% to 46%).<sup>65</sup> [<sup>65</sup> *Business Day* 2 June 1995, 18 September 1995]

The minister for provincial affairs and constitutional development, Mr Roelf Meyer, said in October 1995 that the Masakhane campaign had not been as successful as had been hoped. It was reported in the same month that Masakhane campaign planners would relaunch the programme after the local government elections in November 1995. At the time of writing, however, the campaign had not yet been relaunched.<sup>66</sup> [<sup>66</sup> *The Citizen* 11 October 1995]

The government launched the **Mortgage Indemnity Fund** (MIF) on 7th April 1995. The **Mortgage Indemnity Board** (MIB), which was responsible for administering the MIF and was owned wholly by the government, began functioning on 5th June 1995. This fund was established in terms of the government's **Mortgage Indemnity Scheme** agreed to by the Association of Mortgage Lenders, Cosab, and the government in the *Record of Understanding* in October 1994 (see 1994/95 Survey, pp564–565.).<sup>67</sup> [<sup>67</sup> *The Citizen* 2 June 1995]

The managing director of the MIF, Mr Sowazi, said in February 1996 that 466 areas had been assessed and that 341 areas (73% of those assessed) had been granted mortgage indemnity by the MIB and that banks could therefore safely lend to low-income home seekers in those areas. The Mortgage Indemnity Scheme provided insurance to banks against non-commercial risk in accredited areas. A mortgage default rate of less than 10% and an overall service payment level of 45% were required by the MIB before it would grant mortgage indemnity.<sup>68</sup> [<sup>68</sup> *Housing in Southern Africa* November/December 1995; *The Star* 17 November 1995; information supplied by the Mortgage Indemnity Fund, 2 February 1996]

### *Properties in Possession*

The chairman of Servcon Housing Solutions, Mr Denis Creighton, said in May 1995 that there were some 30 000 houses in South Africa which had been repossessed but which were still occupied although nobody was making bond repayments. This information was confirmed by Ms Mthembi-Nkondo in her budget speech later the same month. ‘These are houses which are tying up hundreds of millions of rands worth of potential housing investment,’ Ms Mthembi-Nkondo said.

It was reported in November 1995 that bond boycotts in African townships had cost banks some R800m. A further R165m had been lost by the South African Housing Trust’s Khayaletu Home Loans since the company’s inception in 1988.<sup>69</sup> [<sup>69</sup> *Hansard* (NA) 6, cols 1267 and 1268, 16 May 1995; *Business Day* 7, 17 November 1995; *Sowetan* 17 November 1995]

Initial estimates of the number of repossessed properties and nonperforming loans in South Africa may have been conservative, according to a *Business Day* housing reporter, Ms Robyn Chalmers. Estimates from the government and the MIF during November 1995 suggested that financial institutions may have had as many as 70 000 such properties on their books (this estimate included the estimated 15 000 nonperforming loans held by the South African Housing Trust’s Khayaletu Home Loans). Later in November 1995 Mr Sowazi said new estimates from banks placed the number of defaulting home loans at 44000.<sup>70</sup> [<sup>70</sup> *Hansard* (NA) 6, cols 1267–1268, 16 May 1995; *Business Day* 7, 17 November 1995]

**Servcon Housing Solutions** was a company jointly formed in June 1995 by Cosab and the government in a 49%/51% partnership to provide solutions to the properties in possession (repossessed houses to which banks could not gain access). Mr Creighton said in May 1995 that the original owners of repossessed properties or, failing that, the occupants of the house, would be presented with two options by Servcon. These were:<sup>71</sup> [<sup>71</sup> Interview with Mr Denis Creighton, Johannesburg, 4 May 1995; *Business Day* 9 June 1995]

- to begin repayments with assistance from a mortgage lender in the form of a five-year interest subsidy. Under this arrangement the monthly instalments would be based on the instalment price at the time when the original buyer bought the house; and
- to move to a less expensive property with assistance from the government in the form of a ‘rightsizing subsidy’ designed to assist people to acquire accommodation which they could afford. The size of the

rightsizing subsidy would be determined in accordance with the four income categories identified in the national capital subsidy policy (see also 1994/95 Survey, p560.).

Occupants of properties in possession who refused either option would be evicted, Mr Creighton said. It was reported in November 1995 that decisions to evict had been made in 3 500 cases.<sup>72</sup> [<sup>72</sup> *Business Day* 17 November 1995]

The **National Joint Task Force** was formed by the South African National Civic Organisation and Khayaletu Home Loans in 1994 to begin recovering losses caused by bond boycotts. By November 1995 it was making progress in its discussions with some communities and had signed agreements with communities in Khayelitsha (Western Cape), Botshabelo and Thabong (Free State), and Jouberton (North-West) to begin normalising the repayment process. The approach used by the National Joint Task Force was to employ local people, who had often helped to organise the boycotts in the first place, before discussing repayment problems with community leaders.<sup>73</sup> [<sup>73</sup> *Ibid* 2 November 1995]

## ***Other Lending***

### *National Housing Finance Corporation*

The national housing finance corporation (NHFC), which was proposed by the Department of Housing in the white paper on housing in December 1994, had still not been formally launched by the government by the end of 1995. A housing consultant, Mr Johan de Ridder, who was employed by the government to investigate the establishment of the corporation, said in November 1995 that the corporation would not be launched before the beginning of 1996 and that it would take between six months and a year for it to be properly effective (see also 1994/95 Survey, p561.).<sup>74</sup> [<sup>74</sup> *Ibid* 6 November 1995] Mr de Ridder said that progress on the establishment of the corporation had been hampered by a lack of agreement between the government and financial institutions on the proportional equity stakes banks and life offices would have in the corporation, and on how the corporation should be floated. Later the same month it was reported that the possibility of listing the corporation was being discussed.<sup>75</sup> [<sup>75</sup> *Ibid* 2, 6 November 1995]

### *Community Bank*

The chief executive officer of the Community Bank, Mr Cas Coovadia, said in October 1995 that the bank had committed some 1 370 home loans valued at R67,4m since April 1995, of which 670, valued at R28,6m, had been disbursed. Mr Coovadia said that all Community Bank loans were made at 18,5% interest and that the average value of loans disbursed by the bank was R42 705. The managing director of the bank, Mr Archie Hurst, said in July 1995 that the bank aimed to commit itself to R150m in housing loans between July 1995 and July 1996.<sup>76</sup> [<sup>76</sup> *The Star* 28 July 1995, *Business Day* 12 October 1995]

In July 1995, a year after the Community Bank was launched, a total of some 9 500 people had opened accounts and deposited about R8m with the bank. Mr Hurst said in that month that he hoped membership of the bank would ‘eventually’ increase to 80 000 (see also 1994/95 Survey, pp561–562.).<sup>77</sup> [77 *The Star* 28 July 1995]

## **Defects Warranty Scheme**

In September 1995 the National Home Builders Registration Council (which was established by the building industry in June 1995) decided to extend coverage under the Defects Warranty Scheme to all houses built and sold for less than R250 000. The scheme had previously only covered houses sold for less than R65 000. In terms of the scheme, construction companies and small building firms would have to register with the National Home Builders Registration Council to which they would pay a levy based on the selling price of houses built. The deadline for applications for registration with the council was set at 1st September 1995 and the council said that it would issue successful applicants with registration certificates for homes valued under R65 000 before 1st November 1995 and for homes between R65 000 and R250 000 before 1st February 1996.

Although registration with the council was voluntary, the Association of Mortgage Lenders had set as a prerequisite of low-income loan approval that the bond applicant should be in possession of a Home Builders Defect Warranty Certificate which should be valid for five years from the date of commencement of construction of the house. The managing director of the National Home Builders Registration Council, Mr Peter Allsopp, said in August 1995 that the council had provided some 2 000 application forms to small, medium and large contractors. By 1st November 1995 only 367 builders had registered with the council, some 430 below the 700 who had been expected to join by the November deadline.<sup>78</sup> [78 Information supplied by the Council for Construction in South Africa, March 1995; *Housing in Southern Africa* July 1995; *SA Builder* September 1995; *Finance Week* 16 November 1995]

The purpose of the scheme was to protect consumers against shoddy building and to satisfy the lending institutions which had lost money in the past because of non-payment of bonds by people who were not satisfied with their houses. Levies accumulated by the council (in the Home Builders Warranty Fund, which had not yet been established at the time of writing) would be used to pay for repairs to houses in situations where the council was unable to compel the responsible builder to perform the repairs, or where the builder had gone out of business after the completion of the house. It was announced in October 1995 that the National Home Builders Registration Council had set the levy payable by builders at 1,3% of the house selling price.<sup>79</sup> [79 *Business Day* 31 October 1995]

Contractors and consumers were also obliged to sign a Standard Industry Warranty which obliged the contractor to provide a five-year post-occupation warranty against failure in structural design and construction which could result from the contractors’ non-compliance with the council’s standard homebuilding guidelines introduced in June 1995.<sup>80</sup> [80 *Housing in Southern Africa* July 1995]

## Provincial Developments

### Eastern Cape

#### ***Policy***

A member of the select committee for housing in the Eastern Cape legislature, Ms Vuyiswa Tyobeka, said in July 1995 that the Eastern Cape government was concerned that the R15 000 maximum housing subsidy was insufficient for providing acceptable housing. Ms Tyobeka also emphasised that it was the responsibility of private individuals rather than the government to initiate housing development.<sup>81</sup> [<sup>81</sup> *Daily Dispatch* 7 July 1995]

#### ***Statistics***

Housing shortage figures provided by the provincial member of the executive council (MEC) for local government, housing and traditional authorities, Mr Max Mamase, and the national minister of housing, Ms Sankie Mthembi-Nkondo, varied considerably. The following table provides some of the key housing statistics published on the province during 1995:<sup>82</sup> [<sup>82</sup> *Housing in Southern Africa* March 1995; 1994/95 Survey, p520; *Sunday Times* 23 July 1995, 5 November 1995; *The Argus* 1 April 1995, *The Star* 13 October 1995]

#### *Eastern Cape: Key housing statistics*

##### **Housing shortage:** (March 1995)

300 000<sup>a</sup>

(September 1994)

149 398<sup>b</sup>

(April 1995)

150 543<sup>c</sup>

##### **Annual target:**

N/A

##### **Projects approved:**



45<sup>d</sup>

**Project subsidy approvals:** (17th January 1996)

19 230<sup>d</sup>

**Units completed:** (17th January 1996)

762<sup>d</sup>

**Units under construction:** (17th January 1996)

979<sup>d</sup>

a

Given by the Eastern Cape MEC for local government, housing and traditional authorities, Mr Max Mamase, in March 1995.

b

According to estimates compiled by the CSIR in September 1994.

c

Given by the minister of housing in April 1995.

d

Given by the Eastern Cape Provincial Housing Board in February 1996.

N/A — Not

## **Finance**

In April 1995 the Eastern Cape received some R273,6m from the 1995/96 national housing budget (15,2% of the total) for low-income housing subsidies by the Eastern Cape Provincial Housing Board. The province was allocated R286,6m from the 1994/95 national budget—12,8% of the total national allocation of R2 232,5m.<sup>83</sup> [<sup>83</sup> *Housing in Southern Africa* March 1995; *Sunday Times* 16 April 1995, 23 July 1995]

## **Progress**

Mr Mamase reported in March 1995 that the Eastern Cape Provincial Housing Board had received some 62 project-linked subsidy applications valued at about R762,4m. By 17th January 1996 the housing board had approved 45 project-based subsidy applications to the value of R285,2m and comprising 19 230 units.<sup>84</sup> [<sup>84</sup> *Housing in Southern Africa* March 1995; *Daily Dispatch* 15 June 1995; information supplied by the Eastern Cape Provincial Housing Board, 5 February 1996]

In March 1995 the East London Transitional Local Council's planning services committee approved a housing project of Mercedes-Benz of South Africa (MBSA) for Sunnyridge, East London. The project manager of Siyakha, the company formed by MBSA to facilitate the project, Mr Tom Wanklin, said in March that the programme would build some 1 000 houses for MBSA employees—300 in Sunnyridge, 600 in East London city, and 90 elsewhere in the country, namely Johannesburg, Pinetown (KwaZulu/Natal) and Pretoria. MBSA's German parent company, Daimler-Benz, provided a R27m grant and the remainder of the funding required would be acquired by borrowing from financial institutions. The manager of human resources for MBSA in East London, Mr Shane Hegarty, said in April 1995 that the houses to be built would cost about R54000 each.<sup>85</sup> [<sup>85</sup> *Daily Dispatch* 1 March 1995, *Business Day* 13 April 1995]

A second housing scheme in East London, known as Graceland, and initiated by Murray & Roberts in 1993, aimed to deliver some 800 houses ranging in price from R35 000 to R85 000. These houses were to be built on 500m<sup>2</sup> serviced sites.<sup>86</sup> [<sup>86</sup> *Daily Dispatch* 16 June 1995, *Business Day* 13 April 1995]

The Soweto-on-Sea in-situ upgrading project in Port Elizabeth aimed to install municipal services and to transfer site ownership to individuals in the area. In March 1995 some 80 000 people were living in the area, which was situated 15km from Port Elizabeth on the Uitenhage highway. These people occupied some 15 000 shacks on some 10 526 identified sites. A flush lavatory, tap and washbasin had been installed in each of the 10 526 identified sites and freehold ownership was being transferred into each owner's name.<sup>87</sup> [<sup>87</sup> *Housing in Southern Africa* March 1995]

The chairman of the Eastern Cape Provincial Housing Board, Mr Mthwabo Ndube, said in June 1995 that there were certain problems delaying housing delivery in the province including the following:<sup>88</sup> [<sup>88</sup> *Daily Dispatch* 15 June 1995]

- the lengthy departmental procedures which applications for subsidies had to undergo after approval;
- the lack of capacity of small developers and builders in the province; and
- the reluctance of financial institutions to grant loans.

In August 1995 the chairman of the Border-Kei branch of the South African Association of Consulting

Engineers, Mr Colin Richter, attributed the delay in reconstruction and development programme delivery to the process of integrating the previous Ciskei and Transkei administrations into the new Eastern Cape provincial government.<sup>89</sup> [<sup>89</sup> *Ibid* 4 August 1995]

## **Hostels**

Mr Mamase announced in June 1995 that R35m had been put aside by the provincial government in the 1995/96 fiscal year for hostel upgrading.<sup>90</sup> [<sup>90</sup> *Ibid* 15 June 1995]

## **Free State**

### **Policy**

The MEC for housing in the Free State, Mr Vax Mayekiso, published a provincial draft housing white paper in March 1995, which criticised the national housing policy for ‘not distinctly focus[ing] on community-driven housing delivery’. The paper also stated that ‘the provision of site and services [was] not enough to ensure the enhancement of living standards’ and that ‘the minimum standard recommended for a house in the Free State [would be] a structure no less than 40m<sup>2</sup>’.

Another policy proposal included in the draft paper was the establishment of a credit institution to provide financing for low-income borrowers. Mr Mayekiso said in April 1995 that 40m<sup>2</sup> houses could be built in the Free State at a cost of between R22 000 and R28 000. A house of this size cost between R25 000 and R35 000 depending on the cost of services, type and cost of building materials, and the size and location of the building project, according to a report published in *Housing in Southern Africa* in August 1995.<sup>91</sup> [<sup>91</sup> *Housing in Southern Africa* January 1995, April 1995, August 1995; Free State Department of Housing, *Draft White Paper on Housing*, 2 March 1995; *Business Day* 18 April 1995]

Earlier, in January 1995 Mr Mayekiso had said that the Free State government’s policy was not only to deliver the number of houses promised by the African National Congress before the April 1994 national election, but to ‘go further and build homes in which people can raise families and have a standard of living that makes life worth living’. As the policy of incremental housing did not cater for this it had not been built into the Free State housing policy. Mr Mayekiso had said in September 1994 that he aimed at eradicating shacks from the Free State by 2010.<sup>92</sup> [<sup>92</sup> *Housing in Southern Africa* January 1995, April 1995; Free State Department of Housing, *Draft White Paper: Housing*, 2 March 1995; *Business Day* 18 April 1995]

### **Statistics**

Housing statistics published for the Free State during the year under review varied greatly. The following table shows some of the key housing statistics published on the province during 1995:<sup>93</sup> [<sup>93</sup> *Housing in Southern Africa* July 1994, August 1995, September 1995; 1994/95 Survey, p521; *Sunday Times* 23 July 1995, 5

November 1995, *Business Day* 7 February 1995, 6 March 1995, 5, 12 October 1995; *The Star* 13 October 1995; Free State Department of Housing, *Draft White Paper on Housing*, March 1995; information supplied by the Free State Provincial Housing Board, October 1995]

*Free State: Key housing statistics*

**Housing shortage:**

250 000<sup>a</sup>

77 221<sup>b</sup>

285 085<sup>c</sup>

**Annual target:**

46 000<sup>d</sup>

(by the year 2000)

40 000 a year<sup>e</sup>

**Projects approved:**

32<sup>f</sup>

**Project subsidy approvals:**

6 653<sup>f</sup>

4 379<sup>g</sup>

(October 1995)

15 902<sup>h</sup>

**Units completed:**

1 511<sup>f</sup>

(built between 1st March 1994 and 31st March 1995)

1 540<sup>i</sup>

1 630<sup>j</sup>

1 857<sup>k</sup>

**Units under construction:**<sup>l</sup> (August 1995)

167<sup>f</sup>

(as at 28th September 1995)

3 000<sup>i</sup>

a

Given by the former MEC for housing in the Free State, Mr Vax Mayekiso, in July 1994.

b

According to estimates compiled by the CSIR in September 1994.

c

Given by Mr Mayekiso in February 1995.

d

Target set by Mr Mayekiso for the 1994/95 financial year.

e

According to the Free State Draft White Paper on Housing published in March 1995.

f

Given by the MEC for housing in the Free State, Ms Ouma Motsumi, in August 1995.

g

Published by Business Day 12 October 1995.

h

Given by the deputy director general of housing, Mr Neville Karsen, in November 1995.

i

Information supplied by the Free State Provincial Housing Board in October 1995.

j

Given by the director general of housing, Mr Billy Cobbett, in October 1995.

k

Given by the minister of housing, Ms Sankie Mthembi-Nkondo, in October 1995.

l

No reason was available for the discrepancy

## **Finance**

In 1995/96 the Free State was allocated some R124,2m (6,9% of the R1,8bn allocated nationally) by the national Department of Housing for the approval of low-income housing subsidies by the Free State Provincial Housing Board. In 1994/95 the Free State was allocated R133,1m, comprising 6% of the total provincial allocation.<sup>94</sup> [<sup>94</sup> 1994/95 Survey, p521; *Sunday Times* 23 July 1995]

## **Progress**

Altogether 32 projects in the Free State comprising 6 653 units received approval from the Free State Provincial Housing Board before 11th October 1995. In addition, 150 individual subsidies were approved by the housing board before 11th October 1995.<sup>95</sup> [<sup>95</sup> Information supplied by the Free State Provincial Housing Board, 25 October 1995]

A total of 6 803 subsidies had been approved by 11th October 1995.

The chairman of the Free State branch of the Institute for Housing of South Africa said in August 1995

that several reasons existed for the slow rate of delivery in the province. These were:<sup>96</sup> [<sup>96</sup> *Housing in Southern Africa* August 1995, p58]

- the failure of some transitional local councils to address the problems associated with development;
- the existence of administrative uncertainty regarding implementation;
- conflicting interpretations of the national subsidy scheme;
- a shortage of bulk infrastructure and a lack of delivery structures to aid local authorities; and
- an uneven playing field between the private and the public sectors.

## **Gauteng**

### ***Policy***

In January 1995 the Gauteng provincial government outlined the following minimum standards in the provision of housing:<sup>97</sup> [<sup>97</sup> *RDP Vision* 1 January 1995]

- protection from the weather;
- a durable structure;
- adequate living space with privacy;
- adequate sanitary facilities;
- storm water drainage; and
- access to clean water.

The chairman of the Gauteng Provincial Housing Board, Mr Martin van Zyl, said in February 1995 that three plans had been proposed by the board as the basic framework of Gauteng's housing policy. These were:<sup>98</sup> [<sup>98</sup> *Business Day* 14 March 1995]

- to manage informal settlement processes;
- to encourage pocket housing developments (with limited numbers of units); and

- to initiate major housing schemes.

Mr van Zyl said in March 1995 that the maximum project-linked subsidy of R15 000 should be increased by the government paying for the initial cost of services with loans and by obtaining a value-added tax zero-rating on subsidies. (The initial cost of services used up more than half of the R15 000 subsidy, leaving an insufficient amount for the construction of the house.) Revenue could then be generated from payment for services.<sup>99</sup> [<sup>99</sup> *Ibid* 9 April 1995]

In May 1995 the MEC for housing and local government in Gauteng, Mr Dan Mofokeng, proposed that the national government allow greater flexibility at provincial and local government level in the use of housing subsidy funds. Mr Mofokeng said that if subsidy amounts could be varied at local level, local authorities would be better able to deal with specific local conditions. Although the national government did not alter the size of the housing subsidy, a ministerial task team report published in January 1996 did propose that provincial housing MECs be given greater power to determine provincial housing policy.<sup>100</sup> [<sup>100</sup> *Ibid*]

## **Statistics**

Estimates of the number of houses completed with government assistance and the size of the housing shortage in each province varied during the year under review. The following table provides some of the key housing statistics published on Gauteng during 1995:<sup>101</sup> [<sup>101</sup> *RDP Vision* 1 January 1995; 1994/95 Survey, p508; *Sunday Times* 23 July 1995; *The Argus* 1 April 1995; information supplied by the Gauteng Provincial Housing Board, 4 September 1995; *The Star* 13 October 1995]

### *Gauteng: Key housing statistics*

#### **Housing shortage:**

650 000<sup>a</sup>

561 873<sup>b</sup>

566 853<sup>c</sup>

#### **Annual target:**

150 000<sup>a</sup>

#### **Projects approved: (September 1995)**



66<sup>d</sup>

**Project subsidy approvals: (September 1995)**

80 339<sup>d</sup>

**Units completed: (October 1995)**

1 277<sup>e</sup>

**Units under construction:**

N/A

a

According to RDP Vision published by the government in January 1995.

b

According to estimates compiled by the CSIR in September 1994.

c

Given by the minister of housing in April 1995.

d

Given by the Gauteng Provincial Housing Board in September 1995.

e

Given by the minister of housing in October 1995.

N/A — Not available.

The minister of housing, Ms Sankie Mthembu-Nkondo, said in March 1995 that 2,5m (36,3%) of South Africa's estimated 6,9m informally housed residents were in Gauteng.<sup>102</sup> [<sup>102</sup> *The Argus* 1 March 1995]

By the beginning of September 1995 the Gauteng Provincial Housing Board had allocated more than R800m for 66 housing projects, comprising some 80 339 housing units. Most of the projects were to be financed over a three-year period.<sup>103</sup> [<sup>103</sup> Information supplied by the Gauteng Provincial Housing Board, 4 September 1995]

Half (50%) of the total number of project-linked subsidies approved by the provincial housing board by September 1995 went to four developers. They were:

- The New Housing Company Group (NewHco), which was awarded seven projects, totalling 14 955 housing units (18,6%);
- Stocks & Stocks construction company, which was awarded eight projects, totalling 11 774 housing units (14,7%);
- the South African Housing Trust (SAHT), which was awarded seven projects, totalling 8 728 housing units (10,9%); and
- the New South Africa Housing Association, which was awarded three projects, totalling 4 346 housing

## **Finance**

In April 1995 the national Department of Housing allocated R437,4m (almost 25%) of its 1995/96 provincial allocation of R1,8bn to Gauteng, compared with R464m (20,8%) in 1994/95. These funds were allocated directly to the provincial housing board for the allocation of housing subsidies.<sup>104</sup> [<sup>104</sup> 1994/95 Survey, p521; *Sunday Times* 16 April 1995]

In October 1995 Mr van Zyl said that during the six-month period from May to October the board had paid out R30m in subsidies for 1 900 houses.<sup>105</sup> [<sup>105</sup> *Business Day* 30 October 1995]

## **Progress**

Mr van Zyl said in March 1995 that the board was re-evaluating the 52 248 project-based subsidies approved during 1994, prior to the government's introducing a fourth subsidy category of R15 000 for households earning less than R800 per month (see 1994/95 Survey, p525.). Mr van Zyl said that these projects were six months behind schedule. In April 1995 Mr van Zyl reported that of the 52 248 subsidies granted in 1994, 427 houses had been completed. In February 1996 Mr van Zyl said that most of the subsidies had been adjusted upward from R12 500 to R15 000 after re-evaluation.<sup>106</sup> [<sup>106</sup> *Ibid* 9 April 1995; telephonic interview with Mr Martin van Zyl, chairman of the Gauteng Provincial Housing Board, 12 February 1996]

A research report completed in June 1995 by Applied Marketing and Communications found that, among the people they interviewed, 'dissatisfaction with the provincial government's performance on

housing [was] widespread, despite the overall positive assessment of [the provincial government's] performance'.<sup>107</sup> [<sup>107</sup> *Applied Marketing and Communications (AMC), Research Report: Project Ekhaya—Gauteng Government Housing Transfer Programme*, 7 June 1995]

### *East Rand*

Katorus Project, the largest government presidential lead project (with a capital value of R3bn over five years beginning in 1994/95), was launched by the minister without portfolio, Mr Jay Naidoo, and the premier of Gauteng, Mr Tokyo Sexwale, on 22nd October 1994. The aim of the project was to redevelop the three east Rand townships of Katlehong, Tokoza and Vosloorus.<sup>108</sup> [<sup>108</sup> *RDP Vision* 1 January 1995; *Business Day* 4 August 1995]

Initial spending for the project during 1995 went on, among other things, the repair of houses damaged during pre-election violence, the clearing of accumulated garbage, the upgrading of sports fields, the repair of street lights and the establishment of 'SOS communication centres' to place emergency telephone calls.<sup>109</sup> [<sup>109</sup> *RDP Vision* 1 January 1995] The project was controlled by the Gauteng Reconstruction and Development Commission, which oversaw the work of the Katlehong, Tokoza and Vosloorus local authorities.<sup>110</sup> [<sup>110</sup> *Ibid*]

In August 1995 the Katorus Project was allocated an additional R17m from the reconstruction and development programme fund for the rebuilding or repairing of some 1 500 damaged homes over a 12-to-18-month period.<sup>111</sup> [<sup>111</sup> *Business Day* 4 August 1995, *Sowetan* 4 August 1995] According to the Home Loan Guarantee Company (an organisation which helps low-income groups obtain mortgage finance and which was appointed to administer the claims procedure for the R17m house reconstruction project), by August 1995 it had processed 220 claims from families who wanted to return to homes they had been forced to flee during pre-election violence.<sup>112</sup> [<sup>112</sup> *Business Day* 4 August 1995]

### *Transfer of Council Houses*

Under the government's Project Ekhaya, tenants of state-owned homes could apply for ownership of their properties (both the land and the house). Mr Mofokeng said in June 1995 that there were 140 000 state-owned houses in Gauteng under former black local authorities which could be transferred to their tenants.<sup>113</sup> [<sup>113</sup> *Housing in Southern Africa* January 1995; *Sowetan* 16 June 1995]

Tenants applying for houses valued at less than R7 500 would receive their properties free of charge, while those applying for houses valued in excess of R7 500 would pay the balance of the house's value. Houses were valued according to their 'historic cost' of construction, resulting in most houses, which had been built some years previously (prior to July 1983), being transferred free of charge. The R7 500 state discount was also used to pay for rental arrears on council houses. Former tenants who had previously acquired transfer of council houses to their names could not apply for the state discount

offered under the scheme.<sup>114</sup> [<sup>114</sup> *The Star* 16 June 1995, *Business Day* 11 July 1995, *Sowetan* 31 August 1995]

Tenants wishing to purchase houses where the 'historic cost' exceeded the R7 500 state discount could do so either by applying for a commercial housing bond or by paying off the property through the local authority. The assistant director of housing in Gauteng, Mr Ronnie Stevens, said in August 1995 that about 9 350 of the 140 000 state-owned houses in the province were valued at more than R7 500—most ranged between R30000 and R40 000.<sup>115</sup> [<sup>115</sup> *The Citizen* 24 August 1995, *Sowetan* 31 August 1995]

The project applied only to properties which had been built or contracted for before the end of June 1993 and which had been allocated to their tenants by March 1994. Figures published by Africon (private civil engineering consultants) in January 1996 showed that by 12th January 1996, 81132 claims had been submitted for the transfer of government-owned rental houses.<sup>116</sup> [<sup>116</sup> *Ibid*; information supplied by Africon, 25 January 1996]

A research report completed in June 1995 by Applied Marketing and Communications found that although 'there was a strong preference for home ownership over house rental among township house residents', many tenants who occupied council houses in Gauteng did not have an understanding of property ownership, and some were suspicious of the government's extended benefits scheme. The report stated that most respondents wished rather to be informed about the project through face-to-face contact than through the mass media.<sup>117</sup> [<sup>117</sup> Applied Marketing and Communications (AMC), *Research Report: Project Ekhaya—Gauteng Government Housing Transfer Programme*, 7 June 1995]

### *Provision of Emergency Services*

The executive committee of the Greater Johannesburg Transitional Metropolitan Council decided in April 1995 to allocate R92m, which had not been spent in its 1994/95 budget, to the provision of emergency relief in greater Johannesburg.<sup>118</sup> [<sup>118</sup> *The Star* 5 April 1995, 15 June 1995] The Emergency Service Delivery Project would focus on areas with the greatest need (Alexandra, Diepmeadow, Dobsonville, Johannesburg central business district (CBD) and Soweto) and comprised six initiatives. These were:<sup>119</sup> [<sup>119</sup> *Housing in Southern Africa* May 1995]

- a clean-up operation in areas where solid waste removal had been inadequate. Areas targeted were greater Soweto, Alexandra and the Johannesburg CBD;
- a health care programme geared to provide under-serviced communities with preventive and primary health care;
- an emergency maintenance and repairs programme to provide and repair water and sanitation services, roads and stormwater drainage, street lights, and cultural and recreational facilities;
- the transfer of council houses (see *Transfer of council houses* above);

- the creation of a uniform and equitable rates base and uniform tariff structures; and
- the upgrading of the CBD through improved security, upgraded taxi facilities, provision of public conveniences and the greening of public spaces.

In May 1995 Mr Mofokeng announced a R240m investment to provide emergency services and low-income housing in the province. The programme would comprise two parts. Some R90m would be spent on the provision of emergency services such as water and sanitation for 30 000 families. The other R150m would be spent on the provision of basic dwellings on 10 000 state-owned serviced sites.<sup>120</sup> [<sup>120</sup> *Business Day* 19 May 1995]

Mr Mofokeng said the programme aimed to create new cities through pocket developments (developments which included schools, clinics, police stations and other amenities), the discouragement of land invasions and squatting, and the provision of basic services in areas where these did not exist. Mr Mofokeng also said that state-owned sites would be released for the construction of homes.<sup>121</sup> [<sup>121</sup> *Ibid*]

In phase one of the programme, the areas receiving assistance were Alexandra, Atteridgeville, Ennerdale, Klipfontein, Kruisfontein, Lenasia, Mamelodi, Phola Park, Rietvallei, Stretford Extension 9 and 10, Tembisa and Tsakane.<sup>122</sup> [<sup>122</sup> *The Citizen* 18 May 1995] The second phase of the project, to be announced toward the end of 1995, would redevelop hostels and rebuild houses damaged during the violence.<sup>123</sup> [<sup>123</sup> *Business Day* 19 May 1995]

## **Hostels**

In March 1995 the Transvaal Hostel Residents' Association said that no funds had been released for upgrading since the establishment of the Gauteng Provincial Housing Board in October 1994. The association warned that hostel residents would boycott the November 1995 local government elections if the government did not provide funds for upgrading. In October 1995 the provincial housing board released R16m to the Johannesburg Transitional Metropolitan Council for the upgrading of hostels in Soweto.<sup>124</sup> [<sup>124</sup> *Ibid* March 1995, 13 October 1995]

By July 1995, 11 of the 51 hostels in Gauteng were being upgraded and an additional R130m had been earmarked by the Gauteng government for upgrading in 1996. Upgrading of the other hostels in Gauteng was suspended in May 1995 until a policy on hostels had been adopted by the provincial government. The MEC for housing and local government in Gauteng, Mr Dan Mofokeng, said in July 1995 that upgrading all 51 hostels would cost some R650m. Mr Mofokeng said that some hostels would be redeveloped for single people while others would be converted into family accommodation or community facilities.<sup>125</sup> [<sup>125</sup> *The Star* 25 May 1995, *Business Day* 17 July 1995, *Saturday Star* 22 July 1995]

## **Kwazulu/Natal**

### ***Policy***

According to the chairman of the KwaZulu/Natal Provincial Housing Board, Dr Marius Spies, the key to reducing the 'massive' housing backlog in KwaZulu/Natal, was to create housing opportunities (affordable starter housing which could later be improved by owners), rather than for the government to build houses for the people.

### ***Statistics***

Housing statistics published for KwaZulu/Natal during the year under review varied greatly. The following table shows some of the key housing statistics published on the province during 1995:<sup>126</sup> [126 1994/95 Survey, p520; *Sunday Times* 23 July 1995, 5 November 1995; *Business Day* 23 February 1995, 10 May 1995; *The Argus* 1 April 1995; *Housing in Southern Africa* July 1994, January 1995; *Developer* April 1995; *Sunday Tribune* 19 February 1995, 9 April 1995; information supplied by the KwaZulu/Natal Provincial Housing Board 10 October 1995; *Financial Mail* 24 February 1995; *The Mercury* 20 July 1995, 11 September 1995; *Sowetan* 6 October 1995; *The Star* 13 October 1995]

*KwaZulu/Natal: Key housing statistics*

#### **Housing shortage:**

300 423<sup>a</sup>

300 000<sup>b</sup>

303 632<sup>c</sup>

440 000<sup>d</sup>

1 000 000<sup>e</sup>

#### **Annual target:**

50 000<sup>f</sup>

(for 1995/96)

70 000<sup>g</sup>

(for 1994/95)

20 000<sup>h</sup>

**Projects approved:** (October 1995)

216<sup>i</sup>

(in 1994/95 only)

70<sup>j</sup>

**Project subsidy approvals:** (October 1995)

45 714<sup>k</sup>

(November 1995)

42 245<sup>l</sup>

(between 10th May 1994 and 10th May 1995)

37 000<sup>m</sup>

(as at 20th July 1995)

35 025<sup>n</sup>

(in 1994/95 only)

30 645<sup>j</sup>

**Units completed:** (as at 12th October 1995)

2 826<sup>o</sup>

3 000<sup>p</sup>

**Units under construction:**

N/A

a

According to estimates compiled by the CSIR in September 1994.

b

Given by the MEC for housing and local government in KwaZulu/Natal, Mr Peter Miller, in March 1995.

c

Given by the minister of housing, Ms Sankie Mthembi-Nkondo, in April 1995.

d

Given by Mr Miller and the chairman of the KwaZulu/Natal Provincial Housing Board, Dr Marius Spies, in April 1995.

e

Given by Mr Miller in July 1994.

f

Given by Mr Miller in February 1995. A total of 250 000 houses should be built between 1994 and 2000.

g

Given by Mr Miller in April 1995.

i

Provided by the KwaZulu/Natal Provincial Housing Board in October 1995.

j

Given by Dr Spies in February 1995.

k



Given by Mr Miller in October 1995.

l

Given by the deputy director general of housing, Mr Neville Karsen, in November 1995.

m

Given by Mr Miller in May 1995.

n

Provided by the KwaZulu/Natal Provincial Housing Board in July 1995.

o

Given by Ms Mthembu-Nkondo in October 1995.

p

Given by Mr Miller in

The KwaZulu/Natal MEC for housing and local government, Mr Peter Miller, estimated in February 1995 that KwaZulu/Natal would require 1m new housing units by 2005 to address the housing shortage and provide for the formation of new households in the province. The Durban Functional Region, Mr Miller said, would require 400 000 units, Pietermaritzburg and its environs 100 000, and the remainder of the province 500 000. Since KwaZulu/Natal was home to one quarter of the country's population, one quarter of the national housing target over five years (250 000 units) should be delivered in the province—an annual target of 50 000.<sup>127</sup> [<sup>127</sup> *Sunday Tribune* 19 February 1995, *The Natal Witness* 19 April 1995]

The chief executive officer of the Cato Manor Development Association, Professor Dan Smit, said in July 1995 that some 37% of the urban housing stock in KwaZulu/Natal was informal, compared with 18% in Gauteng, 9% in the Western Cape and 24% in the country as a whole. Figures provided in March 1995 by the minister of housing, Ms Sankie Mthembu-Nkondo, showed that 2,1m of the estimated 6,9m people (30,4%) who lived in informal settlements were in KwaZulu/Natal.<sup>128</sup> [<sup>128</sup> *The Argus* 1 March 1995; *Housing in Southern Africa* July 1995]

## **Finance**

The KwaZulu/Natal provincial government was allocated R351m by the national Department of Housing for the approval of low-income housing subsidies in 1995/96. This was the second largest

allocation after Gauteng's—about 19,5% of the funds allocated to the provinces by the central government (down from 22% in 1994/95).

Mr Miller reiterated in June 1995 that he believed that his province had not been allocated its fair share of the 1995/96 housing budget. Mr Miller said that KwaZulu/Natal required 25% of the housing budget because the province was home to 25% of the country's population.<sup>129</sup> [<sup>129</sup> *Financial Mail* 24 February 1995; *Sunday Times* 16 April 1995, 23 July 1995; *The Natal Witness* 19 April 1995; *Housing in Southern Africa* June 1995]

## **Progress**

Dr Spies said that housing delivery during 1993 had amounted to only 12 000 serviced sites and 10 000 top structures. When Mr Miller took office in May 1994 he set the provincial housing target at 20 000 for the first year of government. In May 1995 Mr Miller reported that this target had been exceeded by some 17 000 housing opportunities (starter housing products—the type of housing product varied from project to project) between May 1994 and May 1995. However, figures published by the KwaZulu/Natal Provincial Housing Board in July 1995 showed that only 51 low-income housing subsidies had been paid out although some 35 025 subsidies had been approved. In October 1995 the chief executive officer of the board, Mr Dean Barnes, said that although 76% (R267,6m) of the province's allocation from the national government for 1995/96 had been allocated to projects, only R7m had actually been spent.<sup>130</sup> [<sup>130</sup> *Developer* April 1995; *Business Day* 10 May 1995, 30 October 1995]

Mr Miller had said in April 1995 that some 70 000 housing opportunities should be delivered in the province during the 1995/96 financial year.<sup>131</sup> [<sup>131</sup> *Sunday Tribune* 9 April 1995]

The manager of planning in the Cato Manor Development Association planning team, Mr Joshua Nkosi, said in June 1995 that 'over the next five years' between 30 000 and 40 000 serviced sites were expected to be provided at the 2 000ha Cato Manor low-income housing development in Durban. The development also aimed to provide some 68 schools, 23 sports fields, 72 parks, nine community halls, five libraries and five clinics. High-density residential areas would be interspersed with commercial, business and light industry sectors. A technical college was also planned for the area. The development, an RDP project, would cost some R1,4bn.

In June 1995 some 1 000 families moved to serviced sites at the Wiggins site-and-service Fast Track area of Cato Manor (set aside for speedy development) to begin building their homes. The chief executive officer of the Cato Manor Development Association, Professor Dan Smit, said in the same month that some 250 000 people would eventually be accommodated in the Cato Manor area.<sup>132</sup> [<sup>132</sup> *Housing in Southern Africa* June 1995, July 1995; *Now* June 1995; *Post Natal* 20 September 1995]

## **Hostels**

Mr Miller announced in October 1995 that the provincial government would spend R406m up to 2000

on upgrading the 23 government-owned hostels in the province. He added that the 23 hostels contained 67 624 beds but that 115387 people lived in and around the hostel complexes. Some R41m was budgeted for hostel upgrading in the province during 1995/96, of which R10,2m had been spent by November 1995.<sup>133</sup> [<sup>133</sup> *Business Day* 27 October 1995]

## **Mpumalanga**

### **Statistics**

Housing statistics published for Mpumalanga during the year under review varied greatly. The following table shows some of the key housing statistics published on the province during 1995:<sup>134</sup> [<sup>134</sup> *Housing in Southern Africa* January 1995, September 1995; 1994/95 Survey, p 521; *Business Day* 5 October 1995; *Sowetan* 6 October 1995; *Sunday Times* 23 July 1995, 5 November 1995; *The Star* 13 October 1995]

#### *Mpumalanga: Key housing statistics*

#### **Housing shortage:**

224 000<sup>a</sup>

24 286<sup>b</sup>

#### **Annual target:**

54 000<sup>a</sup>

#### **Projects approved: (September 1995)**

24<sup>c</sup>

#### **Project subsidy approvals: (in 1994/95)**

29 194<sup>d</sup>

(in 1995/96)

3 848<sup>d</sup>

(October 1995)

27 403<sup>e</sup>

**Units completed:** (October 1995)

510<sup>f</sup>

**Units under construction:**

N/A

a

Given by the MEC for housing in Mpumalanga, Mr Craig Padayachee, in January 1995.

b

According to estimates compiled by the CSIR in September 1994.

c

Housing in Southern Africa September 1995, p60

d

Given by Mr Padayachee in October 1995.

e

Given by the deputy director general of housing, Mr Neville Karsen, in November 1995.

f

Given by the minister of housing, Ms Sankie Mthembu-Nkondo, in October 1995.

N/A — N

## ***Finance***

In the 1995/96 national housing budget the Mpumalanga government was allocated some R95,4m for the approval of low-income housing subsidies (5,3% of the R1,8bn allocated nationally). In 1994/95 Mpumalanga was allocated R150,1m, which comprised 6,7% of the national allocation to provincial

housing boards for that year.<sup>135</sup> [<sup>135</sup> 1994/95 Survey, p520; *Sunday Times* 23 July 1995]

## ***Progress***

The premier of Mpumalanga, Mr Mathews Phosa, said in January 1995 that some 20 000 houses would be built in the province over the ensuing three years (see also *Statistics* above). By September 1995 some 24 project-linked subsidy applications, constituting 27 362 units, had been approved by the Mpumalanga Provincial Housing Board at a total cost of R367,8m.<sup>136</sup> [<sup>136</sup> *Cape Times* 25 January 1995; *Housing in Southern Africa* September 1995]

## **North-West**

### ***Policy***

The MEC for local government, housing, planning and development in the North-West, Mr Darkey Africa, said in July 1995 that the North-West provincial government favoured an incremental approach to housing provision because of the difficulty of finding housing designs which were both acceptable and affordable to subsidy recipients.<sup>137</sup> [<sup>137</sup> *Enterprise* July 1995]

Mr Africa said in May 1995 that the rural areas had the greatest housing need as they were home to 62% of the North-West's population.<sup>138</sup> [<sup>138</sup> *Housing in Southern Africa* May 1995]

The chairman of the North-West Provincial Housing Board, Mr M Gcabo, said in May 1995 that the greatest challenge in the province was the application of the government housing subsidy scheme to rural land where communal tenure was in place. In accordance with government policy 'only those that [had] title deeds to their properties [had] access [to] the [subsidy scheme]'. Mr Africa said in July 1995 that the allocation of subsidies to individuals living on communal land would not be possible unless the land tenure system was changed. Mr Gcabo said that the housing board had established the land and rural development subcommittee to address the subsidy needs of rural residents.<sup>139</sup> [<sup>139</sup> *Ibid*; *Enterprise* July 1995]

Mr Africa said in July 1995 that the notion of a rural housing shortage was questionable and that it was the standard of housing that was the problem. Mr Africa suggested that the government's housing subsidy should be adapted to improve existing housing stock by providing on-site water, among other things.<sup>140</sup> [<sup>140</sup> *Enterprise* July 1995]

The deputy chairman of the North-West Provincial Housing Board, Mr Nick Serfontein, said in May 1995 that the North-West government was striving toward housing consolidation—providing a total 'housing package' which would include not only houses but also services, churches, clinics, libraries, recreational areas and schools.<sup>141</sup> [<sup>141</sup> *Housing in Southern Africa* May 1995]

## **Statistics**

Mr Serfontein said in May 1995 that accurate housing statistics for the North-West were not available. The following table provides some of the key housing statistics published on the province during 1995:<sup>142</sup> [<sup>142</sup> *Ibid*; *Enterprise* July 1995; *Business Day* 5 October 1995; 1994/95 Survey, p520; *Sunday Times* 23 July 1995, 5 November 1995]

### *North-West: Key housing statistics*

#### **Housing shortage:**

189 000<sup>a</sup>

340 000<sup>b</sup>

85 912<sup>c</sup>

#### **Annual target:**

25 000<sup>d</sup>

#### **Projects approved:**

N/A

#### **Project subsidy approvals: (October 1995)**

28 711<sup>e</sup>

#### **Units completed: (May 1994–May 1995)**

975<sup>f</sup>

#### **Units under construction: (October 1995)**

N/A

a

Given by the MEC for local government, housing, planning and development, Mr Darkey Africa, in May 1995.

b

Given by Mr Africa in October 1995.

c

According to estimates compiled by the CSIR in September 1994.

d

Given by Mr Africa in July 1995.

e

Given by the deputy director general of housing, Mr Neville Karsen, in November 1995.

f

Given by Mr Africa in July 1995.

N/A — No

## ***Finance***

In April 1995 the national Department of Housing allocated R126m (7%) of its 1995/96 provincial allocation of R1,8bn to the North-West, compared with R146,1m (6,5%) in 1994/95. These funds, which were for the allocation of housing subsidies, were administered by the provincial housing board. Between 1st April and 30th September 1995 the North-West Provincial Housing Board had disbursed some R11m.<sup>143</sup> [<sup>143</sup> *Sunday Times* 23 July, 5 November 1995]

## ***Progress***

Following the promulgation of the North-West Housing Corporation Act in 1994 the Bophuthatswana Housing Corporation was transformed into the North-West Housing Corporation (NWHC).<sup>144</sup> [<sup>144</sup> *Housing in Southern Africa* May 1995]

Mr Africa said in May 1995 that through the corporation, the provincial government was developing various forms of housing for low-income households, ranging from complete formal units to basic serviced stands. It was reported in the same month that in the past year the NWHC had built some 315

houses and had been involved in the servicing of over 10 000 stands.<sup>145</sup> [<sup>145</sup> Ibid]

## Northern Cape

### **Statistics**

Estimates of the number of houses completed with government assistance and the size of the housing shortage in each province varied during the year under review. The following table provides some of the key housing statistics published on the Northern Cape during 1995:<sup>146</sup> [<sup>146</sup> *Enterprise* September 1995; 1994/95 Survey, p520; *Sunday Times* 23 July 1994, 5 November 1995; information supplied by the Northern Cape Provincial Housing Board, October 1995; *The Star* 13 October 1995]

#### *Northern Cape: Key housing statistics*

##### **Housing shortage:**

48 000<sup>a</sup>

23 533<sup>b</sup>

##### **Annual target:**

N/A

##### **Projects approved: (February 1996)**

15<sup>c</sup>

##### **Project subsidy approvals: (February 1996)**

2 990 <sup>c</sup>

##### **Units completed:**

800 <sup>c</sup>

(October 1995)

1 068<sup>d</sup>



### Units under construction:

N/A

a

Given by the MEC for local government, housing and land reform in the Northern Cape, Mr Ouneas Dikgetsi, in September 1995.

b

According to estimates compiled by the CSIR in September 1994.

c

Information supplied by the Northern Cape Provincial Housing Board, 7th February 1996.

d

Given by the minister of housing in October 1995.

N/A — Not available.

The MEC for local government, housing and land reform in the Northern Cape, Mr Ouneas Dikgetsi, said in September 1995 that the housing shortage in the province was 48 000. Estimates published by the Development Bank of Southern Africa, which placed the provincial housing shortage at 23 000, were conservative because they represented only the shortage in and around the Kimberley area. The rest of the shortage was in the rural areas, Mr Dikge

### **Finance**

The Northern Cape was allocated R32,4m (almost 2% of the provincial allocation) for the granting of low-income housing subsidies by the national Department of Housing in the 1995/96 housing budget. This compared with R68,5m (3%) received in 1994/95.<sup>148</sup> [<sup>148</sup> 1994/95 Survey, p520; *Sunday Times* 23 July 1995]

The Northern Cape was allocated some R54m in 1994/95 and R41m in 1995/96 from the municipal infrastructure programme of the RDP fund for the upgrading of municipal infrastructure in the province. Mr Dikgetsi said in September 1995 that his government had persuaded the RDP office to consider the geographical size of the Northern Cape when determining the allocation. If population size had been used as the determining factor, the province would have received only R11m from the RDP office. In the

same month Mr Dikgetsi said that because of high infrastructure installation costs in the province the government's R15 000 housing subsidy would probably not be enough for recipients to erect a top structure. (The size of the Northern Cape (363 000km<sup>2</sup>) as well as its low population density (770 000 people) and the prevalence of hard rocky terrain in some areas all contributed to high infrastructure installation costs.) Earlier, in April 1995, the project manager for NewHco Central, Mr Thomas Stewart, pointed out that the vast distances separating places and communities in the Northern Cape placed upward pressure on the cost of materials and expertise.<sup>149</sup> [<sup>149</sup> *Housing in Southern Africa* April 1995; *Enterprise* September 1995]

## **Progress**

The Northern Cape Provincial Housing Board reported in February 1996 that it had approved 15 project-based subsidy applications comprising 2 990 units, as well as 1 150 individual subsidy applications.<sup>150</sup> [<sup>150</sup> *Ibid*; *Enterprise* September 1995; information supplied by the Northern Cape Provincial Housing Board, 7 February 1996]

The premier of the Northern Cape, Mr Manne Dipico, said in April 1995 that the Northern Cape had made 10 800 serviced sites available, on which houses could be erected 'as soon as funds become available'.<sup>151</sup> [<sup>151</sup> *Housing in Southern Africa* April 1995]

An important problem impeding the provision of low-income housing in the Northern Cape, according to Mr Dikgetsi, was that financial lending institutions concentrated their lending activity in urban areas covered by the Mortgage Indemnity Fund. As the Northern Cape was predominantly rural most housing loans were concentrated in Kimberley, the province's largest city.<sup>152</sup> [<sup>152</sup> *Enterprise* September 1995]

## **Northern Province**

### **Policy**

The MEC for local government, housing and land affairs in the Northern Province, Mr John Dombo, said in May 1995 that if it had been policy 'that rural rondavels [were] not an acceptable form of housing, then most of rural Northern Transvaal [would] be deemed unhoused'. Mr Dombo pointed out that communal rural settlements (which did not always meet 'basic minimum standards') comprised most of the existing housing stock in the province, and that a definition of acceptable housing in the province was required.<sup>153</sup> [<sup>153</sup> *Business Day* 9 May 1995]

In November 1995 Mr Dombo said that the main obstacle to housing delivery in the province was the system of land tenure practised under traditional chiefs. (See also *Land* below).<sup>154</sup> [<sup>154</sup> *Housing in Southern Africa* November/December 1995]

### **Statistics**

Estimates of the size of the housing shortage and the number of subsidies approved in the Northern Province varied during the year under review. The following table provides some of the key housing statistics published on the province during 1995:155 [<sup>155</sup> *Business Day* 9 April 1995, 5 October 1995; 1994/95 Survey, p508; *Sunday Times* 23 July 1995, 5 November 1995; *Sowetan* 6 October 1995; *The Star* 13 October 1995; information supplied by the Northern Province Provincial Housing Board, October 1995]

*Northern Province: Key housing statistics*

**Housing shortage:**

47 000<sup>a</sup>

54 326<sup>b</sup>

**Annual target: (1995/96)**

11 000<sup>a</sup>

**Projects approved: (4th October 1995)**

13<sup>c</sup>

**Project subsidy approvals: (October 1995)**

13 377<sup>d</sup>

**Units completed:**

118<sup>e</sup>

(April-October 1995)

13<sup>f</sup>

**Units under construction: (October 1995)**

82<sup>f</sup>

a

Given by the Northern Province MEC for local government, housing and land affairs, Mr John Dombo, in May 1995.

b

According to estimates compiled by the CSIR in September 1994.

c

Given by Mr Dombo in October 1995.

d

Given by the deputy director general of housing, Mr Neville Karsen, in November 1995.

e

Given by the minister of housing in October 1995.

f

Information provided by the Northern Province Provincial Housing Board in Oc

## ***Finance***

In April 1995 the national Department of Housing allocated R154,8m (8,6%) of its 1995/96 provincial allocation to the Northern Province, compared with R210,1m (9,4%) in 1994/95. These funds, which were for the allocation of housing subsidies, were administered by the provincial housing board.<sup>156</sup> [<sup>156</sup> *Sunday Times* 23 July 1995]

## ***Progress***

Mr Dombo said in October 1995 that although only 13 project-linked subsidy schemes had been approved, the Northern Province Provincial Housing Board had received 26 project-linked applications. By the end of September 1995, 13 377 housing subsidies had been approved by the board. If all the applications received were approved, 27 606 new housing opportunities would be created in the province.<sup>157</sup> [<sup>157</sup> *Business Day* 5 October 1995]

## **Western Cape**

## ***Policy***

The director of the Development Action Group, a nongovernmental development organisation in the Western Cape, Ms Jacqui Boule, criticised provincial and local government administrators in the Western Cape in May 1995 for not having an integrated housing policy for the Cape metropolitan area and for often using the excuse that the central government had not devolved power to them. Low-income housing was rarely discussed at local government level in spite of its being an urgent issue in most communities, Ms Boule said. There were many initiatives which provincial and local governments could undertake despite the fact that the national government had not yet devolved all powers. These included the identification of land, the establishment of guidelines for future developments and the investigation of ways to generate funds for housing internally.<sup>158</sup> [<sup>158</sup> *The Argus* 15 May 1995]

## **Statistics**

Housing statistics published for the Western Cape during the year under review varied greatly. The following table shows some of the key housing statistics published on the province during 1995:<sup>159</sup> [<sup>159</sup> 1994/95 Survey, 521; *Sunday Times* 23 July 1995, 5 November 1995; *Business Day* 12 April 1995, 5 June 1995; *Cape Times* 12, 13 April 1995; *Sowetan* 6 October 1995; *The Star* 13 October 1995; information supplied by the Western Cape Provincial Housing Board, 10 October 1995]

*Western Cape: Key housing statistics*

### **Housing shortage:**

171 506<sup>a</sup>

(June 1995)

180 000–200 000<sup>b</sup>

191 000<sup>c</sup>

### **Annual target:**

N/A

### **Projects approved:**

N/A

### **Project subsidy approvals: (October 1995)**

15 941<sup>d</sup>

(October 1995)

15 965<sup>e</sup>

**Units completed:** (October 1995)

2 029<sup>f</sup>

(October 1994–April 1995)

1 750<sup>g</sup>

(5th October 1995)

487<sup>h</sup>

(27th April 1994–30th April 1995)

4 000<sup>i</sup>

(April 1994–September 1995)

188<sup>j</sup>

**Units under construction:**

407<sup>j</sup>

a

According to estimates compiled by the CSIR in September 1994.

b

According to the Western Cape government's provincial reconstruction and development programme draft policy published in June 1995.

c

Given by the MEC for housing in the Western Cape, Mr Gerald Morkel, in April 1995.

d

Given by Mr Morkel in October 1995.

e

Given by the deputy director general of housing, Mr Neville Karsen, in November 1995.

f

Given by the minister of housing, Ms Sankie Mthembi-Nkondo, in October 1995.

g

Given by Ms Mthembi-Nkondo in April 1995.

h

Given by the deputy director general of housing in the Western Cape, Mr Carel du Preez, in October 1995.

i

Given by the premier of the Western Cape, Mr Hernus Kriel, in April 1995.

j

According to the Western Cape Provincial Housing Bo

The minister of housing, Ms Sankie Mthembi-Nkondo, said in March 1995 that about 3,6% of the total number of people who lived in informal settlements were resident in the Western Cape.<sup>160</sup> [<sup>160</sup> *The Argus* 1 March 1995]

## **Finance**

The Western Cape was allocated R205,2m from the 1995/96 national housing budget for the granting of low-income housing subsidies—11,4% of the R1,8bn allocated nationally. In 1994/95 the Western Cape was allocated R283m, which comprised 12,7% of the amount allocated nationally that year.<sup>161</sup> [<sup>161</sup> 1994/95 Survey, p521; *Sunday Times* 23 July 1995]

The MEC for housing in the Western Cape, Mr Gerald Morkel, said in April 1995 that his province required some R660m a year over the next five years to provide enough low-income housing subsidies to address the housing shortage in the province.<sup>162</sup> [<sup>162</sup> *Cape Times* 13 April 1995]

## **Progress**

The Western Cape's special presidential reconstruction and development project, the Serviced Land Project (SLP), was conceived initially in early 1991 to improve the living conditions of people on the Cape Flats. The project aimed to create housing, education, health, welfare and other facilities for some 36 000 households over a five-year period. It was reported in August 1995 that community organisations based in the area were unhappy with the co-ordinating agent of the development, a company called Holistic Settlements. A member of the Guguletu RDP forum, Mr Douglas Mange, said in August that Holistic Settlements had refused to deal with established community organisations and had established rival residents' development committees (see also 1994/95 Survey, p527.).<sup>163</sup> [<sup>163</sup> *Sunday Times* 13 August 1995]

In a separate initiative, some private sector companies (including Absa Bank, Anglo American Property Services, Condev Cape, Metropolitan Life, Old Mutual and Southern Life) announced in February 1995 that they would invest some R1,5bn in the Marconi Beam informal settlement in Milnerton in the Western Cape. The area was home to some 1 200 families and would be developed for residential, commercial and industrial use (60ha out of a total of 240ha of land were set aside exclusively for residential use). Provision was also made for a junior school, crèches, churches, and sports and playing fields. The proposed plan included the construction of 750 subsidised low-income starter houses for families living in informal shacks in the area as well as between 1 250 and 1 750 larger low and middle income houses. In total, some 1 000 'social houses' (aimed at squatters) would be built in the area for the poorest families.<sup>164</sup> [<sup>164</sup> *Cape Times* 6 February 1995, 8 March 1995; *Weekend Star* 4 February 1995]

## **MUNICIPAL SERVICES**

### **Refuse Disposal**

The table below provides a proportional breakdown by race of the systems of refuse disposal in 1994 in urban and non-urban areas, according to the *October Household Survey*:<sup>165</sup> [<sup>165</sup> CSS, *October Household Survey 1994*, PO317]

*Refuse disposal by race — urban and non-urban: 1994*

*Proportion*

*African*



Coloured

Indian

White

Total

Removed by local authority

Urban

80,3%

98,3%

97,7%

99,6%

89,5%

Non-urban

5,3%

13,4%

35,6%

15,5%

6,0%

Communal refuse dump

Urban

2,9%

0,4%

0,1%

0,4%

1,7%

Non-urban

6,8%

35,8%

10,8%

12,5%

8,1%

Own refuse dump

Urban

12,4%

1,0%

2,1%

0,0%

6,6%

Non-urban

57,2%

49,5%

45,8%

67,4%

57,3%

None

Urban

4,3%

0,3%

0,1%

0,0%

2,3%

Non-urban

30,7%

1,3%

7,9%

4,7%

28,6%

Total<sup>a</sup>

Urban

100%

100%

100%

100%

100%

Non-urban

100%

100%

100%

100%

100%

a

Figures may not add up owing to rounding.

While most coloured people (98,3%), Indians (97,7%) and whites (99,6%) in urban areas enjoyed a refuse removal service in 1994, only 80,3% of African households enjoyed one. Some 12,4% of African households used their own refuse dumps and 4,3% said they had no refuse removal system at all. Some 3% of urban African households used communal refuse dumps.

The table below shows the frequency of waste removal by local authorities in areas which enjoyed

*Regularity of local authority service by race—urban and non-urban: 1994<sup>a</sup>*

*Proportion*

*African*

Coloured

Indian

White

Total

Once a week

Urban

85,8%

99,3%

99,9%

99,4%

93,1%

Non-urban

85,9%

94,1%

100,0%

92,7%

87,4%

Once a fortnight

Urban

3,6%

0,4%

0,1%

0,6%

1,9%

Non-urban

5,2%

0,8%

0,0%

4,8%

4,8%

Once a month

Urban

2,5%

0,1%

0,0%

0,0%

1,2%

Non-urban

1,2%

0,7%

0,0%

0,3%

1,0%

Irregularly

Urban

8,1%

0,2%

0,0%

0,0%

3,8%

Non-urban

7,7%

4,4%

0,0%

2,3%

6,8%

Total<sup>b</sup>

Urban

100%

100%

100%

100%

100%

Non-urban

100%

100%

100%

100%

100%

a

Figures add up vertically.

b

Figures may not add up owing to rounding.

In total, only 86% of African households in urban areas which enjoyed a municipal refuse removal service reported that their refuse was removed once a week, compared with 99% of coloured and white households and almost 100% of Indian ones. Some 8% of urban Africans who enjoyed this service said that their refuse was removed irregularly, compared with 0,2% of coloured people and 0% of Indi

## LAND

The Department of Land Affairs was established in November 1994 after having previously fallen under the Department of Regional and Land Affairs. The new department's five main functions were to co-ordinate policy and programme implementation on the restitution of land rights, the redistribution of land, land tenure reform, land administration reform, and support to people settling on land.<sup>167</sup> [<sup>167</sup> Department of Land Affairs, annual report 1994, p1]

## Policy

During the year under review the government placed substantial emphasis on the development of its land reform policy. The proposed policy was made up of three elements. These were:<sup>168</sup> [<sup>168</sup> Ibid p9]

- restitution of land rights to victims of forced removals who had been dispossessed by the government on or since 19th June 1913 when the Natives Land Act was passed;
- land redistribution, aiming to provide access to land for landless people through such mechanisms as a



pilot land reform programme; and

- tenure reform, aiming to provide greater security of tenure to people under a broader range of land tenure types than previously.

In May 1995 the minister of land affairs, Mr Derek Hanekom, published for public comment a draft land policy paper entitled *Land Policy: Framework Document*. Following comment from departmental technical teams and the general public, a second document, entitled *Draft Land Policy Principles*, was published to form the basis of discussions in the preparation of a land reform green paper at a National Conference on Land Policy held in August 1995 in Kempton Park (Gauteng).<sup>169</sup> [<sup>169</sup> Information supplied by the Department of Land Affairs, 11 May 1995, 17 August 1995]

Among the proposals in the *Draft Land Policy Principles* document were that land policy should include all activities requiring land, including agriculture, conservation, housing and industrial production.<sup>170</sup> [<sup>170</sup> Department of Land Affairs, *Draft Land Policy Principles*] Other points covered by the document are discussed below.

## Land Restitution

According to the Department of Land Affairs, some 3,5m people had lost their land and property rights through forced removals in South Africa. Some 745 000 of these people were resident on land in KwaZulu/Natal. The government made provision for the restitution of land rights through the Restitution of Land Rights Act, passed in November 1994 (see *Legislation* below). The act dealt only with precise claims involving limited amounts of land and therefore did not intend to solve the problem of landlessness per se. In cases where the actual land which formed the basis of a legitimate restitution claim could not be restored, the act allowed for alternative land to be made available to the claimant or for monetary compensation.<sup>171</sup> [<sup>171</sup> *Sowetan* 30 May 1995; *Housing in Southern Africa* April 1995; *Groundwork* June/July 1995]

In urban restitution cases where the return of the actual land under dispute was not feasible, the government would provide successful claimants with redress either through group restitution where claimants ‘participate[d] in housing schemes on alternative land on a priority basis’, or through the return of ‘individual portions’ of land where possible, or through payment of compensation. The *Draft Land Policy Principles* document stated that no estimates of the cost of land restitution had been finalised.<sup>172</sup> [<sup>172</sup> Department of Land Affairs, *Draft Land Policy Principles*, p5]

Restitution policy excluded individuals, communities, and their dependants who had received proper compensation for their land under the Expropriation Act of 1975, or who had been dispossessed of their land rights under racially based discriminatory legislation before 19th June 1913. Dispossession which had occurred prior to that date could, however, be dealt with at the discretion of the minister of land

affairs.<sup>173</sup> [<sup>173</sup> *Groundwork* June/July 1995; Department of Land Affairs, *Draft Land Policy Principles*, p4; *Sowetan* 6 September 1995]

The *Draft Land Policy Principles* document suggested that where land was expropriated for restitution purposes, compensation should be calculated in accordance with the Expropriation Act and section 28(3) of the transitional constitution to ensure that compensation was just and equitable. (Section 28(3) stated that if the amount of compensation could not be agreed upon by the parties involved, then a court of law should determine what amount would be 'just and equitable'.)<sup>174</sup> [<sup>174</sup> Department of Land Affairs, *Draft Land Policy Principles*, p22; Constitution of the Republic of South Africa of 1993, *Government Gazette* no 200, 28 January 1994]

The Commission on Restitution of Land Rights, to which all claims for land restitution under the Restitution of Land Rights Act had to be submitted, was established by Mr Hanekom in January 1995 (see also 1994/95 Survey, p87.). The commission was composed of five people, including four regional land claims commissioners (representing KwaZulu/ Natal, Gauteng/North-West/Mpumalanga/Northern Province, Western Cape/Northern Cape and Eastern Cape/Free State) and the chief land claims commissioner, Mr Joe Seremane. In addition to assessing new claims, the commission would be responsible for administering some 3 000 land applications which had been submitted to the Commission on Land Allocation under the former government.<sup>175</sup> [<sup>175</sup> *Finance Week* 9 March 1995; *Afra News* April 1995]

The Land Claims Court was given the same powers of review as the Supreme Court of South Africa for the adjudication of land restitution claims and labour tenant cases. The president, Mr Nelson Mandela, appointed Mr Justice Fikile Bam as president of the court in July 1995. Other judges appointed to the Land Claims Court were Mr Justice Alan Dodson, Mr Justice Antonie Gildenhuys and Mr Justice Justice Moloto. The fifth judge had not been appointed at the time of writing.<sup>176</sup> [<sup>176</sup> *Sowetan* 3 July 1995, *The Star* 27 July 1995, *Business Day* 4 August 1995]

Claimants for restitution would have until 1st May 1998 (three years after the commission began receiving claims) to submit their claims (see also 1994/95 Survey, pp87, 550.). The Restitution of Land Rights Act placed a time limit of five years for land claims to be finalised, and ten years for the implementation of court orders to occur. It also specified that priority would be given to land claims which affected a substantial number of people, or people who had suffered substantial losses because of dispossession, or people who had pressing needs.<sup>177</sup> [<sup>177</sup> *The Mail* 13 April 1995; Department of Land Affairs, annual report 1994, p11; *Afra News* May/June 1995; *Groundwork* June/July 1995]

The Department of Land Affairs said in its 1994 annual report that during the year it had dealt with some 63 rural restitution claims involving both individuals and communities and comprising 11 000 families and 222000ha of land.<sup>178</sup> [<sup>178</sup> Department of Land Affairs, annual report 1994, p11]

In October 1995 Mr Seremane said that since the Commission on the Restitution of Land Rights had begun operating in May 1995 some 4 982 land claims had been formally lodged with it. Most of the

claims had been inherited from the former Commission on Land Allocation and did not meet the criteria of the Restitution of Land Rights Act of 1994. The act stipulated that a person would be entitled to enforce restitution of a land right if that person or a descendant of such a person had lost their right to land as a result of racially based legislation and could prove that they had previously held legal title to the property. The loss must also have occurred after 19th June 1913. Some 2 006 (674 rural and 1 332 urban) of the claims lodged had been for land in KwaZulu/Natal.<sup>179</sup> [<sup>179</sup> Constitution of the Republic of South Africa of 1993, *Government Gazette* no 200, 28 January 1994; Restitution of Land Rights Act of 1994, *Government Gazette* no 16106, 25 November 1995; *Finance Week* 13 July 1995; *Sowetan* 2 October 1995; *The Citizen* 20 September 1995]

The following table shows the total number of restitution claims submitted to the Commission on Restitution of Land Rights between May and November 1995:<sup>180</sup> [<sup>180</sup> Information supplied by the Commission on Restitution of Land Rights, 5 October 1995]

*Claims for land restitution: May–September 1995*

Province

Number of claims

Eastern Cape

Rural

156

Urban

200

*Subtotal*

356

Free State

Rural

58

Urban

0

*Subtotal*

58

Gauteng

Rural

229

Urban

827

*Subtotal*

1 056

KwaZulu/Natal

Rural

603

Urban

1 335

*Subtotal*

1 938

Mpumalanga

Rural

264

Urban

11

*Subtotal*

275

North-West

Rural

216

Urban

16

*Subtotal*

232

Northern Cape

Rural

89

Urban

20

*Subtotal*

109

Northern Province

Rural

536

Urban

10

*Subtotal*

546

Western Cape

Rural

36

Urban

582

*Subtotal*

618

**National<sup>a</sup>**

Rural

2 187

Urban

3 001

TOTAL

5 188

a

Figures differ from those on p365 as those are later than these. However, no lat

## **Land Redistribution**

Mr Hanekom said in April 1995 that the government's redistribution programme, which was targeted at people who had been denied access to land in the past, involved the provision of land not only for residential, but also for productive purposes in both urban and rural areas.<sup>181</sup> [<sup>181</sup> *Housing in Southern Africa* April 1995; Department of Land Affairs, *Draft Land Policy Principles*, p6]

### **Urban Land Redistribution**

According to *Draft Land Policy Principles*, the primary purpose of urban land redistribution was to make land close to jobs and transport routes available to poor people. The department aimed to densify (increase the number of residential opportunities close to places of work through making better use of well-located land), reintegrate, and restructure urban areas (urban planning under the previous government had located poor people on the outskirts of many cities and towns in South Africa resulting in high transport costs for those who could least afford them). The capital housing subsidy, available from the provincial housing boards to households with incomes of less than R3500, was designed to include payment for the cost of residential land.<sup>182</sup> [<sup>182</sup> Department of Land Affairs, *Draft Land Policy Principles*, p5]

The department conceded in its policy document that because well-located urban land was expensive, state land 'may need to be made available either at book value, or may even need to be ceded, or a nominal price charged in relation to specific developments'. The department, however, acknowledged that policy on urban land 'require[d] further work'.<sup>183</sup> [<sup>183</sup> *Ibid*, p23]

### **Rural Land Redistribution**

The Department of Land Affairs said in its 1994 annual report that it had received 104 applications from landless rural communities and evicted farmworkers for land acquisition and settlement support. In terms of the Provision of Certain Land for Settlement Act of 1993 the department had been empowered to implement a land acquisition support programme in rural areas. Redistribution of land would be effected through the allocation of state land or the purchase of other land with state support in the form of an 80% government subsidy for the purchase of land on the open market. The department said in its annual report that land acquisition agreements had been finalised with nine communities, involving 2 300 families and 21 700ha of land.<sup>184</sup> [<sup>184</sup> *Metropolitan* January/February 1995; *Afra News* April 1995; Department of Land Affairs, annual report 1994, pp14, 15]

A pilot land reform programme, initiated by the Department of Land Affairs in February 1995, aimed to establish pilot land reform projects 'in one district or subregion of each province over the next two years'. One of the main aims of the programme was to 'provide state-assisted entry into the land market for the most disadvantaged sectors of rural society'. The programme had a budget of R315m (R270m from the reconstruction and development programme (RDP) fund and R45m from international donors) which would be divided equally among the nine provinces (R35,09m per province) over a three-year

period. Mr Hanekom said in March 1995 that further allocations would be made to the programme from the RDP fund after the 1995/96 financial year.<sup>185</sup> [<sup>185</sup> *Daily Dispatch*, *The Citizen* 28 February 1995; *Business Day* 1 March 1995; *Financial Mail* 3 March 1995; Department of Land Affairs, annual report 1994, pp16 ]

The Gauteng provincial government announced in July 1995 that more than 35 000ha of predominantly state-owned land in the Rust der Winter area north-east of Pretoria was to be developed for landless communities as part of the government's pilot land reform programme, at a cost of some R35m. The programme was expected to benefit some 40 000 people. The Department of Land Affairs had said in its 1994 annual report that some 100 000ha of state-owned land, including farms at Rust der Winter, Impendle (KwaZulu/Natal) and Estcourt (KwaZulu/Natal), were being planned for development by local representative forums in the areas.<sup>186</sup> [<sup>186</sup> Department of Land Affairs, annual report 1994, p19; *Business Day*, *The Citizen* 20 July 1995]

The chief director of land reform, policy co-ordination and redistribution in the Department of Land Affairs, Mr Erik Buiten, estimated in November 1995 that the government owned about 26% (32m hectares) of South Africa's surface area. This included land owned by both national and provincial governments in urban and rural areas, but excluded land owned by local governments (which is not defined as state land). Mr Buiten said, however, that only about 1m hectares (1% of land surface) were available for redistribution and development while 17m hectares were already allocated to communities in towns and rural settlements, and 14m hectares were used for conservation, forestry, transport and military purposes.<sup>187</sup> [<sup>187</sup> Department of Land Affairs, *Land Info*, November 1995, p14]

### **Settlement and Land Acquisition Subsidy**

A settlement and land acquisition subsidy was proposed by the Department of Land Affairs and included in the department's *Draft Land Policy Principles* document published in August 1995. The department proposed that the subsidy be made available to households in the form of a grant (as with the government's housing subsidy) for the purchase of land and the provision of basic infrastructure.<sup>188</sup> [<sup>188</sup> Department of Land Affairs, *Draft Land Policy Principles*, p7]

The department said that the proposed subsidy would be registered on the same national data base as the national housing subsidy to prevent any household benefiting from state subsidies twice. It was also proposed that the size of the subsidy should not exceed R15 000 per household, in order 'to be consistent with the level of the existing housing subsidy'.<sup>189</sup> [<sup>189</sup> Department of Land Affairs, *National Conference on Land Policy*, p8]

Farmworkers would be able to apply either to the provincial housing boards for subsidies for off-farm housing in an urban settlement, or to the Department of Land Affairs for housing in an agri-village. The subsidy had not been implemented at the time of writing.<sup>190</sup> [<sup>190</sup> *Ibid*]



## Land Tenure

In September 1994 the Department of Land Affairs convened a land tenure reform workshop to discuss the establishment of a tenure reform programme aimed at providing greater security of tenure to people under a broad range of land tenure types. The workshop agreed that certain amendments should be made to the Upgrading of Land Tenure Rights Act of 1991 to address issues such as the inadequate protection of tenure security among rural women. The workshop also decided that legislation had to be drafted which would make collective ownership of property by a legal body on behalf of a group or community possible (see *Communal Property Association Bill* below). *Draft Land Policy Principles* said that ‘applying the term “ownership” only to individual tenure obscure[d] the fact that persons holding land under communal and other systems [should] enjoy high levels of tenure security... South Africans should be able to hold land under various forms of individual, communal or group tenure in rural and urban areas’.<sup>191</sup> [<sup>191</sup> Department of Land Affairs, annual report 1994, p17; Department of Land Affairs, *Draft Land Policy Principles*, p11]

The government prepared various pieces of legislation during the period under review to prevent people from losing their informal land rights before new tenure reform policies and legislation had been developed. The three most important pieces of proposed interim legislation were the Interim Protection of Informal Land Rights Bill, the Land Reform (Labour Tenants) Bill and the Communal Property Association Bill. The department was also considering making amendments to the Upgrading of Land Tenure Rights Act to bring the act into line with the government’s overall tenure policy (see *Legislation* below).<sup>192</sup> [<sup>192</sup> Department of Land Affairs, *Draft Land Policy Principles*, p11]

## Labour Tenants

Tenure security for farmworkers and labour tenants received much attention from the government during the year under review.

The Department of Land Affairs said in its 1994 annual report that three district forums had been created, one in Mpumalanga at Piet Retief, and two in KwaZulu/Natal at the towns of Weenen and Vryheid. The purpose of the forums was to allow farmworkers and labour tenants, landowners, and the provincial and national governments to negotiate solutions to the tenure problem at a local level.<sup>193</sup> [<sup>193</sup> Department of Land Affairs, annual report 1994, p18]

The Land Reform (Labour Tenants) Bill, which was published for comment in June 1995, proposed giving labour tenants on farms the right to acquire property rights, with state subsidies provided in accordance with the government’s land reform programme (see *Legislation* below).<sup>194</sup> [<sup>194</sup> *Business Day* 8 June 1995]

Without the protection provided by the proposed Land Reform (Labour Tenants) Bill, labour tenants did not enjoy security of tenure on farms where they resided because their rights of occupation could be

withdrawn by landowners through the implementation of the Prevention of Illegal Squatting Act of 1951 and the Trespass Act of 1959.<sup>195</sup> [<sup>195</sup> *Sowetan* 5 June 1995]

## Constitutional Protection of Property Rights

According to *Draft Land Policy Principles*, the state should be able to expropriate land in order to address the skewed patterns of land ownership which existed in South Africa. The Department of Land Affairs added that it felt confident that the Constitutional Court would interpret expropriation for ‘public purposes’, as it was contained in the transitional constitution, to include expropriation for the purpose of land reform. However, the draft policy document also said that ‘direct government intervention to acquire land [would] be limited and expropriation [would] be used only as a measure of last resort’.<sup>196</sup>

[<sup>196</sup> Department of Land Affairs, *Draft Land Policy Principles*, pp4, 6]

Earlier, in May 1995, Mr Hanekom had said that there was sufficient land available on the free market which the government could buy for the purpose of land reform. Mr Hanekom also said that the state owned about 20% of the land available in rural South Africa for land reform in rural areas (some 20m hectares), including former homeland areas, conservation areas and state forests. Responding to this, the National Land Committee (NLC) said in the same month that there was not enough land available on the free market for redistribution purposes and that expropriation would, therefore, be necessary. The NLC also opposed Mr Hanekom’s ‘over-emphasis’ on market forces because the landless people of South Africa [would] not have the resources to compete in the land market’. In August 1995 the NLC on Restitution of Land Rights said that a willing buyer–willing seller arrangement would not rectify past imbalances in land distribution, and that the property clause which protected property ownership rights in the transitional constitution should be removed.<sup>197</sup> [<sup>197</sup> *Finance Week* 9 March 1995; *Business Day* 24 May 1995, 24 August 1995]

In August 1995 Mr Hanekom said that there was no need for a property clause in the constitution because ‘adequate protection would be provided by the common law and the constitutional prohibition on arbitrary, unfair or discriminatory government action’. Mr Hanekom added that ‘it [was] a deep irony that those who accepted the systematic denial and destruction of property rights for black South Africans should now pose as the defenders of property rights’. It was offensive that those responsible for ‘the current disgraceful situation [were] complaining that we are trying to change it’.<sup>198</sup> [<sup>198</sup> *The Citizen* 2 August 1995; *The Star* 3 August 1995; *Business Day* 1 September 1995; *Sowetan* 1 September 1995; *Sunday Times* 3, 10 September 1995]

A senior researcher of the Land Rights Project at the Centre for Applied Legal Studies at the University of the Witwatersrand, Ms Aninka Claasens, said in August 1995 that ‘to confirm existing white land rights as deserving of special constitutional protection [was] similarly to confirm black landlessness, homelessness and poverty’. However, the national executive committee of the African National Congress decided in September 1995 to argue in favour of a property clause in South Africa’s future constitutional bill of rights provided the clause did not undermine the government’s land reform programme.<sup>199</sup> [<sup>199</sup> *Ibid*]

The first draft of the final constitution, which was published in November 1995, provided three property clause options for the bill of rights. The first was to have no property clause in the bill of rights at all, while the second and third options provided protection to property rights while making provision for the government's land reform programme and the property rights of those who had been dispossessed of land after 19th June 1913. Option three however provided greater protection for present landowners compared to option two, which took into account the state's ability to pay compensation as well as the value of the original acquisition (see also chapter on *Government, the Constitution, and Human Rights*).<sup>200</sup> [200 *Constitutional Assembly, Working Draft of the New Constitution*, 22 November 1995]

## Legislation

### Development Facilitation Act of 1995

The Development Facilitation Act was assented to by the president on 4th October 1995 (see 1994/95 Survey, pp565–567.).

### Restitution of Land Rights Act of 1994

The Restitution of Land Rights Act, which came into effect on 2nd December 1994, aimed to provide redress to individuals, communities and their descendants who under previous governments had been dispossessed of their land rights as a result of racially based discriminatory legislation. Prior to the passing of this act, claims for land restitution had been made to the Commission on Land Allocation under the Abolition of Racially Based Land Measures Act of 1991 (see also *Land restitution* above).<sup>201</sup> [201 Department of Land Affairs, annual report 1994, p10; *Groundwork* June/July 1995]

In August 1995 the Restitution of Land Rights Amendment Bill was tabled in Parliament. The purpose of the bill was to amend the Restitution of Land Rights Act of 1994 to allow for an acting president and additional acting judges of the Land Claims Court to be designated by the president.<sup>202</sup> [202 Sacob, *This Week in Parliament*, 22 August 1995]

### Land Administration Act of 1995

The Land Administration Act of 1995, which was assented to by the president on 6th April 1995, aimed to provide solutions to the 'outdated and fragmented land administration system' which existed in South Africa. *Draft Land Policy Principles* of the Department of Land Affairs stated that 'the current system of land administration, inherited from apartheid, [was] chaotic. There [was] no single place in which all the myriad pieces of land legislation [were] all collected and accessible, and there [was] not even a comprehensive inventory of all the relevant legislation'. The bill proposed to give power to the president to repeal or amend existing laws relating to land in the former homelands and to make certain laws which applied in the rest of South Africa applicable to them. The bill also proposed to make provision for the delegation of land administration powers, by the minister of land affairs, to a provincial premier,

a provincial MEC, or ‘an official in the service of the state, a provincial government or a local government body’.<sup>203</sup> [<sup>203</sup> *Land Administration Bill, B51B-94; Department of Land Affairs, annual report 1994, p18*]

In its 1994 annual report the Department of Land Affairs said that it had convened a working group which would investigate the relationship between the Physical Planning Act of 1991 and the Development Facilitation Act. The department would also make recommendations on possible amendments to the Physical Planning Act to reconcile it with the transitional constitution. (The Physical Planning Act gave the national minister of land affairs the power to prepare regional development plans, while the transitional constitution gave provincial legislatures ‘legislative competence’ to pass regional planning and development laws.) A spokesman for the Department of Land Affairs, Mr Gawie Viljoen, said in February 1996 that some functions covered by the Physical Planning Act had been devolved to the provinces while other functions were still to be devolved. National planning functions covered by the Physical Planning Act would be taken over by the RDP office, Mr Viljoen said.<sup>204</sup> [<sup>204</sup> *Telephonic interview with a spokesman for the Department of Housing, Mr Gawie Viljoen, 15 February 1996*]

The department proposed in *Draft Land Policy Principles* that the government’s redistribution programme should be the joint responsibility of both national and provincial land departments. While land affairs policy and redistribution guidelines were the responsibility of national government, urban and rural development and regional planning were the responsibility of provincial government, the department said.<sup>205</sup> [<sup>205</sup> *Department of Land Affairs, annual report 1994, p39; Department of Land Affairs, Draft Land Policy Principles, p10*]

## **Land Reform (Labour Tenants) Bill**

The Land Reform (Labour Tenants) Bill was initially approved by the cabinet in May 1995 and published in the *Government Gazette* for comment by the minister of land affairs, Mr Derek Hanekom, in June the same year. After receiving some 170 written submissions, including strong criticism of the bill from commercial farmers, a redrafted version of the bill was approved by the cabinet in August 1995. After comment on the bill had been received, a revised bill was published in August 1995, but this was opposed by the general council of the South African Agricultural Union (SAAU). The president of the SAAU, Mr Boet Fourie, said that the possibility that privately owned commercial farms could be expropriated and carved up was ‘totally unacceptable’. In September 1994 the congress of the Natal Agricultural Union had adopted a resolution to give security of tenure to farmworkers in order to pre-empt land claims on commercial farms.<sup>206</sup> [<sup>206</sup> *Farmer’s Weekly* 11 August 1995; *Land Update* October 1994]

Criticising the bill, the chairman of the Agricultural Employers Organisation, Mr Philippus du Toit, said in July 1995 that the bill would cost South Africa some R1,47bn rather than the R200m suggested by Mr Hanekom, because of the negative effect it would have on commercial agriculture.<sup>207</sup> [<sup>207</sup> *The Mercury* 5 July 1995]

The bill aimed to protect labour tenants against unfair eviction and to provide them with the opportunity

to acquire property ownership rights on the land where they were living and farming. It also provided for mediation, negotiation and arbitration to establish whether a particular labour tenant should acquire property ownership rights where they were resident or on an alternative piece of land. In terms of the bill, labour tenants, who were distinguished in the bill from ordinary farmworkers, could be evicted from farms only on the grounds of breach of contract or serious misconduct or if the farmer required the land for a specific purpose. Farmers wishing to evict labour tenants from their land would have to apply to the Land Claims Court for an eviction order.

Mr Hanekom said in August 1995 that labour tenants included only those who 'had lived on and used farmland for two generations or more, in return for providing labour to the owners'. The minister estimated that there were some 40 000 labour tenants and their families in South Africa. The proposed legislation was to apply retroactively to 2nd June 1995 when it was first published for comment in the *Government Gazette*. While the original bill, approved by the cabinet in June 1995, only applied in parts of KwaZulu/Natal and Mpumalanga, the amended bill was applicable nationally. The bill was passed by the National Assembly in January 1996 but had not yet been approved by the senate committee or assented to by the president at the time of writing.<sup>208</sup> [208 Land Reform (Labour Tenants) Bill, *Government Gazette* no 16451, 2 June 1995; Department of Land Affairs, *Draft Land Policy Principles*, p12; *Afra News* May/June 1995; *The Citizen* 2 August 1995, 1 September 1995; *Business Day* 3 August 1995; *Sowetan* 3 August 1995; *Financial Mail* 11 August 1995]

## **Interim Protection of Informal Land Rights Bill**

The Interim Protection of Informal Land Rights Bill, which was approved by the cabinet in June 1995, was designed to protect people who had insecure tenure from losing their rights to land while long-term land reform policy was still being designed. The proposed legislation provided for the temporary freezing of patterns of tenure in the former homeland areas, where formal records of landholding were 'chaotic' and did not reflect the actual pattern of occupation. According to the bill, 'no person may be deprived of any informal right to land without his or her consent' and any decision to dispose of someone's informal right to communal land 'may only be made by a majority of the holders of such rights present or represented at a meeting'. The proposed legislation was designed to lapse at the end of 1996.<sup>209</sup> [209 *Business Day* 26 June 1995, *The Star* 27, 29 June 1995; Department of Land Affairs, *Draft Land Policy Principles*, p12; *Interim Protection of Informal Land Rights Bill*]

The minister of home affairs, Chief Mangosuthu Buthelezi, said in June 1995 that the bill aimed to abolish 'the indigenous land tenure system and to undermine traditional leaders as administrators of land'.<sup>210</sup> [210 *Ibid*]

## **Communal Property Association Bill**

The Communal Property Association Bill, which was approved by the cabinet in June 1995, aimed to provide a land tenure option for communities under group ownership schemes (communal property associations) which would allow them to acquire, hold and manage property in common. The bill

proposed to provide land tenure options for communities awarded land through restitution or redistribution programmes and, if passed, would give everyone, including women, the right to own land communally. This legislation would apply in rural as well as urban areas, where urban housing associations and co-operatives would be able to own buildings communally. Communities and housing associations previously had to secure titles to properties through trusts and share-block schemes. The bill had not been passed at the time of writing.<sup>211</sup> [<sup>211</sup> *The Star* 27 June 1995; Department of Land Affairs, *Draft Land Policy Principles*, 1995, p12]

## **Upgrading of Land Tenure Rights Act Amendment Bill**

The Upgrading of Land Tenure Rights Act Amendment Bill, approved by the cabinet in June 1995, aimed to protect tribal or communal landholding systems until the occupants of the land wanted to change them. The amendment bill also sought to ensure that people were not forced to take up individual freehold tenure. The bill sought to provide people with the freedom to choose which system of land tenure they wished to have.<sup>212</sup> [<sup>212</sup> *The Citizen* 23 June 1995, *Sunday Times* 25 June 1995, *The Natal Witness* 29 June 1995]

Mr Hanekom said in June 1995 that the Interim Protection of Informal Land Rights Bill, the Communal Property Association Bill and the Upgrading of Land Tenure Rights Act Amendment Bill would ‘serve as a brake on the privatisation of tribal land by preventing the selling off of portions to strangers for personal gain without the knowledge and consent of the occupants’.

## **Land Affairs General Amendment Act of 1995**

The Land Affairs General Amendment Act was assented to on 24th May 1995. The amendments were of a technical nature and aimed at ‘harmonising’ all acts administered by the minister of land affairs with the transitional constitution.<sup>213</sup> [<sup>213</sup> Land Affairs General Amendment Bill, B22-95; Land Affairs General Amendment Act of 1995, *Government Gazette* no 16448, 2 June 1995; Sacob, *This week in parliament*, 29 June 1995]

## **Finance**

Some R459m was allocated to the Department of Land Affairs in the 1995/96 national budget—a 33% increase over the adjusted estimate for 1994/95.<sup>214</sup> [<sup>214</sup> Department of Finance, *Budget Review*, 15 March 1995]

The following table shows the amount allocated by the Department of Land Affairs to four of the key functions of the department during the 1994/95 and 1995/96 financial years:<sup>215</sup> [<sup>215</sup> *Ibid*]

*Budgetary allocations: 1994/95 and 1995/96*

199199IncRedistribution of land

4,2

175,6

4 080,9%

### Restitution of land rights

50,8

62,5

23,0%

### Tenure and land administration reform

3,9

10,2

161,5%

### Settlement support

33,6

63,9

90,2%

Other

254,1

146,6

(42,3%)

Total

346,8

458,9

32,3%

The Department of Land Affairs would also receive an additional R22m for development facilitation from the reconstruction and development programme (RDP) budget. The department estimated in its 1994 annual report that some R411m would be made available to the department over the ensuing two years for three presidential lead projects initiated by the government.<sup>216</sup> [<sup>216</sup> Department of Land Affairs, annual report 1994, p9; Department of Finance, *Budget Review*, 15 March 1995]

## POSTAL SERVICES

On 1st October 1991 the South African Post Office (Sapo) became an independent public company with the state as its sole shareholder. (The post office and Telkom had previously both been under the management of state-owned South African Posts and Telecommunications.)<sup>217</sup> [<sup>217</sup> South African Post Office (Sapo), *Company profile*, 1995]

In 1995 Sapo had an asset base valued at some R500m and 2 037 branches countrywide (1 585 post offices, 447 postal agencies and five retail post offices within host businesses).<sup>218</sup> [<sup>218</sup> Ibid]

During 1994 Sapo had the incorporation of the postal services of the former 'independent' homelands as a priority project. The minister for posts, telecommunications and broadcasting, Dr Pallo Jordan, said in June 1995 that the integration of both telecommunications and postal services of the former 'independent' homelands into Telkom and Sapo would be complete by the end of March 1996.<sup>219</sup> [<sup>219</sup> Sapo, *Strategic and Business Plan: 1995/96*, January 1995; *Business Day* 5 June 1995]

## Policy

In its 1995/96 *Strategic and Business Plan* the post office proposed some specific measures to increase the number of post offices in disadvantaged communities. These were the following:<sup>220</sup> [<sup>220</sup> Sapo, *Strategic and Business Plan: 1995/96*, January 1995; Sapo, *Rate structure 1995/96*, 13 March 1995, p28]

- the closure of some 50 uneconomical post offices;
- the establishment of some 70 'strategically situated' retail post offices (postpoints);
- the upgrading of about 240 existing postal agencies into new retail postal agencies; and



- the establishment of a further 65 new retail postal agencies.

In March 1995 Sapo said that it believed communication was a basic right and that postal services should be provided in all areas 'where people [were] living and conducting business'. One of the long-term aims of Sapo was to provide every household desiring a postal address with such an address. As part of this policy some post offices which were 'uneconomical' would be phased out and more retail post offices would be created within host businesses. In September 1995, 41 uneconomic post offices were closed in Gauteng.<sup>221</sup> [<sup>221</sup> Sapo, *Company profile*, 1995; Sapo, *Rate structure 1995/96*, 13 March 1995; information supplied by Sapo, 24 July 1995]

During 1995 the post office committed itself to creating a postal infrastructure which suited all people in South Africa (in July 1995 only 50 post offices were located in African residential areas while 240 were located in traditionally white areas in greater Johannesburg, the east Rand, the west Rand and the Vaal Triangle), to delivering mail according to measured standards (within a stated timeframe), and to becoming an organisation driven by the interests of its clients.<sup>222</sup> [<sup>222</sup> Ibid]

## Statistics

Most mail delivered by Sapo in 1994 went to some 3,4m street addresses and some 2m private postboxes.<sup>223</sup> [<sup>223</sup> Ibid ]

Between April 1994 and November 1995 Sapo installed more than 1m additional address boxes nationally. These boxes were installed either as cluster boxes or as transportable postbox lobbies which could be moved to wherever the need for a postal service existed. In November 1995 there were 1 230 transportable postbox lobbies, containing 984 000 address boxes, while 206 570 address boxes were located at 161 mail collection points around the country.<sup>224</sup> [<sup>224</sup> *Vision* 12 May 1995; *Sowetan* 23 June 1995; Sapo, *Company profile*, 1995; Sapo, *Rate structure 1995/96*, 13 March 1995, p26; information supplied by Mr Ben Rootman of Sapo, 28 November 1995]

During the 1994/95 financial year the post office opened 32 new postal agencies and eight conventional post offices nationally.<sup>225</sup> [<sup>225</sup> Sapo, *Rate structure 1995/96*, 13 March 1995, p28]

More than half of the mail in South Africa (51%) was delivered directly by the post office to street addresses. However, a spokesman for Sapo, Mr Ben Rootman, said in November 1995 that delivery to street addresses would not be extended further because it was too expensive. The following table provides a proportional breakdown of the six types of delivery points serviced by the post office during 1995:<sup>226</sup> [<sup>226</sup> Sapo, *Company profile*, 1995; telephonic interview with Mr Ben Rootman from Sapo, 28 November 1995]

### *Mail delivery points: 1995*

**Delivery point type**

**Number of items**

**Proportion of total**

**Address boxes at mail collection points**

206 570

3,0%

**Address boxes at transportable postbox lobbies**

984 000

14,2%

**Poste restante users**

339 660

4,9%

**Private bags**

20 000

0,3%

**Private postboxes**

2 000 000

28,7%

**Street addresses**

3 400 000

48,9%

Total<sup>a</sup>

6 950 230

100%

a

Figures may not add up owing to rounding.

During the 1994/95 financial year, the post office handled a daily average of 7,7m mail items including 7,4m letters (96,4% of the total). The balance of mail volume comprised registered letters (1,2%), parcels (0,5%) and unaddressed mail (1,9%).<sup>227</sup> [<sup>227</sup> Sapo, *Company profile*, 1995]

During the year under review a total of 3 235 bookstores, cafes, filling stations, pharmacies, spaza shops and supermarkets sold stamp booklets to the public on behalf of the post office in accordance with the company's aim of placing basic postal services within easy reach of ever

## Targets

The post office aimed to provide some 5m additional address post boxes by 2000. The chairman of Sapo, Mr Donald Masson, said in March 1995 that the company would increase the total number of private address boxes by 400 000 during 1995/96—500 postbox lobbies consisting of 800 address boxes each.<sup>229</sup> [<sup>229</sup> Sapo, *Strategic and Business Plan: 1995/96*, January 1995; Sapo, *Company profile*, 1995; *The Star* 13 February 1995; Sapo, *Rate structure 1995/96*, 13 March 1995, p26 ]

Other targets set by the post office included increasing the number of postal outlets to some 3 000 'over the next few years' (there were 2 037 post office branches countrywide in 1995, located mostly in traditionally white areas). This would be done by establishing retail post offices (postpoints) or retail postal agencies (RPAs) within host businesses. RPAs were aimed at rural and underdeveloped areas where postpoints were not viable. (RPAs were operated by the host agents (ie the private business where the postal outlets were located), whereas postpoints were operated by post office staff on the host agent's premises.)<sup>230</sup> [<sup>230</sup> Sapo, *Rate structure 1995/96*, 13 March 1995, p28] The first two postpoints were opened during the 1994/95 financial year at a pharmacy in Moreleta Park, and at a supermarket in Mamelodi, both in Pretoria.<sup>231</sup> [<sup>231</sup> Sapo, *Company profile*, 1995; *The Star* 13 February 1995, 26 July 1995; Sapo, *Rate structure 1995/96*, 13 March 1995, p28]

Sapo announced in March 1995 that it aimed to 'eventually' have some 1000 postpoints and 1 500 retail

postal agencies in use.<sup>232</sup> [<sup>232</sup> Ibid, p29]

The post office also aimed to computerise some 5 000 postal selling points (teller counters) ‘by the end of 1995/96’.<sup>233</sup> [<sup>233</sup> Ibid]

The senior manager for the reconstruction and development programme (RDP) at Sapo, Mr Bruce Tashe, said in June 1995 that there would eventually be more than 6 000 postal service points (ie traditional post offices, postpoints, RPAs and postage stamp outlets), compared with 4 766 service points in 1995. Many of the 1 600 traditional post offices would be closed and replaced with other types of postal service points in better locations.<sup>234</sup> [<sup>234</sup> Ibid; *Sowetan* 23 June 1995]

The post office also said in 1995 that it aimed to deliver ordinary standard letters in the same municipal area within two days, in the same province within four days, and between different provinces within five days, excluding the day of posting. The post office’s target was to achieve these standards at a reliability rate of 95% and more.<sup>235</sup> [<sup>235</sup> Ibid; *The Star* 13 February 1995]

## Finance

Some R190m (8,1% of Sapo’s total budget) was allocated to expenditure on the RDP in 1995/96. Mr Masson said in March 1995 that this money would be used for the installation of, among other things, 400 000 new address boxes, 70 new retail post offices (postpoints), 100 new retail postal agencies and the upgrading of some 200 postal agencies.<sup>236</sup> [<sup>236</sup> Ibid, 13 March 1995, p26]

One of the post office’s objectives in 1995 was to phase out its dependence on the government subsidy and move towards financial self-sufficiency. Rates paid by mail users in South Africa had in the past not kept pace with the actual cost of the service provided. The state subsidised the post office to an amount of R497,4m in 1993/94 and to an amount of R357,5m (16,6% of operating expenditure) in the 1994/95 financial year. In August 1995 Mr Masson was estimating an operational loss of R358m for 1995/96 (15,3% of operating expenditure). The post office aimed at a break-even situation during the 1996/97 financial year.<sup>237</sup> [<sup>237</sup> Sapo, *Strategic and Business Plan: 1995/96*, January 1995; Sapo, *Company profile*, 1995]

A proportion of the post office’s 1995/96 budget (some R109m) was specifically committed to extending postal services into areas where they had been historically neglected.<sup>238</sup> [<sup>238</sup> Sapo, *Strategic and Business Plan: 1995/96*, January 1995]

## TELECOMMUNICATIONS

Most telecommunications services in South Africa are provided by the state-owned company, Telkom SA, which was valued at over R15bn during 1995. Other major service providers are the two cellular telephone companies, Vodacom, 50% of which is owned by Telkom, and Mobile Telephone Networks

(MTN). In July 1995 these two companies were estimated to have a customer base of 300 000.<sup>239</sup> [<sup>239</sup> Department of Posts, Telecommunications and Broadcasting, *A Green Paper for Public Discussion: Telecommunications Policy*, p5]

## Policy

In July 1995 the Department of Posts, Telecommunications and Broadcasting published a green paper on telecommunications policy for public discussion. According to the paper, the new telecommunications policy should ‘reflect the interest of all citizens’ and ‘help unlock the social and economic potential of all South Africans’.<sup>240</sup> [<sup>240</sup> Ibid, p2]

The green paper proposed that the government should aim to provide ‘universal access’ to telecommunications services (a facility within walking distance of all homes) in the interim while aiming to provide a ‘universal service’ (a facility in every home where it is wanted) in the long term.<sup>241</sup> [<sup>241</sup> Ibid, p17]

The minister for posts, telecommunications and broadcasting, Dr Pallo Jordan, said that the final white paper would be ready for Parliament by late March 1996.<sup>242</sup> [<sup>242</sup> *Business Day* 28 March 1995, 8 November 1995; *Financial Mail* 6 October 1995]

## Privatisation and Competition

In terms of the Post Office Act of 1958 Telkom had a statutory monopoly on the provision of fixed-line telecommunications services to the public. During the period under review, there was much public debate about the merits of greater competition and the privatisation of telecommunication services. While acknowledging that the ‘global trend [was] away from direct government ownership of telecommunications companies, and away from monopoly toward competition’, the green paper stated that the government had a ‘fundamental public service obligation’ to ensure that universal services were provided to all communities.<sup>243</sup> [<sup>243</sup> Department of Posts, Telecommunications and Broadcasting, *A Green Paper for Public Discussion: Telecommunications Policy*, pp25, 37]

The paper noted that the privatisation of Telkom could generate funds for the reconstruction and development programme (RDP), including the provision of universal telecommunications services.<sup>244</sup> [<sup>244</sup> Ibid, p27]

During 1995 Telkom was considering partial privatisation. The chairman of Telkom, Mr Dikgang Moseneke, said in the company’s 1995 annual report that additional capital funds were required for Telkom to meet its obligations and that the company was considering acquiring a minority partner who would buy 15%–20% of its equity. Telkom hoped that the inclusion of an equity partner would increase its financial and technological strength, thereby helping to service its debt, and provide universal access to telephones, Mr Moseneke said. Although Dr Jordan said in November 1995 that the partial

privatisation of Telkom would not necessarily happen, he added that his own views would 'have to be tempered by the consultative process' of the green paper.<sup>245</sup> [<sup>245</sup> *Sunday Times* 25 June 1995, 13 August 1995, 22 October 1995; *Financial Mail* 10 March 1995, 28 July 1995, 10 November 1995; *Finance Week* 16 November 1995]

Greater competition through deregulation was opposed by Dr Jordan. He said in March 1995 that greater competition would be allowed only if it furthered the goal of providing a universal telephone service. The green paper listed a number of risks associated with allowing increased competition in the telecommunications industry in South Africa. These were:<sup>246</sup> [<sup>246</sup> Department of Posts, Telecommunications and Broadcasting, *A Green Paper for Public Discussion: Telecommunications Policy*, pp19, 20]

- the elimination of incentives to ensure universal service 'unless obligations to this end [were] imposed by the state on the various providers';
- the targeting of highly profitable business services to the detriment of the public telephone network;
- the marginalisation of domestic firms by international competitors;
- the loss of jobs; and
- the duplication of infrastructures.

While the green paper did not rule out increased competition in the telecommunications industry (it proposed a 'proper balance' between competition and monopoly), Dr Jordan said that opening up the telecommunications market 'would be subversive of our country's interest'. Dr Jordan gave the assurance, however, that competition would be welcomed once telecommunications were accessible to all South Africans.<sup>247</sup> [<sup>247</sup> *Ibid*, p19; *The Citizen* 8 July 1995; *Sunday Times* 9 July 1995]

Regarding privatisation, the Democratic Party spokesman on mineral and energy affairs, Mr Kobus Jordaan, said in July 1995 that he was not surprised most South Africans could not afford a telephone since Telkom earned 'obscene profit levels' (ten times larger than a typical telephone company in the United States (US)) because of the high cost of local calls, telephone installations and rental charges. Earlier, in November 1994, Mr Moseneke said that residential call rates, rentals and installation fees were cross-subsidised by higher rates on long distance and international calls. The green paper stated that this cross-subsidisation mitigated the barrier to entry for domestic users by making basic telephone services more affordable.<sup>248</sup> [<sup>248</sup> *Engineering News* 2 December 1994; Department of Posts, Telecommunications and Broadcasting, *A Green Paper for Public Discussion: Telecommunications Policy*, p50; *The Star* 26 July 1995 ]

While Mr Jordaan believed that privatisation would make telephones more affordable for poor people, Mr Moseneke argued that 'uncontrolled competition' would erode the long distance and international call markets, thereby reducing Telkom's ability to provide an affordable universal service. However,

stockbrokers Fleming Martin said in a Telkom investment report published in April 1995 that privatisation would probably not affect Telkom's monopoly on long distance and international infrastructure in the short term because Telkom would be protected for some time from competition by the regulatory authorities.<sup>249</sup> [<sup>249</sup> *Engineering News* 2 December 1994; *Business Day* 3 April 1995; *The Star* 26 July 1995]

Mr Dries Dreyer, general secretary of the South African Telecommunications Association (Sata), a 12 000-member trade union, said in July 1995 that Telkom's privatisation plans would affect about 14 000 of Telkom's 54 000 employees, and that the trade union would stage major industrial action if the plans went ahead.<sup>250</sup> [<sup>250</sup> *The Star* 24 July 1995]

## Statistics

The government's green paper on telecommunications policy, published for public discussion in July 1995, reported that the average telephone penetration in South Africa in 1994 was 9,8 lines per 100 people. Although this compared well with other African countries (Egypt 2,4; Libya 6,6; Nigeria 0,2; and Tunisia 3), there was a wide gap in penetration figures between race groups and geographical areas.<sup>251</sup> [<sup>251</sup> Department of Posts, Telecommunications and Broadcasting, *A Green Paper for Public Discussion: Telecommunications Policy*, p16; Telkom, *Profiel*, 1992]

The table below provides a breakdown by race of the extent of access to a telephone in 1994 in urban and non-urban areas, according to the *October Household Survey* of the Central Statistical Service:<sup>252</sup> [<sup>252</sup> CSS, *October Household Survey 1994*, PO317]

*Access to telephone by race — urban and non-urban: 1994*

*Proportion*

*African*

Coloured

Indian

White

Total

Telephone in dwelling

Urban

25,0%

51,5%

73,3%

87,8%

50,8%

Non-urban

1,9%

7,3%

47,3%

82,7%

5,2%

Communal telephone

Urban

23,6%

11,8%

2,0%

3,0%

14,5%

Non-urban

9,5%



33,9%

4,5%

2,0%

10,1%

### Access to telephone at neighbour

Urban

7,6%

19,9%

9,9%

2,0%

7,3%

Non-urban

8,0%

25,6%

20,4%

4,9%

8,5%

### Access to telephone at shop

Urban

11,6%

5,0%

2,5%

1,0%

6,9%

Non-urban

21,9%

11,0%

13,8%

2,1%

20,7%

None

Urban

32,2%

11,7%

12,3%

6,2%

20,4%

Non-urban

58,7%

22,3%

14,1%

8,4%

55,5%

Total with access to telephone

Urban

67,8%

88,2%

87,7%

93,8%

79,5%

Non-urban

41,3%

77,8%

The following graphs show the proportion of households with access to telephones in urban and non-urban areas, by race:

In total, 1 006 457 urban households (20,4%) and 2 084 042 non-urban households (55,5%) in South Africa had no access to a telephone in October 1994. About 88% of all white households in urban areas had a telephone in their home, while among urban Africans the figure was 25%. In non-urban areas only 2% of African households had telephones in their homes, compared with 83% of whites. The following table and graph show how far people who had no telephone at home had to travel to the nearest telephone.<sup>253</sup> [253 Ibid]

*Distance between phoneless homes and the nearest telephone: 1994*

*Proportion*

*African*

Coloured

Indian

White

Total

Less than 100m

Urban

40,8%

61,2%

61,5%

39,7%

43,5%

Non-urban

12,1%

45,7%

35,8%

34,8%

13,5%

100m to less than 200m

Urban

22,5%

19,2%

15,8%

18,3%

21,6%

Non-urban

12,7%

22,4%

20,9%

10,5%

13,0%

200m to less than 1km

Urban

15,7%

12,4%

12,7%

21,4%

15,7%

Non-urban

16,2%

15,4%

20,5%

17,9%

16,2%

1km or more

Urban

21,0%

7,3%

10,1%

20,5%

19,1%

Non-urban

59,0%

16,5%

22,8%

Almost the same proportion (respectively, 40,8% and 39,7%) of African and white urban households without telephones had access to a telephone fewer than 100m away. The proportion of such households who had to travel more than a kilometre to the nearest telephone was also more or less the same (21% and 20,5%). In rural areas the differences were greater—about 59% of African households in non-urban areas without telephones had to journey 1km or more to the nearest telephone, compared with 37% of whites.

The green paper estimated penetration rates at 25 lines per 100 people in white urban areas and as low as 0,1 in the rural former ‘independent’ homelands.<sup>254</sup> [<sup>254</sup> *Engineering News* 2 December 1994; Department of Posts, Telecommunications and Broadcasting, *A Green Paper for Public Discussion: Telecommunications Policy*, p16]

The secretary general of the International Telecommunications Union, Dr Pekka Tarjanne, said that the number of new lines installed yearly in South Africa had fallen (since it peaked at 235 000 in 1986) as a

result of Telkom's debt burden, estimated at R8,46bn in March 1995 (Telkom installed 184 666 telephone lines between March 1994 and March 1995). This debt would prevent Telkom from providing a 'universal' service (a telecommunications line for every household wanting the service, at affordable prices) to South Africa, Dr Tarjanne said. Telkom increased the total number of telephone lines by 5% in the year to 31st March 1995, compared with an increase of only 3,9% the year before. However, the minister for posts, telecommunications and broadcasting, Dr Pallo Jordan, said in March 1995 that at that rate (fewer than 200 000 installations a year), telephone penetration would increase to an average of only 11 per 100 people by 2000.<sup>255</sup> [<sup>255</sup> *Strategy Southern Africa*, vol 1 no 1, 1995; *Financial Mail* 30 June 1995; *Engineering News* 2 December 1994 ]

The chairman of Telkom, Mr Dikgang Moseneke, said in Telkom's annual report in March 1995 that about 45% of South African schools had telephones, while the figure for hospitals and clinics was approximately 70% (excluding the former 'independent' homelands). Mr Moseneke said that Telkom aimed to provide most health and education facilities with telephones by April 1996.<sup>256</sup> [<sup>256</sup> Telkom, annual report 1995, p2]

According to Dr Jordan, South Africa's 60 000 public telephones translated into a ratio of only 1,6 telephones per 1 000 people. Dr Jordan said that the government hoped to increase this ratio to five telephones per 1 000 people by 2001.<sup>257</sup> [<sup>257</sup> *Strategy Southern Africa*, vol 1 no 1, 1995]

The following table shows the growth in main telephone service (direct dialling) installations since March 1991:<sup>258</sup> [<sup>258</sup> Telkom, annual report,1993, p25; Telkom, annual report, 1995, p22; information supplied by Ms Ronelle Myburgh from Telkom: Corporate Communications, 7 March 1995]

*Main telephone service growth since March 1991*

Residential

Public telephones

Business

Total<sup>a</sup>

Annual growth

Proportional increase

31st March 1991

—

—

—

3 308 564

N/A

N/A

31st March 1992

—

—

—

3 390 131

81 567

2,5%

31st March 1993

—

—

—

3 524 000

133 869

3,9%

31st March 1994



2 396 652

49 644

1 213 657

3 659 863

135 863

3,9%

31st March 1995

2 459 775

59 647

1 325 107

3 844 529

184 666

5,0%

a

Figures may not add up owing to rounding.

N/A — Not applicable.

According to Telkom's 1995 annual report, Vodacom, which enjoyed a 65% share of the cellular market, had installed 2 000 community phones in seven of the nine provin

## Telkom's Target

Telkom's annual report for the year ending 31st March 1995 listed four key targets for Telkom's universal service programme. These were:

- 40% of households in underserviced metropolitan/urban areas must have basic telephone services by the beginning of 2000;
- at least one public telephone must be installed for every 1 000 people or within 5km walking distance of every community in rural and peri-urban areas by March 2000;
- at least two public telephones must be installed for every 1 000 people in urban areas by March 2000; and
- at least one public telephone and one basic telephone must be installed at all clinics, hospitals and schools by January 1997.<sup>260</sup> [<sup>260</sup> *Engineering News* 26 July 1995; Telkom, annual report, 1995, p27]

Vodacom, in which Telkom held 50% of the equity, also planned to install 5 000 subsidised cellular community telephones in developing communities during the 1996 financial year, and 22 000 before the end of March 2000 (see also *Cellular telephones* below).<sup>261</sup> [<sup>261</sup> Telkom, annual report, 1995, pp10, 27]

## Finance

The co-ordinator of the Centre for the Development of Information and Telecommunications Policy, Mr Andile Ngcaba, said in November 1994 that South Africa invested only 0,5% of gross domestic product (GDP) in telecommunications. Mr Ngcaba said that there was 'growing international recognition of the correlation between investment in telecommunications and growth in per capita GDP'.<sup>262</sup> [<sup>262</sup> *Engineering News* 2 December 1994] In July 1995 the minister for posts, telecommunications and broadcasting, Dr Pallo Jordan, said that the government spent 1,2% of GDP on telecommunications, compared with between 2,5% and 3% in developed countries.<sup>263</sup> [<sup>263</sup> *Business Day* 10 July 1995]

Telkom's debt burden on 31st March 1995, the end of its financial year, was R8,46bn (against fixed assets of R13,8bn)—inherited from the previously state-owned and operated South African Posts and Telecommunications. (Telkom was commercialised and split from the post office in October 1991.) Interest payments on the amount owing cost Telkom some R1,34bn during the year to 31st March 1995.<sup>264</sup> [<sup>264</sup> *Financial Mail* 10 March 1995; *The Citizen* 24 June 1995; *Sunday Times* 9 July 1995]

The government's telecommunications targets, which totalled some 5m new telephone lines by 2000 (1m in the rural areas), and an additional 150000 public telephones by 1998, were expected to cost in the range of R6bn (see also *Telkom's target* above).<sup>265</sup> [<sup>265</sup> *The Citizen* 17 March 1994, *The Star* 19 June 1995, *Business Day* 12 July 1995 ]

## Tariffs

The green paper on telecommunications policy, which was published in July 1995, stated that Telkom cross-subsidised the cost of connection (installation), monthly access charges (rental), and local calls by charging high tariffs for long distance and international calls.<sup>266</sup> [<sup>266</sup> Department of Posts, Telecommunications and Broadcasting., p51]

Telkom announced in early December 1994 that call unit charges would be reduced from 20,4 cents to 19,2 cents excluding value-added tax, but that metering periods for local calls (less than 50km) would be reduced from five minutes to three minutes from January 1995. According to Telkom, there was an average effective increase of 9,5%—although the real cost of trunk calls dropped (calls in excess of 800km were reduced in cost by 11,6% or 11,6 cents per minute), public telephone rates remained unchanged, and monthly rentals and installation charges increased.<sup>267</sup> [<sup>267</sup> *Financial Mail* 2 December 1994; *Business Day* 7 February 1995; *The Star* 8 February 1995]

The chief executive of the Johannesburg Chamber of Commerce and Industry, Mr Marius de Jager, said in February 1995 that businesses found their telephone bills had risen more than 50%. Mr de Jager accused Telkom of disguising ‘draconian’ tariff increases by reducing metering periods.<sup>268</sup> [<sup>268</sup> *Business Day* 7 February 1995] A Telkom spokeswoman, Ms Ingrid Krige, said in response that the previous tariff structure had made long distance calls too expensive and local calls too cheap and that cellular telephones had outpriced Telkom over long distances, thus necessitating the restructured tariffs. Telkom figures showed that although 76% of all calls made were local, they contributed only 26% of Telkom’s revenue.<sup>269</sup> [<sup>269</sup> *The Star* 7 February 1995; *Financial Mail* 5 May 1995]

## Developments

### Rural Telephones

In March 1995 Telkom invited local and foreign overseas companies to submit tenders for the installation of 1m telephone lines in rural areas. Through this project Telkom hoped to increase rural telephone density to ten telephones per 100 people by the end of 1999. It was reported in January 1994 that fewer than 1% of African communities (rural and urban) had telephones (see 1994/95 Survey, p574.).<sup>270</sup> [<sup>270</sup> Telkom, annual report 1995, pp11–12]

The chairman of Telkom, Mr Dikgang Moseneke, said in June 1995 that any company hoping to be awarded the rural contract would have to meet certain requirements, including access to substantial capital and the latest technology, a commitment to developing underserved areas, and a willingness to form partnerships with local businesses. Tender documents had to detail the extent to which local contractors and labour would be used as well as give a breakdown of training facilities for local staff.<sup>271</sup> [<sup>271</sup> *Sunday Times* 16 April 1995, 25 June 1995]

Twenty companies submitted tender documents of which Telkom shortlisted five. The groups named

were Siemens Telecommunications, AT & T NSNL, Marples Communications, Ericsson SA and Alcatel Altech Telecoms. At the time of writing Telkom had not yet announced which bid had been successful.<sup>272</sup> [<sup>272</sup> *Business Day*, *Sowetan* 12 April 1995; *Sunday Times* 9 July 1995; *Business Day* 3 November 1995]

## Cellular Telephones

Vodacom was obliged, in terms of its licence conditions, to provide 22 500 subsidised community telephones (at one tenth of the normal price) in underserviced areas by 1999, while Mobile Telephone Networks (MTN) was obliged to provide 7 500 such telephones.<sup>273</sup> [<sup>273</sup> *The Sunday Independent* 6 August 1995]

Vodacom installed some 2 000 public cellular telephones in the first eight months of operation (July 1994 to March 1995), while aiming to install a further 5 000 a year for the subsequent four years.<sup>274</sup> [<sup>274</sup> *Ibid*] Vodacom's project, costing some R100m, was managed as a franchise operation in which shipping containers, each with between five and ten custom-made cellular telephones, were positioned in areas with an identified need, and managed by local entrepreneurs, who received 33% of the revenue earned from calls made.<sup>275</sup> [<sup>275</sup> *Ibid*]

MTN opted for a system of ordinary pay telephones using cards which could be bought at designated shops. In April 1995 MTN announced the introduction of 'Mobiphone', a mobile cellular telephone trailer, which could be hitched up to a car and moved to where there was a need. The trailer would consist of four cellular units and a tuckshop, and would be sold jointly by MTN and Venter Trailers for between R30 000 and R50000. The telephones were to be operated with R1 tokens bought from the operator. Both Vodacom and MTN said that they made no profit from the subsidised community telephone service.<sup>276</sup> [<sup>276</sup> *The Star* 7 March, 27 April 1995]

Townships in Gauteng, Durban and Cape Town would be the first to receive subsidised telephones from Vodacom and MTN.<sup>277</sup> [<sup>277</sup> *Sowetan* 31 January 1995] However, Vodacom's general manager of community services, Mr Leslie Mampe, said in March 1995 that 'the franchise concept [had] not really taken off in the townships'. Problems encountered included finding suitable franchisees, providing training in financial and technical management, and operating such franchises in accordance with business principles.<sup>278</sup> [<sup>278</sup> *Finance Week* 23 March 1995]

## Regional Developments

Business and Marketing Intelligence (BMI) noted in their 1995 *Techknowledge Communications Technologies Handbook* that 35 of the world's 49 countries with the least developed telecommunications systems were African. However, the handbook said that if sub-Saharan Africa increased its average telephone penetration to five per 100 people, it would become the fourth largest telecommunications market in the world.<sup>279</sup> [<sup>279</sup> *Financial Mail* 16 June 1995]

The following table shows the number of telephones per 1000 people in ten of the 12 member countries of the Southern African Development Community in 1990 and 1992 (information for Swaziland and Angola was not available):<sup>280</sup> [280 World Bank, *World Development Report 1994*, 1994; World Bank, *World Development Report 1995*, 1995; information supplied by Africa Institute of South Africa, 15 November 1995]

*Telephone penetration in sub-Saharan Africa: 1990 and 1992*

Country

1990<sup>a</sup>

1992<sup>a</sup>

Increase (decrease)

**Botswana**

21

27

28,6%

**Lesotho**

7

6

(14,3%)

**Malawi**

3

3

0%

**Mauritius**

56

72

28,6%

Mozambique

3

3

0%

**Namibia**

N/A

40

N/A

South Africa

87

89

2,3%

**Tanzania**

3

3

0%

Zambia

8

9

12,5%

**Zimbabwe**

13

12

(7,7%)

a

Per 1 000 people.

N/A— Not

The minister for posts, telecommunications and broadcasting, Dr Pallo Jordan, said in March 1995 that South Africa intended participating fully in regional telecommunications organisations such as the Southern African Transport and Communications Commission and the Pan-African Telecommunications Union.<sup>281</sup> [<sup>281</sup> *Strategy Southern Africa*, vol 1 no 1, 1995]

South Africa was not a party to the Regional African Satellite Communications Organisation (Rascom), an organisation co-operatively owned by several African countries, which catered for the satellite needs of the African continent. According to the green paper, if South Africa became a party to the treaty, it would broaden its market opportunities through establishing a closer relationship with Africa's telecommunications operators.<sup>282</sup> [<sup>282</sup> Department of Posts, Telecommunications and Broadcasting, *A Green Paper for Public Discussion: Telecommunications Policy*, p65]

The green paper also encouraged the development of a common southern African telecommunications infrastructure. Governments and companies in Africa could be invited to invest in manufacturing companies in southern Africa, so creating export opportunities for the telecommunications industry in South Africa, the green paper said.<sup>283</sup> [<sup>283</sup> *Ibid*, pp66, 67]

AT & T's proposed R7bn Africa ONE project beginning in 1997 and aiming to encircle the African continent with an underwater fibre optic cable met with some resistance from Telkom, which indicated in February 1995 that it would not join the project. The proposed project offered every African state access to the cable either by satellite or by fibre optic landlines. The project envisaged the formation of a

continental consortium consisting of Rascom and various national telecommunications authorities. This proposed consortium would raise the capital to pay AT & T to lay the cable. AT & T did not plan to own or manage the network.<sup>284</sup> [<sup>284</sup> *Financial Mail* 10 March 1995; *Business Day* 23 May 1995]

Telkom was concerned that the Africa ONE project would render its own SAT-2 cable to Europe unviable by drawing away international telecommunications traffic. In addition to this concern, the Africa ONE project created the opportunity for long distance services to be privatised at the national level. Long-distance calls were an important source of income for Telkom (see *Finance* above).<sup>285</sup> [<sup>285</sup> *Business Day* 23 May 1995]

Siemens unveiled an alternative to Africa ONE in April 1995, proposing closer integration with the existing African telecommunications infrastructure than the Africa ONE proposal. The managing director of Afrilink (Siemens's proposed project), Mr Geoff Hainebach, said in May 1995 that Africa ONE would 'seriously threaten the self-determination of African telecommunications companies and market accessibility for other suppliers'.<sup>286</sup> [<sup>286</sup> *Finance Week* 27 April 1995; *Business Day* 23 May 1995]

## ROADS AND TRANSPORT

The Department of Transport estimated that there were some 4m commuters a day in South Africa, 2m of whom travelled by minibus taxi while commuters who travelled by rail and by bus were evenly split—1m each way. About 20% of all bus passengers travelled more than 200km a day to and from work.

In its *Discussion Document on Passenger Transport Policy*, published in April 1995, the Department of Transport said that 'a significant proportion of the population used over 10% of their disposable income on transport'. The minister of transport, Mr Mac Maharaj, said in June 1995 that the maximum home-to-work distance travelled by commuters should be progressively reduced to less than 40km and that the maximum amount spent on home-to-work transport should be reduced to 10% of disposable income. The director general of transport, Mr Ketso Gordhan, said in July 1995 that boundaries should be set in each metropolitan area outside which no incentives for housing should be provided in order to confine transport costs.<sup>287</sup> [<sup>287</sup> Department of Transport, *Discussion Document on Passenger Transport Policy*, April 1995; *Hansard* (NA) 9 col 2567, 9 June 1995; *The Sunday Independent* 16 July 1995; *Enterprise* September 1995]

## Policy

The *Discussion Document on Passenger Transport Policy* proposed that priority should be given to investment in infrastructure for public passenger transport and the development of facilities in disadvantaged communities in urban and rural areas. A draft white paper on national passenger transport would be published early in 1996.<sup>288</sup> [<sup>288</sup> Department of Transport, *Discussion Document on Passenger Transport Policy*, April 1995, p36; *Business Day* 19 May 1995; *African Business* July 1995]



In January 1995 Mr Maharaj appointed a steering committee of 13 individuals from the public and private sectors to guide the transport policy review process. The committee was chaired by Mr Gordhan. Six working groups were also established by the department to review government policy on civil aviation, infrastructure, land freight transport, land passenger transport, road traffic management and shipping.<sup>289</sup> [289 *Financial Mail* 21 July 1995; *African Business* July 1995]

In October 1995 the land passenger transport working group published a draft *Passenger Transport Policy Framework*. The group said that passenger transport was not sufficiently provided for by legislation, and that where passenger transport legislation did exist, it was administered by various authorities at different levels of government. The group proposed that a single, national land transport act should be drafted to clarify the roles and functions of the various levels of government.<sup>290</sup> [290 Land Passenger Transport Working Group, *Passenger Transport Policy Framework*, October 1995]

Mr Maharaj said that the Department of Transport would retain responsibility for overall transport policy development while the provinces would be responsible for planning of passenger transport, subsidies for public passenger transport, regulating the market entry of domestic transport operators, road traffic safety and transport law enforcement. The transitional constitution had identified certain transport functions such as roads, public transport and transport regulation as provincial responsibilities. Devolution of passenger transport functions to lower government levels would ensure that residential development planning was done in conjunction with the public transport needs of communities settling in new areas, Mr Maharaj said. According to the 1995 *Budget Review*, the national and provincial governments had agreed that the responsibility for financing passenger transport services should be taken over by provincial governments from the 1996/97 financial year. The deputy director general of transport, Dr Malcolm Mitchell, said in February 1996 that the government was preparing new national legislation to replace the Road Traffic Act of 1989, while the provinces would pass their own road traffic legislation in accordance with powers given to them in the constitution.<sup>291</sup> [291 Department of Finance, *Budget Review*, 15 March 1995; *Sunday Times* 19 March 1995; *Housing in Southern Africa* April 1995; *African Business* July 1995]

In July 1995 Mr Maharaj said that Transnet should be a vital factor in a restructured commuter transport policy. However, as Transnet did not fall under the jurisdiction of the Department of Transport, but under the Department for Public Enterprises, it made for 'fragmented physical and financial planning'. Mr Gordhan said it was vital that the Department of Transport's views on Transnet were 'strongly considered' by the Department for Public Enterprises. Mr Maharaj said in September 1995 that after discussions with the minister for public enterprises, Ms Stella Sigau, it had been decided that Transnet and the Department of Transport should form a closer working relationship.<sup>292</sup> [292 *Business Day* 17 July 1995; *Sunday Times* 13 August 1995; *Enterprise* September 1995] Mr Gordhan said in July 1995 that a single authority ought to be established to integrate planning for the provision of land, housing and transport.<sup>293</sup> [293 *The Sunday Independent* 16 July 1995]

In June 1995 the Department of Public Transport and Roads in Gauteng published a draft *Discussion*

*Document on Policy Guidelines* for the province. The final transport policy document for Gauteng was expected to be published in the first quarter of 1996.<sup>294</sup> [<sup>294</sup> *Sunday Times* 10 September 1995, *The Citizen* 11 September 1995]

## Statistics

The *October Household Survey 1994*, compiled by the Central Statistical Service, recorded the mode of transport used by workers to travel to work, length of time taken to travel from home to work, and the proportion of workers usually travelling to and from work after dark.<sup>295</sup> [<sup>295</sup> CSS, *October Household Survey 1994*, PO317]

The following table provides a racial breakdown of workers' modes of transport in October 1994 in urban and non-urban areas:<sup>296</sup> [<sup>296</sup> *Ibid*]

*Mode of travel to work by race— urban and non-urban: 1994*

*Proportion*

*African*

Coloured

Indian

White

Total

Bus

Urban

14,6%

8,0%

16,8%

4,5%

10,7%

Non-urban

16,3%

2,5%

14,4%

0,7%

14,6%

Taxi

Urban

38,4%

29,4%

14,2%

1,0%

24,4%

Non-urban

19,8%

2,7%

9,2%

1,2%

17,7%

Train

Urban

8,4%

9,9%

0,9%

1,7%

6,2%

Non-urban

1,9%

0,7%

1,3%

0,3%

1,7%

Bicycle

Urban

0,9%

2,0%

0,7%

1,4%

1,2%

Non-urban

0,7%

1,1%

0,1%

0,7%

0,7%

Car/motor bike

Urban

12,8%

28,5%

54,9%

83,8%

39,0%

Non-urban

10,1%

15,8%

29,8%

68,7%

13,5%

On foot

Urban

20,6%

20,6%

11,0%

5,1%

15,3%

Non-urban

47,5%

69,6%

45,0%

22,9%

47,8%

Other

Urban

4,3%

1,6%

1,5%

2,5%

3,2%

Non-urban

3,7%

7,6%

0,1%

5,5%

4,0%

Total<sup>a</sup>

Urban

100%

100%

100%

100%

100%

Non-urban

100%

100%

100%

100%

100%

a

Figures may not a

Although the most common mode of transport used by workers as a whole in the urban areas in South Africa during October 1994 was car or motor bike (39%), the most common mode of transport used by urban African workers was minibus taxi (38,4%) followed by bus (14,6%), car or motor bike (12,8%)

the train (8,4%). Some 21% of African and coloured workers in urban areas walked to work. In non-urban areas about 48% of the total number of workers walked to work.<sup>297</sup> [<sup>297</sup> Ibid]

The number of commuters using trains as their main mode of transport decreased more or less steadily since 1984, before rising in 1993/94. The following table shows the number of suburban passenger journeys made by train from 1984/85 to 1993/94:<sup>298</sup> [<sup>298</sup> Department of Transport, *Transport Statistics 1994*, p52]

*Suburban passenger journeys by train: 1984/85–1993/94*

Year

Suburban passengers

Increase (decrease)

1984/85

662 160 000

N/A

**1985/86**

638 267 000

(3,6%)

1986/87

598 605 000

(6,2%)

**1987/88**

569 787 000

(4,8%)

1988/89



574 076 000

0,8%

**1989/90**

547 593 000

(4,6%)

1990/91

524 227 000

(4,3%)

**1991/92**

467 332 000

(10,9%)

1992/93

373 000 000

(20,2%)

**1993/94**

403 000 000

8,0%

N/A—Not a

The following graph shows the trend in suburban passenger train usage over the period covered by the table above:<sup>299</sup> [Ibid]

The table and graph below show the extent to which the number of passengers carried by both private bus companies and local authorities dropped between 1985 and 1993:300 [300 Ibid p37]

*Passengers carried by private and local authority bus services: 1985–93*

Year  
Private firms  
Local authorities  
Total  
Increase (decrease)

1985

962 934 000

211 678 000

1 174 612 000

N/A

**1986**

876 139 000

177 808 000

1 053 947 000

(10,3%)

1987

694 149 000

172 501 000

866 650 000

(17,8%)

**1988**

647 224 000

160 503 000

807 727 000

(6,8%)

1989

605 801 000

147 271 000

753 072 000

(6,8%)

**1990**

552 617 000

135 213 000

687 830 000

(8,7%)

1991

490 085 000

118 509 000

608 594 000

(11,5%)

**1992**

430 788 000

117 042 000

547 830 000

(10,0%)

1993

401 949 000

109 315 000

511 264 000

(6,7%)

N/A — Not av

The following table shows the length of time taken by urban and non-urban workers to travel to work:<sup>301</sup>  
[<sup>301</sup> CSS, *October Household Survey 1994*, PO317]

*Length of time taken to travel to work by race — urban and non-urban: 1994*

*Proportion*

*African*

Coloured

Indian

White

Total

0–14 minutes

Urban

18,9%

18,6%

23,1%

38,2%

25,6%

Non-urban

41,3%

81,3%

36,7%

57,1%

45,0%

15–29 minutes

Urban

21,8%

25,5%

27,6%

33,6%

26,6%

Non-urban

17,7%

8,4%

21,4%

21,7%

17,3%

30–44 minutes

Urban

27,5%

30,5%

27,9%

17,7%

24,6%

Non-urban

17,8%

6,5%

18,1%

13,0%

16,7%

45–59 minutes

Urban

11,0%

9,7%

11,7%

5,0%

8,8%

Non-urban

6,4%

1,6%

8,9%

3,0%

5,9%

60–89 minutes

Urban

12,9%

11,3%

8,0%

4,0%

9,4%

Non-urban

8,6%

1,4%

11,9%

3,5%

7,8%

90–119 minutes

Urban

5,7%

2,7%

1,3%

1,1%

3,5%

Non-urban

4,7%

0,4%

2,1%

0,4%

4,2%

2–3 hours

Urban



1,8%

1,5%

0,3%

0,2%

1,1%

Non-urban

2,5%

0,2%

0,8%

0,6%

2,2%

3–4 hours

Urban

0,3%

0,0%

0,0%

0,1%

0,2%

Non-urban

0,6%

0,1%

N/A

0,3%

0,5%

More than 4 hours

Urban

0,1%

0,1%

0,1%

0,1%

0,1%

Non-urban

0,4%

0,0%

N/A

0,4%

0,4%

Total<sup>a</sup>

Urban

100%

100%

100%

100%

100%

Non-urban

100%

100%

100%

100%

100%

a

Figures may not add up owing to

The following table provides a racial breakdown of workers who travel to and from work in the dark.<sup>302</sup>  
[<sup>302</sup> Ibid]

*Proportion of workers who travel to and from work in the dark — by province and race: 1994*

*Proportion*

*African*

Coloured

Indian

White

Total

Eastern Cape

Urban

33,3%

30,9%

N/A

N/A

29,8%

Non-urban

31,7%

6,7%

N/A

N/A

29,6%

Free State

Urban

32,5%

N/A

N/A

N/A

32,6%

Non-urban

42,9%

N/A

N/A

N/A

42,7%

Gauteng

Urban

43,5%

N/A

N/A

N/A

34,1%

Non-urban

9,4%

N/A

N/A

N/A

12,2%

KwaZulu/Natal

Urban

43,8%

N/A

32,3%

N/A

34,1%

Non-urban

31,0%

N/A

49,6%

N/A

30,8%

Mpumalanga

Urban

28,7%

N/A

N/A

N/A

25,5%

Non-urban

32,3%

N/A

N/A

N/A

31,6%

North-West

Urban

41,1%

N/A

N/A

N/A

36,1%

Non-urban

32,1%

N/A

N/A

N/A

32,0%

Northern Cape

Urban

27,8%

N/A

N/A

N/A

28,2%

Non-urban

14,1%

N/A

N/A

N/A

19,0%

Northern Province

Urban

51,5%

N/A

N/A

N/A

41,3%

Non-urban

33,0%

N/A

N/A



N/A

33,0%

Western Cape

Urban

57,4%

34,4%

N/A

N/A

37,6%

Non-urban

32,7%

12,2%

N/A

N/A

16,1%

Total

Urban

41,6%

32,7%

29,7%

N/A

34,1%

Non-urban

32,2%

13,1%

48,6%

N/A

30,3%

N/A — Not applicable as people of that race in that area do not travel

## Finance

Some R3,019bn was allocated to the Department of Transport in the 1995/96 national budget. This represented almost 2% of the national budget and comprised a 5,5% increase over the 1994/95 revised estimate. The following table shows the various allocations made in the 1995/96 budget compared with the amounts allocated in the revised estimate for 1994/95:<sup>303</sup> [303 Department of Finance, *Budget Review*, 15 March 1995]

### *Department of Transport budget: 1994/95 and 1995/96*

#### Purpose

199199IncCivil aviation

95,2

22,7

(76,2%)

Roads

518,3

522,3

0,8%

Road traffic

50,1

85,4

70,5%

Shipping

44,0

45,6

3,6%

Urban transport

2 104,9

2 288,3

8,7%

Other

48,2

54,5

12,2%

Total<sup>a</sup>

2 860,6

3 018,9

5,5%

a

Figures may not add up owing to rounding.

## Subsidies

During the 1995/96 financial year the Department of Transport allocated some R2,1bn to subsidies for rail and bus transport in South Africa. Most of the subsidy went to the rail transport sector (62,8%) while the remainder (37,2%) was paid to bus transport operators. The minister of transport, Mr Mac Maharaj, said in April 1995 that a major overhaul of the system used to administer government transport subsidies was needed. Mr Maharaj said in Parliament during his department's budget vote in June that commuter subsidies 'must be more cost-effective to encourage competition with clear plans to empower smaller transport operators'. The director general of transport, Mr Ketso Gordhan, said in July 1995 that the government subsidised public commuter transport over long and medium distances by an average of R2 000 per commuter per year, and by an average of R1 000 per commuter over short distances.<sup>304</sup> [<sup>304</sup> *Housing in Southern Africa* April 1995; Sacob, *This Week in Parliament*, 13 June 1995; *The Sunday Independent* 16 July 1995; *Enterprise* September 1995]

## Bus Transport

Statistics published by the Department of Transport in March 1995 showed that the number of passenger trips by private bus companies, local authorities and Transnet had dropped from some 1,2bn in 1985 to around 629m in 1993 (by 47,5%). Mr Maharaj said in June 1995 that while commuter numbers had decreased, the amount paid out by the government on bus subsidies yearly had remained constant in real terms, thereby effectively increasing the subsidy per passenger from 21 cents per trip in 1983 to just under 60 cents per trip in 1994. The chief executive of the South African Bus Operators' Association, Professor J Walters, said in July 1995 that bus passenger trips had dropped from their peak of 1,36bn in 1982 to 700m in 1994 (by 49%).<sup>305</sup> [<sup>305</sup> Department of Transport, *Transport Statistics*, 1994, p37; *Sunday Times* 2 July 1995, 16 June 1995]

## Subsidies

Half of the R770m budgeted by the government for bus subsidies during the 1995/96 financial year would be spent on bus passengers who had to travel more than 200km each day (20% of all bus

commuters in South Africa), while the rest would be spent on bus subsidies for the remaining 800 000 bus commuters. Mr Gordhan said in Parliament in May 1995 that R109m of the department's bus subsidy had been allocated to finance commuters on the KwaNdebele–Pretoria route alone, where the average daily distance travelled by some 23 000 commuters was 244km.<sup>306</sup> [<sup>306</sup> Sacob, This Week in Parliament, 23 May 1995; Sunday Times 2, 9 July 1995; Enterprise September 1995]

Commuters who travelled from the former KwaNdebele homeland to work in Pretoria were subsidised by the government to the value of between R4 000 and R5 000 a year, according to Mr Gordhan. Mr Maharaj said in June 1995 that some commuters from KwaNdebele were subsidised to an amount of R5 400 a year. Putco's regional manager for the northern region (Pretoria and Mpumalanga), Mr Neil Groenewaldt, said in June 1995 that the Department of Transport subsidised long distance commuters at an average of 70% of their transport costs a year. Mr Maharaj said in the same month that the Department of Transport had started discouraging further provision of bulk transport services for long distances because of the high cost. 'To prevent the problem becoming even worse, we need legislation, supported by other forms of planning controls, to ensure that future [housing and land] development is contained within sustainable boundaries,' Mr Maharaj said.<sup>307</sup> [<sup>307</sup> Business Day, Sowetan 27 June 1995; Sunday Times 2 July 1995; The Sunday Independent 16 July 1995; The Star 31 August 1995]

Bus subsidies for distances up to 10km were withdrawn, while subsidies for routes between 10km and 20km were frozen. Rail subsidies, however, were not affected.<sup>308</sup> [<sup>308</sup> *Sunday Times* 16 July 1995]

During the 1993/94 financial year 47% of the Department of Transport's R732m bus subsidy budget was allocated to two bus operators—Putco, which received R236m, and Boputhatswana Transport Holdings, which received R108m. The other 53% was distributed among some 45 bus operators.<sup>309</sup> [<sup>309</sup> Department of Transport, annual report 1993/94, pp89–90; Engineering News 17 February 1995]

## Rail Transport

### Finance and Subsidies

The South African Rail Commuter Corporation (SARCC), a state corporation, was established in April 1990 'to ensure that at the request of the Department of Transport or any local government body designated as a transport authority, rail commuter services [were] provided within, to and from the Republic in the public interest' (goods rail transportation was the responsibility of Transnet, which reported to the minister for public enterprises, while the SARCC reported to the minister of transport). The corporation received a subsidy of about R1,38bn a year (about 74% of its annual budget), Mr Maharaj said in September 1995. The strategic planner of the SARCC, Mr Dries van der Walt, said in November 1995 that the government's subsidy was used to pay off the interest on overseas loans (R150m a year), the corporation's pension fund deficit (R150m a year) and to subsidise rail commuters at a cost of about R1 000 per person per year. One quarter of South Africa's commuter population (ie 1m people) used rail transport during 1995.<sup>310</sup> [<sup>310</sup> Enterprise September 1995; telephonic interview with the strategic planner of the South African Rail Commuter Corporation, Mr Dries van der Walt, 30 November 1995]

The SARCC was responsible for Metro Rail Services, which the corporation contracted out to Spoornet. The SARCC reported in May 1995 that each day 2 475 trains carried 1,1m people to and from the major centres of Cape Town, Durban, East London, Johannesburg, Port Elizabeth and Pretoria.<sup>311</sup> [<sup>311</sup> Background to the South African Rail Commuter Corporation, May 1995; Cape Times 28 April 1995; Sunday Times 13 August 1995]

In October 1995 the SARCC announced that it had negotiated a R220m loan from the Japanese government to purchase five new trains and 60 coaches to be used on the commuter rail network in Gauteng. The managing director of the SARCC, Mr Wynand Burger, said at the time that the 60 new coaches would be commissioned on the Soweto and South West rail corridors in Gauteng. The acquisition of the new trains was part of a project to purchase 120 new coaches, Mr Burger said.<sup>312</sup> [<sup>312</sup> Sowetan 12 October 1995]

## Roads

### Policy

In January 1995 the minister of transport, Mr Mac Maharaj, proposed that roads should be categorised into two groups—economic roads and social roads. Economic roads (intercity roads), which were ‘strategic assets’ necessary to the economy, should be funded by direct road-user payments such as toll fees. Social roads, which were necessary for the ordinary movement of the general public, should be financed through general taxation, Mr Maharaj said.<sup>313</sup> [<sup>313</sup> Fax communication from Eskom, Mr Sid Cassim, corporate secretary, 23 February 1996]

According to Mr Maharaj, a dedicated fuel levy and the retention of toll roads were two important sources of finance for the restoration and improvement of South Africa’s road network. The minister said in March 1995 that six of KwaZulu/Natal’s eight toll roads earned R72,5m in the 1992/93 financial year. This constituted 42% of the total income of R170m from South Africa’s 19 toll roads.<sup>314</sup> [<sup>314</sup> The Natal Mercury 31 January 1995; The Mercury 30 March 1995; Sacob, This Week in Parliament, 13 June 1995; Business Day 12 June 1995]

Mr Maharaj proposed in June 1995 that the government should institute a 7,5c a litre fuel levy in order to raise R940m for the construction and maintenance of national roads (the levy would be spent on national intercity roads only, which were the responsibility of the Department of Transport). The road allocation normally comes from general taxation. In 1995/96 the allocation to roads amounted to the equivalent of a levy of 4c a litre on fuel. The increase in expenditure on roads would be sufficient over a ten-year period to fund the improvement and expansion of South Africa’s roads.<sup>315</sup> [<sup>315</sup> Financial Mail 10 February 1995, 28 April 1995; Hansard (NA) 9, col 2571, 9 June 1995; Sacob, This Week in Parliament, 13 June 1995; Business Day 12 June 1995; The Citizen 22 June 1995 ]

The chief director of the roads division in the Department of Transport, Mr Nazir Alli, said in September

1995 that his division aimed to have an integrated network of roads providing access to remote villages, large cities, clinics, and schools. Earlier, in July 1995, Mr Alli had said that although more attention needed to be given to rural roads, that was a provincial function in terms of the transitional constitution. National roads were the responsibility of the Department of Transport, while lower grades of roads were a provincial responsibility.<sup>316</sup> [<sup>316</sup> Fleetwatch June 1995, Engineering News 21 July 1995; Enterprise September 1995]

Speaking in support of the proposed dedicated fuel levy, the chairman of the Southern African Bitumen and Tar Association (Sabita), which represents oil companies and other suppliers and processors of bituminous products, Mr Dave Orton, said in August 1995 that close to 50% of the petrol price was paid directly to the fiscus as taxes. (The South African Energy Policy Discussion Document, published by the Department of Mineral and Energy Affairs in July 1995, stated that the state collected tax on fuel equal to about 49% of the retail price of petrol and 30% of diesel.) A dedicated fuel levy for the funding of road construction and maintenance had existed in South Africa until 1988, when it was used by the government of Mr P W Botha to finance other expenses such as the war in Angola. His government had then decided that the fuel levy of 8c per litre should be paid into the national treasury as a normal tax. A study by Sabita in March 1995 showed that the national road maintenance backlog had risen to R20bn since the dedicated fuel levy for roads was appropriated for other state expenses in 1988.<sup>317</sup> [<sup>317</sup> Financial Mail 10, 23 February 1995; The Star 31 August 1995]

The minister of finance, Mr Chris Liebenberg, said in March 1995 that South African motorists had paid the government some R8,5bn in fuel levies during the 1994/95 financial year, and that most of the government's income from levies was allocated for general government expenditure and not exclusively for the upgrading of transport systems. A survey by the Automobile Association of South Africa in June 1995 showed that about 65% of motorists were willing to contribute up to 5c a litre for road maintenance.<sup>318</sup> [<sup>318</sup> The Mercury 15 March 1995, The Star 15 June 1995]

The chief executive of Spoornet, Mr Braam le Roux, said in April 1995 that road transport operators had obtained a 25% payload concession which over the previous five years had allowed them to achieve cost efficiency levels at no cost to themselves. Transport operators also incurred no charges when using metropolitan roads. For every one rand a motor car or taxi owner paid for the upkeep of the roads (excluding capital costs) a five-axle vehicle should pay R250 000. Yet the toll road ratio was one to four, Mr le Roux said.<sup>319</sup> [<sup>319</sup> Cape Times 28 April 1995, The Argus 30 June 1995]

## Statistics

Mr Maharaj said in June 1995 that his department required R15bn in order to restore the rural road network to 1988 standards. The network was crumbling at a rate of between 4% and 5% a year and R5bn would be required each year just to maintain it at 1995 standards, Mr Maharaj said. However, a preliminary report on the government's infrastructure investment plan prepared by the CSIR for the reconstruction and development office and published in September 1995 estimated that the Department of Transport's funding strategy for rural roads would require R29,1bn between 1995/96 and 1999/2000.<sup>320</sup> [<sup>320</sup> Financial Mail 10 February 1995, 28 April 1995; Sacob, This Week in Parliament 13 June 1995; Business

Day 12 June 1995; Fleetwatch June 1995; The Citizen 22, 27 June 1995; Daily Dispatch 27 June 1995; Business Day 18 September 1995; Sowetan 4 October 1995]

Mr Maharaj said in October 1995 that only 52% of South Africa's essential road maintenance was being done. Earlier, in June 1995, Mr Maharaj had said that the R522m allocated to the Department of Transport for roads in 1995/96 would satisfy only 64% of the estimated need for funds for the non-toll sections of national roads. The amount was also less in real terms than it had been in 1975. In 1995 only 9% of the national road network was in good condition, compared with 18% in 1992, 25% in 1991, and 35% in 1985. Mr Maharaj said that while only 1% of national roads were classified as very bad in 1985, this had increased to 8% by 1992.<sup>321</sup> [<sup>321</sup> Ibid]

A series of studies commissioned by Sabita, and conducted by the CSIR, indicated that in 1995 there were some 220000km of previously unrecorded and unmanaged informal roads in townships, informal settlements and rural areas which had developed over time from paths and tracks. In 1995 the extent of South Africa's formal road infrastructure stood at some 220000km. The studies found that disadvantaged communities had identified 35 000km of urban roads which they thought required upgrading.<sup>322</sup> [<sup>322</sup> African Business July 1995; The Star 31 August 1995]

The table below shows the estimated length of existing road in South Africa as provided by the Department of Transport in 1994:<sup>323</sup> [<sup>323</sup> Department of Transport, Transport Statistics 1994, p22]

*Length of road in South Africa by type: 1993*

Road authority

PavUnpTotNational roads

6 111

30

6 141

Provincial roads

50 923

125 363

176 286



Municipal roads<sup>a</sup>

N/A

N/A

47 210

Urban developing areas

3 473

34 435

37 908

Rural developing areas

—

221 092

221 092

a

Estimated municipal road length based on 1992 figures.

N/A — Not applicable.

According to a report on Africa's road network compiled by the World Bank, about 62,5% of Africa's 8m vehicles were found in South Africa.<sup>324</sup> [<sup>324</sup> The Star 31 August 1995]

In Gauteng the MEC for public transport and roads, Mr Olaus van Zyl, said during his budget vote in May 1995 that in 1994 only 50% of Gauteng's roads were classified as being in 'good or very good' condition, while the comparative figure for 1987 was 80%. In October 1995 the Greater Johannesburg Transitional Metropolitan Council announced that some 39 streets in Soweto, comprising 160km of untarred road, were being upgraded as part of a R140m project in greater Soweto to improve roads, sanitation and water.<sup>325</sup> [<sup>325</sup> Ibid 24 May 1995, 12 October 1995]

The MEC for roads, transport and traffic control in KwaZulu/Natal, Mr Sibusiso Ndebele, said in January 1995 that some 16 000km of road was required in the province to service some 300 rural communities. Only R20m had been allocated for rural roads in the 1994/95 KwaZulu/Natal budget. Double that amount (R40m) over five years (R200m) would provide only 20% of the required road length, Mr Ndebele said.

## Taxi Industry

The chief director of management services in the Department of Transport, Mr Dipak Patel, said in June 1995 that there were more than 480 taxi associations in South Africa and more than 40 000 illegal taxi operators on the roads. Many of the associations were affiliated to larger organisations such as the Southern Africa Black Taxi Association (Sabta), the Southern African Long Distance Taxi Association (Saldta), the National African Federated Transport Organisation (Nafto), and the Federation of Local and Long Distance Taxi Associations. Sabta, the members of which covered 60% of the taxi market in November 1994, had formed the Organised Taxi Industry together with other taxi associations to negotiate with the government. In an interview with *New Nation* in June 1995, Mr Maharaj said that there were 70000 licensed and 60 0 000 unlicensed taxi operators in South Africa. One third of unlicensed operators were in the former 'independent' homelands.<sup>327</sup> [<sup>327</sup> *Financial Mail* 25 November 1995; *The Star* 19 June 1995; *New Nation* 23 June 1995]

## Policy

In June 1995, Mr Patel said that the government would not extend bus subsidies to taxis as this would result in more people entering an industry where there were already too many taxi operators, which would further increase violence.

In August 1995 Mr Patel said that subsidising the taxi industry to the same level as buses would increase the government's subsidy commitments by 150%, thereby consuming the entire budget of the Department of Transport.<sup>328</sup> [<sup>328</sup> *The Star* 19 June 1995, 19 July 1995, 31 August 1995]

During the year under review the Transport and General Workers' Union (TGWU), an affiliate of the Congress of South African Trade Unions, supported tighter regulation of the taxi industry through such measures as a permit system whereby certain taxi associations would be restricted to specific routes. The TGWU also wanted a minimum wage to be determined for the industry through centralised collective bargaining.<sup>329</sup> [<sup>329</sup> *F & T Weekly* 25 August 1995]

The co-convenor of the Organised Taxi Industry, Mr Boeti Letsoela, said in November 1995 that refusal by the government to subsidise the taxi industry in accordance with the number of commuters it conveyed was one of the biggest problems facing the taxi industry.<sup>330</sup> [<sup>330</sup> *Cape Times* 26 May 1995; *The Citizen*, *Business Day* 17 November 1995]

See also chapter on *Business*.

## Taxi Violence

The police reported in November 1994 that more than 240 murders, assaults and attempted murders associated with the taxi industry had been reported in the Transvaal (Gauteng, Northern Province, North-West and Mpumalanga), the Free State and KwaZulu/Natal during 1994. This was a 30% increase compared with 1993 and was more than three times the figure for 1991.<sup>331</sup> [<sup>331</sup> Financial Mail 25 November 1994]

The MEC for public transport and roads in Gauteng, Mr Olaus van Zyl, said in September 1995 that 94 people had been killed and 135 seriously wounded in taxi-related violence in Gauteng during 1994.<sup>332</sup> [<sup>332</sup> Sowetan 19 September 1995]

The following table shows the number of incidents, deaths, and injuries which occurred because of taxi violence between January and December 1995 in each province:<sup>333</sup> [<sup>333</sup> Information supplied by the Human Rights Committee, 15 December 1996]

*Deaths, incidents and injuries owing to taxi violence: 1995*

Province

Incidents

Deaths

Injuries

Eastern Cape

75

40

80

**Free State**

0

0

0

Gauteng

86

87

113

**KwaZulu/Natal**

41

37

24

Mpumalanga

3

2

9

**North-West**

8

3

17

Northern Cape

1

0

2

## Northern Province

31

20

14

Western Cape

38

2

22

Total

283

## Problem Resolution

Mr Maharaj said in September 1995 that a National Taxi Process, which had been initiated jointly by himself and the provincial MECs for transport, as a comprehensive strategy to find solutions to problems and stabilise the taxi industry countrywide, was allocated some R17m in the 1995/96 national budget.<sup>334</sup> [<sup>334</sup> Sacob, This Week in Parliament, 15 September 1995]

In June 1995 the Gauteng provincial government and various taxi bodies launched the Gauteng Taxi Initiative (GTI) to find solutions to the taxi problems in the province. A member of the GTI's core management team, Dr Vladis Servas, said in July 1995 that the GTI aimed to establish a regulation and control system to ensure that minibus taxis fitted in with the transport plans of the various regions.<sup>335</sup> [<sup>335</sup> The Star 29 June 1995, 19 September 1995; Engineering News 7 July 1995]

In September 1995 the GTI presented recommendations, among them the following:<sup>336</sup> [<sup>336</sup> Gauteng Taxi Initiative, Report on the Nine Most Critical Issues in the Gauteng Taxi Industry, September 1995; The Star, Sowetan 19 September 1995]

- the taxi industry should be regulated and taxis should be expected to display their permits and roadworthy certificates at all times;

- there should be only one permit board in Gauteng and the process of issuing permits should be streamlined and transparent;
- taxi routes should be numbered and route numbers displayed on vehicles travelling those routes;
- vehicle registration numbers, owner's name, taxi association and province of registration should be displayed boldly on both sides of vehicles;
- a Gauteng taxi safety task force should be established to address the problem of traffic safety;
- a toll-free 'consumer care' telephone service should be established for the use of passengers;
- although taxi association representatives should ideally be elected to improve relationships between associations, nominated members should be accepted until such time that the taxi industry is ready for elections;
- access to government and RDP funds should be provided to assist with the cost of vehicles; and
- provincial and metropolitan structures should be formed to facilitate skills development and training in the industry.

These proposals also aimed to reduce the number of taxis operating illegally.<sup>337</sup> [<sup>337</sup> The Star, Sowetan 19 September 1995] The chairman of the transport standing committee in the Gauteng legislature, Mr Mothole Motshekga, said in September 1995 that the Gauteng government would motivate strongly for the regulation of the taxi industry because the absence of laws was frustrating the fight against taxi violence.<sup>338</sup> [<sup>338</sup> Business Day 14 September 1995] A spokesman for the Gauteng MEC for public transport and roads, Mr Steph Erasmus, announced in October 1995 that the Gauteng government would appoint a retired judge, during October 1995, to chair a taxi dispute resolution committee which would aim to resolve taxi conflicts in Gauteng.<sup>339</sup> [<sup>339</sup> Sowetan 12 October 1995]

In May 1995 the MEC for transport in the Eastern Cape, Ms Mandisa Marasha, told the Eastern Cape legislature that her department had embarked on a plan to tackle the taxi violence problem in the region. Measures included the following:<sup>340</sup> [<sup>340</sup> Daily Dispatch 12 May 1995]

- the restructuring of the taxi industry by uniting feuding associations under a single governing body;
- the establishment of single taxi ranks for the use of various taxi associations and under the joint management of the various associations;
- the establishment of a safety task group; and

- the deployment of more police at taxi ranks and other strife-torn areas.

## WATER AND SANITATION

In terms of South Africa's transitional constitution, the central government is responsible for water development because water is a scarce national resource. The provision of water and sanitation services is the responsibility of local government, however (see 1994/95 Survey, pp577–578.).<sup>341</sup> [<sup>341</sup> Department of Water Affairs and Forestry, *You and Your Water Rights*, March 1995] South Africa's 18 water boards function as second-tier authorities, with responsibility for the bulk supply of water. Where no third-tier government exists some water boards function as water service providers.<sup>342</sup> [<sup>342</sup> Engineering News 2 June 1995]

## Policy

In November 1994 the Department of Water Affairs and Forestry published a white paper, entitled *Water Supply and Sanitation Policy*, in which it outlined the government's intention to provide basic water and sanitation services to all South Africans within seven years (see 1994/95 Survey, pp576–578.).

In June 1995 the department placed a moratorium on the payment of subsidies to local authorities for the provision of waterworks, pending the revision of the subsidy system. The department said that the system had 'previously given financial support to local authorities to expand their existing services (often at a high level) but had ignored the needs of the large rural population in areas outside the local authority boundaries'. In terms of the white paper, the government would now give priority to the provision of a basic minimum water supply and sanitation facility for every South African.<sup>343</sup> [<sup>343</sup> Business Day 2 June 1995, *The Citizen* 6 June 1995]

## Legislation

In March 1995 the Department of Water Affairs and Forestry published a booklet entitled *You and Your Water Rights*. The booklet noted that South Africa's water legislation was not suited to a modern society and was difficult to understand and apply in practice.<sup>344</sup> [<sup>344</sup> Department of Water Affairs and Forestry, *You and Your Water Rights*, March 1995, pp4, 12]

Among the reasons given for revising South Africa's water laws were the following:<sup>345</sup> [<sup>345</sup> Department of Water Affairs and Forestry, *You and Your Water Rights*, March 1995, pp4, 5, 19, 20]

- water law was primarily contained in the Water Act of 1956, but was also scattered in 33 other acts. It needed to be integrated into a single act;
- the needs of rural people and nature conservation were not adequately protected by existing law;

- the ‘enjoyment of water rights in South Africa [was] *de facto* disproportionately biased along racial lines’ since these rights were linked to land ownership;
- the climate, culture and hydrology of European countries, from where various principles of local water law were derived, were very different to South Africa’s;
- water law did not contain a well-structured water pricing system; and
- water law did not reflect the inter-relatedness of water sources or the integrated nature of catchment areas.

In June 1995 the Department of Water Affairs and Forestry said that it was necessary to review the law governing groundwater use in view of the scarcity of water in South Africa. Under existing law, no authority controlled the use of groundwater. While surface water found in rivers and streams was classified as public water, water obtained from boreholes on private property was regarded as private water.<sup>346</sup> [<sup>346</sup> Engineering News 2 June 1995]

The president of the Borehole Water Association, Mr John Tonkin, said in June 1995 that it was ‘probable’ that the government would declare groundwater public ‘in the near future’. While government control of groundwater resources would result in large-scale users’, such as farmers, being metered, it was ‘unlikely that borehole water used for domestic applications [would] be metered’ because of the greater cost involved, Mr Tonkin said.<sup>347</sup> [<sup>347</sup> Ibid]

## **Water Laws Rationalisation and Amendment Act of 1994**

The Water Laws Rationalisation and Amendment Act of 1994 was assented to by the president, Mr Nelson Mandela, in December 1994. The act amended the Water Act of 1956 so that water boards could provide water supply and sanitation services directly to communities where either no local authority existed or the local authority was not able to provide the services itself.<sup>348</sup> [<sup>348</sup> Water Laws Rationalisation and Amendment Act of 1994, Government Gazette no 16134, 7 December 1995]

## **Statistics**

### **Water**

The former manager of water resources in the Department of Water Affairs and Forestry (subsequently promoted to deputy director general of the department), Mr Claus Triebel, and the director of community water supply and sanitation, Mr Kalinga Pelpola, estimated in June 1995 that South Africa would need about 21bn cubic metres of water in 1995, of which about half would be used by the agricultural sector for irrigation. This estimate was based on projections compiled by the Department of



Water Affairs in 1986. The following table shows the government's projections of water use over the 30-year period between 1980 and 2010:<sup>349</sup> [Department of Water Affairs, Management of the Water Resources of the Republic of South Africa, 1986; Engineering News 2 June 1995]

*Projected water use by sector:<sup>a</sup> 1980–2010*

1980
1990
2000
2010
Sector
Water
Proportion
Water use <sup>b</sup>
Proportion
Water use <sup>b</sup>
Proportion
Water use <sup>b</sup>
Proportion
Agriculture
8 766
53,8%
9 983
52,4%

11 290

50,3%

12 243

47,3%

### Industrial

1 031

6,3%

1 448

7,6%

2 043

9,1%

2 961

11,4%

### Mining

466

2,9%

511

2,7%

582

2,6%

649

2,5%

### Municipal and domestic

1 516

9,3%

2 281

12,0%

3 220

14,4%

4 477

17,3%

### Nature conservation, forestry and ecological use

4 230

26,0%

4 376

23,0%

4 524

20,1%

4 658

18,0%

### Power generation

282

1,7%

444

2,3%

779

3,5%

900

3,5%

Total

16 291

100%

19 043

100%

22 438

100%

25 888

100%

a

These projections are based on projected need, taking into account growth in population and the economy, so that the department can plan projects to ensure sufficient water is available. Rainfall directly on crops or in rivers which are not dammed is not considered in the equation as it is not reliable.

b

In million m3.

South Africa's mean annual runoff provided by rain was placed at about 52bn cubic metres during 1995, of which about 33bn cubic metres of surface water and 4,5bn cubic metres of groundwater could be exploited, while the rest could not be captured and was lost to the sea and through evaporation.

Figures compiled by the Central Statistical Service in its 1994 *October Household Survey* highlighted the differences in access to water services among the four race groups in South Africa and between urban and non-urban locations. The following table shows where people acquired their water in October 1994:<sup>351</sup> [351 CSS, October Household Survey 1994, PO317]

*Water access by race — urban and non-urban: 1994<sup>a</sup>*

*Proportion*

*African*

Coloured

Indian

White

Total

Running tapwater in dwelling

Urban

54,3%

84,0%

99,2%

99,8%

74,7%

## Non-urban

8,0%

42,9%

60,0%

81,4%

12,1%

## Running tapwater on site

Urban

31,5%

12,2%

0,4%

0,0%<sup>b</sup>

17,6%

Non-urban

20,5%

39,3%

5,9%

0,9%

20,4%

## Water carrier/tanker

## Urban

0,2%

0,1%

—

0,0%<sup>b</sup>

0,1%

## Non-urban

1,9%

1,3%

4,3%

0,0%<sup>b</sup>

1,8%

## Piped to public tap/kiosk (free)

### Urban

6,9%

1,9%

0,1%

—

3,8%

### Non-urban

17,2%

1,1%

1,2%

—

15,9%

Piped to public tap/kiosk (payment)

Urban

4,6%

1,7%

—

0,0%<sup>b</sup>

2,5%

Non-urban

3,6%

0,3%

1,0%

0,1%

3,3%

Borehole with handpump on site

Urban



0,8%

—

—

—

0,4%

Non-urban

5,0%

0,5%

4,8%

0,4%

4,6%

Borehole with handpump: communal

Urban

0,2%

—

—

—

0,1%

Non-urban

8,6%

0,5%

0,8%

—

8,0%

Borehole with engine on site

Urban

—

—

—

0,0%<sup>b</sup>

0,0%<sup>b</sup>

Non-urban

2,4%

1,2%

3,7%

12,1%

2,7%

Borehole with engine: communal

Urban

0,2%

—

—

—

0,1%

Non-urban

2,1%

0,2%

1,1%

2,4%

2,0%

Rainwater tank

Urban

0,0%<sup>b</sup>

0,0%<sup>b</sup>

—

—

0,0%<sup>b</sup>

Non-urban

1,5%

2,5%

14,2%

0,5%

1,6%

Flowing water/stream

Urban

0,0%<sup>b</sup>

0,0%<sup>b</sup>

0,2%

0,1%

0,1%

Non-urban

17,6%

5,1%

0,3%

0,9%

16,4%

Dam/pool/stagnant water

Urban

0,0%<sup>b</sup>

—

—

—

0,0%<sup>b</sup>

Non-urban

2,9%

2,3%

—

0,3%

2,8%

Well (non-borehole)

Urban

—

—

0,1%

—

0,0%<sup>b</sup>

Non-urban

1,4%

0,3%

0,2%

0,6%

1,3%

Protected spring

Urban

0,2%

—

—

—

0,1%

Non-urban

0,9%

0,2%

2,0%

—

0,8%

Unprotected spring

Urban

0,1%

—

—

—

0,1%

Non-urban

5,3%

0,4%

0,5%

—

4,9%

Other

Urban

0,8%

0,0%<sup>b</sup>

—

—

0,4%

Non-urban

1,4%

1,9%

—

0,3%

1,3%

Total<sup>c</sup>

## Urban

100%

100%

100%

100%

100%

## Non-urban

100%

100%

100%

100%

100%

a

Proportions add up vertically.

b

More than zero but too small to record.

c

Figures may n

While almost all Indian and white households living in urban areas had running water in their homes in 1994, this service was enjoyed by only 54,3% of urban African households and 84% of urban coloured households. Figures assembled in non-urban areas, which included the former 'independent' homelands, showed that 8% of African households enjoyed running water in their homes compared with 81,4% of



whites.<sup>352</sup> [<sup>352</sup> Ibid]

The table below shows the racial and urban/non-urban spread of those dwellings with no running water indoors:<sup>353</sup> [<sup>353</sup> Ibid]

*Number of households with no running tapwater in dwelling — urban and non-urban: 1994*

African
Coloured
Indian
White
Total
Proportion <sup>a</sup>
Urban
1 150 975
9 143
1 798
3 223
1 246 380
25,3%
Non-urban
3 194 801
79 907
3 470

26 036

3 306 101

87,9%

Total

4 345 776

89 050

5 268

29 259

4 552 481

52,4%

a

Proportion of total households.

In the non-urban areas in 1994, where 92% of African households had no running tapwater in their homes, 41,1% of such households (1 313 063) had to travel more than 200m in order to fetch it. The table below records how far people who had no running tapwater inside the home had to travel in 1994. The racial and urban/non-urban spread of those dwellings which required improved water supplies in terms of the government's aims appear below the line

*Distance travelled to fetch water by households without water indoors — urban and non-urban: 1994*

*Proportion<sup>a</sup>*

*African*

Coloured

Indian

White

Total

Less than 100m

Urban

76,7%

91,3%

51,2%

92,0%

77,7%

Non-urban

36,2%

83,4%

46,1%

81,4%

37,7%

100m – less than 200m

Urban

13,2%

6,8%

37,8%

8,0%

12,7%

Non-urban

22,7%

11,5%

18,2%

11,3%

22,3%

200m– less than 1km

Urban

7,0%

1,9%

11,0%

–

6,6%

Non-urban

21,0%

4,6%

9,6%

3,5%

20,4%

1km or more

Urban

3,2%

—

—

—

2,9%

Non-urban

20,1%

0,5%

26,1%

3,7%

19,5%

a

These are proportions of total number of households without running water indoors.

— Nil or no

The Department of Water Affairs and Forestry stated in its white paper on water in November 1994 that it aimed to provide a minimum of 25 litres of potable water per person per day within 200m of each home before the end of 2001.

In 1994, 15% of all water consumed in South Africa came from groundwater (as opposed to surface water), which was controlled by those who owned the properties where the water was found, according to the president of the Borehole Water Association, Mr John Tonkin. Less than 11% of this groundwater

was used for domestic purposes (see *Legislation* above).<sup>355</sup> [355 The Star 18 February 1995]

The following graph shows total groundwater use as at February 1995:<sup>356</sup> [356 Ibid]

## Sanitation

The special adviser to the minister of water affairs and forestry, Mr Len Abrams, said in May 1995 that diseases caused by poor sanitation facilities were the single biggest killer of children in South Africa, with about 30 000 fatalities each year. A fellow at the Africa Institute of South Africa, Dr Denis Fair, wrote in *Africa Insight* in 1995 that diarrhoea in children caused by unclean water and inadequate sanitation was 'responsible for half the number of annual deaths among infants in Africa' (see also chapter on *Health and Welfare*).<sup>357</sup> [357 Engineering News 26 May 1995; Business Day, The Citizen 30 May 1995; Africa Insight, vol 25 no 1, 1995]

Government estimates of the number of people in South Africa with inadequate sanitation facilities varied during the period under review. The manager of community water supply and sanitation in the Department of Water Affairs and Forestry, Mr Mike Miller, estimated in July 1995 that about 20m people (47%) in rural and peri-urban areas lacked adequate sanitation.<sup>358</sup> [358 The Star 4 July 1995] Mr Abrams, however, placed this figure closer to 25m (59%).<sup>359</sup> [359 Engineering News 26 May 1995]

According to the *October Household Survey*, some 12,6% of African households (1,8% in the urban areas and 20,4% in non-urban areas) had no sanitation facility of any type in October 1994. Among whites, 99,9% used flush lavatories in both urban and rural areas. The comparable figures for coloured people and Indians were 83,3% and 97,1% respectively.

In terms of the government's water and sanitation white paper, the Department of Water Affairs and Forestry aimed to ensure that every dwelling in South Africa had at least a ventilated improved pit latrine before the end of 2001 (see also 1994/95 Survey, p576.). To achieve this, 38% of dwellings in South Africa (3 340 696 dwellings) would have to receive improved sanitation facilities by 2001.

Both the bucket lavatory system and the chemical lavatory system were very expensive to maintain. To collect and treat each bucket of domestic sewerage cost between R40 and R50 as at August 1995—an additional R80m a month or almost R1bn a year was added to the cost of providing sanitation facilities. Chemical lavatories, used by many local authorities in informal settlements, cost up to R300 each a month to service and maintain.<sup>360</sup> [360 On Track August/September 1995]

The table below shows the proportion of households using different types of sanitation facilities in the urban and non-urban areas according to race. The racial and urban/non-urban spread of those dwellings which required improved sanitation facilities in terms of the government's aims appear below the line:<sup>361</sup> [361 CSS, October Household Survey 1994, PO317]

*Access to sanitation facilities by race—urban and non-urban areas: 1994*

*Proportion*

*African*

Coloured

Indian

White

Total

Flush lavatory

Urban

71,9%

92,6%

98,4%

100,0%

84,7%

Non-urban

6,7%

45,2%

62,9%

98,8%

11,7%

Chemical lavatory

Urban

4,0%

0,3%

N/A

0,0%<sup>a</sup>

2,1%

Non-urban

1,4%

3,7%

0,3%

0,1%

1,5%

Ventilated improved pit latrine

Urban

3,3%

0,9%

0,4%

0,0%<sup>a</sup>

1,8%

Non-urban



13,7%

9,0%

7,9%

0,1%

13,0%

Other pit latrine

Urban

7,7%

1,1%

0,2%

0,0%<sup>a</sup>

4,1%

Non-urban

56,4%

25,5%

25,1%

0,9%

53,1%

Bucket lavatory

Urban

11,3%

4,7%

1,1%

0,0%<sup>a</sup>

6,4%

Non-urban

1,5%

6,4%

1,2%

N/A

1,6%

No facility

Urban

1,8%

0,4%

N/A

N/A

1,0%

Non-urban

20,4%

10,3%

2,6%

0,1%

19,2%

a

More than zero but too small to record.

N

## Progress

In September 1994 the government approved 12 presidential lead projects valued at R284,3m, which would provide a basic water supply (25 litres per person per day within 200m of every household) to 1,7m people in rural areas. Many of these projects were located in the former homelands, where the need for better access to clean water was the greatest.<sup>362</sup> [<sup>362</sup> Engineering News 2 June 1995; The Star 5 May 1995] Most of the allocation would be financed over a two or three-year period, although the largest of the 12 projects near Pietermaritzburg in KwaZulu/Natal would draw its final funding only from the 1997/98 budget.<sup>363</sup> [<sup>363</sup> The Citizen 31 July 1995]

The first of the 12 presidential lead water projects was launched at Moretele near Hammanskraal, north of Pretoria in March 1995.<sup>364</sup> [<sup>364</sup> Business Day 13 March 1995, 29 June 1995; Sowetan 17 March 1995; Metropolitan April 1995; Vision 14 July 1995] A spokeswoman for the Department of Water Affairs and Forestry, Ms Marie Ashpole, said in September 1995 that a second project (Kutlwanong) had been commissioned near Odendaalsrus in the Free State, where the first taps were opened in July 1995.<sup>365</sup> [<sup>365</sup> The Citizen 31 July 1995; telephonic interview with Ms Marie Ashpole, corporate communications officer for the Department of Water Affairs and Forestry, 18 September 1995]

The schedule below details the 12 presidential water projects:<sup>366</sup> [<sup>366</sup> Information supplied by Mr Bosman Olivier of the Department of Water Affairs and Forestry, 5 April 1995; *Engineering News* 27 January 1995]

### *Community water supply and sanitation programme: April 1995*

1994/95 Rm

1995/96 Rm

1996/97 Rm

1997/98 Rm

TotFree State

Kut3,5

6,89

–

–

10,39

Mon0,88

4,51

–

–

5,39

*KwaZulu/Natal*

Sch2,0

12,0

11,4

–

25,4

Vul0,3

17,7

38,0

15,8

71,8

*Eastern Cape*

Tra3,1

13,8

–

–

16,9

*North-West*

Win0,5

11,35

11,35

–

23,2

Mor3,7

40,6

13,4

–

57,7

Nor4,0

19,02

–

–

23,02

*Northern Province*

Bus0,2

0,95

–

–

1,15

Nzh0,4

1,7

–

–

2,1

Kut1,2

2,7

1,85

–

5,75  
Ara1,0  
17,0  
23,5  
–  
41,5  
Total  
20,78  
148,22  
99,5  
15,8  
284,3

## Finance

In January 1995 the cabinet approved R22m in drought aid for emergency water supplies to rural communities without local governments.<sup>367</sup> [<sup>367</sup> *Business Day* 26 January 1995]

Some R936m was allocated to the Department of Water Affairs and Forestry in the 1995/96 national budget. This was 0,6% of the national budget and was a 32% increase over the 1994/95 revised estimate. The allocation included R361m for the new community water supply and sanitation programme, which had not been budgeted for in the 1994/95 financial year.<sup>368</sup> [<sup>368</sup> Department of Finance, Budget Review 15 March 1995; *The Star* 31 August 1995]

The minister of water affairs and forestry, Professor Kader Asmal, said during his department's budget vote in June 1995 that some R284m had also been allocated by the reconstruction and development programme (RDP) fund for 12 presidential lead projects (see table above) which would provide water to an estimated 1,7m people. Professor Asmal added that a further R310m (R250m from the 1995/96 RDP

fund budget, and R60m from the 1994/95 RDP fund budget) had been allocated to provide rural water and sanitation to an additional 1,8m people in the Eastern Cape, Mpumalanga, the North-West and the Northern Cape.<sup>369</sup> [<sup>369</sup> *The Argus* 23 March 1995; *The Star* 31 August 1995; Sacob, *This Week in Parliament*, 29 June 1995]

Professor Asmal said in June 1995 that between R36bn and R56bn would be required to achieve the government's water and sanitation goals by 2000. 'The bulk of this,' Professor Asmal said, '[would] be sourced from capital markets rather than the fiscus.'<sup>370</sup> [<sup>370</sup> *Business Day* 28 June 1995] Professor Asmal's adviser, Mr Len Abrams, had estimated in May 1995 that South Africa would have to spend more than R1bn a year for the next 25 years to remedy inadequate sanitation in urban areas alone.<sup>371</sup> [<sup>371</sup> *Ibid* 30 May 1995]

The chief executive officer of the Umgeni Water Board, a statutory organisation established to provide bulk water supplies for KwaZulu/Natal, Mr Brian Walford, said in August 1995 that his organisation would spend R1,5bn over the next five years on a capital works programme. This would include R300m for the board's rural areas water and sanitation plan, which would supply some 700 000 people with water.<sup>372</sup> [<sup>372</sup> *The Star* 31 August 1995]

A preliminary report on the cost of the government's infrastructure investment plan (including water and sanitation) produced by the CSIR in September 1995 estimated that the government, parastatal companies and the private sector would have to invest some R174,1bn over the next five years. The report identified water and sanitation as the sector requiring the most funding—an amount of R30,1bn over five years (available funding from the government and parastatals was estimated to be R19,2bn over the five-year period). Some R3,5bn would be spent in the 1995/96 financial year. These estimates took into account the fact that the water boards' spending on new infrastructure consisted of 35% of the total water sector investment during the 1995/96 financial year, and that this spending would probably be financed through the capital market.<sup>373</sup> [<sup>373</sup> *Business Day* 18, 20 September 1995]

Mr Mark van Ryneveld of the Department of Civil Engineering at the University of the Witwatersrand estimated in January 1995 that high levels of water and sanitation services (eg water-borne sewerage systems) were approximately four times more expensive than low levels of service because of the cost of bulk services. Mr van Ryneveld said that costs were not fully reflected in the prices charged to domestic consumers—new domestic consumers were charged only 75% of the average replacement cost of their services, the remainder being paid for by commercial and industrial consumers.<sup>374</sup> [<sup>374</sup> *Housing in Southern Africa* April 1995]

## KEY PROJECTIONS

- Lending institutions are unlikely to meet their target of approving 50 000 low-income housing loans between June 1995 and June 1996. (By November 1995 fewer than 3 000 (6%) such loans had been approved.)



- The executive director of the National Association of HomeBuilders and Urban Developers, Mr Daan Roelvert, predicted in July 1995 that 90% of developers and contractors would withdraw from the low-income housing market as a result of market shrinkage caused by the rejection of many bond applications under stringent affordability assessment criteria.
- If the number of households continues to grow at the government's estimated average annual rate of 200 000, there will still be 2,4m dwellings without access to electricity in 2000.

## **GOVERNMENT, THE CONSTITUTION, AND HUMAN RIGHTS**

### **BIRD'S EYE VIEW**

The Constitutional Assembly, comprising members of the National Assembly and Senate, continued with the task of drafting the final constitution. A working draft was published for comment in November 1995. This reflected different options on a number of contentious issues. Key areas of dispute were the powers to be accorded the provinces and the content of the bill of rights. The deadline for adopting the final constitution is 9th May 1996.

The Inkatha Freedom Party (IFP) withdrew from the Constitutional Assembly in April 1995, in protest against the alleged failure of the African National Congress (ANC) to honour the *Agreement for Peace and Reconciliation* of 19th April 1994, which had brought the IFP into the April 1994 general election. The agreement had stated that outstanding disputes regarding the transitional constitution, which entered into force on 27th April 1994, would be referred to international mediation.

The transitional constitution was twice amended in 1995. The most important changes:

- altered the names of certain provinces;
- removed the power to determine the remuneration of provincial premiers and members of executive councils from provincial legislatures and vested this in the president instead; and
- provided that the Council of Traditional Leaders be consulted on legislation affecting traditional authorities only if it were operative at the time

During the period under review the impact of the bill of rights contained in the transitional constitution became increasingly apparent. Based on the bill, the Constitutional Court invalidated the death penalty, corporal punishment, civil imprisonment for debt, and certain statutory provisions placing the onus of proof on the accused in criminal proceedings. Provincial divisions of the Supreme Court gave conflicting decisions on whether the bill of rights has horizontal application, so as to govern the relations of citizens among each other. The Constitutional Court, at the time of writing, was yet to rule on this key

issue.

Divisions within the government of national unity emerged in 1995 on a number of issues, including international mediation and the establishment of the Truth and Reconciliation Commission.

Various Afrikaner organisations continued to demand self-determination and a separate Afrikaner volkstaat, while the IFP drafted a constitution for KwaZulu/Natal. There were a number of areas of disagreement between the ANC and the IFP, including the IFP's insistence that after the adoption of the provincial constitution the formation of coalitions should be voluntary. The constitution had not been adopted at the time of writing.

## KEY POINTS

- Key issues of contention in the drafting of a new constitution are the powers and functions of the provinces, the continuation of enforced coalition government and the content of the new bill of rights (whether, for example, it should include rights to housing, health care, education and employment but exclude the right to property).
- During the year, the Constitutional Court abolished the death penalty (except for treason in time of war); restored the common law rule that the state must prove the admissibility of a confession; put an end to civil imprisonment for failure to pay a judgement debt; and abolished juvenile whipping as a punishment for crime.
- The Constitutional Court is yet to rule on restrictions on pornographic material; statutory provisions casting the onus on the accused in certain circumstances to disprove elements of the crime charged; and the common law of defamation.
- The Human Rights Commission commenced operation in October 1995. Mr Selby Baqwa was appointed public protector in June, and draft legislation providing for a Commission on Gender Equality was published for comment.
- Contentious issues still to be resolved in the bill of rights include:
  - the effect on the right to privacy of the broad powers of on various bodies; and
  - the difficulty of taking effective countermeasures against land invasions by squatters.
- Important legislation still in the pipeline includes:
  - the Land Reform (Labour Tenants) Bill, giving labour tenants a claim on farmland they have traditionally used and occupied;

- an Open Democracy Bill establishing new procedures for obtaining information from government departments; and
- The Interim Protection of Informal Land Rights Bill, which may herald the abolition of communal tenure on tribal land.
- The ANC won the majority (61,73%) of the 7 381 local government seats under contest in November 1995, while its closest rival, the National Party, won 15,74%.
- Legislation establishing a number of statutory bodies, including houses of traditional leaders, public protectors and public service commissions, was passed in a number of provinces in 1995.
- In 1995 there were several provincial boundary disputes—between the Eastern Cape and KwaZulu/Natal, Gauteng and Mpumalanga, KwaZulu/Natal and Mpumalanga, North-West and Northern Cape, and Mpumalanga and the Northern Province.

## **CONSTITUTIONAL NEGOTIATIONS**

### **The Work of the Constitutional Assembly**

During the period under review various structures were involved in the writing of the new constitution for the country. These included:

#### **Constitutional Assembly**

The National Assembly and the Senate, sitting jointly, constitute the Constitutional Assembly (CA).<sup>1</sup> [<sup>1</sup> Section 68(1), Constitution of the Republic of South Africa of 1993] The CA comprises 490 members—400 from the National Assembly and 90 from the Senate—all of whom were elected into office in the general election held in April 1994. The CA is responsible for adopting a new constitutional text in accordance with the requirements of the transitional constitution.<sup>2</sup> [<sup>2</sup> Chapter 5, *ibid*] The chairman of the CA is the general secretary of the African National Congress, Mr Cyril Ramaphosa, and his deputy is Mr Leon Wessels of the National Party.

#### **Panel of Independent Experts**

The transitional constitution provides for the appointment by the CA of an independent panel of seven South African citizens who are recognised constitutional experts but do not hold office either in government or in any political party. The panel's main task is to help secure a two-thirds majority for the adoption of the new constitution.<sup>3</sup> [<sup>3</sup> Section 72, *ibid*]

## **Constitutional Committee**

The 46-member constitutional committee (CC), appointed by the CA from among its members, is responsible for receiving, from the six theme committees described below, summaries of submissions forwarded to the latter. The CC debates these summaries and identifies areas of agreement and disagreement for further consideration by the CA.

A ten-member subcommittee of the CC, termed the facilitation committee, was established in July 1995. Chaired by Messrs Ramaphosa and Wessels, its function is to help break deadlocks in the drafting process by ‘seeking consensus, removing blockages and negotiating matters which the CC itself cannot resolve’.<sup>4</sup> [<sup>4</sup> *The Citizen*, *The Star* 27 July 1995]

## **Management Committee**

The 12-member management committee, also appointed by the CA from among its members, is responsible for the day-to-day management of the drafting process. It sets agendas for meetings of the CC, and attends to administrative matters for the CA.

## **Theme Committees**

Six committees, each comprising 30 members, have been established to address six key themes, or issues. These are: the character of the state; the form of state; the relationship between levels of government; fundamental rights; the judiciary and legal system; and specialised structures of government (see also 1994/95 Survey, pp331–333.). The theme committees are responsible for obtaining and collating public submissions on these issues.<sup>5</sup> [<sup>5</sup> *Constitutional Talk*, no 1, 13–26 January 1995, pp4–5]

## **The Constitutional Court**

The Constitutional Court must certify that a new constitutional text conforms to the constitutional principles contained in the 1993 constitution. It alone has jurisdiction on this issue, and no appeal lies from its ruling. If it refuses to endorse a text approved by the CA, that text has no force and effect.<sup>6</sup> [<sup>6</sup> Section 71, Constitution of the Republic of South Africa of 1993]

The constitutional principles are listed in the transitional constitution. Cast in broad terms, they require, for example, the establishment of one sovereign state with a democratic system of government; the prohibition of all forms of racial and other discrimination; the separation of powers between the legislative, executive and judicial arms; the determination of the powers and functions of provincial and lower tiers of government in accordance with certain criteria; the protection of the ‘diversity of language and culture’; and the continuation of various independent institutions such as a reserve bank, an auditor general and a public protector.<sup>7</sup> [<sup>7</sup> Chapter 5 and Schedule 4, *ibid*]

In addition to ruling on the final text, the Constitutional Court may give its opinion on particular proposed clauses during the drafting process, if petitioned to do so by at least one fifth of all members of the CA.<sup>8</sup> [<sup>8</sup> Section 71, *ibid*]

## The Process of Drafting and Consultation

The drafting process is proceeding through various phases, and is intended to culminate in the adoption of an approved text in May 1996, two years after the inauguration of the government of national unity.

In the first phase the six theme committees were established and the process of consultation set in motion. Written submissions on the content of the new constitution were invited from the public and all interested groups. Oral submissions were solicited at hearings conducted for this purpose, and were attended by approximately 250 organisations and 70 000 individuals.<sup>9</sup> [<sup>9</sup> *Constitutional Talk*, no 11, 25 August 1995, p<sup>10</sup>] The submissions received—numbering some 2m overall<sup>10</sup> [<sup>10</sup> *Ibid*]—were to be sorted and forwarded to the appropriate theme committees, which would then be responsible for distinguishing between contentious and noncontentious issues and suggesting means of resolving the latter. (This phase was due to have been completed by 30th June 1995, but was delayed.)

An editorial in the *Financial Mail* in August queried how many of the almost 2m submissions had been taken seriously, or even considered at all. Many, it said, had come in the form of petitions that had little to do with constitutional matters. The key decisions, moreover, would clearly be taken by ‘the big three party leaders’: the president of the country and of the African National Congress (ANC), Mr Nelson Mandela; the executive deputy president from the largest minority party and leader of the National Party (NP), Mr F W de Klerk; and the minister of home affairs and president of the Inkatha Freedom Party (IFP), Chief Mangosuthu Buthelezi. It was doubtful, it said, whether public submissions would have much influence on the process.<sup>11</sup> [<sup>11</sup> *Financial Mail* 4 August 1995]

This concern was echoed in the same month by Mr Ken Andrew MP (Democratic Party) after the constitutional committee (CC) had summarily rejected proposals put forward by a theme committee on the independence of the auditor general. Mr Andrew said ‘months had been spent on finding common ground on the proposals’, only to have senior ANC members on the CC ‘tear to pieces many aspects of the report’. ‘This confirms my long-held suspicion,’ he continued, ‘that much of the work of the theme committees has simply been a case of smoke and mirrors to deceive; a charade to create the illusion that most MPs and senators are seriously involved in the constitution-making process.’ An ANC representative on the theme committee, Ms Gill Marcus, said ‘it was within the rights of the CC to reject [theme committee] reports’.<sup>12</sup> [<sup>12</sup> *The Star* 8 August 1995]

The second phase involved the initial drafting of the text, based on the work of the theme committees, assisted by legal advisers and the panel of experts, and guided overall by the CC and the Constitutional Assembly (CA). (The first draft was due to have been completed by 14th July 1995, but was also delayed.)<sup>13</sup> [<sup>13</sup> ‘The mechanism of constitution-writing’, *RSA Review*, April 1995, pp35–37]

In the third phase, the draft text was to be referred to the Constitutional Court for certification that it complied with the Constitutional Principles. In the fourth phase, the full text—having been approved by the court—was to be placed before the public for comment. This phase was due to be completed by 21st October 1995.<sup>14</sup> [<sup>14</sup> Ibid]

Delays in the drafting process meant, however, that these phases were not adhered to. A draft text was finally published for comment on 22nd November 1995, but was incomplete in key respects—listing different options on contentious issues—and had not yet been referred to the Constitutional Court (see *Significant developments in the drafting process* below).

## Adoption of the New Constitution

The transitional constitution specifies the steps that must be followed in adopting the new constitution. The new text must be approved by a majority of at least two thirds of all the members of the CA. For provisions relating to the boundaries, powers and functions of the provinces, the approval of at least two thirds of all the members of the Senate must also be obtained.<sup>15</sup> [<sup>15</sup> Section 73(2), Constitution of the Republic of South Africa of 1993]

If the requisite two-thirds support cannot be obtained, but the new text is approved by 51% of the members of the CA, the draft must be referred to the panel of experts for its advice on any amendments which might secure the necessary majority. The panel must respond within 30 days, and any amendments it proposes must be unanimously endorsed. If the CA then approves the amended text by the requisite two-thirds majority, it becomes—following presidential assent and promulgation—the new constitution for the country.<sup>16</sup> [<sup>16</sup> Section 73(3) and (4), *ibid*]

If the panel cannot unanimously agree on an amended text within 30 days, or if the amended text still fails to secure the necessary two-thirds support, any proposed text (not necessarily the one amended by the panel) may be submitted to the CA for approval by 51% of its members. This text, after it has been certified by the Constitutional Court as complying with the constitutional principles, must be referred by the president ‘for a decision by the electorate by way of a national referendum’.<sup>17</sup> [<sup>17</sup> Section 73(5) and (6), *ibid*]

The only question which can be put to the electorate in such a referendum is ‘the acceptance or rejection’ of the text in question.<sup>18</sup> [<sup>18</sup> Section 73(7), *ibid*] If the text is approved by at least 60% of the votes cast in the referendum, it becomes (again following presidential assent and promulgation) the new constitution.<sup>19</sup> [<sup>19</sup> Section 73(7), (8) and (13), *ibid*]

If the requisite support is not obtained in the referendum—or if a new constitutional text is not otherwise approved by 9th May 1996—the president must dissolve Parliament within 14 days and call for fresh elections, to be held within three months.<sup>20</sup> [<sup>20</sup> Section 73(9), read with section 39(1), *ibid*] The new constitutional

assembly thus constituted must, within one year of its first sitting, approve a new constitutional text by a majority of at least 60% of all its members. (Provisions relating to the boundaries, powers and functions of provinces would require the support of at least 60% of all members of the new Senate.)<sup>21</sup> [21 Section 73 (10), (11), *ibid*] If this majority cannot be obtained, the new assembly may follow the same steps as outlined above in order to secure the necessary assent.<sup>22</sup> [22 Section 73(12), *ibid*]

## Contentious Issues Identified in the Drafting Process

In the course of 1995 a number of contentious issues were identified in the drafting of the new constitution. These included:

- the form of state—whether federal or centralised—and the extent of the powers and functions to be accorded to provinces;<sup>23</sup> [23 *Financial Mail* 3 February 1995; *Mail and Guardian* 28 July 1995, *Business Day* 11 August 1995]
- the retention of mandatory coalition government, the cabinet having to include all parties attaining a specified threshold of electoral support;<sup>24</sup> [24 *Financial Mail* 3 February 1995]
- the entrenchment of special protection for ethnic minorities, as advocated by the NP but rejected by the ANC (for reflecting ‘old-style apartheid ethnicism’);<sup>25</sup> [25 *Sowetan* 6 October 1995]
- the content of the bill of rights and whether it should authorise affirmative action, bar abortion, guarantee religious freedom, include social and economic rights, and retain guaranteed rights to property, free economic activity, and university autonomy;<sup>26</sup> [26 *The Star* 13 June 1995; *Beeld* 15 June 1995; *The Citizen* 15 June 1995, 2 August 1995; *Business Day* 21 July 1995; *Constitutional Talk*, no 10, 11 August 1995, p3]
- the necessary safeguards surrounding emergency rule;<sup>27</sup> [27 *Beeld* 27 June 1995]
- the retention of 18 as the voting age or its lowering to 16, as advocated by the ANC;<sup>28</sup> [28 *The Citizen* 13 June 1995]
- the prescription by the constitution of the gender composition of Parliament and other structures of government, so as to specify that at least half of their members should be women, as proposed by the ANC;<sup>29</sup> [29 *The Citizen*, *The Star* 21 July 1995]
- the size and term of office of Parliament, and whether representation should be organised on a constituency basis;<sup>30</sup> [30 Sacob/Pic, *Constitutional Update*, 10 August 1995, p4]
- the removal of the clause preventing MPs from changing political parties without losing their seats, to

enable them to vote according to personal conviction rather than party policy—as advocated by the DP;<sup>31</sup> [<sup>31</sup> *Business Day* 20 July 1995]

- the location of the legislative and executive capitals and whether these should be consolidated into one;<sup>32</sup> [<sup>32</sup> *The Citizen* 2 August 1995]
- the role and status of traditional leaders;<sup>33</sup> [<sup>33</sup> *The Star* 17 April 1995] and
- the continuation of guaranteed independence for the reserve bank, despite objections from organised labour that this deprives the elected government of control over fiscal policy and the delivery of housing and other benefits.<sup>34</sup> [<sup>34</sup> *Constitutional Talk*, no 8, 9 June 1995, p4]

## Significant Developments in the Drafting Process

At the end of March 1995 the ANC held a National Constitutional Policy Conference at the World Trade Centre in Kempton Park (east Rand), attended by some 750 delegates from ANC provincial structures, the Congress of South African Trade Unions, the South African National Civic Organisation, the South African Communist Party and other ‘sectors of the Mass Democratic Movement’. In his opening address the executive deputy president from the majority party, Mr Thabo Mbeki, said the purpose of the conference was to ‘give reality to the central objective envisaged in the Freedom Charter’ and ensure that the new constitution ‘overhauled and redressed socio-economic distortions and imbalances’ in South African society.

On the key issue of provincial powers, the conference endorsed a model of ‘co-operative government’ which would ‘promote co-ordinated national and provincial governance for the benefit of all’, instead of allowing the provinces to ‘compete with each other and the national government for power and resources’. Powers should be divided between national and provincial government ‘on the basis of accountability, effectiveness and efficiency—while considering the need to build an undivided nation’.<sup>35</sup> [<sup>35</sup> *Mayibuye*, May 1995, p9]

As the drafting process continued, the most difficult issue remained the form of state to be adopted—whether federal or centralised. In August 1995 the CC’s facilitation committee agreed on a new procedure to promote resolution of this question. In terms of this, negotiation would proceed on the basis, in particular, of a document on the interpretation of the constitutional principles prepared by four legal experts.

According to this document—written by Professor Dennis Davis of the Centre for Applied Legal Studies at the University of the Witwatersrand and three others—the constitutional principles provided little guidance on the issue as they were not rules at all and had been written in ‘very loose language’.<sup>36</sup> [<sup>36</sup> *Constitutional Talk*, no 11, 25 August 1995, p7]



This was particularly true, Professor Davis indicated, of the principle stating that the powers of provinces should not be ‘substantially less or substantially inferior’ to those contained in the transitional constitution. In the view of Professor Davis, ‘whatever powers the provinces were allocated would not be less or inferior in substance’. The ANC and PanAfricanist Congress were reported to be ‘visibly full of delight at the experts’ opinion’, while the chairman of the CA, Mr Cyril Ramaphosa, said the document ‘advanced discussion’ on a very complex issue.<sup>37</sup> [<sup>37</sup> Ibid]

At the end of August 1995 a preliminary draft text on provincial powers—also drafted by Professor Davis and other technical experts—was unanimously accepted by the facilitation committee as a starting point for further deliberations on this question. The draft allowed for a provincial law to prevail over a national law if required by ‘specific socio-economic circumstances, cultural needs and the well-being of the province’s inhabitants’. In general, however, an act of Parliament would prevail over inconsistent provincial legislation in a broad-ranging set of circumstances. (This would be the case, for example, when the national law was necessary ‘to maintain essential national standards, establish minimum standards for providing services, maintain economic unity, or prevent unreasonable action by one province prejudicial to another’.<sup>38</sup> [<sup>38</sup> *The Citizen* 29 August 1995]) In addition, in the event of conflict between national and provincial legislation which could not be resolved by a court of law through interpretation of the constitution, precedence would be given to the national law.<sup>39</sup> [<sup>39</sup> Sacob/Pic, *Constitutional Update*, 10 August 1995, p7, in which the preliminary draft is reproduced]

Later in the month, however, Mr Ramaphosa said the facilitation committee had not made sufficient progress on the issue and advocated ‘a return to the closed-door bilateral negotiations that had produced South Africa’s interim constitution’. A withdrawal from public negotiations to bilateral talks would not undermine democracy, as ‘no party had ever been barred from having discussions with other parties’. It was now time, Mr Ramaphosa added, to ‘pre-empt whatever deadlocks there might be by allowing parties to interact freely and openly among themselves’.<sup>40</sup> [<sup>40</sup> *The Citizen* 22 August 1995]

In September 1995 it was proposed to the management committee that the deadline for adopting the final constitution be extended by six months to November 1996, to ensure that the CA did not start the final round of debate until ‘all roleplayers had been given sufficient time and opportunity to comment’. This would require, however, an amendment to the transitional constitution.<sup>41</sup> [<sup>41</sup> *Business Day* 1 September 1995]

The management committee’s response was that every effort should be made to adhere to the existing timetable. A possible extension to the end of June 1996 could be considered in February 1996. Mr Roelf Meyer, minister for provincial affairs and constitutional development, and his deputy, Mr Mohammed Valli Moosa, opposed any extension. Both said that this would lead to further delays and that ‘minds needed to be focused within the existing timeframes to get the job done’.<sup>42</sup> [<sup>42</sup> *The Citizen* 8 September 1995]

At the end of September 1995 the facilitation committee had decided that various contentious issues—including the question of provincial powers—should be negotiated at bilateral discussions between the

different political parties.<sup>43</sup> [<sup>43</sup> Ibid 29 September 1995] Senior negotiators from the ANC and NP met twice to discuss an ANC proposal to abolish the Senate in favour of a 55-member ‘council of provinces’ which would give effect to ANC plans for ‘co-operative government’ and end ‘the increasingly conflictual relationship between national and provincial governments’. The parties were reported to have found ‘common ground’ on the proposal, though the NP denied this.<sup>44</sup> [<sup>44</sup> *Business Day* 2 October 1995] Dissension continued on the issue and intensified in February 1996 when the NP said the ANC’s proposals made a mockery of provincial autonomy, and the ANC countered that the NP was proving ‘an untrustworthy negotiating partner’.<sup>45</sup> [<sup>45</sup> Ibid 20 February 1995]

In early November 1995 the CA approved a working draft of the constitution for publication and public comment. Mr Ramaphosa said that the draft reflected ‘work in progress’. It contained a number of blank pages and different possible options, reflecting unresolved differences between the ANC and NP. (The views of the IFP were not reflected in the draft, as the IFP had withdrawn from the proceedings of the CA earlier in the year—see *International mediation* below.) A DP negotiator, Mr Ken Andrew, said the draft gave little indication of the final content of the new constitution.<sup>46</sup> [<sup>46</sup> *The Citizen* 11 November 1995] Issues left unresolved included national and provincial powers, the continuation of enforced coalition government, the content of the bill of rights, the composition and functions of the Senate, the role and status of local government, and the operation of the judiciary and legal system. No mention was made of self-determination for Afrikaners. A senior ANC negotiator said ‘huge tussles were developing over the ANC proposal for a council of provinces to replace the Senate and the NP’s desire for the continuation, in some form, of a government of national unity’.<sup>47</sup> [<sup>47</sup> *Business Day* 10 November 1995]

The working draft was published for comment and discussion on 22nd November 1995.<sup>48</sup> [<sup>48</sup> *The Citizen* 23 November 1995] The CA resumed its work on 15th January 1996 and envisaged completing the drafting of the constitution in time for its adoption by the CA on or before 9th May 1996. The NP said it would continue to press for extended power sharing and powerful provinces,<sup>49</sup> [<sup>49</sup> *The Star* 10 January 1996] while Mr Ramaphosa, towards the end of January 1996, ordered parties to reach agreement in bilateral negotiations on outstanding issues. He did so after continuing deadlocks on various questions had stalled the drafting process.<sup>50</sup> [<sup>50</sup> *The Citizen* 25 January 1996]

(The content of the working draft is not analysed in this *Survey* as it remains vague on many key issues and will, in any event, largely have been superseded by the time of publication.)

## **International Mediation**

A dispute over the issue of international mediation resulted in the withdrawal of the Inkatha Freedom Party (IFP) from the Constitutional Assembly (CA) in April 1995. A year earlier (on 19th April 1994) the African National Congress (ANC), the IFP and the National Party (NP) had concluded an accord, the *Agreement for Peace and Reconciliation*, which had brought the IFP into the general election of 26th–28th April 1994 (see 1994/95 Survey, pp328–329.). The agreement provided for the role and status of

the Zulu monarch, King Goodwill Zwelithini, as well as 'any outstanding issues' relating to the king and the transitional constitution, to be referred to international mediation as soon as possible after the election.<sup>51</sup> [<sup>51</sup> *Sunday Times* 16 April 1995]

By January 1995 international mediation had not yet taken place, and the IFP called on the ANC to honour its agreement, and to clarify 'how the work of the CA should be readjusted to allow mediation to take place and to benefit from its results'.<sup>52</sup> [<sup>52</sup> *Business Day* 12 January 1995] Soon thereafter the president and leader of the ANC, Mr Nelson Mandela; the executive deputy president from the largest minority party and national leader of the NP, Mr F W de Klerk; and the IFP president, Chief Buthelezi, confirmed that they would honour their pre-election undertaking.<sup>53</sup> [<sup>53</sup> *Ibid* 6 February 1995] In the interim, however, King Zwelithini rejected a call by KwaZulu/Natal chiefs for mediation,<sup>54</sup> [<sup>54</sup> *Ibid*] and legal advisers to the CA said the assembly was not legally bound by the agreement of 19th April.<sup>55</sup> [<sup>55</sup> *Ibid*]

In mid-February 1995 talks between the ANC, NP and IFP on the terms of reference for international mediation ended in acrimony.<sup>56</sup> [<sup>56</sup> *The Star* 21 February 1995] Soon thereafter Mr Mandela 'ruled out international mediation on the status of King Zwelithini, saying the king himself was now opposed to mediation'.<sup>57</sup> [<sup>57</sup> *Sowetan* 20 February 1995]

The IFP thereafter decided to suspend its participation in Parliament and the CA while it sought a fresh mandate from its followers on whether it could continue to participate in the government of national unity (GNU), given the breach of the mediation agreement. Leading the walkout of IFP members, Chief Buthelezi said that 'honour had been betrayed' and that the ANC and NP had no intention of adhering to the agreement. The IFP said it would convene a special conference in early March 1995 to consider the matter, and that IFP ministers would, in the interim, continue to participate in the GNU to minimise disruption.<sup>58</sup> [<sup>58</sup> *The Citizen* 22 February 1995]

The ANC strongly criticised the IFP's action, and both it and the NP said the walkout would inflame tensions and violence in KwaZulu/Natal.<sup>59</sup> [<sup>59</sup> *Business Day* 22 February 1995] Both accused the IFP of acting prematurely, as it was still unclear what issues were 'outstanding' and hence what the terms of reference for the mediators should be.<sup>60</sup> [<sup>60</sup> *The Citizen* 23 February 1995]

At its special conference in early March, the IFP resolved to return to Parliament and to give the government one further month to honour the agreement of 19th April. If this were not done, the IFP would withdraw from the CA, and would view as 'illegitimate' the constitution adopted through this process.<sup>61</sup> [<sup>61</sup> *Sowetan* 6 March 1995]

In response, an ANC spokesman, Mr Dumisani Makhaye, said all that the IFP's withdrawal meant was that 'the secessionist faction' would no longer be represented in the CA. 'They are exercising their democratic right to commit political suicide,' he said.<sup>62</sup> [<sup>62</sup> *Business Day* 7 March 1995] The executive deputy

president from the majority party, Mr Thabo Mbeki, who had been due to meet the IFP for talks on the issue, dropped plans to meet Chief Buthelezi, while the ANC said it would not bow to ‘unilateral deadlines and strongarm tactics’.<sup>63</sup> [<sup>63</sup> Ibid 9 March 1995]

No progress had been made on international mediation by 4th April 1995, the deadline set by the IFP, and the organisation suspended its participation in the CA. On 21st April the national executive committee of the IFP endorsed the organisation’s decision to withdraw from the CA.<sup>64</sup> [<sup>64</sup> *Financial Mail* 28 April 1995]

An editorial in the *Sunday Times* said the ANC’s intransigence on international mediation resulted from its hostility to federalism. This had been sharpened by its loss of two major provinces—the Western Cape and KwaZulu/Natal—in the 1994 election. So long as the ANC had expected to win these provinces, it had been willing to tolerate some measure of provincial autonomy. Following its electoral defeat in these areas, however, it was determined to maintain strong central control across the country, the editorial said.<sup>65</sup> [<sup>65</sup> *Sunday Times* 16 April 1995]

Following the IFP’s withdrawal from the CA, tension between it and the ANC intensified. Chief Buthelezi said the IFP did not believe in violence but that KwaZulu/Natal would ‘rise and resist’ the central government’s plans, from which ‘great evil’ would arise.<sup>66</sup> [<sup>66</sup> *The Star* 24 April 1995; *Financial Mail* 28 April 1995] The chairman of the CA, Mr Cyril Ramaphosa, said the constitution could not be written by any body other than the CA, or it would be ‘illegitimate and undemocratic’.<sup>67</sup> [<sup>67</sup> *Business Day* 4 May 1995] He added that international mediation could not take place as long as the IFP continued its threats.<sup>68</sup> [<sup>68</sup> *The Citizen* 6 May 1995]

Some days later Mr Mandela came out in favour of international mediation, but said that the terms of reference had first to be identified. The IFP, he said, must first draw up a provincial constitution for KwaZulu/ Natal, and must do so in a format which would accommodate the Zulu monarchy. Through this process, he said, ‘it might emerge that there was no need for international mediation’ at all.<sup>69</sup> [<sup>69</sup> Ibid 9 May 1995]

Chief Buthelezi responded that the terms of reference for international mediation had long been settled. They were reflected in an agreement concluded between Mr Mbeki and the national chairman of the IFP, Dr Frank Mdlalose, on 10th April 1994. This agreement had preceded the *Agreement for Peace and Reconciliation* on 19th April, and had survived the failure of international mediation at that time.<sup>70</sup> [<sup>70</sup> *Sunday Times* 16 April 1995, *The Citizen* 9 May 1995]

The ANC thereafter proposed a ‘bosberaad’—an Afrikaans word, literally meaning ‘a meeting in the bush’—with the IFP, at which it could explain its constitutional proposals and thereby try to allay the IFP’s fears. This, however, did not come to pass.<sup>71</sup> [<sup>71</sup> *Business Day* 10 May 1995] The ANC later accused the IFP of having a ‘secessionist’ agenda, in terms of which it was determined to seize power in KwaZulu/

Natal and run the province as its 'fiefdom'.<sup>72</sup> [<sup>72</sup> Ibid 20 June 1995]

For the remainder of the year the IFP continued with its endeavours to enact a provincial constitution, for which it required a two-thirds majority in the KwaZulu/Natal provincial legislature. For this it needed the support of all parties, other than the ANC, represented in this body. It began by seeking two-thirds support for a set of principles which would determine the parameters of the provincial constitution, and which envisaged the maximum possible autonomy for KwaZulu/Natal under the transitional constitution, and the inclusion of 'sunrise' provisions increasing provincial powers once this was permitted by the national constitution.<sup>73</sup> [<sup>73</sup> Ibid 8 November 1995] Opposition parties in the province rejected the draft principles, however, and senior IFP leaders warned that this might necessitate fresh provincial elections in the area to ascertain the views of its electorate. Internal dissension within the IFP on these and other issues was reported to be increasing.<sup>74</sup> [<sup>74</sup> Ibid 28 December 1995]

In November 1995, as the CA drew closer to publishing a working draft of the new constitution, extensive negotiations were conducted between the IFP and the NP aimed at developing compromise proposals on the KwaZulu/Natal provincial constitution. Both parties expressed confidence that a provincial constitution 'inspired by the principles of federalism and pluralism' could be finalised by the end of the year. One source said a new proposal to resolve the mediation issue had also been discussed. In terms of this, 'mediation would proceed only after a provincial constitution had been adopted, and would be based solely on the content of that constitution'. This approach was envisaged as lessening tensions on the issue,<sup>75</sup> [<sup>75</sup> Ibid 8 November 1995] while any concessions the ANC might make on the provincial constitution would, it was hoped, encourage the IFP to return to the CA.<sup>76</sup> [<sup>76</sup> *The Star* 10 November 1995]

At the time of writing, however, the issue of international mediation had not been resolved, the constitution of KwaZulu/Natal had not yet been adopted, and the IFP remained outside the CA (see also *The drafting of provincial constitutions* below).<sup>77</sup> [<sup>77</sup> Ibid 10 January 1996]

## AMENDMENTS TO THE TRANSITIONAL CONSTITUTION

During 1995 the transitional constitution was amended twice. In July, it was amended, among other things, to change the names of three provinces. The name of the 'Pretoria-Witwatersrand-Vereeniging' province was changed to 'Gauteng', the 'Orange Free State' to 'Free State', and the 'Province of Northern Transvaal' to 'Northern Province'.<sup>78</sup> [<sup>78</sup> Section 3, Constitution of the Republic of South Africa Amendment Act of 1995] Other changes extended the deadline for certain functions. The deadline for reviewing public service appointments or promotions made between 27th April 1993 and 30th September 1994 was extended by three months to 26th July 1995, while the deadline for altering these was extended to 31st December 1995. In addition, the one-year period set aside for rationalising the public service after the April 1994 election was extended for a further year to April 1996.<sup>79</sup> [<sup>79</sup> Sections 1 and 2, *ibid*]

In September 1995 a second statute amending the transitional constitution was promulgated.<sup>80</sup> [<sup>80</sup>

Constitution of the Republic of South Africa Second Amendment Act of 1995] In changes affecting the Constitutional Court, provision was made for the appointment of a deputy president, and for the quorum of the court to be fixed at eight judges.<sup>81</sup> [<sup>81</sup> Sections 1 and 3, *ibid*] (The jurisdiction of the Supreme Court on constitutional issues was also expanded—see *Enforcement of the bill of rights* below.)

In changes affecting provincial powers, the amendment act removed from provincial jurisdiction the power to determine the remuneration and allowances payable to the provincial premier and members of executive councils. This power was vested in the president instead.<sup>82</sup> [<sup>82</sup> Section 5, *ibid*]

Changes affecting traditional leaders were also made. A traditional leader is no longer entitled *ex officio* to membership of a local government, but will be accorded this only ‘if he or she has been identified’ according to guidelines prescribed by the president in consultation with either the Council of Traditional Leaders or, if this council is not yet in existence, any provincial house of traditional leaders already established.<sup>83</sup> [<sup>83</sup> Section 8, *ibid*]

A further change is that a parliamentary bill pertaining to traditional authorities now has to be referred to the Council of Traditional Leaders for its comments only if the council has already been established and is able to function at the time. Moreover, if this council is not functioning by 28th February 1996, such bills need thereafter be referred only to the provincial houses of traditional leaders in existence at the relevant time.<sup>84</sup> [<sup>84</sup> Section 9, *ibid*]

Both amendments were designed to overcome difficulties arising from a delay in establishing the Council of Traditional Leaders. The transitional constitution provided for this council, and empowered it to advise the national government on all matters pertaining to traditional authorities. It also gave the council the right to comment on any proposed national legislation affecting traditional authorities, and delay the enactment of legislation it opposed for 30 days. At provincial level, each house of traditional leaders was to have similar powers and functions.<sup>85</sup> [<sup>85</sup> Sections 183 and 185, Constitution of the Republic of South Africa of 1993]

The amendments were prompted, in particular, by the ANC’s difficulties in finally enacting the Remuneration of Traditional Leaders Bill, which was approved by Parliament in June 1995. The bill removes the power to determine the remuneration of chiefs from provincial administrations and gives it to the national government instead. According to the ANC, the new law was necessary to standardise the scale of payments to chiefs and eliminate anomalies in the present system. It would also reduce the power of the IFP over the chiefs in KwaZulu/Natal and would thus help to curb violence, said the ANC.<sup>86</sup> [<sup>86</sup> *Sunday Tribune* 18 June 1995] According to the IFP, the legislation would ‘transform chiefs into another organ of central government power’, while violating constitutional guarantees of provincial and local government autonomy.<sup>87</sup> [<sup>87</sup> *Business Day* 24 May 1995] It also reflected, in the IFP’s view, a blatant attempt by the ANC to undermine support for the IFP—its most important political opponent and rival.<sup>88</sup> [<sup>88</sup> *Ibid* 4 May 1995]

When the Remuneration of Traditional Leaders Bill was approved by Parliament, the transitional constitution, as then framed, made it clear that the statute had to be referred to the Council of Traditional Leaders for comment prior to its promulgation. Since the council had not been established, this was not possible. The IFP warned it would challenge the validity of the statute before the Constitutional Court if this requirement was ignored. Legal advisers to the president, Mr Nelson Mandela, said the best way of avoiding the problem would be to change the constitution, to make it clear that legislation affecting traditional authorities would have to be referred to the Council of Traditional Leaders only if this body was then functional.<sup>89</sup> [<sup>89</sup> 'The President's dilemma', *Parliamentary Whip*, 1 September 1995, p2] Following these constitutional amendments, the Remuneration of Traditional Leaders Act was finally promulgated in December 1995.

(The September amendments to the transitional constitution also provided for the assumption by the national government of all debts and liabilities incurred by previous administrations, and provided for the restructuring of local government after 31st March 1996 by legislation other than the Local Government Transition Act of 1993.<sup>90</sup> [<sup>90</sup> Local Government Transition Act of 1993])

## **CENTRAL GOVERNMENT**

### **Government of National Unity**

#### **Divisions Within the Government of National Unity**

One of the major areas of division in the government of national unity (GNU) during the period under review was the issue of international mediation (see *International mediation* above).

In June 1994 the African National Congress (ANC) and the Inkatha Freedom Party (IFP) clashed over the Remuneration of Traditional Leaders Act, which provides for central government's payment of traditional leaders (see also *Amendments to the Transitional Constitution* above). According to the IFP, the act violates the transitional constitution's guarantee of autonomy for local government, while the ANC said that it was necessary to standardise the scale of payments and would save traditional leaders from 'party-political manipulation'.<sup>91</sup> [<sup>91</sup> *The Star* 23 May 1995]

During the period under review the Promotion of National Unity and Reconciliation Act, providing for the establishment of the Truth and Reconciliation Commission, caused rifts between parties in the GNU. Disputes between the National Party (NP) and the ANC arose around the terms for the granting of amnesty, which included the cut-off date for amnesty applications, the secrecy clause and the adoption of the Norgaard principles (a set of principles to determine whether the offence was committed for political reasons and whether it was in proportion to the political objectives pursued).<sup>92</sup> [<sup>92</sup> *Business Day* 10 April 1995, *Mail and Guardian* 16 February 1996]

In January 1995 media reports indicated that the executive deputy president from the largest minority

party, Mr F W de Klerk, had threatened to leave the government after a disagreement with the president, Mr Nelson Mandela, regarding the granting of indemnity to 3 500 police officers and two former ministers in Mr de Klerk's government. This was later denied by the NP.<sup>93</sup> [<sup>93</sup> *The Star* 2 February 1995] In May 1995 the minister of justice, Mr Dullah Omar, proposed that the category of people previously granted temporary immunity from prosecution be granted automatic indemnity. This included several members of the cabinet. The proposal was widely criticised by, among others, the NP and the DP.<sup>94</sup> [<sup>94</sup> *Sowetan* 24 May 1995, *The Star* 31 May 1995] (See chapter on *Politics and Security*.) The leader of the DP, Mr Tony Leon, said that the idea of creating a category of people who would be placed above the law and beyond its reach was cause for 'alarm and concern'.<sup>95</sup> [<sup>95</sup> *The Citizen* 23 May 1995]

## **Statutory Institutions Created by the Constitution**

### **Financial and Fiscal Commission**

The Financial and Fiscal Commission (FFC) was established by the president, Mr Nelson Mandela, on 25th August 1994. It comprised 18 members and was chaired by Mr Murphy Morobe. The FFC would make recommendations to Parliament regarding financial and fiscal policies, including equitable allocations to the national, provincial and local governments from revenue collection nationally; the intention of the provincial governments to levy taxes and surcharges; the raising of loans by lower-tier governments; and the criteria to be used for the above purposes.<sup>96</sup> [<sup>96</sup> Sacob/Pic, *Constitutional Update*, 22 June 1995]

In June 1995 the commission issued the first draft of a discussion paper entitled *Framework Document for Intergovernmental Fiscal Relations*, which outlined various recommendations including that each level of government should raise as much of the revenue it spent as was possible. Such a system would be characterised by a relatively high level of fiscal autonomy, which would be achieved through provinces' implementing flat rate surcharges on national taxes, personal income tax being the most suitable tax (see also chapter on *The Economy*).

### **Council of Traditional Leaders**

At the time of writing the Council of Traditional Leaders had not yet been established.

In March 1995 the president of the Congress of Traditional Leaders of South Africa, Chief Pathekile Holomisa, called for the extension of the roles of traditional leaders. Chief Holomisa suggested that traditional leaders become more involved in developing a new constitution, participating in the formation of policy options, particularly regarding the economic and social restructuring of South Africa, and the implementation of the reconstruction and development programme. Chief Holomisa suggested that traditional leaders could provide a basis for stability and continuity.<sup>97</sup> [<sup>97</sup> *The Citizen* 20 March 1995]



On 29th July 1995 the Remuneration of Traditional Leaders Bill was passed in Parliament. The bill, which was opposed by the Inkatha Freedom Party and the Democratic Party, provided for central government to be responsible for payment of traditional leaders (see *Amendments to the Transitional Constitution* above).<sup>98</sup> [<sup>98</sup> *Sunday Times* 28 June 1995]

## Truth and Reconciliation Commission

See chapter on *Politics and Security*.

## Volkstaat Council

The Volkstaat Council (VC) is a statutory body, mandated to advise the government on the feasibility of Afrikaner self-determination. The council, chaired by Mr Johann Wingard, is made up of 20 members (see 1994/95 Survey, pp348–350.).

In June 1995 the first workshop was held by the Constitutional Assembly (CA) concerning proposals for a volkstaat. At the workshop, a member of the VC, Mr Chris de Jager, said that the constitution of the volkstaat would have to be passed by the South African Parliament and would need to be endorsed by the Constitutional Court. In addition, its constitution would be subject to the bill of rights of the South African constitution, which would prevent a ‘new apartheid’. Mr de Jager said that the volkstaat would send its representatives to the Senate and the National Assembly just as other provinces did.<sup>99</sup> [<sup>99</sup> *The Citizen* 27 June 1995]

Also in June 1995, the Afrikaner Volksfront (AVF) published a report on a proposed volkstaat, independently of the VC. While the VC recommended limited autonomy for an Afrikaner province within a federal South Africa, the AVF demanded outright sovereignty for Afrikaners.<sup>100</sup> [<sup>100</sup> *Cape Times* 2 June 1995] The proposed volkstaat would include areas in the Northern Province, the western Transvaal and the western Free State. The ‘volksrepubliek’ (the people’s republic) would secede from the rest of South Africa. The report further added that only ‘boere Afrikaners’—defined as Afrikaans-speaking whites—would be afforded citizenship.<sup>101</sup> [<sup>101</sup> *Ibid* 5 June 1995]

In the same month Mr Mandela proposed that a referendum be held to test the feelings of Afrikaners regarding a separate Afrikaner volkstaat. However, he added that should such a referendum be held, it would not necessarily be binding on the government. While the Afrikaner Weerstandsbeweging supported the notion of a referendum, the Boerestaat Party rejected it saying it was unnecessary as it was already clear that Afrikaners wanted a volkstaat.<sup>102</sup> [<sup>102</sup> *The Citizen* 28 June 1995]

In July 1995 the VC submitted its first interim report detailing areas to be included in the proposed volkstaat. The proposed areas, which comprised 3,2% (or 38 000km<sup>2</sup>) of the total area of South Africa, are as follows: the southern Free State (Afrikaner proportion of population: 55%), the Bosveld bordering

Northern Province and Botswana (45%); Drakensberg north, including parts of the Northern Province and Mpumalanga (46%); Drakensberg south, including parts of Mpumalanga, Free State and KwaZulu/Natal (48%); and south eastern Cape to include Bredasdorp, Calitzdorp, Despatch, George, Jeffrey's Bay, Knysna, Mossel Bay, Plettenberg Bay, Swellendam and Uitenhage.<sup>103</sup> [<sup>103</sup> *Cape Times* 11 September 1995]

The areas were demarcated to satisfy the following criteria: there should be as few non-Afrikaners as possible; there should be economic and structural development, which could form the basis of an Afrikaner state; affected interdependent communities and areas should, in the demarcation process, be either included or excluded; and where possible, natural borders such as the Orange River should be used in order not to claim all resources for the area. Existing administrative boundaries, such as those of magisterial districts and local transitional councils, were accepted with minor exceptions.

In September 1995 a CA committee on self-determination said that Afrikaans political and cultural groups were still divided over the demand for an independent volkstaat. Disputes centered around proposed boundaries, a constitution for the volkstaat, how it should be introduced and what form self-determination should take. The committee received submissions from 68 individuals, the Afrikanerbond, the African National Congress (ANC), the Conservative Party (CP), the Freedom Front (FF), the VC, the National Party (NP), and the Pan-Africanist Congress (PAC). The Afrikanerbond and the NP supported cultural self-determination while the FF, the VC and the CP favoured territorial self-determination, the report said. The VC believed that a volkstaat should form part of South Africa in a federal structure, while the CP favoured a sovereign secessionist state. The NP and the ANC agreed that negotiations should continue while the PAC was the only party to oppose the principle of self-determination.<sup>104</sup> [<sup>104</sup> *Ibid*]

## **Public Protector**

In June 1995 a joint sitting of both houses of Parliament voted to appoint Mr Selby Baqwa as South Africa's first public protector, with only the NP opposing his appointment, because it felt he was too closely aligned to the ANC. The role of public protector affords Mr Baqwa exceptional powers of access, subpoena and seizure without hindrance, even from the president (see *Public protector* under *Human Rights Review* below).<sup>105</sup> [<sup>105</sup> *Financial Mail* 14 July 1995]

## **PROVINCIAL GOVERNMENT**

### **Changes to Provincial Powers**

The extent of the powers and functions to be accorded to the provinces was one of the more contentious issues in the drafting of the final constitution (see *Significant developments in the drafting process* above). The enactment of the Remuneration of Traditional Leaders Bill removed the provinces' powers of remunerating traditional chiefs and gave them to the national government instead (see *Amendments to*

*the Transitional Constitution* above). The Constitution of the Republic of South Africa Second Amendment Act of 1995 removed from the provinces the power to determine the remuneration of provincial premiers and MECs (see *Amendments to the Transitional Constitution* above).

Mr Peter Leon, a member of the Gauteng provincial legislature, said in May 1995 that a framework should be created to ensure the final constitution gave provinces wider governing powers. Although his party, the Democratic Party, did not advocate a federal system as suggested by the Inkatha Freedom Party, the provinces should be empowered to exercise certain key delivery powers, which would not be subject to any override from the central government. Provinces should, for example, decide on the management and provision of services such as nontertiary education, health, housing and local government. Central government and the provinces should jointly manage other sectors which promote regional economic growth such as agriculture, finance, the police, and trade and industry, Mr Leon said.<sup>106</sup> [<sup>106</sup> *Sowetan* 26 May 1995]

## The Drafting of Provincial Constitutions

### Kwazulu/Natal

In October 1995 the Inkatha Freedom Party (IFP) submitted a draft constitutional text, *The Constitution of the Province of the Kingdom of KwaZulu/ Natal*, to the provincial legislature. The draft called inter alia for the ‘Kingdom of KwaZulu/Natal’ to be a ‘federate’ province of the Republic of South Africa and said that the kingdom would recognise its obligations towards the republic and the other provinces insofar as this did not infringe upon the rights, powers and liberties guaranteed by the provincial constitution. The kingdom, with Ulundi as its capital, would have an independent judiciary, its own constitutional court and its own militia.<sup>107</sup> [<sup>107</sup> Inkatha Freedom Party draft constitutional text, *The Constitution of the Province of the Kingdom of KwaZulu/Natal*, 7 October 1995]

The draft constitution provided for separate citizenship for residents of the province as well as a Zulu monarch without executive powers. According to the document, provision was made for the division of KwaZulu/ Natal into regions—each with a regional council and a regional executive—with powers over a range of activities including local police, housing, health, public education and public works. Regional councils would have elected members but chiefs within the region would be entitled ex officio to membership of these councils.<sup>108</sup> [<sup>108</sup> *Ibid*]

The monarch, in consultation with the premier, could declare a state of emergency in the province. Provision was made for a provincial legislature consisting of 200 seats, 100 of which would be allocated to representatives of constituencies while the remainder would be allocated on a party list system.

The king was given power to veto any legislative proposal. Such legislative proposal then had to be returned to the legislature with a note from the king explaining his reasons for vetoing it. His veto could, however, be overridden by an ‘absolute majority’ of the members of the legislature. The king could

appoint a premier, who did not have to be a member of the legislature. Provision was also made for unelected people to become ‘ministers’ and ‘deputy ministers’.<sup>109</sup> [<sup>109</sup> Ibid]

The African National Congress (ANC) in KwaZulu/Natal also presented its constitutional proposals in October 1995. The ANC proposals called, inter alia, for the province to be known as KwaZulu/Natal or Thukela, with Pietermaritzburg as its capital. The province would be an ‘inexorable’ part of South Africa and would work with the central government, other provinces and local governments. The ANC draft proposed maintaining the 81-seat legislature with half the members coming from constituencies and the other half from party lists.<sup>110</sup> [<sup>110</sup> *The Natal Witness* 24 October 1995]

The ANC proposals provided for one common South African citizenship. The provincial constitution would be subordinate to the national constitution and the Zulu monarch would have powers over traditional affairs and appoint all chiefs in the province.<sup>111</sup> [<sup>111</sup> *Beeld* 24 October 1995]

In December 1995 the IFP and the National Party (NP) reached agreement on a draft constitution for the province. In terms of the agreement the IFP accepted that a provincial constitution had to be in line with the national constitution and should be certified by the Constitutional Court. The IFP also dropped its demands for a provincial militia, an independent provincial judiciary and a provincial constitutional court.<sup>112</sup> [<sup>112</sup> *The Citizen* 13 December 1995] The agreement said that the Zulu king would be the monarch of the Zulu nation only rather than the whole of KwaZulu/Natal.<sup>113</sup> [<sup>113</sup> *Business Day* 15 December 1995]

The ANC, however, rejected this draft, saying that the agreement, which was struck during bilateral meetings between the IFP and the NP, had excluded the views of other parties.<sup>114</sup> [<sup>114</sup> *Sowetan* 13 December 1995]

At the time of writing, constitutional negotiations were still in progress. All parties (including the ANC) had agreed that a ‘service’ be established to protect ‘persons and property’ as opposed to the IFP’s earlier proposal for a provincial militia. One of the outstanding issues, however, was the ANC’s insistence that the provincial constitution provide for the government of provincial unity to continue until 1999. The IFP insisted that after the adoption of the provincial constitution the formation of coalitions should be voluntary.<sup>115</sup> [<sup>115</sup> *Business Day* 30 January 1996]

## Western Cape

A member of the Western Cape provincial legislature, Mr Cecil Herandien of the NP, said in November 1995 that the Western Cape would have its own constitution by mid-March 1996 and that political parties had been given until the end of November 1995 to make submissions for a draft constitution.<sup>116</sup> [<sup>116</sup> *Sowetan* 21 November 1995] The draft constitution had not been drawn up at the time of writing.<sup>117</sup> [<sup>117</sup> Telephonic conversation with Mr Danie du Plessis, acting secretary of Parliament, 22 February 1996]

## Provincial Governments

### Eastern Cape

#### **Statutory Bodies**

##### *House of Traditional Leaders*

The House of Traditional Leaders Act (Eastern Cape), providing for the establishment of a House of Traditional Leaders in the province, was passed in March 1995. The house would comprise 20 members nominated by traditional authorities, serving for a maximum of five years.<sup>118</sup> [<sup>118</sup> Province of the Eastern Cape, *Provincial Gazette* no 46, 27 March 1995]

#### **Boundary Disputes**

In September 1995 the African National Congress (ANC) in the Eastern Cape provincial legislature expressed support for the Eastern Cape's claim to the East Griqualand area of KwaZulu/Natal (Kokstad, Matatiele and Mount Currie) (see also 1994/95 Survey, p356).<sup>119</sup> [<sup>119</sup> *Daily Dispatch* 12 September 1995] Both KwaZulu/Natal and the Eastern Cape had laid claim to the area, which resulted in the appointment on 3rd June 1995 of an official commission of inquiry, headed by Mr Justice J J Trengrove, to investigate the matter.<sup>120</sup> [<sup>120</sup> *Ibid*] The issue had not been resolved at the time of writing.

### Free State

#### **Legislation**

The Delegation of Functions Act, passed in the Free State legislature in September 1994, empowered MECs to delegate certain functions to employees within their departments.<sup>121</sup> [<sup>121</sup> Orange Free State Province, *Provincial Gazette* no 37, 30 September 1994] In terms of the Payment of Members of the Provincial Legislature Act, passed in October 1994, the premier was empowered to determine the remuneration and allowances of MECs and office-bearers in the province in accordance with the recommendations of the national Commission on the Remuneration of Representatives referred to in section 207 of the transitional constitution.<sup>122</sup> [<sup>122</sup> *Ibid*, no 45, 17 October 1994]

The Constitution of the Republic of South Africa Amendment Act of 1995 recognised the name change of the Orange Free State to the Free State.

#### **Statutory Bodies**

##### *Provincial Service Commission*

The Provincial Service Commission Act, passed in August 1994, provided for the establishment of a Provincial Service Commission in the Free State. The number of members on the commission, each of whom would serve for a maximum of three years, would be determined by the premier in the *Provincial Gazette* on an irregular basis.<sup>123</sup> [<sup>123</sup> Ibid, no 27, 18 August 1994]

### *House of Traditional Leaders*

The House of Traditional Leaders Act, which provided for the establishment of a House of Traditional Leaders in the province, was passed in October 1994. The house would comprise 15 members to be nominated by traditional authorities and to serve for a maximum period of five years (the functions of the house were specified in the transitional constitution).<sup>124</sup> [<sup>124</sup> Ibid, no 44, 17 October 1994]

## **Gauteng**

### ***Constitutional Developments***

In January 1995 the Gauteng legislature approved in principle a draft of the Public Protector Bill, which aimed to facilitate greater transparency in the provincial government. The bill would give the public access to an independent body which would deal with constitutional issues such as the abuse of power in the provincial legislature.<sup>125</sup> [<sup>125</sup> *The Citizen* 13 January 1995] The bill was subsequently withdrawn pending the adoption of the final national constitution.

In February 1995 the Gauteng legislature approved a motion declaring 11 official languages in the province. However, four working languages—Afrikaans, English, Northern Sotho and Zulu—would be used when draft legislation was published for comment in *Government Gazette* notices and in recording proceedings of the legislature. The public would be permitted to use any one of the 11 languages in its dealings with Gauteng government departments and would be able to obtain translations of documents in any official language. Any of the 11 languages could be used in the legislature, interpretation services would be established and the *Hansard* would become a single-edition, multilingual document.<sup>126</sup> [<sup>126</sup> *The Star* 22 February 1995]

The Powers, Privileges and Immunities of the Provincial Legislature Act, which guaranteed the independence of the Gauteng legislature and recognised the right of freedom of speech and debate within the legislature, was passed in March 1995. According to the act, no legal action could be instituted against any member for anything said in the legislature or in a committee. The act, however, empowered the speaker of the legislature to impose extrajudicial punishments on MPLs who abused this privilege. The act also provided that the legislature could compel any person to give evidence before it and its committees.<sup>127</sup> [<sup>127</sup> *The Star* 6 March 1995; The Province of PWV, *Provincial Gazette Extraordinary* no 20, 31 March 1995]

The Constitution of the Republic of South Africa Amendment Act of 1995 recognised the name change of the Pretoria-Witwatersrand-Vereeniging province to Gauteng.<sup>128</sup> [<sup>128</sup> *The Citizen* 27 June 1995]

## **Statutory Bodies**

### *Provincial Service Commission*

The Provincial Service Commission Act (Pretoria-Witwatersrand-Vereeniging), which provided for the establishment of a three-member Provincial Service Commission, was passed in December 1994.

Functions of the commission included the following:<sup>129</sup> [<sup>129</sup> The Province of PWV, *Provincial Gazette Extraordinary* no 5067, 14 December 1994]

- the establishment and maintenance of a developmental, competent, broadly representative and nonpartisan public service;
- the fostering of an ethos of equity, administrative accountability, openness and public participation in public policy making;
- the promotion of economical and sustainable management of public resources;
- the promotion of an equitable labour relations environment; and
- the facilitation of adherence to norms, standards and policies laid down by national legislation.

According to the act, the commissioners would be appointed by the premier for a five-year period. The commissioner would be empowered to make recommendations and conduct inquiries with regard to the establishment and organisation of provincial departments (including appointments, promotions and dismissals of public servants within these departments). The Provincial Service Commission for Gauteng was established on 6th March 1995.<sup>130</sup> [<sup>130</sup> *Ibid*; *The Citizen* 7 March 1995]

## **Boundary Disputes**

The Eastern Transvaal demarcation committee, formed to resolve the issue of the possible transfer of the former homeland of KwaNdebele and the adjoining districts of Moretele 2 and Moutse from the then Eastern Transvaal into Gauteng, said in February 1995 that 99% of people living in communities in these areas who had been consulted were in favour of the transfer.<sup>131</sup> [<sup>131</sup> *The Citizen* 16 February 1995] In June 1995 about 8 000 residents from these areas marched to the Union Buildings in Pretoria demanding their incorporation into Gauteng by 27th June.<sup>132</sup> [<sup>132</sup> *Beeld* 13 June 1995] The incorporation, however, did not materialise.

In August 1995 the Pro-Gauteng Co-ordinating Committee launched a campaign supporting the incorporation and encouraging residents of the area to show their support through stayaways and consumer boycotts. The committee argued that the former homeland was geographically closer to Gauteng than to the Eastern Transvaal (now Mpumalanga) and that most people in the region worked in Gauteng.<sup>133</sup> [<sup>133</sup> *Sowetan* 3, 7 August 1995]

The deputy minister for provincial affairs and constitutional development, Mr Mohammed Valli Moosa; the premier of Gauteng, Mr Tokyo Sexwale; the premier of the Northern Province, Mr Ngoako Ramatlhodi; and the premier of Mpumalanga, Mr Mathews Phosa, agreed at a meeting in August 1995 that the disputed border areas would remain in Mpumalanga, while the administration of certain essential services (such as health and transport) for residents in those areas would be transferred to Gauteng.<sup>134</sup> [<sup>134</sup> *Sowetan* 3 August 1995, *The Citizen* 8 August 1995, *Business Day* 11 October 1995]

## **Kwazulu/Natal**

### ***Constitutional Developments***

In July 1995 the MEC for traditional and environmental affairs of KwaZulu/ Natal, Mr Nyanga Ngubane, tabled two bills in the provincial legislature, which would prevent traditional leaders from receiving payment from central government. The KwaZulu/Natal Amakhosi and Iziphakanyiswa Amendment Bill and the KwaZulu/Natal Amendment Bill on the Payment of Salaries, Allowances and Other Privileges to the Ingonyama were passed by the provincial executive council despite opposition from the ANC's three provincial MECs.<sup>135</sup> [<sup>135</sup> *Sowetan* 10, 21 July 1995]

The Democratic Party (DP) referred the bills to the Constitutional Court in December 1995. At the time of writing, the outcome of the hearing was pending.<sup>136</sup> [<sup>136</sup> Telephonic conversation with a clerk of the Constitutional Court, 21 February 1996] The bills were in direct conflict with the national Remuneration of Traditional Leaders Act of 1995, which allows for traditional leaders to be paid by the central government.<sup>137</sup> [<sup>137</sup> *Sowetan* 21 July 1995]

See *The drafting of provincial constitutions* above.

### ***Boundary Disputes***

In December 1995 a spokesman for the Committee for the Reincorporation of Piet Retief into KwaZulu/ Natal, Mr Alson Hlatshwayo, said that Piet Retief (Mpumalanga) and surrounding communities demanded reincorporation into KwaZulu/Natal. The residents of these areas wanted a referendum on the matter, he said.<sup>138</sup> [<sup>138</sup> *The Natal Witness* 19 December 1995] The matter had not been resolved at the time of writing.



## **Mpumalanga**

### ***Statutory Bodies***

#### *House of Traditional Leaders*

The House of Traditional Leaders in Mpumalanga was established on 12th April 1995. At the inauguration Mr Phosa said that traditional leaders were ‘above politics’ and served in an advisory capacity in the house. He added, however, that the Eastern Transvaal House of Traditional Leaders Act of 1994 empowered him as premier to take the final decisions.<sup>139</sup> [<sup>139</sup> *The Citizen* 13 April 1995]

### ***Boundary Disputes***

The MEC for local government in Mpumalanga, Mr January Masilela, said in August 1995 that the borders proclaimed between Mpumalanga and the Northern Province in the transitional constitution had split certain districts formerly in the Eastern Transvaal into two (for example, rural areas adjoining the Mpumalanga towns of Burgersfort, Graskop, Ohrigstad and Steelpoort were now part of the Northern Province).<sup>140</sup> [<sup>140</sup> *Ibid* 4 August 1995]

At a meeting held between Mr Moosa, Mr Sexwale, Mr Ramatlhodi and Mr Phosa later in the same month it was agreed that Groblersdal and Bushbuckridge (comprising districts of the former homelands of Gazankulu and Lebowa) would be transferred to Mpumalanga (most residents in those regions were said to be in favour of the transfer). Although Mr Ramatlhodi and Mr Phosa had agreed to the transfer in September 1994, a complex constitutional process still had to be followed.<sup>141</sup> [<sup>141</sup> *Mail and Guardian* 12 May 1995, *The Citizen* 4 August 1995]

In November 1995 Mr Phosa said that Groblersdal and Marble Hall would be ceded to the Northern Province, owing to a lack of economically active centres in the province (according to Mr Phosa, the two towns would help to make the Northern Province’s economy more viable). However, the Mpumalanga legislature withdrew its decision later in the same month following a march on the legislature in Nelspruit by residents of towns opposing the transfer.<sup>142</sup> [<sup>142</sup> *The Citizen* 29 November 1995]

See *Gauteng* and *KwaZulu/Natal* above.

## **North-West**

### ***Statutory Bodies***

#### *House of Traditional Leaders*

In March 1995 the House of Traditional Leaders for the North-West province was inaugurated. It was set up in terms of the House of Traditional Leaders for the Province of North-West Act of 1994 and comprised 24 members, with a mainly advisory role. Members would be empowered to consider and comment on any draft legislation of the provincial legislature dealing with indigenous laws and to make proposals on various tribal matters.<sup>143</sup> [<sup>143</sup> *Sowetan* 28 March 1995; North-West, *Provincial Gazette* no 74, 21 July 1995] During the inauguration the premier of the province, Mr Popo Molefe, urged traditional leaders to embrace civic organisations so as to end hostilities between themselves and these groups. He also said that traditional leaders should be ‘above politics’.<sup>144</sup> [<sup>144</sup> *Sowetan* 28 March 1995]

## ***Boundary Disputes***

The North-West and Northern Cape legislatures set up an interprovincial task team in February 1995 in an attempt to resolve the dispute over the incorporation of Kuruman and Taung into one of the provinces. Following the establishment of the task team, residents in the areas, who were divided on the issue, agreed to stop their protest campaigns.<sup>145</sup> [<sup>145</sup> *The Star* 7 February 1995] In October 1995 the North-West legislature requested that the president, Mr Nelson Mandela, set up a commission to investigate the views of the communities living in the disputed border areas.<sup>146</sup> [<sup>146</sup> *The Citizen* 20 October 1995]

## **Northern Cape**

### ***Statutory Bodies***

#### *Public Protector*

In February 1995 the Northern Cape published the Northern Cape Provincial Public Protector Law, which, once passed by the legislature, would provide for the establishment of a provincial public protector for the Northern Cape. According to the bill, the provincial public protector would be appointed by the premier in consultation with the national public protector, provided the appointment was confirmed by a majority of at least two thirds of all the members of the legislature. Unless the final constitution provided otherwise the provincial public protector would hold office for a period of seven years.

The bill made provision for the public protector to be ‘independent and impartial’, exercising his powers and functions subject only to the constitution and the law.<sup>147</sup> [<sup>147</sup> The Province of the Northern Cape, *Provincial Gazette Extraordinary* no 41, 8 February 1995]

## ***Boundary Disputes***

See *North-West* above.

## **Northern Province**

### ***Statutory Bodies***

#### *House of Traditional Leaders*

In September 1995 a meeting of Tsonga-Shangaan and Venda traditional leaders decided to boycott the process aimed at establishing a house of traditional leaders in the Northern Province unless the provincial government acceded to their demands for 'equal representation'. The provincial government had offered 19 seats to Pedi traditional leaders while TsongaShangaan and Venda traditional leaders had been offered 11 and ten seats respectively.<sup>148</sup> [<sup>148</sup> *Sowetan* 27 September 1995]

The commissioner for tribal authorities in the province, Mr Benny Boshielo, said that more seats had been allocated to the Pedi chiefs because there were 130 of them while there were only 33 Tsonga-Shangaan chiefs and 28 Venda chiefs.

This explanation was, however, rejected by the Venda and TsongaShangaan chiefs, who maintained that chiefs were the custodians of culture and that the different cultures were equal.<sup>149</sup> [<sup>149</sup> *Ibid*] The matter had not been resolved at the time of writing.

### ***Boundary Disputes***

See *Mpumalanga* above.

## **Western Cape**

No information was available at the time of writing.

## **METROPOLITAN AND LOCAL GOVERNMENT**

### **Policy**

#### **Government**

In November 1995, after the local government elections, the deputy director general for provincial affairs and constitutional development, Mr Andrew Borraine, said that the government planned to strengthen local authorities. The stabilisation of local government finances was the biggest issue facing the councils. Each council would have to prepare a budget for 1996 reflecting its new nonracial constituency. This would mean moving away from 'costly capital projects' to 'basic service delivery', he said.<sup>150</sup> [<sup>150</sup> *Business Day* 9 November 1995]

In addition to restoring a payments regime for services, councils would have to move towards economic tariffs to ensure that service delivery was sustained. Differential tariffs could be introduced to ensure 'lifeline' services for the poor. Mr Boraine said that new legislation would be enacted to replace the Local Government Transition Act of 1993.<sup>151</sup> [<sup>151</sup> Ibid]

Other features of the plan were:<sup>152</sup> [<sup>152</sup> Ibid]

- the final integration and rationalisation of formerly separate administrations;
- a 'more legitimate' municipal labour relations system;
- capacity building in the 200 new councils where local authorities did not exist before; and
- the creation of a single national body to represent organised local government in dealings with the provinces and central government.

## Legislation

### **Constitution of the Republic of South Africa Second Amendment Act of 1995**

The Constitution of the Republic of South Africa Second Amendment Act of 1995, gazetted in September 1995, repealed section 179(1) of the principal act, which directed that the first local government elections after the commencement of the act be held on the same day nationally. The amendment made possible the postponement of elections in parts of the country, such as KwaZulu/Natal and the Western Cape, where demarcation and other disputes had delayed preparations for the elections (see *Election date* below).<sup>153</sup> [<sup>153</sup> Constitution of the Republic of South Africa Second Amendment Act of 1995, *Government Gazette* no 16690, 20 September 1995]

Whereas the transitional constitution entitled all traditional leaders ex officio to become members of the transitional councils in the areas in which they resided, the amendment added a proviso which said that traditional leaders had to be identified in a manner prescribed by the president by proclamation in the *Government Gazette*, after he had consulted with the Council of Traditional Leaders or if this council is not yet in existence, any provincial house of traditional leaders (see also *Amendments to the Transitional Constitution* above).<sup>154</sup> [<sup>154</sup> Ibid]

Furthermore, the transitional constitution was amended so as to allow people employed by the state to stand as candidates in the elections. The amendment act provided further that until 31st March 1996 local governments could be restructured in accordance with the Local Government Transition Act of 1993. Restructuring after that date had to take place in accordance with the provisions of the transitional constitution. Previously local governments could have been restructured after the first local government

elections had been held.

Provision was also made for wards to be represented by more than one councillor provided that all wards in a council selecting this option were represented by the same number of councillors.<sup>155</sup> [<sup>155</sup> Ibid]

The African Christian Democratic Party, the Democratic Party, the Freedom Front (FF) and the Pan-Africanist Congress voted against the bill while the Inkatha Freedom Party (IFP) walked out of the parliamentary chamber in protest. The same legislation had been voted upon a week earlier but the necessary two-thirds majority had not been obtained. The rules of Parliament, which stated that a bill could not be voted on twice in the same session, had been suspended so that the bill could be reintroduced a week later. The IFP's parliamentary whip, Mr Koos van der Merwe, accused the African National Congress of changing the rules of Parliament in order to 'trample on the constitution'.<sup>156</sup> [<sup>156</sup> *The Citizen* 13 September 1995]

## **Local Government Transition Act Amendment Act of 1995**

The Local Government Transition Act Amendment Act of 1995, gazetted in September 1995, amended the principal act so as to provide that it would not be necessary for members of a transitional council's executive committee to be elected according to a system of proportional representation during the pre-interim phase (before elections). The interim phase would start after the elections and would end at such time as new legislation governing local government had been enacted by a competent authority.<sup>157</sup> [<sup>157</sup>

Local Government Transition Act Amendment Act of 1995, *Government Gazette* no 16692, 20 September 1995] This provision was added following a successful court bid by a councillor in the Johannesburg Transitional Metropolitan Council, Ms Frances Kendall (then of the Federal Party), to have the composition of that council's executive committee changed on the grounds that it had not been elected on the basis of proportional representation as directed by the act.<sup>158</sup> [<sup>158</sup> *The Citizen* 9 September 1995]

Provision was also made in the amending act (as also in the amendments to the transitional constitution —see *Constitution of the Republic of South Africa Second Amendment Act of 1995* above) for wards to be represented by more than one councillor provided that all wards in a council selecting this option were represented by the same number of councillors. The amendment act also made provision for state employees to stand as candidates in the local government elections.

The amendment act granted the minister for provincial affairs and constitutional development the right to postpone elections for particular councils. It, however, stipulated that if an election was not held before 31st March 1996 or the minister had reason to believe that an election would not be held before then, all the powers vested in the MEC for local government in that area regarding such councils would be vested in the minister. Furthermore, such councils would be dissolved from 31st March 1996 and their duties and powers would be exercised by their chief executive officers or by ministerial appointees until such time as elections were held.<sup>159</sup> [<sup>159</sup> Local Government Transition Act Amendment Act of 1995, *Government Gazette* no 16692, 20 September 1995]

## Local Government Transition Act Second Amendment Act of 1995

The Local Government Transition Act Second Amendment Act of 1995, gazetted in October 1995, removed certain powers over local councils from the provinces to the central government. The amendment provided for the principal act to apply throughout the country (including those areas under the jurisdiction of chiefs).

Whereas the principal act provided for members of a provincial committee for local government to hold office at ‘the pleasure of the executive council of a provincial government’, the amending legislation provided for them to hold office at the ‘pleasure’ of the minister for provincial affairs and constitutional development. The amending act also removed the power of the executive council of a provincial government to appoint people to fill vacated positions on a provincial committee for local government and provided, instead, for the minister, after consultation with the minister of justice and the premier of the province concerned, to appoint such replacements.<sup>160</sup> [<sup>160</sup> Local Government Transition Act Second Amendment Act of 1995, *Government Gazette* no 16789, 20 October 1995] The changes were made after a successful application to the Constitutional Court, by the government of the Western Cape, to have two presidential proclamations to this effect declared unconstitutional (see *Disputes regarding demarcation of boundaries* below).

Where the exercise of power or the performance of a duty (or otherwise) by an MEC for local government or a provincial committee for local government had the potential to affect an election negatively, the act provided for at least half the members of a provincial committee to refer such matter to the head of the special electoral court. The act stipulated that the court had to consider such matters and give its decision ‘as soon as practicable’.

The act provided for the establishment of arbitration committees in each of the provinces to decide on the course of action to be followed where agreements could not be reached by a local government negotiating forum on a new system of local government in the pre-interim phase (before the elections).

The major focus of the amendment act, however, was the insertion of a section on rural local government which provided for the establishment of several different local government structures for rural areas (see also *Local government in rural areas* below).<sup>161</sup> [<sup>161</sup> Ibid]

During debate on the bill Senator Ruth Rabinowitz (IFP) told the Senate that her party was opposed to the bill because it summarily removed the competence of a provincial government over the provincial committee dealing with local government. The political message was one of ‘profound mistrust’ in provincial politicians, she added.<sup>162</sup> [<sup>162</sup> *The Citizen* 13 October 1995]

The National Party and the FF also voted against the bill in Parliament.<sup>163</sup> [<sup>163</sup> Ibid]

## Local Government in Rural Areas

The Local Government Transition Act Second Amendment Act of 1995 (see *Local Government Transition Act Second Amendment Act of 1995* above) inserted a section on rural local government into the principal act. This section provides, inter alia, for the establishment of transitional representative councils in rural areas consisting of members elected by proportional representation and, if the MEC for local government considers it desirable, a maximum of 20% of members nominated by interest groups recognised by him or her. At least one member has to be nominated by each interest group but no single group can nominate more than 10% of the total number of members (elected and nominated) to the council. At least 80% of the total number of councillors, however, have to be elected.<sup>164</sup> [<sup>164</sup> Local Government Transition Act Second Amendment Act of 1995, *Government Gazette* no 16789, 20 October 1995]

Transitional rural councils for rural areas of local government not falling within the area of jurisdiction of a transitional metropolitan council or a transitional local council will also be established.

The act also provides for the division of provinces into areas of jurisdiction of transitional metropolitan councils (if any) and of district councils. District councils are to be overarching councils consisting of members of transitional local councils (urban), transitional representative councils (rural) and transitional rural councils (rural) within its area of jurisdiction. Where the MEC for local government thinks it appropriate, members nominated by interest groups will also be represented on the district councils. The formula for elected and nominated representatives is to be the same as that for transitional representative councils.

Where an area remains uncovered by any of these structures, representatives have to be elected and nominated to district councils in accordance with the formula applicable to district councils and according to a ratio based on the number of inhabitants in the areas of the district council to the number in the remaining area.<sup>165</sup> [<sup>165</sup> Ibid]

In October 1995 the South African Agricultural Union (SAAU), which claimed to represent about 100 000 white farmers, threatened to boycott local government elections and withhold service and other levies if they were not granted 40% of the seats on rural councils. The executive director of the SAAU, Mr Jack Raath, told the parliamentary portfolio committee on provincial and constitutional affairs that the model for rural representation contained in the Local Government Transition Act was totally unacceptable to both farmers and traditional leaders. The SAAU argued that farmers paid the bulk of rural levies and should, therefore, be entitled to much greater representation than other groups.<sup>166</sup> [<sup>166</sup> *The Star* 2 October 1995] (The act made provision for one group to have no more than 10% of the nominated seats on a transitional rural council.)

The African National Congress (ANC) said that the SAAU's demands would entrench white farmers in the transitional rural councils.<sup>167</sup> [<sup>167</sup> Ibid 12 October 1995] The committee decided against granting farmers more than 10% of the nominated seats on transitional rural councils.<sup>168</sup> [<sup>168</sup> *The Citizen* 12 October 1995]

In November 1995 the president, Mr Nelson Mandela, met white farmers from Gauteng, the Free State, Mpumalanga, the Northern Province and the North-West—many of whom boycotted the local elections—to discuss their grievances on local government. The president of the SAAU, Mr Dries Bruwer, said that an agreement had to be reached to ensure fair representation of the farming community on local government structures. He added that his union had already made provision for the establishment of its own structures which would serve their needs if a suitable agreement was not reached.<sup>169</sup> [<sup>169</sup> *Business Day* 6 November 1995] No agreement had been reached at the time of writing and the SAAU had not established its own local government structures.

## **Traditional Leaders and Local Government**

In March 1995 the Congress of Traditional Leaders of South Africa (Contralesa) called for the role, powers and functions of traditional leaders in local government to be expanded.<sup>170</sup> [<sup>170</sup> *The Citizen* 20 March 1995]

Whereas the transitional constitution entitled all traditional leaders to become ex officio members of a transitional council in the areas in which they resided, the Constitution of the Republic of South Africa Second Amendment Act of 1995 added a proviso which said that traditional leaders had to be identified in a manner prescribed by the president by proclamation in the *Government Gazette*, after he had consulted with the Council of Traditional Leaders or, if that did not exist, with any of the provincial houses already in existence.<sup>171</sup> [<sup>171</sup> Constitution of the Republic of South Africa Second Amendment Act of 1995, *Government Gazette* no 16690, 20 September 1995]

In August the president of Contralesa, Chief Pathekile Holomisa MP (ANC), declared that his organisation was considering taking the central government to court because it was unhappy with the local government proclamation issued by Mr Mandela on 30th June 1995, which declared, inter alia, that the Local Government Transition Act was applicable to the whole country, including areas under the jurisdiction of chiefs.<sup>172</sup> [<sup>172</sup> *The Citizen* 4 August 1995] He said further that the constitutional amendments that gave the president the power to decide which traditional leaders could sit on a council in an ex officio capacity was a return to the days when the government could ‘choose between good and bad chiefs’.<sup>173</sup> [<sup>173</sup> *Sunday Tribune* 15 October 1995] The organisation later dropped its intended legal action.<sup>174</sup> [<sup>174</sup> *Business Day* 26 October 1995]

## **Disputes Regarding Demarcation of Boundaries**

### **Gauteng**

In June 1995 the MEC for local government and housing in Gauteng, Mr Dan Mofokeng, referred a dispute over the demarcation of metropolitan substructures in the Greater Johannesburg Transitional Metropolitan Council to the special electoral court after the provincial committee on local government



failed to come to a decision regarding an appropriate demarcation.<sup>175</sup> [<sup>175</sup> *The Citizen* 21 June 1995]

In August 1995 the special electoral court ruled in favour of the demarcation of the area of the Greater Johannesburg Transitional Metropolitan Council into four substructures. The chairman of the court, Mr Justice J Smalberger, said that the model—favoured by the premier of Gauteng and the African National Congress—was chosen because it seemed better balanced than the other two models.<sup>176</sup> [<sup>176</sup> *Ibid* 5 August 1995] The National Party (NP) advocated the division of the area into three substructures while the Democratic Party (DP) and other smaller parties supported the existing seven substructures.<sup>177</sup> [<sup>177</sup> *Ibid*]

The DP said that it was ‘dismayed’ at the decision as the four large cities which had been created had meant that local government would be far removed from the ordinary voter.<sup>178</sup> [<sup>178</sup> *Ibid*]

The NP said that it accepted the court’s decision even though it held that its proposals were the best.<sup>179</sup> [<sup>179</sup> *Ibid*]

## **Kwazulu/Natal**

In November 1995 the special electoral court gave its ruling on local government boundary disputes in KwaZulu/Natal. The disagreements concerned the role of tribal authorities in local government and a demarcation dispute related to the inclusion in town and city councils of areas under tribal jurisdiction adjacent to them. The Inkatha Freedom Party argued that the tribal areas adjoining Durban, Empangeni, Ulundi, Margate, Port Shepstone, Richards Bay, Mandini and Mtubatuba should not form part of the transitional local councils for those areas. Instead, the party argued for the maintenance of separate tribal authorities for such tribal areas.<sup>180</sup> [<sup>180</sup> *New Nation* 24 November 1995]

The ANC argued that the areas were all ‘significantly urbanised’ despite the fact that they were under tribal control. The party favoured the inclusion of these tribal areas into the urban areas.<sup>181</sup> [<sup>181</sup> *The Citizen* 29 November 1994]

The court ruled that the tribal areas should be excluded from these urban councils largely because there had been insufficient consultation with the relevant tribal authorities. Mr Justice Smalberger said that the court had to take cognisance of the fact that the affected traditional authorities and the House of Traditional Leaders in KwaZulu/Natal had opposed incorporation.

He added, however, that the court had acknowledged that many residents in the affected areas had strong economic ties with Durban and therefore urged the KwaZulu/Natal government to consult those traditional authorities so that the areas could be included in the urban councils at a later date.<sup>182</sup> [<sup>182</sup> *Ibid*]

Mr Justice Smalberger said that every effort should be made to hold the local government elections on 27th March 1996 in the province. The minister for provincial affairs and constitutional development, Mr Roelf Meyer, subsequently announced that elections would be held on 29th May 1996 in the

province.<sup>183</sup> [<sup>183</sup> *The Natal Witness* 8 December 1995]

The ANC's spokesman on local government in KwaZulu/Natal, Mr Mike Sutcliffe, said that the ruling was a 'travesty of justice' and that the ANC 'rejected with contempt' the fact that the 'most marginalised' communities had been 'denied democracy'.<sup>184</sup> [<sup>184</sup> *Business Day* 29 November 1995]

The MEC for local government and housing in KwaZulu/Natal, Mr Peter Miller, said the judgement had paved the way for a local government model that would accommodate 'modern democratic ideals and traditional communal ideals'. He acknowledged that 'urban pressures' had resulted in legitimate claims for incorporation of some of the tribal areas concerned and gave the assurance that consultations would take place in such areas.<sup>185</sup> [<sup>185</sup> *Ibid*]

## Western Cape

In May 1995 the MEC for local government and development planning in the Western Cape, Mr Peter Marais, rejected a recommendation by the demarcation board for the Western Cape that Khayelitsha (a largely ANC-supporting area) be incorporated into the Tygerberg metropolitan substructure (a largely NP-supporting area). Mr Marais wanted the area incorporated into the Cape Town substructure instead.<sup>186</sup> [<sup>186</sup> *Cape Times* 24 May 1995]

The composition of the province's multiparty provincial committee on local government, which was legally empowered to vet the demarcation recommendations, was changed by Mr Marais so that two ANC-aligned members of the committee were replaced by two NP-aligned members, giving the NP the numerical advantage in the committee. The reconstituted committee subsequently voted in favour of Mr Marais's decision.<sup>187</sup> [<sup>187</sup> *Ibid*] The ANC in the Western Cape objected to what it said was Mr Marais's 'manipulation' of the boundaries.

In June 1995 the president, Mr Nelson Mandela, signed into law two proclamations which amended the Local Government Transition Act of 1993 retrospectively so as to provide for the minister for provincial affairs and constitutional development, in conjunction with the minister of justice (rather than the MEC charged with local government as was previously provided for), to appoint and replace members of a provincial committee on local government.<sup>188</sup> [<sup>188</sup> *Ibid* 8 June 1995]

Mr Marais then challenged the legality of these proclamations in the Cape of Good Hope Provincial Division of the Supreme Court but the court dismissed his challenge and ruled that the Local Government Transition Act of 1993 had conferred plenary legislative powers on the president which effectively gave him the same power as Parliament itself, thus placing him outside the court's jurisdiction.<sup>189</sup> [<sup>189</sup> *The Citizen* 12 August 1995]

In the same month Mr Marais challenged the constitutionality of the proclamations in the Constitutional Court. The court gave its ruling in September 1995, finding that Mr Mandela's proclamations were

invalid. The court ruled that section 16(a) of the Local Government Transition Act of 1993, which granted the president the power to amend the act by proclamation, was unconstitutional. All proclamations made under that section were therefore declared invalid.<sup>190</sup> [<sup>190</sup> Ibid 23 September 1995]

However, the court found that the effect of its ruling would be the disruption of the functioning of local government structures and the prevention of local government elections scheduled for 1st November 1995. The court, therefore, suspended its ruling and gave Parliament until 25th October 1995 to ‘rectify the defect in the act’ if it wished to do so.<sup>191</sup> [<sup>191</sup> Ibid]

The Local Government Transition Act Second Amendment Act (see *Legislation* above), which incorporated the provisions contained in the proclamations, was passed in October 1995.<sup>192</sup> [<sup>192</sup> Ibid 13 October 1995]

The demarcation dispute was subsequently referred to the special electoral court, which in December 1995 ruled in favour of incorporating Khayelitsha into the Tygerberg metropolitan substructure. The court ordered Mr Marais to implement as a whole the recommendations of the demarcation board, namely that the Cape Town Transitional Metropolitan Council be subdivided into six substructures and that Khayelitsha be incorporated into the Tygerberg substructure. The court found that Mr Marais had rejected the recommendations of the demarcation board (after requesting them to examine the demarcation of the substructures) in favour of his own four-substructure model. The court found it ‘significant’ that Mr Marais failed to advance any positive criteria why his model should be preferred and noted that the demarcation board’s recommendations had more support.<sup>193</sup> [<sup>193</sup> Ibid 6 December 1995]

A joint statement by Mr Marais and the premier of the Western Cape, Mr Hernus Kriel, described the decision as ‘disappointing’. They had accepted the judgement but remained convinced that the demarcation would not be in the best interests of the Cape Town metropole, the statement read.<sup>194</sup> [<sup>194</sup> Ibid] The DP and the ANC in the Western Cape welcomed the court’s decision.<sup>195</sup> [<sup>195</sup> Ibid]

## **Local Government Elections**

In November 1995 the minister for provincial affairs and constitutional development, Mr Roelf Meyer, said that a permanent electoral commission (for all elections) could be established after the Election Task Group, which oversaw the local government elections, had made its final report.<sup>196</sup> [<sup>196</sup> Ibid 22 November 1995]

## **Election Promises**

### ***African National Congress***

In its election manifesto, *A Better Life: Let’s Make It Happen Where We Live*, the African National Congress (ANC) said that it stood for ‘community involvement through elected and effective councils’

to bring about progress in housing programmes and the provision of services at local government level. The ANC added that it would ensure there was democratic local government in rural areas but that this would be implemented ‘with sensitivity for local traditions and structures’. Rural communities would participate fully in determining their ‘own destiny’ and rural women would gain their ‘rightful place’ as local government representatives.<sup>197</sup> [197 ANC local government election manifesto, *A Better Life: Let’s Make It Happen Where We Live*, 1995]

## **Conservative Party**

In October 1995 the secretary general of the Conservative Party (CP), Mr Wouter Hoffman, said that a vote for the CP would be an indication of voters’ support for freedom of the Afrikaner in an independent state. The party, he said, was striving for every ethnic grouping to have its own municipalities. The CP launched a campaign to demand a flat rate for services to all consumers, including those in predominantly white areas.<sup>198</sup> [198 *The Citizen* 30 October 1995]

Mr Hoffman said that the CP strove for the retention of the ‘rightful position of Afrikaans’ in all official proceedings, increased security, the proper control of hawkers, and the preservation of parks and open areas instead of these being swamped by squatters.<sup>199</sup> [199 *Ibid*]

## **Democratic Party**

The Democratic Party (DP) wanted to ensure that power was brought to the communities through a federal government, according to a DP election candidate, Ms Frances Kendall. Decentralised power would ensure increased social equity between rural and urban areas. The federal system would allow parents and teachers to decide on education policies in their own schools, Ms Kendall said.<sup>200</sup> [200 *Business Day* 21 September 1995]

The leader of the DP, Mr Tony Leon, said in October 1995 that the party had a detailed plan to fight crime, which included the introduction of municipal police and better neighbourhood policing. The party wanted to promote economic growth by cutting ‘red tape’ and declaring townships as ‘free-trade zones’ to dramatically boost business and job creation in these areas, he said.<sup>201</sup> [201 *The Citizen* 30 October 1995]

## **Freedom Front**

The Freedom Front (FF) said that it would campaign for Afrikaner interests at local level and use the local government results to bolster its case for its envisaged Afrikaner ‘volkstaat’. The leader of the FF, General Constand Viljoen, said that the party’s plan for local government included equal payment for services by all, affordable rates and taxes, improved safety and security, community councils for specific communities, improved bargaining power for self-determination, effective financial management and control, and the promotion of Christian and family values.<sup>202</sup> [202 *The Star* 29 September 1995]

Gen Viljoen said that his party had a plan for the institution of Afrikaner community councils as the only way out of 'ANC domination'.<sup>203</sup> [<sup>203</sup> *The Citizen* 30 October 1995]

### ***Inkatha Freedom Party***

In its election manifesto the Inkatha Freedom Party (IFP) said that job creation was its first priority and that a team of 'appropriate experts' should be appointed to undertake an analysis of every local economy in order to stimulate business activity. It undertook to deregulate local laws and reduce 'red tape' which inhibited business activities. The party proposed the setting up of a business commission to improve the local business environment and give advice and assistance to small business. Local governments should secure land for use by small business at low or deferred charges. It called for traffic police to be given full crime prevention and criminal arrest powers and proposed that a crime commission be set up in each local authority to monitor and report on criminal activity in the area.<sup>204</sup> [<sup>204</sup> IFP election manifesto, *A manifesto for local government 1995/1996*]

The IFP said that it would seek to increase the influence of local governments over matters such as education and health. Its priorities would be electricity, housing, affordable transport, and water supplies. The IFP said that it was opposed to 'forced modernisation in rural areas which undermined the traditional way of life'.<sup>205</sup> [<sup>205</sup> *Ibid*]

In September 1995 a spokeswoman for the IFP, Ms Bernadette Mausen- baum, said that the party wanted policing to be depoliticised and local and metropolitan police forces to be established as a matter of urgency.<sup>206</sup> [<sup>206</sup> *The Citizen* 18 September 1995]

### ***National Party***

The National Party (NP) election manifesto stated that the party supported the reconstruction and development programme but added that the programme's success depended on sustained economic growth. Economic growth and safety and security were therefore key factors in its policy for local government, the party said.<sup>207</sup> [<sup>207</sup> *Sowetan* 28 September 1995]

A free market and private enterprise would be encouraged. The NP called for a well-equipped and well-paid police force to combat crime and for the introduction of municipal police forces. In addition, the party promised to report back regularly to communities and ensure that the interests of the disabled were taken into account in town planning.

The NP said that senior citizens deserved safety and security in a 'caring environment where services such as health, housing and transport were subsidised'. The enhancement of sporting facilities for all was important, the party added.<sup>208</sup> [<sup>208</sup> *Ibid*]

Furthermore, provision would have to be made for community involvement in decision making through institutions such as ward councils where people in a specific ward could control their own schools and cultural affairs. The party would aim at maintaining existing standards while upgrading standards and facilities where necessary.<sup>209</sup> [<sup>209</sup> *Beeld* 1 September 1995]

## **Pan-Africanist Congress**

In its election manifesto the Pan-Africanist Congress (PAC) called for greater emphasis on preventive health care at local government level and said that every community should have a well-equipped clinic. The organisation said that it would embark on self-help projects to boost job creation at local level and added that wherever possible contracts should be awarded to people in the communities concerned rather than outsiders. It stated that the PAC would work with rural communities to bring water closer to them, improve their access to roads and eliminate unemployment through farming.<sup>210</sup> [<sup>210</sup> PAC local government election manifesto 1995, *We are on the African Side, Which Side Are You On?*]

The PAC said that the status of traditional leaders should be restored to what it was 'before the advent of colonialism' and that powers should not be taken away from them so as to reduce them to ceremonial figures.<sup>211</sup> [<sup>211</sup> *Ibid*]

## **Election Date**

In March 1995 the president, Mr Nelson Mandela, announced that local government elections would be held on 1st November 1995. The day was declared a public holiday.<sup>212</sup> [<sup>212</sup> *The Citizen* 15 March 1995]

Elections were, however, not held on that date in KwaZulu/Natal and parts of the Western Cape. In October 1995 the MEC for local government and housing in KwaZulu/Natal, Mr Peter Miller, announced that elections in the province would be held on 27th March 1996. He added, however, that the election would proceed on this date provided:<sup>213</sup> [<sup>213</sup> *City Press* 15 October 1995]

- the special electoral court had ruled on the outstanding demarcation disputes in the province by mid-November 1995;
- the rural local government model proposed by the KwaZulu/Natal government had been accepted; and
- the provincial committee on local government showed 'total commitment' to its task in the months ahead.

Elections for the Western Cape Transitional Metropolitan Council and the rural areas of the Western Cape were also postponed and rescheduled (see *Disputes regarding demarcation of boundaries* above) and the premier of the Western Cape, Mr Hernus Kriel, said that he would recommend to the central

government that local elections be held on 22nd May 1996.<sup>214</sup> [<sup>214</sup> *Business Day* 6 December 1995]

In November 1995 Mr Meyer said that the government wanted the outstanding elections in KwaZulu/Natal and the Western Cape to be held on the same day. He added, however, that it would only be possible to determine when to hold elections in these areas after the special electoral court had delivered judgement on the disputes.<sup>215</sup> [<sup>215</sup> *The Citizen* 23 November 1995] Mr Meyer subsequently said that the elections would have to be postponed beyond March 1996 and the Local Government Transition Act of 1993 would have to be amended to accommodate this postponement.<sup>216</sup> [<sup>216</sup> *Business Day* 27 November 1995] In December 1995 Mr Meyer announced that elections in KwaZulu/Natal would be held on 29th May 1996. Elections in the Western Cape metropolitan and rural areas would take place on the same date.<sup>217</sup> [<sup>217</sup> *Ibid* 8 December 1995]

## **Voter Registration**

The Election Task Group said that 76,7% (12,72m) of the estimated 16,59m eligible voters (excluding voters in KwaZulu/Natal and parts of the Western Cape) were registered for the elections. About 48,7% (6,2m) of registered voters turned out to vote on the day.<sup>218</sup> [<sup>218</sup> Local Government Task Group Report, *Local Elections Report: National and Provincial Summaries*, 20 March 1996]

## **Registration of Political Parties and Candidates**

The Local Government Transition Act of 1993, together with the election regulations, set out the criteria for the qualification of election candidates and said that anyone who qualified for registration on the voters' roll of a local authority could stand for election to such local authority except where they were:<sup>219</sup> [<sup>219</sup> Constitution of the Republic of South Africa of 1993]

- members of the National Assembly, Senate or a provincial legislature;
- disqualified to be members of Parliament in terms of the transitional constitution;
- disqualified by a competent court;
- indebted to the local authority concerned in respect of matters such as rates, rents and services charges at three o'clock in the afternoon on the day before the election; and
- employed by the local authority concerned or any other local authority. The MEC for local government could, however, exempt such people if satisfied that this was in the 'public interest'.

The electoral regulations stipulated that candidates in ward elections had to have the signatures of at least 2% of the registered voters in the ward in which they were standing.<sup>220</sup> [<sup>220</sup> Local Government Transition

Election Regulations of 1994, *KwaZulu/Natal Provincial Gazette* no 5016, 31 January 1995]

A political party or organisation which registered as such for the elections was required to submit a list of candidates; a distinguishing mark used by the party; the address of the party in the local authority concerned; the constitution of the party; and a deposit determined by the returning officer as a calculation of 1% of the number of voters on the voters' roll, expressed in rands, or the sum of R500, whichever was the greater.<sup>221</sup> [<sup>221</sup> Ibid]

In October 1995 an urgent application to order the returning officer for the Vaal Eastern metropolitan substructure to review the eligibility of candidates who had not paid their rates and service fees was dismissed with costs in the Witwatersrand Local Division of the Supreme Court. Mr Justice J J Goldblatt said evidence from the returning officer was that records from African townships were in such a chaotic state that little could be gained from reviewing such records. The application had been brought by two candidates in the same election.<sup>222</sup> [<sup>222</sup> *The Citizen* 18 October 1995]

In the same month the Transvaal Provincial Division of the Supreme Court in Pretoria reversed the disqualification of ANC candidates in the rural areas of Cullinan (Gauteng) and Hazyview (Mpumalanga). The five ANC candidates in Cullinan were in arrears with their municipal service fees and the seven ANC candidates in the Hazyview area had incorrectly filled in their addresses on their nomination forms.<sup>223</sup> [<sup>223</sup> *Business Day* 25 October 1995]

A total of 272 parties and organisations and some 7400 candidates were registered to contest the elections.<sup>224</sup> [<sup>224</sup> *The Citizen* 13 October 1995, *The Star* 31 October 1995]

## **Areas in Which Local Government Elections Were Delayed**

Local elections were held countrywide on 1st November 1995 except in the following areas:<sup>225</sup> [<sup>225</sup> *Sunday Times* 12 November 1995]

- the whole of KwaZulu/Natal (see *Disputes regarding demarcation of boundaries* above);
- the Cape Town Transitional Metropolitan Council (see *Disputes regarding demarcation of boundaries* above);
- the rural areas of the Western Cape (see *Disputes regarding demarcation of boundaries* above);
- nine rural areas in Gauteng (where the nomination forms of several candidates were incorrectly filled in);
- three rural councils in the Eastern Cape (where the nomination forms of several candidates were



incorrectly filled in); and

- one rural council in the North-West.

In the nine rural areas in Gauteng elections were held on 29th November 1995.<sup>226</sup> [<sup>226</sup> *The Star* 29 November 1995]

## Results

The percentage poll in the 1995 local government elections was 48,7% of the 12,72m registered voters and the highest voter turnout (67,8%) was in the Western Cape.<sup>227</sup> [<sup>227</sup> Local Government Task Group Report, *Local Elections Report: National and Provincial Summaries*, 20 March 1996] Spoilt ballots amounted to 1,65% of the 6,2m votes cast.

A dual system of voting—for a party and a ward-based candidate—operated during the election. Votes were cast for political parties, or organisations registered as political parties for purposes of the election, on the basis of proportional representation. Votes were cast for individual candidates (most of them representing political parties or organisations) on a ward basis.

The ANC won the highest number of the proportional representation votes nationally (68%) and in all the provinces, except in the Western Cape, where the NP won the most proportional representation votes (44,0%) to the ANC's 36,2%.<sup>228</sup> [<sup>228</sup> *Ibid*]

The ANC won the majority (61,73%) of the 7 381 local government seats (proportional representation and ward-based) under contest, while its closest rival, the NP, won 15,74% of these seats.<sup>229</sup> [<sup>229</sup> *Ibid*] The ANC won **outright control** of 61,2% (428) of the councils under contest (699), while the NP won control of 6,9% (48) and the FF of 0,1% (one). The African Christian Democratic Party, CP, DP, IFP and PAC failed to gain control of a single council. Ratepayers' associations gained control of 2,3% (16) of these councils and independents gained control of 2,9% (20) of these councils. Control of 4,7% (33) of these councils went to parties and organisations other than those mentioned above.<sup>230</sup> [<sup>230</sup> *Ibid*] There were no outright winners in 153 councils.

The following table shows the total number of seats (by ward and proportional representation) won by each party in each province:<sup>231</sup> [<sup>231</sup> Local Government Task Group Report, *Local Elections Report: National and Provincial Summaries*, 12 December 1995]

*Total seats (proportional and ward) won by each party in the 1995 local government elections<sup>a</sup>*

Eastern Cape

Free State

Gauteng

Seats

Proportion

Seats

Proportion

Seats

Proportion

ACDP<sup>b</sup>

1

0,06%

0

0,00%

1

0,11%

**ANC**

1 295

77,08%

654

56,38%

503

55,27%

CP

1

0,06%

7

0,60%

3

0,33%

**DP**

12

0,71%

0

0,00%

42

4,62%

FF

3

0,18%

13

1,12%

43

4,73%

**IFP**

0

0,00%

0

0,00%

9

0,99%

NP

115

6,85%

116

10,00%

247

27,14%

**PAC**

13

0,77%

5

0,43%

1

0,11%

Independent

68

4,05%

153

13,19%

11

1,21%

**Ratepayers**

50

2,98%

59

5,09%

23

2,53%

Others

119

7,08%

145

12,50%

25

2,75%

**Vacant**

3

0,18%

8

0,69%

2

0,22%

Total

1 680

100,00%

1 160

100,00%

*Total seats (proportional and ward) won by each party in the 1995 local government elections<sup>a</sup> (continued)*

Mpumalanga

North-West

Northern Cape

Seats

Proportion

Seats

Proportion

Seats

Proportion

ACDP<sup>b</sup>

0

0,00%

0

0,00%

0

0,00%

**ANC**

698

70,65%

382

62,32%

300

46,15%

**CP**

8

0,81%

17

2,77%

3

0,46%

**DP**

2

0,20%

0

0,00%

0

0,00%

FF

32

3,24%

24

3,91%

11

1,69%



**IFP**

3

0,30%

0

0,00%

0

0,00%

NP

116

11,74%

41

6,69%

217

33,39%

**PAC**

2

0,20%

0

0,00%

1

0,15%

**Independent**

60

6,07%

62

10,11%

47

7,23%

**Ratepayers**

14

1,42%

25

4,08%

30

4,62%

**Others**

46

4,66%

56

9,14%

32

4,92%

**Vacant**

7

0,71%

6

0,98%

9

1,39%

Total

988

100,00%

613

100,00%

*Total seats (proportional and ward) won by each party in the 1995 local government elections<sup>a</sup> (continued)*

Northern Province

Western Cape

Total

Seats

Proportion

Seats

Proportion

Seats

Proportion

ACDPb

0

0,00%

0

0,00%

2

0,03%

ANC

418

84,62%

306

34,54%

4 556

61,73%

CP

7

1,42%

0

0,00%

46

0,62%

**DP**

0

0,00%

6

0,68%

62

0,84%

**FF**

12

2,43%

3

0,34%

141

1,91%

**IFP**

0

0,00%

0

0,00%

12

0,16%

NP

18

3,64%

292

32,96%

1 162

15,74%

**PAC**

0

0,00%

4

0,45%

26

0,35%

Independent

27

5,47%

156

17,60%

584

7,91%

**Ratepayers**

8

1,62%

85

9,59%

294

3,98%

Others

4

0,81%

30

3,39%

457

6,19%

**Vacant**

0

0,00%

4

0,45%

39

0,53%

Total

494

100,0%

886

100,0%

7 381

100,0%

a

Proportions may not add up owing to rounding.

b

African Christian Dem

The ANC expressed its satisfaction with the results, claiming that it had consolidated its support and made inroads into the support base of other parties. The party claimed that the results in the Western Cape showed that it had gained support among coloured people in the province.<sup>232</sup> [<sup>232</sup> *Business Day* 3 November 1995]

The deputy leader of the CP, Dr Willie Snyman, said that his party would continue to fight for a 'volkstaat' for Afrikaners despite its bad showing in the elections. He added that the party was convinced that 'all the political forces' had worked together against the CP in the election in order to



undermine its quest for Afrikaner self-rule.<sup>233</sup> [<sup>233</sup> *Beeld* 6 November 1995]

A spokesman for the DP, Mr Jack Bloom, claimed that his party had won back all the old support it had lost to the NP in the 1994 national election and had made extensive gains in areas in which it had not stood traditionally.<sup>234</sup> [<sup>234</sup> *Business Day* 3 November 1995]

The leader of the FF, General Constand Viljoen, said that the election results showed that the party had the support of the majority of Afrikaners in the country.<sup>235</sup> [<sup>235</sup> *Ibid* 8 November 1995]

The deputy president of the PAC, Dr Motsoko Pheko, said his party viewed the outcome of the election as a challenge rather than a defeat and that it would redouble its efforts to market itself. He warned that the electorate should not 'create a monopoly of power for one party'.<sup>236</sup> [<sup>236</sup> *The Citizen* 9 November 1995]

The Congress of Traditional Leaders of South Africa (Contralesa) said that it regarded the local government elections in rural areas as null and void and vowed to oppose newly elected councillors in rural villages. At a meeting in Umtata (Eastern Cape) in November 1995 Contralesa's regional spokesman for the Eastern Cape, Chief Mwelo Nonkonyana, accused certain chiefs of selling out to the ANC and the South African National Civic Organisation and called on Contralesa members not to allow them to govern in their areas.<sup>237</sup> [<sup>237</sup> *Ibid*]

In November 1995 the central government and eight of the nine provincial MECs charged with local government in the provinces (excluding KwaZulu/Natal) decided that the newly elected councils would hold office for between three and five years.<sup>238</sup> [<sup>238</sup> *Ibid* 23 November 1995]

## HUMAN RIGHTS REVIEW

The transitional constitution marked a decisive break with the past in many ways. One of its most important changes was the introduction of a justiciable bill of rights, which is binding on the legislative and executive branches of government. This signalled the end of the Westminster system of parliamentary sovereignty, which enabled Parliament to enact whatever laws it chose.

During the year, progress was made in the drafting of a new bill of rights which will replace the transitional one when the new constitution takes effect. During the drafting process, controversy centred in particular around whether the new bill of rights should have horizontal as well as vertical application (so as to bind citizen to citizen as well as the state to the citizen), and whether it should include socio-economic rights to housing, land, health care, water, food and social security.<sup>239</sup> [<sup>239</sup> See for example, O'Dowd M, 'Wreaking havoc with real rights' in **Frontiers of Freedom** no 7 fourth quarter 1996] These questions had not yet been resolved at the time of writing.

## Enforcement of the Bill of Rights

The judiciary is responsible for enforcing the bill of rights. Any person who alleges a breach of the bill may apply to ‘a competent court of law’ for relief.<sup>240</sup> [240 Section 7(4), Constitution of the Republic of South Africa of 1993] An 11-member Constitutional Court is the court ‘of final instance’ in all matters relating to the interpretation and enforcement of the constitution.<sup>241</sup> [241 Section 98(2), *ibid*] The Constitutional Court may declare any executive action and any law invalid for inconsistency with the bill of rights, and may also require Parliament (or any other competent legislative body) to correct any defect in any law within a period specified by it.<sup>242</sup> [242 Section 98(5), *ibid*]

The Supreme Court has more limited jurisdiction to adjudicate on the bill of rights. It may rule on the constitutionality of any executive action, and also of any law other than an act of Parliament. A constitutional issue outside the jurisdiction of the Supreme Court may be referred to the Constitutional Court for decision.<sup>243</sup> [243 Section 102, *ibid*] An amendment to the transitional constitution, enacted in September 1995, empowers the Supreme Court to grant interim relief—pending a ruling by the Constitutional Court—even if the effect is to suspend an act of Parliament.<sup>244</sup> [244 Section 3, Constitution of the Republic of South Africa Second Amendment Act of 1995]

A magistrate’s court before which any law is challenged for inconsistency with the bill of rights must decide the case in issue as if the law were valid. It may, however, postpone the proceedings to enable the party who alleges invalidity to apply to the Supreme Court for relief. The Supreme Court may then deal with the issue itself (if it falls within its jurisdiction), or refer the question to the Constitutional Court.<sup>245</sup> [245 Section 103, Constitution of the Republic of South Africa of 1993]

Appeal from a decision by the Supreme Court on a constitutional issue lies to the Constitutional Court, and on any other issue to the Appellate Division. The latter has no jurisdiction over matters within the ambit of the Constitutional Court.<sup>246</sup> [246 Section 102, *ibid*]

In practice, most constitutional issues requiring decision arise in the magistrate’s courts and the various divisions of the Supreme Court, and are dealt with in the manner described. The Constitutional Court has original jurisdiction, however, to hear any constitutional issue from the outset if this would be ‘in the interest of justice’.<sup>247</sup> [247 Section 100(2), *ibid*]

## **Human Rights Commission**

The transitional constitution provides for the establishment of a Human Rights Commission (HRC), responsible for promoting the observance of human rights, investigating alleged violations of human rights and assisting those aggrieved to obtain appropriate redress.<sup>248</sup> [248 Section 115, *ibid*; and see 1994/95 Survey, pp347–348] The Human Rights Commission Act of 1994 gives the HRC extensive powers to investigate alleged breaches of human rights and to bring proceedings in its own name on behalf of those aggrieved (see 1994/95 Survey, p348).

Powers conferred on the HRC in the exercise of its functions include the capacity to enter and search any premises, but only (in general) if entry and search warrants have been issued by a judge or magistrate on 'reasonable grounds'. Premises other than a private home may be searched without a warrant if consent is given, or if the delay in obtaining a warrant would defeat the objects of the search. Force may be used, to the extent 'reasonably necessary' to overcome resistance to entry and search. Searches must generally be conducted by day, and 'with strict regard to decency and order'.<sup>249</sup> [249 Section 10, Human Rights Commission Act of 1994]

In April 1995 the nomination of 11 people to serve on the HRC was approved by 329 votes to two at a joint sitting of the National Assembly and the Senate. (The constitution requires that members of the HRC be approved at such a joint sitting by a 75% majority.)<sup>250</sup> [250 Section 115(3), Constitution of the Republic of South Africa of 1993] Those whose nomination was thus approved were Ms Brigalia Bam, general secretary of the South African Council of Churches; Dr Max Coleman, an African National Congress MP; Mr Chris de Jager, former MP and chief negotiator for the Conservative Party before his resignation from the party; Professor Charles Dlamini, rector of the University of Zululand; Mr Karthy Govender, senior lecturer in public law at the University of Natal (Durban); Ms Rhoda Kadalie, director of the Gender Equality Unit at the University of the Western Cape; Ms Shirley Mabusela, president of the National Children's Rights Committee; Mr Barney Pityana, senior researcher at the University of Cape Town's Research Institute on Christianity in South Africa; Ms Anne Routier, former member of the President's Council for the National Party; Mrs Helen Suzman, former Democratic Party MP and veteran human rights campaigner; and Ms Pansy Tlakula, acting director of the Black Lawyers' Association.<sup>251</sup> [251 *The Citizen* 7 April 1995, 22 September 1995]

In September 1995 the president, Mr Nelson Mandela, formally appointed the members of the HRC to their new positions, with effect from 1st October.<sup>252</sup> [252 Ibid 22 September 1995] The HRC held its first meeting on 12th October 1995.<sup>253</sup> [253 Ibid 14 October 1995]

## **Commission on Gender Equality**

The transitional constitution also provides for the establishment of a Commission on Gender Equality, to promote gender equality and make recommendations on all laws affecting gender equality and the status of women.<sup>254</sup> [254 Section 119, Constitution of the Republic of South Africa of 1993]

In August 1995 draft legislation providing for the establishment of this commission was tabled in Parliament. In terms of this bill, the commission would comprise between seven and 11 members, approved by at least 75% of the members present and voting at a joint sitting of the National Assembly and the Senate. Members would hold office for a five-year term.<sup>255</sup> [255 Section 3, Commission on Gender Equality Bill]

The commission would be empowered to monitor the policies and practices of the state, other public bodies, and all 'private businesses and institutions' so as to promote gender equality. It would also have

power to evaluate laws affecting the status of women, recommend new legislation to improve this, and monitor compliance with international law on gender equality. In addition, it would be empowered to investigate—either on its own accord or on receipt of a complaint—any ‘gender-related issue’ and to seek to resolve any resultant dispute by mediation, conciliation or negotiation. Failing this, it would be able to refer the matter to the Human Rights Commission (HRC) or the public protector to deal with.<sup>256</sup> [256 Section 4, *ibid*]

The commission would also have extensive investigative powers. It would be able to require any person to appear before it; to produce any articles or documents necessary for its investigations; and to answer all questions it posed, even where the answers might be self-incriminatory. (Incriminating evidence thus obtained would not, however, be admissible in subsequent criminal proceedings.) The commission would have powers to search premises and seize documents or other articles with ‘a bearing’ on its investigations. An entry and search warrant issued by a magistrate or judge of the Supreme Court would, however, be required. The use of force ‘reasonably necessary’ to overcome any resistance to authorised entry—including the breaking of doors and windows—would be permitted.<sup>257</sup> [257 Section 6, *ibid*]

Refusal to answer the commission’s questions or to provide the documents or articles requested would be punishable by a fine or imprisonment for up to six months. So too would any unauthorised search of premises or seizure of articles.<sup>258</sup> [258 Section 17, *ibid*]

The commission’s powers of search and seizure were criticised by the National Party (NP), which said it was unnecessary to give it powers duplicating those already held by the HRC. The Democratic Party (DP) said the commission’s proposed powers of investigation were ‘standard’ but its powers of search and seizure were ‘more problematic’. The more serious problem, however, said the DP’s Ms Dene Smuts, was the ‘general lack of legislative attention to discrimination’, especially in the private sector.<sup>259</sup> [259 Statement by Dene Smuts on South African Institute of Race Relations charge that the gender commission will be ‘big sister’, 16 August 1995]

In a press release, the South African Institute of Race Relations described the bill as ‘feminism gone mad’, and said that the powers envisaged for the commission showed that the ‘big brother’ interventionism of the NP was being replaced by ‘big sister’ interventionism ‘every bit as obnoxious’. Elaborating on this in an article in *Business Day*, the Institute’s chief executive, Mr John Kane-Berman, said that the fundamental objection to the bill was not that ‘it provided for breaking and entering, but that its powers of investigation went way beyond what a free society should allow’. Thus, while the police have powers of search and seizure only where a breach of the law or a breakdown in law and order is suspected, the commission would be able to break and enter into premises to pursue investigations into ‘any gender-related issue’. Such an issue was not defined in the bill. Nor was there any requirement in the bill that the conduct meriting search and seizure should constitute a defined offence. Instead, search and seizure would be authorised—not for breaking the law—but for infringing ‘the latest trends in political correctness’, Mr Kane-Berman said.<sup>260</sup> [260 *Business Day* 25 August 1995]

## Public Protector

The transitional constitution provides for the appointment of a public protector, whose functions—to be exercised in an independent and impartial manner—are to investigate alleged maladministration, abuse of power, corruption, and bureaucratic rudeness, unfairness and undue tardiness in decision making.<sup>261</sup> [261 *Sunday Times* 2 July 1995; sections 110, 112, Constitution of the Republic of South Africa of 1993] The public protector may not inquire into the exercise of their functions by the courts. He is given wide powers of investigation, and may direct any person to appear before him to give evidence or produce any document with a bearing on an investigation. He may also enter any building or premises for purposes of investigation, and seize any document or article with a bearing on any investigation.<sup>262</sup> [262 section 112, *ibid*]

The Public Protector Act was gazetted in November 1994 to give effect to these provisions. The act provides for the appointment and the powers of the public protector, and specifies that he may investigate a matter only after a complainant has exhausted all other legal options.<sup>263</sup> [263 1994/95 Survey, p350]

In June 1995 Mr Selby Baqwa was appointed as the first public protector, following his approval by a 75,9% majority at a joint sitting of the National Assembly and Senate. (A 75% majority is required for this appointment.) The NP opposed the appointment on the basis that Mr Baqwa was too closely aligned to the ANC. The IFP expressed reservations, saying that Mr Baqwa was an avowed ANC supporter linked to allegedly biased investigations of political violence through his role, *inter alia*, on the Commission of Inquiry Regarding Public Violence and Intimidation (the Goldstone commission). (The IFP withdrew its objection following talks between the president, Mr Nelson Mandela, and the IFP president, Chief Mangosuthu Buthelezi.)<sup>264</sup> [264 *The Citizen* 29 June 1995] (For further details regarding the Goldstone commission, see 1993/94 Survey, pp27, 29, 188, 225, 292, 294–295, 300–301, 303, 314, 361, 362, 364, 641, 643, 645, 663; and 1994/95 Survey, pp120, 134, 135, 141, 340.)

## Application of the Bill of Rights

*Section 7: The bill of rights is binding on the legislative and executive organs of state at all levels of government. Juristic persons are to some extent entitled to its benefits. In the event of infringement, relief may be sought from a competent court.*

### Application to the State

No legislative body—whether at national, provincial or local level—may enact laws which infringe the bill of rights. The executive branch of government, at all three levels, may also not contravene its terms. There is controversy as to whether the bill has vertical application alone or horizontal application as well. In the former instance, the bill is binding on the state alone. In the latter, it binds not only the state but all natural and juristic persons.<sup>265</sup> [265 **Frontiers of Freedom**, no 6, fourth quarter, 1995] Different divisions of the Supreme Court have given conflicting rulings on this issue, and the question has not yet been decided by the Constitutional Court.<sup>266</sup> [266 Query to the Registrar, Constitutional Court, 21 February 1996]

## The Rights of Juristic Persons

Juristic persons, such as companies, close corporations and partnerships, are entitled to the rights reflected in the bill 'where, and to the extent that, the nature of the right permits'. Some rights, such as the right to freedom from torture, are thus not available to companies. Others, such as the right to property or to freely engage in economic activity, are.

## Remedies for Infringement

Any person who alleges infringement of the bill of rights may apply to a competent court of law for appropriate relief. Such relief may take the form of an order invalidating a national statute, provincial ordinance or local bylaw. It may also take the form of a 'declaration of rights', in which the court declares that a particular legislative or executive act infringes the fundamental rights of the applicant.

Application for relief may not only be made by an aggrieved individual (or company, where appropriate) but also by an association acting in the interest of its members; a person acting on behalf of another who is not able to seek relief; a person acting as a member of a 'class' or group of others similarly situated; or a person acting in the public interest.

## The Right to Equality

*Section 8: Every person has the right to equality before the law. No person may be unfairly discriminated against on grounds such as race, gender, language, or sexual orientation. These provisions do not, however, exclude affirmative action, or restitution of land rights.*

## Equality Before the Law

All persons are entitled to equal treatment and protection under the law. The courts must dispense justice on an equal basis, without regard for the race or status of the litigants before them. In the past, allegations were often made of racial bias in sentencing. In July 1995 the issue arose again when a white farmer, Mr Alexander Hugo, shot dead a ten-year-old boy, Vusi Nkolozi, for allegedly starting a veld fire. Mr Hugo was sentenced to a four-year term of imprisonment, of which 18 months would be spent in prison and the remainder under correctional supervision.<sup>267</sup> [<sup>267</sup> *Sowetan* 3, 10 July 1995] Lawyers for Human Rights said the sentence was 'horrific' and 'reinforced the belief that the courts valued the lives of black people as cheap'. The Black Lawyers' Association described the sentence as 'appalling and racist' (see chapter on *Politics and Security*).<sup>268</sup> [<sup>268</sup> *Ibid* 4 July 1995]

Inequality before the law was also alleged in relation to the Multilateral Motor Vehicle Accidents Fund Act of 1989 which limits to R25000 the compensation payable to the injured passenger of a negligent driver. The passenger of an innocent driver is not so limited in his or her claim. In August 1995 an

application was made to the Constitutional Court to strike out the limitation, on the ground that it was arbitrary, irrational and discriminatory. Judgement, at the time of writing, had not yet been given.<sup>269</sup> [<sup>269</sup> *Business Day* 30 August 1995, *The Star* 27 December 1995]

## **Prohibiting Unfair Discrimination**

Unfair discrimination is prohibited on any grounds, including those listed in section 8. (Listed grounds include race, gender, ethnic or social origin, sexual orientation, age, disability, religion, culture and language.)

### ***Racial Discrimination***

In May 1995 two white businessmen alleged unfair racial discrimination in the decision by the Port Elizabeth City Council to write off R62m owed in arrear rates, rents and service charges by black township residents, but to enforce a claim for R9 000 in arrear rates owed by the two.<sup>270</sup> [<sup>270</sup> *The Star* 5 May 1995] Unfair racial discrimination has also been alleged in the setting of fixed fees for electricity and water for township residents, but not for residents of 'white' suburbs, and this has been referred to the Constitutional Court for a ruling.<sup>271</sup> [<sup>271</sup> *Ibid* 19 June 1995] No ruling had, at the time of writing, been made.<sup>272</sup> [<sup>272</sup> Query to the Registrar, Constitutional Court, 21 February 1996]

### ***Discrimination Against Women***

During the year under review the government took various steps to end discrimination against women, including the reduction of tax for married women and free medical care for pregnant women.<sup>273</sup> [<sup>273</sup> *The Citizen* 9 August 1995] In June another aspect of gender inequality was addressed when the Industrial Court found the exclusion of married female teachers from a state home owners' allowance unconstitutional. The ruling is likely to affect all married women working for the state, and 'could cost the government R2,5bn in reversing earlier discrimination'.<sup>274</sup> [<sup>274</sup> *Ibid* 24 June 1995] The court said an incremental approach might have to be adopted in ending this discriminatory practice.<sup>275</sup> [<sup>275</sup> *The Citizen* 24 June 1995, *Business Day* 26 June 1995]

In terms of draft legislation tabled in August 1995, a Commission on Gender Equality is to be established, with the power to evaluate legislation, monitor compliance with international conventions, and investigate 'any gender-related issue' (see *Commission on Gender Equality* above).<sup>276</sup> [<sup>276</sup> **Frontiers of Freedom**, no 6, fourth quarter 1995; *Business Day* 15 August 1995]

In December 1995 the government unreservedly ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women. This treaty obliges the government to take concrete steps to end all discrimination against women, and to report on its progress at regular intervals. It also provides, among other things, that women may not be barred from access to education, and that

the stereotyping of women must be eliminated through the revision of textbooks.<sup>277</sup> [277 *Sunday Tribune* 10 December 1995; *Financial Mail* 2 February 1996]

## **Aids Discrimination**

In September 1995 the Congress of South African Trade Unions demanded that mine management stop testing prospective employees for the human immuno-deficiency virus (HIV) and AIDS, saying this was discriminatory. The assistant general secretary of the organisation, Mr Zwelinzima Vavi, also criticised insurance companies for reacting to the AIDS problem by increasing premiums and reducing benefits, saying they were trying to ‘maximise profits’. The Chamber of Mines of South Africa, he continued, and any other employer who housed workers in migrant hostels should ‘pay all the health care costs of HIV-infected workers’.<sup>278</sup> [278 *The Citizen* 2 September 1995]

In the same month the South African Law Commission published for comment draft legislation prohibiting unfair discrimination against those infected with HIV. The commission recommended that HIV testing be conducted only with the fully informed consent of the individual, who should also not be obliged to disclose HIV infection to prospective employers. Blanket testing of hospital patients should be prohibited, as should the segregating of prisoners who were HIV positive.

The commission also recommended that insurance companies be prohibited from ‘unfairly discriminating’ against prospective clients on the grounds of HIV infection. Insurance companies responded that they would stop selling life policies if this were made law. It would make assessment of risk impossible and enable ‘the infected to go out and buy huge policies’, bankrupting insurance companies thereby. (These companies were reported to have experienced a 37% increase in AIDS-related claims in the past year—see also chapter on *Health and Welfare*.)<sup>279</sup> [279 *Sunday Times* 1 October 1995]

## **Authorisation for Affirmative Action**

In prohibiting unfair discrimination, section 8 does not ‘preclude measures designed to achieve the adequate protection and advancement of persons or groups disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of all rights and freedoms’.<sup>280</sup> [280 Section 8(3), Constitution of the Republic of South Africa of 1993]

At the time of writing, legislation providing for affirmative action had not been enacted, though this had been mooted by the government and was being sought by lobbies such as the Black Management Forum and the National African Federated Chamber of Commerce and Industry.

In November 1994 a draft Equal Opportunities Bill obliging companies employing more than 20 people to apply affirmative action—or face fines of up to R100 000 or imprisonment for up to two years—was sent to the cabinet for consideration.<sup>281</sup> [281 *Business Day* 15 November 1995] In January 1995 the minister of labour, Mr Tito Mboweni, said it was too early to elaborate on the possibility of legislation, but that



specialist directorates would be established in his ministry to oversee the promotion of equal opportunities in the workplace.<sup>282</sup> [<sup>282</sup> Ibid 23 January 1995]

A draft policy paper leaked to the media in February 1996 proposes fines of up to R500000 for companies that fail to implement affirmative action. It also envisages that government departments should be 50% black at management level within four years and that 30% of middle and senior management should be women within this period.<sup>283</sup> [<sup>283</sup> *The Star* 21 February 1995]

During the year the public sector took steps to make its workforce more representative of the population as a whole, while major companies in the private sector did so too (see chapter on *Employment and Labour Relations*).

## The Right to Life

*Section 9: Every person has the right to life.*

### The Death Penalty

In the 1980s more than 1 100 people were executed in South Africa, giving the country the third highest rate (after Iraq and Iran) of capital punishment in the world.<sup>284</sup> [<sup>284</sup> Ibid 7 June 1995] A moratorium was imposed on the death penalty in 1990, and by June 1995, some 450 prisoners were on death row awaiting either execution or reprieve.<sup>285</sup> [<sup>285</sup> Ibid] In the same month, in the case of *Makwanyane and another v The State* (involving two men sentenced to death for the killing of two security guards and two policemen during an armed robbery in 1990), the Constitutional Court ruled that the death sentence was a cruel, inhuman and degrading punishment and was in conflict with the rights to life and dignity.<sup>286</sup> [<sup>286</sup> *The Citizen* 7 June 1995; **Frontiers of Freedom**, no 5, third quarter, 1995]

These rights, said Mr Justice Arthur Chaskalson, the president of the court, were ‘the most basic of all human rights and the source of all other personal rights’.<sup>287</sup> [<sup>287</sup> *The Star* 7 June 1995] The minister of justice, Mr Dullah Omar, said the government would introduce full life sentences for murderers and rapists who were beyond rehabilitation and constituted a threat to public safety.<sup>288</sup> [<sup>288</sup> Ibid 16 June 1995]

(The death penalty for treason when the country is in ‘a state of war’ remains in force, the Constitutional Court having decided to leave this issue open.)

The National Party (NP) sought a referendum on whether the death penalty should be allowed in extreme cases, saying the outcome should determine the content of the final constitution on the issue.<sup>289</sup> [<sup>289</sup> *The Citizen* 15 June 1995] The African National Congress (ANC) rejected this, stating that the right to life was ‘the most basic human right of all’ and was ‘the essential building block of a human rights culture’.<sup>290</sup> [<sup>290</sup> Ibid 16 June 1995]

In a snap Parliamentary debate, the NP's call was opposed by the ANC and most other parties, and was rejected. Mr Omar said the bill of rights was intended to 'place core values beyond the reach of temporary majorities', and that the NP's referendum call placed this in jeopardy.<sup>291</sup> [<sup>291</sup> *The Star* 20 June 1995] An editorial in *The Citizen* in June said Mr Omar's argument was misconceived, as the NP was seeking to influence the form of the future constitution. The World Health Organisation, it added, had 'branded South Africa the most murderous country in the world, with 53,5 persons per 100000 slain annually'.<sup>292</sup> [<sup>292</sup> *The Citizen* 21 June 1995 ]

In early August the Democratic Party (DP) proposed new legislation authorising the courts to impose imprisonment for life without the possibility of parole or early release. The bill was supported by Mr Omar<sup>293</sup> [<sup>293</sup> *Business Day* 10 August 1995] but, at the time of writing, was yet to be enacted (see also chapter on *Politics and Security*). In a number of instances since the abolition of capital punishment the courts have imposed exceptionally long sentences (imprisonment for 275 years, for example) in a bid to prevent the early release of convicted murderers.<sup>294</sup> [<sup>294</sup> *Ibid* 16 August 1995]

## Abortion

Following extensive public hearings in May and June 1995,<sup>295</sup> [<sup>295</sup> *The Citizen* 9 June 1995] the ad hoc select committee on abortion and sterilisation tabled its recommendations in Parliament in mid-August (see also chapters on *Population* and *Health and Welfare*).<sup>296</sup> [<sup>296</sup> *Ibid* 12 August 1995]

The committee proposed that abortion be available on request for all women, including those under the age of 16 years, until 14 weeks after conception. It should also be available 'on broadly specified' conditions from 14 to 24 weeks. These grounds would include 'abnormalities, risk to the mother and poor social conditions'. Counselling should be available to those seeking abortion, but should not be mandatory (except for minors). Only the mother's consent should be necessary for abortion—not that of the father of the unborn child, nor that of the parents of a pregnant minor.<sup>297</sup> [<sup>297</sup> *Ibid*]

In its report, the committee said that it had received more 'pro-life' submissions (opposing abortion) than 'pro-choice' views (advocating its availability on demand), but that the latter had come from 'a more diverse group'. The report 'specifically rejected the argument that life began at conception' and that the foetus was protected by section 9.<sup>298</sup> [<sup>298</sup> *Ibid*]

The NP rejected this view and said it would test the issue, if necessary, before the Constitutional Court.<sup>299</sup> [<sup>299</sup> *The Citizen*, *Business Day* 14 August 1995] It also accused the ANC of 'steamrolling' the report through the committee, 'leaving no time for minority reports, and at the same time distorting the evidence in order to suit the committee's arguments'.<sup>300</sup> [<sup>300</sup> *The Citizen* 14 August 1995]

The ANC welcomed the report, and criticised political parties opposing the report. 'It is unfortunate,' it

stated, 'that some political sections within our country are attempting to undermine such fundamental human rights as the right of choice.'<sup>301</sup> [<sup>301</sup> Ibid 15 August 1995]

At the end of August 1995 the National Assembly, by 208 votes to 101, accepted the report of the committee, paving the way for the drafting of legislation on abortion.<sup>302</sup> [<sup>302</sup> Ibid 31 August 1995]

## **The Right to Human Dignity**

*Section 10: Every person has the right to dignity.*

### **Capital Punishment**

One of the grounds on which the Constitutional Court, in *Makwanyane and another v The State*, invalidated the death penalty was that it contravened the right to dignity (see *The death penalty* above).

### **Water and Basic Services**

The minister of water affairs and forestry, Professor Kader Asmal, in an information booklet *You and Your Water Rights* (published in March 1995), said the right to dignity included the right to water and other basic services. 'It is not possible,' he stated, 'for dignity to be maintained amid grinding poverty, of which the lack of basic services is a contributing factor.' Inequalities in water supply would be addressed by legislation, if necessary, and the rich would in future be penalised for their use of water. The minister increased irrigation water tariffs on a differential basis so that 'there would be enough for the needy but not the greedy'. An editorial in the *Financial Mail* said this approach was 'strictly Marxist' and could have the effect of 'driving marginal concerns to bankruptcy, destroying jobs and [reducing] revenue for social programmes'.<sup>303</sup> [<sup>303</sup> *Financial Mail* 31 March 1995]

## **The Right to Freedom and Security of the Person**

*Section 11: Every person has the right to freedom and security of the person, including the right not to be detained without trial. No person may be subject to torture, nor to cruel, inhuman or degrading treatment or punishment.*

### **Detention Without Trial**

Legislation providing for detention without trial (contained in section 29 of the Internal Security Act of 1982) was abolished in 1993, under the Abolition of Restrictions on Free Political Activity Act of 1993 (see 1994/95 Survey, p340). (Other detention provisions in the 1982 act had been abolished in 1991, under the Internal Security and Intimidation Amendment Act of 1991.) Allegations of detention without trial were nevertheless made in May 1995, in two cases emanating from the former Transkei. In one a former security guard, Mr Thembisile Poto, said he had been detained without trial for four months and

claimed R50 000 in damages from the minister for safety and security, Mr Sydney Mufamadi. In the other, Ms Nosipho Luzipo claimed R80 000 in damages from the minister for detention without trial for four days.<sup>304</sup> [<sup>304</sup> *The Citizen* 15 May 1995]

## **Imprisonment of Judgement Debtors**

In March 1995 the constitutionality of committing judgement debtors to prison for contempt of court came before the Constitutional Court. Thousands of such debtors had been imprisoned in the past, often for debts of less than R500.<sup>305</sup> [<sup>305</sup> *Business Day* 7 March 1995, *Sunday Times* 12 March 1995] The minister of justice, Mr Dullah Omar, described imprisonment for debt as ‘barbaric’ and promised legislative change if necessary.<sup>306</sup> [<sup>306</sup> *Sunday Times* 12 March 1995] The Association of Law Societies urged the court to retain civil imprisonment, however, as this would help ensure that people paid their debts.<sup>307</sup> [<sup>307</sup> *Ibid*]

In September 1995 the court ruled such imprisonment in breach of the right to freedom of the person. Mr Justice Johann Kriegler, delivering the majority judgement, said the law in question (Section 65 of the Magistrates’ Court Act of 1944) was too broad. Though intended to authorise only the committal of those able but unwilling to pay, it failed adequately to distinguish these individuals from those genuinely unable to meet their debts. It also allowed people to be imprisoned without notice of either the original judgement or of the application for committal, and without being informed of the defences available to them. The result was that judgement debtors were being treated more harshly than criminals, who were entitled to a fair trial with all procedural safeguards. ‘Debtors by contrast,’ said Judge Kriegler, ‘who face months of imprisonment, must fend for themselves as best they can.’<sup>308</sup> [<sup>308</sup> Kriegler J, *In the matter of Farieda Coetsee and the Government of the Republic of South Africa and others, and In the matters of N J Matiso and others and The Commanding Officer, Port Elizabeth Prison, and others*, Case No CCT 19/94 and Case No CCT 22/94, 22 September 1995, p12]

## **Torture**

For many years the Criminal Procedure Act of 1977—contrary to the common law rule—presumed that a written confession made by an accused before a magistrate was voluntarily made, and placed the onus on the accused of disproving this.<sup>309</sup> [<sup>309</sup> Section 217, Criminal Procedure Act of 1977] (See *Admissibility of confessions* below.) The result, it was alleged, was to encourage the police to use torture as a method of interrogation in solving criminal cases.<sup>310</sup> [<sup>310</sup> *The Citizen* 27 July 1994]

In 1994 a police reporting officer appointed under the *National Peace Accord*, Mr Jan Munnik, investigated allegations of police torture in the Witwatersrand/Vaal Triangle and reported that torture ‘was much more common than perceived’ (see also 1994/95 Survey, pp142–143). He also said that it was not ‘official police policy’ and most complaints singled out particular individuals.<sup>311</sup> [<sup>311</sup> *Ibid*] The commanding officer of the peace accord units, Major General Haynes, said suspects were advised by other prison inmates to allege torture by their interrogators to make their confessions inadmissible, and

such accusations had accordingly become widespread.<sup>312</sup> [<sup>312</sup> Ibid 7 September 1994]

By April 1995 the number of police officers facing charges as a result of Mr Munnik's report had risen to 25. Earlier, Mr Justice F C L Roos said the evidence that the accused in a murder trial had been tortured by the police was 'overwhelming'—and that he hoped criminal charges would be brought against the policemen responsible. (The accused—who had allegedly been assaulted and given electric shocks by the police—were convicted of murder in the Witwatersrand Local Division of the Supreme Court for luring a number of prison warders into their cell and then throwing a hand grenade at them, killing three of the prison officers.)<sup>313</sup> [<sup>313</sup> *The Star* 5 April 1995, *The Citizen* 21 March 1995]

In April 1995 the Constitutional Court invalidated the provision of the Criminal Procedure Act requiring the accused to disprove the presumption that a confession had been voluntarily made. The common law rule was thus revived, and the onus of proving the admissibility of a confession reverted to the state (see *Admissibility of confessions* below).

In May 1995 the Appellate Division authorised a surprise search of two police stations in Pietermaritzburg to look for instruments of torture. (The case was brought by the Legal Resources Centre in Durban on behalf of a Mr Mduduzi Maphanga, who claimed he had been tortured at these police stations in August 1993.) The Chief Justice, Mr Justice M M Corbett, said the surprise search was justified as Mr Maphanga had a 'well-founded fear that the evidence would [otherwise] be hidden or destroyed'.<sup>314</sup> [<sup>314</sup> *Sunday Times* 14 May 1995]

Also in May, three organisations (including one called the Independent Board of Inquiry into Informal Repression (IBI)) published a report on police torture called *Breaking with the Past? Reports of Alleged Human Rights Violations by the South African Police 1990–1995*. Mr Piers Pigou of the IBI alleged that torture by police officers remained widespread and reflected 'the general disregard for human rights in the police', as well as a continued reliance on confessions to solve cases.<sup>315</sup> [<sup>315</sup> *Sowetan* 18 August 1995] The report claimed that various methods of torture were used to obtain confessions, including 'beatings and verbal abuse, rape and indecent assault, prolonged interrogations, electric shocks and partial suffocation' (see also chapter on *Politics and Security*).

The report added that allegations of torture were often difficult to prove as torture, by its nature, took place in secret. Moreover, many victims of torture did not report it, or did so too late to claim damages from the police. This made it difficult to ascertain the full extent of police torture. Between January 1990 and March 1995, however, 380 cases of police misconduct had been reported, of which 250 involved allegations of torture and assault.<sup>316</sup> [<sup>316</sup> Ibid 17 August 1995]

The national police commissioner, General George Fivaz, said in response that 'the harshest possible action would be taken against any police member who violated human rights in any way whatsoever'. A comprehensive transformation and rationalisation programme was already in place, he stated, coupled with training programmes with the emphasis on human rights (see also chapter on *Politics and*

*Security*).<sup>317</sup> [<sup>317</sup> Ibid 24 August 1995]

The Inkatha Freedom Party (IFP) alleged that members of the South African National Defence Force (SANDF) had assaulted and tortured its supporters in KwaZulu/Natal on a number of occasions. In a memorandum to Mr Joe Modise, minister of defence, the IFP stated that SANDF members had, among other things, tortured ten youths at the Loskop Police Station in January 1995; tortured a Mr James Msomi at the SANDF base at Umbumbulu in March 1995; and tortured a Mr Shadrack Ngubane at his home in Eshowe in April 1995, demanding that he reveal hidden weapons.<sup>318</sup> [<sup>318</sup> Powell P, memorandum to the minister of defence, Mr Joe Modise, 20 June 1995]

## **Cruel, Inhuman or Degrading Treatment or Punishment**

Corporal punishment, said Mr Omar in April 1995, would be abolished by legislation if necessary, to 'bring South Africa into line with other civilised countries'. Such punishment, he stated, was not only 'cruel, inhumane and degrading' but also had 'a brutalising effect on both the person who meted out the punishment and the one who received it'.<sup>319</sup> [<sup>319</sup> *The Citizen*, *The Star* 6 April 1995]

In June 1995 the Constitutional Court ruled that corporal punishment for juveniles was incompatible with the bill of rights, and should be replaced by 'more imaginative' sentences such as house arrest, community service and job placement, which would contribute towards rehabilitation (see also *Detention of juveniles* below).<sup>320</sup> [<sup>320</sup> **Frontiers of Freedom**, no 5, third quarter 1995; *Business Day* 23 March 1995]

## **Freedom from Servitude and Forced Labour**

*Section 12: No person shall be subject to servitude or forced labour.*

The system of labour tenancy on commercial farms—in terms of which tenants are obliged to provide free, or virtually free, labour to farmers in return for the right to occupy and use a portion of farmland—has been described as a semi-feudal one equivalent to servitude. This situation is to be regulated under the Land Reform (Labour Tenants) Bill, which is intended to prevent labour tenants being evicted from agricultural land (save in specified circumstances) and allow them to claim ownership of land historically used and occupied by them (see also chapter on *Living Conditions*).<sup>321</sup> [<sup>321</sup> *Mail and Guardian* 2 June 1995]

An editorial in *The Star* in June 1995 supported the bill, saying it sought to restore to the tenant 'an existence independent of his or her role as an unpaid or barely paid worker'. The only real cost to the farmer, it said, would be the loss, over time, of virtually free labour. 'Nobody can bewail this. Servitude has no place in a democratic state and those who cannot pay their workers should not be in business,' it stated.<sup>322</sup> [<sup>322</sup> *The Star* 5 June 1995]

The bill was tabled in Parliament in September and was due to be enacted in 1996 (see also *Rights to*

*land for labour tenants* below). (The issue of child labour is dealt with in *Child labour and exploitation* below.)

## The Right to Privacy

*Section 13: Every person has the right to personal privacy, which includes the right not to be subject to searches, the seizure of private possessions, or the violation of private communications.*

### Search and Seizure by the Police

The police have for many years had extensive powers of search and seizure to prevent and investigate crime. Under the Criminal Procedure Act of 1977 a search warrant issued by a judge or magistrate is normally required, unless the delay in obtaining a warrant seems likely to defeat the object of the search.<sup>323</sup> [323 Sections 19–29, Criminal Procedure Act of 1977]

A search warrant cannot lawfully be issued unless the police can satisfy a judge or magistrate that incriminating evidence is likely to be found. Failure to comply with this formed the basis for a successful application by Mrs Winnie Mandela, then deputy minister of arts, culture, science and technology, to invalidate a warrant under which police had searched her Soweto home and seized certain documents. Mr Justice P E Streicher said the test had not been satisfied and ordered the return of the documents seized.<sup>324</sup> [324 *The Star* 23 March 1995]

Under the South African Police Service Act of 1995, the newly unified police service (drawing together the police forces previously operating in the ten former homelands as well as the rest of South Africa) has extensive powers of search and seizure (see also chapter on *Politics and Security*).<sup>325</sup> [325 South African Police Service Act of 1995]

Any member of the South African Police Service (SAPS) may search any person, goods or premises where this is ‘reasonably necessary’ to prevent illegal immigration or importation of goods. In addition, the national (or a provincial) commissioner of police may order the cordoning off of any area, for not more than 24 hours, where this is ‘reasonable in the circumstances to restore public order or ensure the safety of the public’. Any member of the SAPS may, within this area, search any person, premises or vehicles without a warrant ‘where this is reasonably necessary’.

The *Sunday Times* described these powers as ‘breathtaking in their disregard for established legal procedures’. They were reminiscent of apartheid emergency rules, and would give the police ‘vast powers of search and seizure without the irritation of having to obtain a warrant from a magistrate’.<sup>326</sup> [326 *Sunday Times* 16 July 1995]

Members of the SAPS may also establish roadblocks and checkpoints, with or without the written authorisation of the national (or a provincial) commissioner. Written authorisation may be given where

this is 'reasonable' to exercise a police function. No authorisation is needed, however, where there is a 'reasonable suspicion' that, among other things, a person who has committed a serious crime, a witness to such a crime, or a fugitive from prison, might otherwise abscond.<sup>327</sup> [327 Section 13, South African Police Service Act]

In August the Inkatha Freedom Party (IFP) threatened legal action against the minister for safety and security, Mr Sydney Mufamadi, following a raid on the home in Nyoni (north coast, KwaZulu/Natal) of an IFP member of the KwaZulu/Natal provincial legislature, Mr Khayelihle Mathaba. Mr Mathaba said police and troops, ostensibly looking for illegal weapons, had 'thrown stones on his roof, burst into his house without a search warrant and caused extensive damage to his property'. Thereafter, police at a nearby police station had 'refused to register his complaint about the raid', telling him that there was 'no reason' to open a docket. The secretary general of the IFP, Dr Ziba Jiyane, said there was 'an organised campaign within the police and defence force to intimidate, harass and murder IFP leaders'. The government's 'much heralded crime initiatives' in the province, he said, were 'merely covert operations against the IFP'.<sup>328</sup> [328 *The Citizen* 26 August 1995]

## Search and Seizure by Other Bodies

Legislation enacted in 1994 gave extensive powers of search and seizure to the Human Rights Commission (responsible for investigating human rights violations); the National Intelligence Agency and the South African Secret Service (responsible, respectively, for gathering domestic and foreign intelligence); and the public protector (charged with investigating complaints of maladministration and corruption at all levels of government).<sup>329</sup> [329 See Human Rights Commission Act of 1994, section 10; Intelligence Services Act of 1994; Public Protector Act of 1994] The Commission on the Restitution of Land Rights was also given wide powers to subpoena witnesses and demand documents, while the Independent Broadcasting Authority (established by the Independent Broadcasting Authority Act of 1993) was empowered—by legislation promulgated in October 1995—to subpoena individuals and demand the production of documents on pain of a fine of up to R100 000.<sup>330</sup> [330 Independent Broadcasting Authority Act of 1993; *The Citizen* 4 February 1995; sections 4 and 18 Independent Broadcasting Authority Amendment Act of 1995] (For further details regarding the Independent Broadcasting Authority see chapter on *Politics and Security* and 1994/95 Survey, pp434, 436.)

The validity of the powers of search and seizure reflected in the Investigation of Serious Economic Offences Act of 1991<sup>331</sup> [331 Section 6, Investigation of Serious Economic Offences Act of 1991] were challenged in May 1995 before the Constitutional Court. The application was brought by a former director of Tollgate Holdings, Mr Mervyn Key, who had been charged with fraud. The court's judgement was still pending at the time of writing,<sup>332</sup> [332 *Business Day* 19, 24 May 1995; telephonic interview with a clerk to the Constitutional Court, 24 November 1995] but a full bench of the Cape Provincial Division of the Supreme Court had, in another case, earlier found the contested powers unconstitutional and called for amending legislation.

In September 1995, in response to the Cape judgement, legislation was enacted requiring that search and



seizure under the act be authorised by a warrant issued by a magistrate, regional magistrate or judge. Such a warrant may only be issued if ‘there are reasonable grounds for believing’ that documents with a bearing (or possible bearing) on an inquiry may be found in the premises to be searched. Search without a warrant is also permitted, however, if the search is allowed ‘by a person competent to consent to the search’ or if there are reasonable grounds for believing that the delay in obtaining a warrant would defeat the object of the search.<sup>333</sup> [<sup>333</sup> Section 1, Investigation of Serious Economic Offences Amendment Act of 1995]

In August 1995 a bill providing for a Commission on Gender Equality was tabled in Parliament and proposed that the commission be given extensive powers of search and seizure in regard to any ‘gender-related issue’.<sup>334</sup> [<sup>334</sup> Section 6, Commission on Gender Equality Bill] (See also *Discrimination against women and Commission on Gender Equality* above.)

## **Inviolability of Personal Communications**

In April 1995 the minister of justice, Mr Dullah Omar, disclosed in Parliament that the security forces had made 386 requests in 1994 to tap telephones or intercept mail. Of these, 378 had been granted and 65 remained in force in 1995. In terms of the Interception and Monitoring Prohibition Act of 1992, such requests must be approved by a judge, who must be convinced that an actual or impending serious offence cannot be investigated in any other way, or that the security of the state is threatened. Noting the high approval rate reflected in these figures, *Business Day* said: ‘Some assurance is needed that the judiciary is giving strong cognizance to individual liberties.’<sup>335</sup> [<sup>335</sup> *Sowetan* 10 March 1995, *Business Day* 20 April 1995]

In June 1995 Dr Pallo Jordan, minister of posts, telecommunications and broadcasting, said Telkom was operating a number of interceptions under warrants issued by judges of the Supreme Court, and was instituting certain checks to guard against any violations. These would entail periodic review of warrants in operation and regular reports by the technicians responsible.<sup>336</sup> [<sup>336</sup> *The Citizen* 29 June 1995]

In September 1995 the 1992 act was amended to widen the pool of judges able to authorise phone tapping and mail interception. Whereas only judges discharged from active service, and designated by the minister of justice for this purpose, had this power in the past, the capacity to authorise such monitoring was extended to active judges and those who had retired (again subject to designation by the minister). The change was necessary, the government said, because of the limited number of judges who had been discharged from active service in certain areas.<sup>337</sup> [<sup>337</sup> *The Star* 29 August 1995; Section 1, Interception and Monitoring Prohibition Amendment Act of 1995]

## **Aids and the Right to Privacy**

In May 1995 four inmates of the Diepkloof Prison in Johannesburg, who had been diagnosed as having the HIV virus that leads to AIDS, applied to the Transvaal Provincial Division of the Supreme Court in Pretoria for a declaratory order confirming their right to privacy. The four stated that warders at the

prison constantly referred to them as ‘HIV’ or ‘AIDS’ prisoners in front of other prisoners and staff. Three of the four also claimed that their blood had been tested for HIV without their consent. One said the prison had shown so little regard for his right to privacy that he had learnt that he was HIV positive from a fellow inmate. Moreover, notices stating ‘HIV’ were posted on the cells of those who had tested positive, while their food was also labelled ‘HIV’.<sup>338</sup> [<sup>338</sup> *The Citizen* 11 May 1995]

The respondents—who included the prison commander and the minister of correctional services, Dr Siphon Mzimela—acknowledged that mistakes had been made. Steps had been taken to remedy this, however. Thus, the doctor who had taken blood tests without consent was no longer employed at the prison, and the posting of HIV notices on cells had been stopped. Judgement was reserved.<sup>339</sup> [<sup>339</sup> *Ibid*]

In September 1995 a former convict instituted action against Dr Mzimela for R30 000 damages and claimed that, while in prison, he had been given an AIDS test without his proper consent. This, he contended, infringed his right to privacy at both common law and under the bill of rights. He had also, he said, suffered severe psychological trauma after he was told that he was HIV positive. Proper consent, he argued, could only have been given after pre-test counselling, which had not been provided.<sup>340</sup> [<sup>340</sup> *Business Day* 13 September 1995] Judgement, at the time of writing, had not yet been given.

## Religion, Belief and Opinion

*Section 14: Every person has the right to freedom of conscience, belief and opinion, including academic freedom at institutions of higher learning.*

### Freedom of Religion and Belief

The African National Congress (ANC) has proposed that the final constitution provide for a ‘secular state’, in which all religions would be treated equally. No religion would be given special recognition by the government or accorded precedence over other beliefs.<sup>341</sup> [<sup>341</sup> *Mail and Guardian* 15 June 1995]

Some 10 000 Christians gathered outside Parliament in June 1995 to protest against this proposal, saying it would place Christians ‘at the mercy of the government as to whether they would be permitted to pray, teach or preach in state institutions’. The preamble to the constitution, they argued, should acknowledge and honour God, and should recognise the right of Christians—who outnumbered adherents of all other religions—to exercise and propagate their faith.<sup>342</sup> [<sup>342</sup> *The Citizen* 10 July 1995]

Local and foreign church leaders criticised the protest action. A visiting law professor and Catholic priest from the United States, Jesuit Father Robert Drinan, said the country’s transitional constitution ‘led the world in ensuring religious freedom’ by protecting all faiths on an equal basis and enshrining key Christian tenets, such as the right to equality.<sup>343</sup> [<sup>343</sup> *Sunday Times* 25 June 1995] This view was endorsed by the Southern African Catholic Bishops’ Conference and by the Most Rev Desmond Tutu, Anglican

archbishop of Cape Town.<sup>344</sup> [<sup>344</sup> Ibid]

An ANC MP, Mr Carl Niehaus, defended the ANC's call for a secular state in June 1995, and said the party's views were being 'outrightly misrepresented' by its critics. Allegations that believers, under a secular state, would be denied the right to pray in state buildings or hold office in state institutions were false. A secular constitution would 'base morality on enhancing the public good' rather than on intimations of 'God, revelation, heaven or hell'. The ANC's proposal was appropriate for a 'religiously plural' community. 'To insist on a constitution that must promote Christian exclusivity,' Mr Niehaus continued, 'is nothing but political opportunism, political ignorance and the apparent will to divide this religiously plural, multicultural nation.' Those who sought a Christian state, he added, were intent on 'undermining democracy, demonising the ANC and promoting the agendas of the New Right'.<sup>345</sup> [<sup>345</sup> *Mail and Guardian* 15 June 1995]

### **Academic Freedom at Tertiary Institutions**

The year was characterised by numerous student protests, often involving sit-ins, vandalism, the trashing of campuses and taking of hostages (see chapter on *Education*). Student leaders demanded progress in the transformation of universities and warned that violent disruption would continue until this was achieved.

In January 1995 an article in *The Times* (of London) stated that South African universities were near to collapse. All universities were substantially underfunded, while 'academic standards were under pressure from populist demands like "pass one, pass all"'. The government's commitment to academic freedom and university autonomy was in doubt, moreover, for many in the ANC proposed turning all South African universities into 'people's universities'.<sup>346</sup> [<sup>346</sup> *Business Day* 19 January 1995]

In March 1995 a group of students and workers at the University of the Witwatersrand (Wits) trashed the campus, flooded lecture halls and dumped litter in the swimming pool in protest against the university's decision to take disciplinary action against those involved in a hostage-taking incident in October 1994. Protests also occurred on a number of other campuses, and the Democratic Party (DP) warned that continued university disruptions were 'a severe threat to university autonomy'.<sup>347</sup> [<sup>347</sup> Ibid 17 March 1995] As disruptions at tertiary institutions continued, a National Party Senator, Mr David Malatsi, said the legitimacy of universities as autonomous institutions was being discredited.<sup>348</sup> [<sup>348</sup> Ibid 24 March 1995]

In late April 1995 protests by some students at the Vaal Triangle Technikon—who accused the rector, Professor Pieter du Plessis, of unwillingness 'to come to terms with the changes sweeping the country',<sup>349</sup> [<sup>349</sup> *The Star* 26 April 1995]—were followed by clashes between groups of black and white students and the closure of the technikon. The minister of education, Professor Sibusiso Bengu, ordered an inquiry into financial mismanagement by Professor du Plessis and suspended the rector pending its findings.<sup>350</sup> [<sup>350</sup> *The Citizen* 6 May 1995]

The executive deputy president from the largest minority party, Mr F W de Klerk, said in May 1995 that any government interference in the governance of universities and technikons would be foolish. In countries where government had undermined the autonomy of third-tier institutions, both these and the wider society had suffered damage. The right to autonomy, he added, was enshrined in the bill of rights, and ‘universities and technikons should jealously guard against any attempt to take away that right’.<sup>351</sup> [351 Ibid 16 May 1995]

At the end of August 1995, in the midst of a renewed wave of disruptions of tertiary institutions, student movements in Gauteng—backed by the ANC, the Congress of South African Trade Unions, the South African Communist Party and other ‘progressive’ organisations—launched a campaign to compel the government and tertiary institutions to meet demands for transformation. A spokesman for the South African Students’ Congress (Sasco), Mr Reginald Legoabe, said the campaign was prompted by continuing victimisation and harassment of black students and the slow pace of transformation at universities. He appealed to the education ministry to intervene, saying that Sasco’s ‘peaceful resolution of conflict in institutions was being severely undermined’, and that the organisation could not ‘guarantee stability until [university] administrations committed themselves to proper negotiations or the government intervened decisively.’<sup>352</sup> [352 *The Star* 29 August 1995] Mr Legoabe added that there was a misguided view among university authorities that these bodies, ‘under the guise of so-called institutional autonomy, [could] operate in an island and [remain] immune to the dynamics of South African society’.<sup>353</sup> [353 *The Citizen* 1 September 1995]

In October 1995 tension arose at Wits after 13 senior academics had accused one of its deputy vice chancellors, Professor William Malegapuru Makgoba, of embellishing his curriculum vitae and failing properly to perform his duties. A three-member international tribunal was appointed by the university to investigate these allegations. In turn, Professor Makgoba, having obtained and published confidential information from the personal files of the 13, accused them and the university of irregular, corrupt and criminal actions including tax evasion.<sup>354</sup> [354 *Business Day* 4 December 1995] Professor Makgoba was thereafter suspended from his duties, to protect university staff from any further invasion of privacy.<sup>355</sup> [355 Ibid 6 December 1995] The suspension was condemned by the ANC and ‘regretted’ by Professor Bengu, who said he had a duty to intervene.<sup>356</sup> [356 *The Citizen* 6 December 1995]

Sasco and the Wits Students’ Representative Council called for decisive intervention by Professor Bengu and the immediate suspension of the ‘gang of 13’.<sup>357</sup> [357 Ibid 7 December 1995, *The Star* 8 December 1995] They warned that the suspension of Professor Makgoba would spark mass action when students returned to the campus in February 1996 and could ‘wreck the 1996 academic year’.<sup>358</sup> [358 *Business Day* 7 December 1995] The deputy secretary general of the ANC, Ms Cheryl Carolus, said the ANC was ‘intent on preserving the autonomy of universities’, but that the crisis at Wits had been poorly handled and the university could not be allowed to ‘self-destruct’.<sup>359</sup> [359 *The Citizen* 7 December 1995] The DP and the Inkatha Freedom Party said outside intervention in the matter infringed the university’s autonomy, while the Azanian People’s Organisation called on the education ministry to ‘investigate and arrest the rot’ at

the university.<sup>360</sup> [<sup>360</sup> Ibid] An editorial in the *Sowetan* also urged government intervention, and said the central issue was not the allegations against Professor Makgoba, but whether Wits had ‘taken sufficient steps to change itself from being a white-run liberal institution in an apartheid society to one which accommodates, serves and reflects the community in which it is situated’.<sup>361</sup> [<sup>361</sup> *Sowetan* 7 December 1995]

Professor Bengu proposed thereafter that Professor Makgoba’s suspension be lifted. He added that, as minister, he ‘had a great deal of power’ to intervene in the matter, but would not reveal what his powers entitled him to do as this might prejudice the settlement of the dispute. Two principles, he added, were sacrosanct: a process of transformation had to take place at Wits, and no racism of any kind would be accepted.<sup>362</sup> [<sup>362</sup> *The Citizen* 8 December 1995] Particularly important was the slow progress of transformation at Wits and other higher education institutions in the country. ‘The pace is not pleasing to us,’ he said.<sup>363</sup> [<sup>363</sup> Ibid 14 December 1995]

A law professor at Wits, Professor Etienne Mureinik, said the government’s intervention in the controversy surrounding Professor Makgoba threatened academic freedom and an impartial inquiry into the matter. Professor Mureinik said Professor Bengu had effectively issued the university with an ultimatum to resolve the matter or face government intervention, and that this constituted ‘a grave threat’ to academic freedom.<sup>364</sup> [<sup>364</sup> Ibid 15 December 1995] Two student organisations, the National Student Organisation and the South African Democratic Students Movement, said in a joint statement that Professor Bengu’s intervention had complicated and politicised an already sensitive issue, and that further political interference would result in universities becoming ‘third-rate institutions’.<sup>365</sup> [<sup>365</sup> Ibid 19 December 1995]

The university council subsequently resolved to reinstate Professor Makgoba, provided he undertake not to release further confidential information relating to the university. Professor Makgoba rejected this condition, and the impasse continued. Professor Makgoba also rejected the international tribunal appointed to investigate the allegations against him. He called for an investigation into the conduct of the 13 academics, and a commission of inquiry headed by a senior advocate, Mr Malcolm Wallis, was established for this purpose. He also urged investigation into the lack of progress in transforming Wits.<sup>366</sup> [<sup>366</sup> Ibid 16 December 1995] In January 1996 the withdrawal of one of the members of the proposed international tribunal rendered it defunct, and meant that a new one would have to be appointed. The university council decided to appoint four of its members to act as mediators both within the university and externally, and to ‘put in place a process to address the broad issue of transformation’. Professor Makgoba was also reinstated, and welcomed these decisions.<sup>367</sup> [<sup>367</sup> *Business Day* 25 January 1996]

The 13 academics were later exonerated of the accusations made against them by Mr Wallis, whose report was accepted by the university’s council. In mid-March 1996 the council announced that Professor Makgoba would be leaving his post as deputy vice chancellor to become a professor in the Faculty of Health Sciences. He would continue to play an important role in the transformation of the university, while the proposed tribunal of inquiry into the allegations made against him by the 13 academics would not proceed. Professor Makgoba admitted that some of the statements in his

curriculum vitae might 'lend themselves to misunderstanding'.

In June 1995 controversy arose over draft legislation, the National Qualifications Framework Bill, aimed at bringing all educational bodies under a single administrative body—the South African Qualifications Authority (SAQA). Universities, it was mooted, would risk losing their subsidies unless they taught a set curriculum and offered uniform qualifications. Moreover, entrance criteria would have to include courses done in the workplace and years of experience, so that an individual wanting to 'slot into the formal education sector [could have] his past achievements recognised' (see also chapter on *Education*).<sup>368</sup> [<sup>368</sup> *The Citizen* 14 March 1996, *Sowetan* 27 June 1995]

The bill was drafted by the education ministry 'with input from organised labour'. According to the *Sowetan*, 'university academics were [largely] unaware the draft bill was about to slip through Parliament'. When this was discovered, 'virtually every university in the country handed submissions to the Ministry of Education opposing the legislation'.<sup>369</sup> [<sup>369</sup> *Sowetan* 27 June 1995] Some academics said they feared the bill would generate a massive bureaucratic structure with its own 'thought police' and 'a schoollike curriculum' in every course.<sup>370</sup> [<sup>370</sup> *The Star* 28 June 1995]

Professor Bengu denied that universities' subsidies would be withheld to force them to teach a uniform syllabus, or that 'thought police' would result. It was also untrue, he said, that university academics had been unaware of the bill, which reflected 'extensive consultation and public participation',<sup>371</sup> [<sup>371</sup> *The Citizen* 28 June 1995] and followed workshops held with the Committee of University Principals (CUP) in both May and June.<sup>372</sup> [<sup>372</sup> *The Star* 28 June 1995]

Universities said it was logical for the trade union movement to endorse the bill, as it would narrow the gap between intellectual work and manual work. The bill, however, 'disregarded a university's right to academic freedom and autonomy'.<sup>373</sup> [<sup>373</sup> *Ibid*] The CUP said it could not support the bill as it did not reflect its discussions with the government. Universities, said Professor Jos Grobbelaar, chief director of the CUP, wanted to know how manual and academic training could be reconciled, and were concerned that the proposed new authority would be 'a massive bureaucratic structure hampering rather than helping universities'.<sup>374</sup> [<sup>374</sup> *Ibid* 3 July 1995]

Writing in defence of the bill, Mr William Shisana, a lecturer at the University of the Western Cape, said it sought merely to establish greater uniformity in standards, and to provide the assurance that every graduate would be able to 'write a memo or application letter'. Universities, he said, made much of 'academic freedom', but matters of education were not the prerogative of academics alone.<sup>375</sup> [<sup>375</sup> *The Star* 1 August 1995]

The legislation, now termed the South African Qualifications Authority Act, was passed in September 1995. It provides for the establishment of a body called the SAQA, to be appointed by the minister of education in consultation with the minister of labour. The maximum membership of SAQA will be 29,

of whom one is to be nominated by the CUP and one by the Committee of Technikon Principals.<sup>376</sup> [<sup>376</sup> Section 4, South African Qualifications Authority Act of 1995]

SAQA is to be responsible for developing a national qualifications framework and overseeing its implementation. This will include 'the registration of national standards and qualifications' for educational institutions. SAQA must execute its functions 'after consultation with and in co-operation with' various educational institutions, but will not be bound to take their views into account. It is also to give 'due regard' to 'the rights, powers and functions' of the governing bodies of universities and tertiary institutions,<sup>377</sup> [<sup>377</sup> Section 5, *ibid*] but will not otherwise be constrained from eroding these.

## Freedom of Expression

*Section 15: Every person has the right to freedom of speech and expression, including freedom of the press and other media. State-controlled media should be regulated in a way that ensures impartiality and a diverse expression of opinion.*

## Media Freedom

The Publications Act of 1974 was widely used in the past to ban books, magazines, films and videos on political and social grounds. In August 1994 the minister of home affairs, Chief Mangosuthu Buthelezi, said new legislation would preclude the government from deciding what 'intelligent and rational beings might read, watch or hear'.<sup>378</sup> [<sup>378</sup> *The Citizen* 10 August 1995]

In March 1995 a draft bill was gazetted for comment. It proposed the repeal of the Publications Act and the legalisation of the private possession of pornography, the distribution of pornographic magazines from local newsagents and special outlets, and the screening of pornographic films in licensed cinemas. It also proposed that 'racist acts and utterances be left to the courts to deal with'. The bill would, however, ban the depiction of extreme violence, incitement to religious hatred, bestiality and child pornography.<sup>379</sup> [<sup>379</sup> *Business Day* 7 December 1994; telephonic interview with Mr Tredoux, a spokesman for the Department of Home Affairs, 27 February 1995; *The Star* 27 April 1995]

Pending the repeal of the Publications Act, its provisions have remained in force but have been less rigorously applied. In October 1994, for example, the Publications Appeal Board (PAB) established under the act allowed an appeal by the publishers of *Hustler* against the banning of one issue of the magazine, saying that South African society had become more tolerant. Publications, it stated, would in future be found undesirable 'in exceptional circumstances' only.<sup>380</sup> [<sup>380</sup> *The Star* 27 April 1995]

The legal status of pornographic material remained uncertain, however:

- in May 1995 police raided numerous shops and confiscated thousands of 'adult' magazines, including copies of *Playboy* and *Penthouse*. Chief Buthelezi said the 1974 act remained in force and urged the

public to support state attempts to curb the spread of ‘undesirable publications’;<sup>381</sup> [<sup>381</sup> *Business Day* 18 May 1995]

- in response, a spokeswoman for the Freedom of Expression Institute, an anti-censorship action group, said the Publications Act had been ‘the main instrument in banning films, books, [and] theatre during apartheid’ and queried why the government was still using it;<sup>382</sup> [<sup>382</sup> *The Citizen* 20 May 1995] and
- in June 1995 the minister for welfare and population development, Mr Abe Williams, said that pornography was a ‘monster’ that had to be fought ‘in Parliament, on the beaches and in the sky’, as overseas studies had shown it resulted in ‘rape, child abuse and family violence’.<sup>383</sup> [<sup>383</sup> *Ibid* 21 June 1995]

In April 1995 the constitutionality of the Indecent or Obscene Photographic Matter Act of 1967 was challenged by Mr Stephen Curtis, charged with possession of five pornographic videotapes, and Mr Patrick Case, charged with possession of some 150 such videotapes. The Witwatersrand Local Division of the Supreme Court suspended the prosecutions of the two, pending a ruling from the Constitutional Court on the validity of the act.<sup>384</sup> [<sup>384</sup> *The Star* 26 April 1995, *Sunday Times* 30 July 1995] The case came before the Constitutional Court in September.

Counsel for the applicants argued that the ‘overboard and vague terms’ of the 1967 act violated the bill of rights. The Christian Lawyers’ Association conceded the act might be too broad but urged that it remain in place until new legislation had been adopted.<sup>385</sup> [<sup>385</sup> *Business Day* 5 September 1995] So too did the Department of Home Affairs, which said a legal vacuum on the issue would lead to ‘a proliferation of vast quantities of pornography, including the [depiction] of rape, bestiality and child pornography’. The Centre for Applied Legal Studies at the University of the Witwatersrand argued, by contrast, that there was no proven link between pornography and sexual violence, and that it was not in the interests of justice to retain legislation clearly contrary to the bill of rights when the harm, if any, caused by pornography remained uncertain.<sup>386</sup> [<sup>386</sup> *The Citizen* 6 September 1995] The Constitutional Court reserved judgement and, at the time of writing, had not yet given its ruling.<sup>387</sup> [<sup>387</sup> *The Star* 17 December 1995]

In June 1995, following the refusal of the PAB to overturn bans imposed on *Hustler* and various other publications in May,<sup>388</sup> [<sup>388</sup> *Mail and Guardian* 15 June 1995] the publishers of *Hustler* applied to the Transvaal Provincial Division of the Supreme Court in Pretoria to have the Publications Act referred to the Constitutional Court for a ruling on its validity. The application was opposed by Chief Buthelezi, who said the application was ‘premature, unnecessary and opportunistic’, as the act was in any event under scrutiny by the cabinet.<sup>389</sup> [<sup>389</sup> *The Star* 17 August 1995] At the time of writing, the validity of the act had not yet been tested before the Constitutional Court.<sup>390</sup> [<sup>390</sup> *Ibid* 27 December 1995]

## ***Enhancing the Government’s Image Through the Media***



In April 1995 the government requested its own weekly prime-time slots on radio and television. This was needed, said the executive deputy president from the majority party, Mr Thabo Mbeki, because the press 'continuously looked at what was bad and wrong'. 'The problem,' he continued, 'is not what is being written but what is not being written.'<sup>391</sup> [<sup>391</sup> *The Citizen* 1 May 1995]

At the end of August 1995 a conference of government communicators was held at Arniston (Western Cape) in response to Mr Mbeki's concern that 'the media was carrying on its role as an opponent of the government even though democracy had replaced apartheid'. Opening the conference, Mr Mbeki said it was also not acceptable that newspaper content was determined 'by one sector of society' alone. To counter this, a 'central and specialised government information service' was needed. This required restructuring the present service, as well as 'direct government communication with the public via the electronic media'.<sup>392</sup> [<sup>392</sup> *Sunday Times* 27 August 1995]

At the conference, strong criticism was directed at the English press for being monopolistic as well as 'white, male and middle-class'. Steps would have to be taken, said Mr Thami Mazwai, chairman of the Black Editors' Forum, to make the press 'more South African'.<sup>393</sup> [<sup>393</sup> *The Star* 28 August 1995] The overall feeling at the conference, said the *Sowetan's* political editor, Mr Mathatha Tsedu, was that the 'monopoly in the print media must be broken'. Otherwise, he warned, government communications would be undermined by forces interested primarily in 'guarding their wealth, amassed through conquest and exploitation of workers'.<sup>394</sup> [<sup>394</sup> *Sowetan* 29 August 1995]

Mr Ken Owen, editor of the *Sunday Times*, rejected the view that 'white middle-class control of the press limited government's ability to get its message across'. White, middle-class males on press boards had become the exception rather than the rule. The real problem was 'the perceived lack of an effective newspaper that would give a voice to the ANC [African National Congress]'. He cautioned against the government attempting a 'quick fix' through taking control of a ready-made vehicle, such as *The Star* or the *Sunday Times*, warning that 'political correctness was a death trap for newspapers'.<sup>395</sup> [<sup>395</sup> *Sunday Times* 27 August 1995]

The conference called for extensive investigation of the South African media, including its ownership and progress in affirmative action (see also chapter on *Politics and Security*). It also urged the government to direct its multimillion rand advertising budget to 'community newspapers' and those that implemented 'verifiable affirmative action'. It endorsed Mr Mbeki's call for a centralised government communication body to 'manage government's corporate image, monitor the media and undertake research'. It resolved to appoint a task group to investigate these issues and report on them by January 1996, so that legislation could be introduced thereafter.<sup>396</sup> [<sup>396</sup> *Sowetan, The Star* 28 August 1995] The ten-member task group was appointed by the government in December 1995. Its members are Professor Willem de Klerk (subject to confirmation), Mr David Dison, Mr Steve Godfrey, Mr Mandla Langa, Mr Raymond Louw, Mr Sebiletso Mokone Matabane, Dr Stephen Mncube, Ms Val Pauquet, Mr Tshepo Rantho and Mr Mathatha Tsedu.<sup>397</sup> [<sup>397</sup> *The Citizen* 20 December 1994]

## Defamation

In February 1995 the Transvaal Provincial Division of the Supreme Court in Pretoria—in a defamation claim against the *Pretoria News* by a businessman who said he had been falsely implicated in the supply of arms, medicine and food to the Angolan rebel movement, Unita—said that the guarantee of press freedom did not affect the law of defamation. The bill of rights was intended to apply vertically (between citizen and state), and the drafters of the transitional constitution could not have intended ‘the whole body of private law to become unsettled’. The Pretoria court nevertheless referred the case to the Constitutional Court for a ruling on the issue.<sup>398</sup> [<sup>398</sup> Ibid 16 February 1995] The Constitutional Court, at the time of writing, had not yet given judgement.<sup>399</sup> [<sup>399</sup> *The Star* 27 December 1995]

In May 1995 Chief Buthelezi brought a R100 000 defamation suit against the ANC for alleging that the Inkatha Freedom Party leader had been present at the Ulundi Police Station when an Umkhonto we Sizwe cadre, Mr Msizi Mchunu, was shot dead by an officer of the KwaZulu Police a few days before the general election in April 1994. Counsel for the ANC urged the court to follow a ruling of the United States (US) Supreme Court, in *New York Times v Sullivan*, to the effect that a public official, such as Chief Buthelezi, must prove ‘actual malice’ to succeed in a defamation claim. (In the case of *New York Times v Sullivan* in 1964, the US Supreme Court had ruled that public debate must be ‘uninhibited and robust’ and could include ‘vehement, caustic and sometimes sharp attacks on government and public officials’. This meant, the US court had concluded, that a public official could not recover damages for defamation relating to his official conduct unless he proved that the defamatory statement was made ‘with actual malice—with knowledge that it was false or with reckless disregard of whether it was false or not’.)<sup>400</sup> [<sup>400</sup> *New York Times v Sullivan*, 376 US 254 (1964) at 270, cited and further described in Jeffery A J, *Media Freedom in an African State: Nigerian law in its historical and constitutional context*, unpublished dissertation for the degree of Doctor of Philosophy, University of London, 1983, p564; *Business Day* 25 May 1995]

Judgement had not yet been given at the time of writing.

The same argument was raised in November 1995, against Mr Bantu Holomisa, deputy minister of environmental affairs and tourism, when he sued Argus Newspapers for defamation for an article which had appeared in *The Star* in 1993, alleging that the deputy minister—then the military ruler of the Transkei homeland—had been directly involved in the infiltration into South Africa of members of the Azanian People’s Liberation Army and the Transkei Defence Force, for the purpose of ‘killing whites in the northern Natal region’. The newspaper group argued that Mr Holomisa could not succeed in his claim as he had failed to allege or prove ‘actual malice’ on the part of *The Star*. Mr Holomisa countered that the bill of rights did not apply to litigation between two private persons.<sup>401</sup> [<sup>401</sup> *The Star* 30 November 1995]

In February 1996 Mr Justice Edwin Cameron gave judgement in the matter. He ruled that the transitional bill of rights—although vertical in operation—required the courts to uphold its values and spirit in applying and developing the common law. As the bill of rights also gave particular primacy to ‘political

speech’, this meant that the established common law rules should give way to a new test based on whether the publisher of false and defamatory material of a political nature had acted ‘reasonably’. The onus lay on Mr Holomisa, he concluded, to prove such negligence.<sup>402</sup> [<sup>402</sup> In the Supreme Court of South Africa, Witwatersrand Local Division, In the matter between *Holomisa, Bantu v Argus Newspapers Ltd*, judgement delivered on 14th February 1996]

In August 1995 Professor Robert Schrire, head of the Department of Political Science at the University of Cape Town (UCT), won a R50 000 defamation settlement against an ANC MP, Mr Tony Yengeni. Mr Yengeni had said, at a UCT rally in 1994 to commemorate the assassination of South African Communist Party leader, Mr Chris Hani, in April 1993, that Professor Schrire was ‘anti-communist’ and that ‘this anti-communist bashing’ had ‘led to the loss of our comrade Chris Hani’.<sup>403</sup> [<sup>403</sup> *Sunday Times* 26 August 1995]

In response, Professor Schrire brought a R150 000 defamation suit against Mr Yengeni. He said he had brought the case not only to defend his professional dignity and reputation, but also because it was ‘vital for impartial observers to be able to carry out their critical role free from the intimidation this rhetoric tried to impose’.<sup>404</sup> [<sup>404</sup> *Ibid*]

## **Independent Broadcasting Authority**

### ***Community Radio Stations***

By mid-August 1995 the Independent Broadcasting Authority (IBA), responsible for the issuing of licences to broadcast on radio and television, had issued some 80 one-year community radio licences, and about 40 of these stations had already come on the air (see also chapter on *Politics and Security*).<sup>405</sup> [<sup>405</sup> *The Star* 15 August 1995]

In April 1995 police took action against Radio Donkerhoek, an illegal radio station situated about 25km east of Pretoria, which had been broadcasting ‘illegal right-wing messages for the previous ten months’. About 80 policemen surrounded the house in which the station was situated while police helicopters circled overhead. Mr Willem Ratte, responsible for running the station, locked himself in the house and said ‘the station had done nothing illegal’ but intended to ‘make a stand for freedom of speech’. Following negotiations, the police—who had intended to confiscate the station’s broadcasting equipment—agreed to withdraw. A member of an organisation called ‘Friends of Donkerhoek’ said the station was ‘the only true voice of the Afrikaner volk’ and had refused to apply for a licence because it rejected the legitimacy of the government.<sup>406</sup> [<sup>406</sup> *The Citizen* 27 April 1995]

### ***The Iba Report on Radio and Television Services***

In mid-August 1995 the IBA handed its report on broadcasting to the minister of posts, telecommunications and broadcasting, Dr Pallo Jordan. The report was the product of an 18-month

inquiry into the ‘protection and viability of the public broadcasting sector, cross-media control and ownership of broadcasting services’, and means to ensure local content in programmes and music.<sup>407</sup> [<sup>407</sup> *The Star* 15 August 1995]

The report stated that newspaper owners should be barred from owning controlling shares in radio or television (TV) stations. Rejecting the view of major newspaper groups—that rationalisation of media production facilities would help to achieve economies of scale—the IBA said that ‘a newspaper owner should not be allowed control in an area where his publication had more than 15% of total newspaper readership, and its circulation substantially overlapped with the radio or TV target audience’. Exceptions would be allowed, it said, only where good cause could be shown (see also chapter on *Politics and Security*).<sup>408</sup> [<sup>408</sup> *Ibid* 30 August 1995] Dr Jordan welcomed the report’s recommendations on cross-media ownership. ‘Concentrations of media power,’ he said, ‘stand in the way of achieving broadcasting diversity.’<sup>409</sup> [<sup>409</sup> *Business Day* 30 August 1995]

The IBA also recommended that the three land-based TV channels currently operated by the South African Broadcasting Corporation (SABC) be reduced to two by the end of 1997, and supplemented by a satellite channel. In addition, one private land-based channel should be authorised, and in selecting a licensee for this channel, ‘ownership or control by previously disadvantaged South Africans would be an important criterion’ (see also chapter on *Politics and Security*).<sup>410</sup> [<sup>410</sup> *The Citizen* 31 August 1995]

The SABC said it would oppose any reduction in its land-based channels, as it would be unable to fulfil its public service mandate on this basis.<sup>411</sup> [<sup>411</sup> *Ibid* 26 August 1995] Dr Jordan said he shared this concern, and also feared that the mooted delay in establishing a private land-based TV channel could ‘over-protect the SABC and defeat the aim of regulated competition’.<sup>412</sup> [<sup>412</sup> *Ibid* 30 August 1995] The National Party rejected the recommendation that the SABC retain its monopoly until the end of 1997,<sup>413</sup> [<sup>413</sup> *Business Day* 30 August 1995] while Mr Stan Katz, chief executive of a private broadcasting concern, Primedia, said confining private TV broadcasters to one land-based channel would ‘deprive the majority of viewers—who cannot afford satellite TV—of any significant choice’. Mr Katz also expressed concern that private radio stations would be excluded from national operation.<sup>414</sup> [<sup>414</sup> *The Citizen* 31 August 1995]

The report also recommended that 50% of SABC television programmes be locally produced within three years, and that a private land-based TV broadcaster attain a 30% quota within that time. SABC radio stations would have to provide 55% local music by the year 2000, and private radio stations 40% local music by then.<sup>415</sup> [<sup>415</sup> *The Star* 31 August 1995] Dr Jordan endorsed the imposition of local content regulations, and rejected the view that market forces should determine what television programmes or music should be broadcast. This would condemn South Africans, he said, to ‘electronic serfdom to half a dozen multinational media corporations that had no interest in nation building’ and whose ‘sole reason for being was the maximisation of profit’.<sup>416</sup> [<sup>416</sup> *Business Day* 30 August 1995]

Public submissions on aspects of the IBA report were sought in September 1995, and public hearings on

its recommendations were conducted in November. In calling for submissions the IBA made it clear, however, that it did not intend ‘reopening the inquiry’, and that no submissions on local content would be entertained.<sup>417</sup> [<sup>417</sup> Ibid 20 September 1995]

### ***Satellite Television Broadcasting***

The IBA announced in mid-September 1995 that it would soon begin a public inquiry into satellite TV broadcasting, and would thereafter formulate conditions for the grant of licences. The inquiry would focus, among other things, on ‘a prescribed level of local television content or a financial obligation in lieu thereof’; ownership and control of satellite broadcasting; and ‘possible legislation in regard to foreign broadcasters’. Thereafter the IBA would invite applications for private satellite TV broadcast licences.<sup>418</sup> [<sup>418</sup> *The Citizen* 15 September 1995]

Some satellite transmission companies, such as a company known as Multichoice, could be granted ‘interim consent’ to broadcast until the inquiry had been completed and licences granted. Proper regulation was necessary, however, said the IBA, to ensure that ‘broadcasting services, viewed collectively, developed and protected a national and regional identity, culture and character’. ‘Unregulated satellite broadcasting,’ it warned, ‘could threaten this objective’ and could also be unfair to terrestrial broadcasters who were subject to regulation.<sup>419</sup> [<sup>419</sup> *The Star* 15 September 1995]

### **Rights to Assembly, Demonstration and Petition**

*Section 16: Every person has the right to assemble and demonstrate peacefully and to present petitions.*

The bill of rights guarantees the right of peaceful demonstration. During the period under review many demonstrations (often mounted in support of strike action) were, however, accompanied by intimidation, damage to property, and in some instances the taking of hostages.

Thus, for example:

- in January policemen in Cape Town, belonging to the Police and Prisons Civil Rights Union, held the white Langa Police Station commander hostage for a number of hours for alleged racism,<sup>420</sup> [<sup>420</sup> *The Citizen* 26, 31 January 1995] while protesting policemen at the Orlando Police Station in Soweto chained the gates of the station closed. An internal stability unit (ISU) was deployed against the protesters and a shootout occurred in which one of the strikers, a warrant officer, was killed. Thereafter an angry mob of policemen tried to lynch the white commander of the ISU; <sup>421</sup> [<sup>421</sup> Ibid 2 February 1995]
- in February former Umkhonto we Sizwe cadres, demanding incorporation into the South African National Defence Force (SANDF), assembled outside the offices of the African National Congress in central Durban and smashed car and shop windows when the police attempted to disperse them,<sup>422</sup> [<sup>422</sup>

Ibid 7 February 1995] while crowds of black youths, protesting over racial incidents at a school in Cape Town, looted stalls, mugged and assaulted passers-by and attacked journalists in Cape Town's city centre; 423 [423 Ibid 17 February 1995]

- in April protesting nurses and other workers at the Madadeni Hospital in Newcastle (KwaZulu/Natal) released the HIV, Hepatitis B and tuberculosis viruses into the maternity and nursery sections of the hospital. More than 60 women and 30 newborn babies were evacuated, amid fears that several may have been infected; 424 [424 *Sunday Times* 9 April 1995]
- in June striking workers at a sawmill near Nelspruit (Mpumalanga) allegedly started some 43 fires in the area, causing damage estimated at R12 000. The strikers also cut through the fence around the sawmill and threw rocks at security officers; 425 [425 *The Star* 14 June 1995]
- in September striking municipal workers—following similar incidents by strikers in Paarl (Western Cape), Sasolburg (Free State) and Alberton (Gauteng)—went on the rampage through the streets of Johannesburg, overturning rubbish bins, uprooting trees, forcing open under-ground water pipes with pickaxes, blockading streets and stoning at least one bus; 426 [426 Ibid 27, 28 September 1995] and
- also in September, striking nurses at Kingsway Hospital in Amanzimtoti (south of Durban), blocked the ambulance emergency entrance with garbage and tree branches and threatened to kill a refuse collector who sought to remove the barricade. The nurses then went into the hospital and broke open bags containing contaminated matter discarded after surgery and emptied them onto the floor in the entrance hall. 427 [427 *The Citizen* 15 September 1995]

Much of the illegal protest action was perpetrated by members of the public service. In early February 1995 the president, Mr Nelson Mandela, threatened public servants with the 'full wrath of the government' if they broke the law. Violent protests, intimidation, sit-ins and the abduction of government officials would be dealt with 'very ruthlessly', he warned. 428 [428 Ibid 3 February 1995] This was reiterated by the minister of justice, Mr Dullah Omar, who stated that the right to demonstrate did not include the right to damage property and injure individuals. 429 [429 Ibid 15 February 1995]

Later in the same month the government took steps to curb illegal protest action. The South African Police Service and SANDF were deployed in Umtata (Eastern Cape) to end roadblocks by some 2 000 striking Transkei policemen, protesting against poor working conditions. 430 [430 Ibid 9 August 1995] The security forces came under fire from the striking policemen and 'used mortar bombs, live ammunition and teargas to quell the protest'. One of the strikers died in the ensuing gun battle and another was injured. In addition, a police task group was sent to rescue a prison warder who had been held hostage for 72 hours by armed inmates of a prison in Port Elizabeth. 431 [431 *Business Day* 27 February 1995, *The Star* 28 February 1995]

Little other action was taken, however. Nurses who had infected wards at the Madadeni Hospital with the HIV and Hepatitis B virus faced prosecution, while municipal workers who cut a swathe of destruction through Johannesburg were, according to press reports at the time, to face civil proceedings for damages. No action has been taken in either instance, however. The prosecution of the striking nurses was withdrawn in December 1995, while municipal workers in Johannesburg are to face a disciplinary inquiry in terms of their conditions of service.<sup>432</sup> [<sup>432</sup> Telephone interview with Mr Jooste, senior prosecutor, Newcastle magistrate's court, 27 March 1996; telephone interview with Mr I Meyer, acting manager, claims department, Greater Johannesburg Transitional Metropolitan Council, 27 March 1996]

## **Freedom of Association**

*Section 17: Every person has the right to freedom of association.*

### **Freedom of Association Within the Workplace**

In terms of the Labour Relations Act of 1995, passed by Parliament in September and expected to take effect in May 1996, both employees and employers are entitled to freedom of association and may join either trade unions or employer organisations of their choice. However, any existing union which restricts its membership on a racial basis will lose its registration within approximately four months of the act taking effect, unless it removes this restriction.<sup>433</sup> [<sup>433</sup> Section, Labour Relations Act of 1995, read with Section 5 of Schedule 7, providing for transitional arrangements] Closed shop agreements are also authorised by the act. Thus, employers and a union representing a majority of employees in a workplace (or area and sector) may conclude agreements requiring all employees covered by the agreement to be members of the union in question. Such an agreement is binding only, however, if two thirds of the employees in the workplace (or area and sector) to be covered have voted for it in a secret ballot.<sup>434</sup> [<sup>434</sup> **Fast Facts**, no 11, November 1995] (See also chapter on *Employment and Industrial Relations*.)

### **Freedom to Dissociate**

The right to dissociate is considered by some as an important corollary to freedom of association. This is not dealt with in the bill of rights. However, any attempt to dissociate which amounts to unfair discrimination (on grounds such as race, gender, political opinion or sexual orientation) may be prohibited in terms of section 8 (which binds the state) and section 33 (which authorises the taking of measures to prevent unfair discrimination by private persons and institutions).

## **Freedom of Movement**

*Section 18: Every person has the right to freedom of movement within South Africa.*

Since the abolition of influx control and the pass laws in 1986, no restrictions have been placed on the freedom of movement of South African citizens within South Africa. No instances of infringement of

this right had been reported at the time of writing. (Illegal aliens may, however, be barred from entry into South Africa or deported from the country.)

## **Freedom of Residence**

*Section 19: Every person may freely choose his or her residence anywhere within the country.*

Since the abolition of the Group Areas Act of 1966 and the land acts of 1913 and 1936, there have been no restrictions on where South African citizens may choose to live. No instances of infringement of this right had been reported at the time of writing.

## **Rights of Citizenship**

*Section 20: Every citizen has the right to enter and leave South Africa, and may not be deprived of citizenship.*

## **Freedom to Leave and Enter the Country**

The South African Passports and Travel Documents Act, promulgated in 1994, states that ‘every South African citizen shall be entitled to a South African passport’. It also empowers the minister of home affairs to determine ‘circumstances under which the issue of a South African passport may be refused or withdrawn’. No instance of such refusal or withdrawal had been reported at the time of writing.<sup>435</sup> [<sup>435</sup> South African Passports and Travel Documents Act of 1994]

## **Deprivation of Citizenship**

In October 1995 the South African Citizenship Act was promulgated to provide for the acquisition, loss and resumption of South African citizenship. According to the act, a person will lose South African citizenship if he or she becomes a citizen of another country through a voluntary act other than marriage, but may be able to retain it on application to the minister of home affairs.<sup>436</sup> [<sup>436</sup> Section 6, South African Citizenship Act of 1995] The minister may also deprive a South African citizen by naturalisation of his or her citizenship if this was obtained by fraud or in an unlawful manner.<sup>437</sup> [<sup>437</sup> Section 8(1), South African Citizenship Act] In addition, the minister may deprive a South African citizen with dual nationality of citizenship if he or she has been convicted of criminal conduct and sentenced to at least one year’s imprisonment. Alternatively, the minister may deprive a South African citizen with dual nationality of citizenship if ‘satisfied’ that this would be ‘in the public interest’,<sup>438</sup> [<sup>438</sup> Section 8(2), *ibid*] or if he or she has voted in another country or used its passport facilities (see also chapter on *Population*).<sup>439</sup> [<sup>439</sup> Section 9, *ibid*]

The Supreme Court may review the minister’s decisions on citizenship, and call upon him to furnish reasons for these. The Supreme Court also has the capacity to confirm, vary or set aside the minister’s



decisions in this regard.<sup>440</sup> [440 Section 25, *ibid*; *The Citizen* 4 September 1995]

## Political Rights

*Section 21: Every citizen has the right to join a political party, to campaign for a political cause and freely to make political choices. Every citizen has the right to vote, to do so in secret, and to stand for public office.*

### The Right to Free Political Activity

Various instances of intimidation were reported in the run-up to the local government elections, held in most areas of the country on 1st November 1995 (see *Metropolitan and Local Government* above).

### Rights to Vote in Secret and Stand for Public Office

In the local government elections, held in most parts of the country on 1st November 1995, the right to vote was confined to those who had registered as voters. Some 12,7m people had registered as voters. All South African citizens were eligible to stand as candidates in the local government elections, provided they had received the endorsement of 2% of registered voters in the ward in which they were standing. Some political parties objected to this requirement on the basis that wards had been demarcated so late that it was unrealistic and discriminatory to expect candidates from smaller parties to fulfil this requirement (see *Metropolitan and Local Government* above).

### Right of Access to Court

*Section 22: Every person has the right to have justiciable disputes settled by a court of law, or where appropriate, another independent and impartial forum.*

In June 1995 Mrs Ntsiki Biko, widow of Black Consciousness leader Mr Steve Biko, who died in police custody in 1977, and Mr Mhleli Mxenge, brother of Durban attorney Mr Griffiths Mxenge, who was allegedly murdered in 1981 by agents of the Civil Co-operation Bureau, opposed draft legislation on the Truth and Reconciliation Commission (TRC) (see chapter on *Politics and Security*). Both were members of a newly formed organisation, the Association of Victims of Unsolved Apartheid Atrocities (AVUAA). Mr Mxenge, chairman of the organisation, said the AVUAA opposed the TRC because its members knew the truth, and now wanted justice. 'We say let the law take its course. If there is to be any forgiveness, it will come after they have been convicted and sentenced.' The TRC did not offer an acceptable substitute for the normal judicial process, he said, for it would accord amnesty to all who confessed their crimes, allowing them to escape the punishment which was their due.<sup>441</sup> [441 *The Citizen* 10 June 1995, *The Star* 14 June 1995]

### Right of Access to Information

*Section 23: Every person has the right of access to all information held by the state insofar as such information is needed for the protection of his or her rights.*

## **Access to the Police Docket**

A key question which arose after the adoption of the bill of rights was whether section 23 gives an accused in a criminal trial the right of access to the police docket—the dossier compiled by the police containing statements from state witnesses and other evidence relevant to the prosecution’s case.

In late 1994 conflicting decisions on the issue were given by the Witwatersrand Local and Transvaal Provincial Divisions of the Supreme Court. The former granted access to the police docket on certain conditions.<sup>442</sup> [442 *The Citizen* 10 August 1994] The latter denied it, saying the prosecutor was entitled to retain ‘legitimate surprise weapons in his armoury’, and referred the issue to the Constitutional Court for its ruling.<sup>443</sup> [443 *Ibid* 5 November 1994]

The issue came before the Constitutional Court in March 1995.<sup>444</sup> [444 *The Star* 8 March 1995] The attorney general of the Transvaal, Dr Jan D’Oliveira, said the grant of access to the police docket would undermine the administration of justice, making witnesses more reluctant to come forward and evidence more difficult to procure.<sup>445</sup> [445 *Business Day* 13 March 1995] In November 1995 the court gave judgement on the issue. It ruled that an accused has the right to consult state witnesses, unless the prosecutor can prove that this would lead to intimidation, or defeat the ends of justice. Delivering his judgement—with which the court’s ten other judges concurred—Mr Justice Ismail Mahomed said that ‘the blanket rule’ prohibiting an accused from consulting with state witnesses or obtaining access to the police docket was too wide. The courts should, instead, be given a discretion on the issue.<sup>446</sup> [446 *The Star* 30 November 1995]

## **Access to Other Information Held by the State**

An Open Government Bill was published in early July 1995. The stated aim of the bill was to give the public access to government information, provided this did not jeopardise ‘good governance, personal privacy or commercial confidentiality’. In terms of the bill, all government departments would be obliged to publish manuals setting out their structure, powers, decision-making processes and the information held by them. Requests for information would generally have to be answered within 30 days, while members of the public would also be able to attend meetings of important decision-making bodies.

According to the bill, access to information might be refused, however, to uphold state security and the maintenance of law and order, and to prevent ‘the successful implementation of government policy’ being undermined. Meetings of government bodies might be closed to the public on certain grounds.

The bill proposed the appointment of ‘information officers’ for each department, from whose decisions appeal would lie to senior officials, a new information court, and finally to the public protector. It also envisaged the establishment of an open democracy commission, responsible for reviewing the act and suggesting means of improving the ‘accountability, responsiveness and openness’ of all organisations with ‘substantial influence’ in society.

According to the *Financial Mail*, the legislation would not only increase the bureaucratic burden, but would also ‘create additional obstacles’ to the free flow of information. The lengthy time limits and complex appeal procedures would mean that the media would make little use of the new channels, while the process would become ‘bogged down by thousands of cranky requests from individuals for personal information held by hundreds of government organisations’. Moreover, the wide-ranging basis on which requests for information could be refused might mean that ‘less and not more information would be available if the bill became law’.<sup>447</sup> [<sup>447</sup> *Financial Mail* 7 July 1995]

According to a journalist, Mr Allister Sparks, adoption of the bill would place South Africa ‘right up front among the handful of real democracies in the world’. Mr Sparks acknowledged that there were weaknesses in the bill—especially in the broad exclusions and time-consuming procedures envisaged—but said it would be preferable ‘to press for improvements to these provisions than to denounce the bill as a whole’.<sup>448</sup> [<sup>448</sup> *The Star* 23 August 1995]

A draft Open Democracy Bill (replacing the earlier draft legislation) was published for comment some months later and, in March 1996, was due to be taken to the cabinet for approval within ‘two to three weeks’, with a view to its enactment by Parliament thereafter. Ms Mojanku Gumbi, legal adviser to Mr Mbeki, said the new legislation would ‘make government more accountable to its citizenry as it was a mechanism through which the public could access information and hold government and the bureaucracy accountable for their actions’.<sup>449</sup> [<sup>449</sup> *The Citizen* 11 March 1995]

## **Access to Information Held by the Private Sector**

In February 1995 the speaker of Parliament, Dr Frene Ginwala, said that the right of access to information was too circumscribed, and should extend to all information—including that held by the private sector—‘useful and necessary for development and to empower people to take decisions about their everyday lives’.<sup>450</sup> [<sup>450</sup> *Ibid* 9 February 1995]

There were indications that the Open Government Bill published in July might extend to the private sector and civil society, for the open democracy commission it envisaged would be charged with enhancing the accountability of all ‘institutions or organisations which exercised substantial influence over the nature of South African society’. Large corporations and other private institutions, such as the newspaper industry, could be regarded as doing so.

According to the *Financial Mail*, part of the motive underlying the draft bill was to compel private

bodies to disclose information. Companies, however, would resist the disclosure of information which would prejudice their operations. Moreover, if newspapers were forced to 'open their confidential files and reporters' notes', this could deter potential informants from speaking to the press.<sup>451</sup> [<sup>451</sup> *Financial Mail* 7 July 1995]

The draft Open Democracy Bill, which replaces the earlier draft legislation, clearly extends to the private sector as well. If enacted, it would oblige companies to compile and distribute information manuals, maintain an index of records, provide facilities and assistance to those seeking information, and be equipped to handle urgent requests and to provide information in any of the 11 official languages specified.<sup>452</sup> [<sup>452</sup> *The Star* 19 February 1995]

## Right to Administrative Justice

*Section 24: Every person has the right to lawful and procedurally fair administrative action, as well as written reasons for administrative decisions.*

## Lawful and Procedurally Fair Administrative Action

In January 1995 the South African Law Commission recommended that the Supreme Court be empowered to review 'unfair or unjustifiable' administrative acts by the state. Grounds for judicial review should include material error of law or fact, unreasonableness, and inadequate reasons for decisions, and should be introduced by legislation.<sup>453</sup> [<sup>453</sup> *Business Day* 13 January 1995]

In March 1995 the president, Mr Nelson Mandela, sought to dismiss his estranged wife, Mrs Winnie Mandela, from her post as deputy minister of arts, culture, science and technology, and sent a letter of dismissal to her revoking her appointment. Mrs Mandela countered that the dismissal was procedurally defective as the letter had not been properly sealed and the president had failed to consult other members of the government of national unity, notably Chief Mangosuthu Buthelezi, as required by the transitional constitution.

Mrs Mandela warned that she would challenge the validity of the dismissal in court, and was thereafter reinstated in her post. A spokesman for Mr Mandela said the president had been fully aware of the need for consultation, and had received 'legal opinion that such consultation as took place was sufficient'. Mr Mandela had decided to reinstate her, however, as 'he wished to spare the government and the nation the uncertainties which might follow protracted litigation on the issue'.<sup>454</sup> [<sup>454</sup> *Weekend Star* 15 April 1995] (Mrs Mandela was thereafter dismissed a second time, and resigned from her post on the day the dismissal took effect.)<sup>455</sup> [<sup>455</sup> *Ibid*, *The Citizen* 18 April 1995]

In September 1995 Ms Frances Kendall, then of the Federal Party, contested the validity of the election, in December 1994, of members of the executive council of the Greater Johannesburg Transitional Metropolitan Council. According to the Local Government Transition Act of 1993, the 16-member

executive council should have been elected by proportional representation. Instead, eight nominees had been put forward by four organisations on the statutory side and eight by three organisations on the nonstatutory side (see also 1993/94 Survey, pp499–500). These 16 nominees had then been elected into office, on the basis of ‘a simple majoritarianism system [based on] two separate lists’.

The fundamental right being invoked by Ms Kendall, said the Witwatersrand Local Division of the Supreme Court, was the right to administrative justice. It found that the election of the executive council had ‘failed to comply with any recognised system of proportional representation’, and accused those who had proposed the unauthorised voting scheme of ‘a high degree of obduracy and irresponsibility’. ‘Public officials,’ said Mr Justice R T van Schalkwyk, ‘must realise that they, no less than the most humble individual, are subject to the law.’ The court declined to nullify the election of the executive council, however, as it had only a short period left in office before the local government elections on 1st November 1995. It issued a declaratory order to the effect that the election had been unlawful and awarded Ms Kendall the costs of bringing the suit.<sup>456</sup> [<sup>456</sup> Judgement in the matter of *Louw v Matjila and others*, in the Supreme Court of South Africa (Witwatersrand Local Division), before the Honourable Mr Justice van Schalkwyk R T, 8 September 1995]

## Written Reasons for Administrative Decisions

In April 1995 Mrs Mandela was dismissed from her post as deputy minister for a second time. On this occasion, all procedural requirements were fulfilled, but no reasons were given for her dismissal. This failure, said Mrs Mandela, reflected not only a lack of transparency but also a breach of section 24 of the bill of rights. Mr Mandela said he was not obliged to make public the reasons for his decision. ‘The appointment of ministers and deputy ministers, more particularly those from the ranks of my own organisation, constitutes a political decision,’ he said. He was thus entitled to do what he ‘believed necessary in pursuit of good governance and the interests of the country as a whole’.<sup>457</sup> [<sup>457</sup> *Weekend Star* 14 April 1995, *Business Day* 19 April 1995, *The Citizen* 20 April 1995]

## Rights of Detained, Arrested and Accused Persons

*Section 25 (1): Every person who is detained has the right to be informed of the reasons for the detention; to be treated humanely; to consult with a lawyer of his or her choice; to be visited by family members and a private doctor; and to challenge the lawfulness of the detention in court.*

*Section 25 (2): Every person arrested for an alleged crime has the rights of a detained person as well as the right to remain silent; to be brought before a court within 48 hours and to be either charged or released, or informed of the reason for continued detention; not to be compelled to make a confession; and to be released on bail ‘unless the interests of justice otherwise require’.*

*Section 25(3): Every accused person has the right to a fair trial, which includes the right to a public trial within a reasonable time; to be informed of the charge; to be presumed innocent and to remain silent; to adduce and challenge evidence; not to incriminate him—or herself; to be represented by a*

*legal practitioner of his or her choice; to be provided with legal representation at state expense 'where substantial injustice would otherwise there is now no condemnation for those who are in Christ Jesus result'; not to be charged or punished on a retrospective basis; not to be tried again for the same offence; to have court proceedings interpreted, or conducted in a language he or she understands; and to be sentenced within a reasonable time after conviction.*

## **Detention of Illegal Immigrants**

In September 1995 it was reported that three illegal immigrants—a Taiwanese, a Zambian and a Malawian—had been detained for 15, 12 and eight months respectively, and that 'it was not known how many [such people] were awaiting trial or deportation in South African prisons'.<sup>458</sup> [<sup>458</sup> *The Citizen* 2 September 1995] In the same month the Aliens Control Act of 1991 was amended to empower the government to act more firmly against illegal immigrants. The Democratic Party alone voiced objections to retaining wide powers of arrest and detention of illegal immigrants.<sup>459</sup> [<sup>459</sup> *Business Day* 15 September 1995; Section 24, Aliens Control Amendment Act of 1995]

## **Admissibility of Confessions**

At common law a confession was admissible in evidence only if the prosecution could prove that it had been freely and voluntarily made. In 1973, however, the common law rule was changed by legislation, and the onus instead placed on the accused to rebut a presumption that a confession made in writing before a magistrate had been freely and voluntarily made. Moreover, the accused could not easily rebut the presumption but had to show that his version of events was the more probable one.<sup>460</sup> [<sup>460</sup> In the Constitutional Court of South Africa, in the matter of *Zuma and others v The State*, and *Mhlungu and others v The State*, judgement delivered by Mr Justice S W Kentridge (Acting), 6 April 1995, pp3–4]

In April 1995 the validity of this statutory provision, then contained in section 217 of the Criminal Procedure Act of 1977, was challenged before the Constitutional Court by two men accused of killing a farmer and a domestic worker in the Umkomaas Valley in KwaZulu/Natal. Both had confessed following their arrest, and later contended that the police had assaulted them and thereby induced their confessions. The court ruled that the accused had failed to rebut the presumption, and the matter was referred to the Constitutional Court for its ruling.<sup>461</sup> [<sup>461</sup> *The Star* 6 April 1995]

Mr Acting Justice S W Kentridge said the original common law rule was an integral part of South African law, and its reversal seriously undermined the rights to fair trial contained in section 25 of the bill of rights. Judge Kentridge rejected the argument that judges should use their discretion in deciding whether or not to admit confessions, saying the issue was one which demanded both clarity and respect for the values underpinning the bill of rights.

Judge Kentridge ruled the presumption invalid. This ruling, he added, should apply in any criminal trial commencing on or after 27th April 1994 in which judgement had not yet been given.<sup>462</sup> [<sup>462</sup> In the

Constitutional Court of South Africa, in the matter of *Zuma and others v The State*, and *Mhlungu and others v The State*, judgement delivered by Mr Justice S W Kentridge (Acting), 6 April 1995, p53; *The Citizen* 6 April 1995] (The court decided not to give its ruling full retrospective effect, as this might result in numerous appeals in which proceedings would have to start afresh, with the necessary evidence possibly no longer available.)

The judgement was widely acclaimed as heralding a return to the rule of law.<sup>463</sup> [<sup>463</sup> *Sunday Times* 9 April 1995] Some disquiet was also expressed that the ruling applied only to cases beginning after 27th April 1994, and ‘left out 17 years of the section’s application’.<sup>464</sup> [<sup>464</sup> *Sowetan* 20 April 1995] The Constitutional Court, in a majority judgement, has since given full retrospective effect to its April 1995 ruling (see also *Interpretation of the bill of rights* below).

## Right to Bail

In January 1995 the minister of justice, Mr Dullah Omar, said additional measures to combat serious crime—including legislation on the grant of bail and new guidelines to magistrates on the issue—would be introduced during the year. This reflected, he said, his determination to ‘tackle crime head-on’. The right to bail was subject to a proviso which authorised its refusal in appropriate circumstances. Some magistrates, however, had overlooked this in interpreting the right to bail.<sup>465</sup> [<sup>465</sup> *The Citizen* 11 January 1995]

Also in January, the South African Law Commission recommended that a number of factors be taken into account in deciding on bail. These should include the degree of violence reflected in the alleged crime; any threats of violence the suspect may have made; any past disposition to violence on the part of the suspect; and any evidence available that he or she had previously committed a serious crime while out on bail.<sup>466</sup> [<sup>466</sup> *Ibid* 13 January 1995] The commission also recommended that magistrates should be ‘more inquisitorial with suspects’ during bail applications.<sup>467</sup> [<sup>467</sup> *Ibid*] It further advocated that the Criminal Procedure Act of 1977 be amended to authorise the cancellation of bail if an accused interfered with witnesses or posed a serious threat to the safety of the public or an individual.<sup>468</sup> [<sup>468</sup> *The Star* 31 March 1995]

In May 1995 the cabinet approved a bill containing most of the commission’s recommendations on the grant of bail.<sup>469</sup> [<sup>469</sup> *Ibid* 4 May 1995] The Criminal Procedure Second Amendment Act of 1995 was passed by Parliament in September, with the support of the African National Congress (ANC) and opposition parties (see also chapter on *Politics and Security*).<sup>470</sup> [<sup>470</sup> *The Citizen* 14 September 1995]

According to the act:<sup>471</sup> [<sup>471</sup> Sections 1–4, 7,9 and 10, Criminal Procedure Second Amendment Act of 1995]

- an accused must be informed as soon as practicable of his or her right to institute bail proceedings, and must also be brought before a court as soon as practicable for this purpose;
- if a presiding officer does not have enough information to decide a bail application, or if this is

‘necessary in the interests of justice’, bail proceedings may be postponed for successive periods of seven days at a time;

- an accused has a right to be released on bail, unless a court finds that it is in the interests of justice that he or she should be kept in custody;
- the refusal of bail is in the interests of justice where there is a likelihood that the accused might interfere with witnesses, hamper police investigation, fail to stand trial, or endanger the safety of the public or any individual;
- the court, in deciding whether any of these four criteria are met, must take into account a number of specified factors, as well as any others it may consider relevant;
- the court must also consider the prejudice the accused may suffer through being kept in custody, including the likely period of detention during trial, the financial loss resulting from imprisonment, and the state of health of the accused;
- where an accused is charged with a very serious offence (such as treason, murder, rape, robbery with aggravating circumstances, hijacking of a motor vehicle, possession of an automatic or semi-automatic firearm, or theft of an amount exceeding R500 000), the court must refuse bail unless the accused can satisfy it that ‘the interests of justice do not require his or her detention in custody’;
- attorneys general no longer have the power to prevent a court from releasing an accused on bail;
- attorneys general may appeal to a higher court against a decision to release an accused on bail, and—if the appeal succeeds—a warrant may be issued for the arrest of the accused;
- failure to comply with any bail condition is a criminal offence punishable by up to one year’s imprisonment—a provision intended to encourage not only compliance with bail conditions but also the more ready granting of bail;<sup>472</sup> [472 Explanatory memorandum, Criminal Procedure Second Amendment Bill] and
- bail may be cancelled on the basis of a sworn statement that an accused is about to abscond, is interfering with witnesses or the administration of justice, or constitutes a serious threat to the public or to any person.

## **The Right to Be Tried Within a Reasonable Time**

In July 1995 a former Pretoria advocate, Dr Eugene Berg, brought an application to prohibit the attorney general of the Transvaal from prosecuting him further. Dr Berg said he had been awaiting trial for more than six years, following his arrest in 1988 for alleged contraventions of the Banks Act of 1990. Dr Berg said he was entitled, under the bill of rights, to a speedy and fair trial. Both had become impossible,



however, because of the length of time that had elapsed and the fact that many of the witnesses he would have relied upon had died, or had suffered a loss of memory. The application was dismissed and Dr Berg was ordered to appear in November in the Pretoria regional magistrate's court on various charges including fraud, theft and perjury. 473 [<sup>473</sup> *The Citizen* 28 July 1995]

## **The Rights to Be Presumed Innocent and to Remain Silent**

At common law, the onus rests on the state to prove all elements of a crime. To ease the task of the prosecution, the common law rule has been changed by statute in various instances to create presumptions which the accused is obliged to rebut. The validity of such presumptions has been challenged in a number of instances.

Section 40 of the Arms and Ammunition Act of 1969 creates a presumption that weapons found in the proximity of an accused were 'in his possession' at the time. The onus of disproving this presumption lies on the accused. The validity of the presumption was challenged in a number of cases, including one involving an ANC MP, Mr Moses Mayekiso, who had been charged with illegal possession, in 1992, of two Makarov pistols and certain ammunition. The validity of section 40 was referred to the Constitutional Court for its ruling in this and other cases. In February 1996, in the case of *The State v Mbatha*, the court ruled the presumption unconstitutional.<sup>474</sup> [<sup>474</sup> *Ibid* 5 September 1995, *The Star* 27 December 1995; In the Constitutional Court of South Africa, *The State v Wellington Mbatha* and *The State v Nicolaas Marthinus Prinsloo*, Case No CCT 35/95, Judgement delivered on 9 February 1996, p14]

In September 1995 the validity of a presumption contained in the Drugs and Drug Trafficking Act of 1992 was challenged before the Constitutional Court. According to section 21 of the act, any person found with more than 115 grammes of dagga is presumed to have been dealing in the substance. The state argued before the court that the presumption played a vital role in dagga cases and should not be removed. The court upheld the application, however, finding that the presumption was unconstitutional.<sup>475</sup> [<sup>475</sup> *Business Day* 12 September 1995, *Sowetan* 13 September 1995, *The Star* 27 December 1995]

## **The Right Against Self-Incrimination**

The validity of section 417 of the Companies Act of 1973 was challenged in March 1995 and referred to the Constitutional Court for a ruling. Section 417 applies to a company in liquidation, and empowers a court to convene a commission of inquiry into its affairs to establish whether any of its directors has acted unlawfully and thereby contributed to its downfall. The section also obliges a witness in such an inquiry to answer all questions posed, even though the replies might be incriminating and could be used in subsequent criminal proceedings.

In 1994 a bank called Prima Bank went into liquidation, owing some R220m to investors and depositors. A section 417 investigation was initiated against its former managing director, Mr Clive Ferreira. Mr Ferreira sought an urgent interdict, from the Witwatersrand Local Division of the Supreme Court,

suspending any section 417 interrogation pending a ruling by the Constitutional Court on the validity of the section.

Counsel for Mr Ferreira argued that section 417 was a ‘draconian’ provision in that it contained no procedural safeguards, gave witnesses no prior warning of the line of questioning to be followed, and authorised an examination of witnesses which amounted to ‘interrogation by ambush’. The most offensive aspect of the section, he contended, was the lack of privilege against self-incrimination.<sup>476</sup> [<sup>476</sup> *Finance Week* 9 March 1995] The counter-argument put to the court was that the section was an important weapon in the fight against burgeoning white-collar crime, and a vital safeguard for creditors and investors.<sup>477</sup> [<sup>477</sup> *Sunday Times* 7 May 1995]

The application was initially refused, but was later granted by a full bench of the Witwatersrand Local Division. In May 1995 the validity of section 417 was referred to the Constitutional Court for its judgement.<sup>478</sup> [<sup>478</sup> *Ibid*] In December 1995 the court gave judgement on the issue. It upheld section 417 insofar as it compels people to testify at insolvency inquiries even if they incriminate themselves. It struck down, however, a proviso allowing self-incriminatory answers to be used in subsequent criminal proceedings. (Eight of the judges on the court found the proviso inconsistent with the right against self-incrimination. Two of the judges rejected it as inconsistent with the right to personal freedom contained in section 11 of the bill of rights (see *The right to freedom and security of the person* above).<sup>479</sup> [<sup>479</sup> *Business Day* 7 December 1995])

## **The Right to Legal Representation**

Every accused person has the right to legal representation at state expense ‘where substantial injustice would otherwise result’. In January 1995 the Legal Aid Board estimated that some 150 000 people per year could be eligible for such representation, and that this could cost the state up to R105m annually to provide. The board added that it was planning a 24-hour telephone service, which would enable people to arrange for legal consultation at any time of the day or night. This, alone, was expected to cost R35m a year.<sup>480</sup> [<sup>480</sup> *The Star* 12 January 1995, *The Citizen* 20 May 1995]

In August 1995 the revenue allocated to the Legal Aid Board by the government was increased substantially to R300m. The board said it had received three times more for legal aid work than in the previous year, and hoped this would encourage legal practitioners to take up legal aid cases.<sup>481</sup> [<sup>481</sup> *Business Day* 7 August 1995]

In March 1995 the Constitutional Court was asked to rule on whether the right to legal representation at state expense should apply retrospectively, to cases in progress before 27th April 1994. Counsel for Mr Albert Vermaas—who had been charged on 154 counts of fraud before the bill of rights came into effect—argued that this was not precluded by section 241 of the constitution. (This section states: ‘All proceedings which immediately before the commencement of this constitution were pending before a court of law...shall be dealt with as if this constitution had not been passed.’) The state argued against

this interpretation of section 241, saying that retrospective application of the right to legal representation at state expense would ‘cause chaos in the courts’. The Constitutional Court reserved judgment and, at the time of writing, was yet to give its ruling.<sup>482</sup> [<sup>482</sup> *The Star* 1 March 1995]

## The Right to Free Economic Activity

*Section 26: Every person has the right freely to engage in economic activity anywhere in the country. The right does not preclude measures to promote economic growth, social justice or fair conditions of employment, provided the measures are justifiable in an open and democratic society based on freedom and equality.*

The Department of Health, as part of a wide-ranging strategy to improve the health care system, proposed that newly qualified doctors do two years’ compulsory community service in rural areas (see also chapter on *Health and Welfare*).<sup>483</sup> [<sup>483</sup> *Financial Mail* 20 January 1995] The Junior Doctors’ Association of South Africa (Judasa) said the concept of community service was commendable, but service of this kind should be voluntary and supported by incentives.<sup>484</sup> [<sup>484</sup> *The Star* 8 March 1995] In April 1995 it was reported, however, that an advisory committee on oral health care—in proposals mirroring those relating to doctors—had recommended that newly qualified dentists perform two years of public service before being allowed to begin private practice.<sup>485</sup> [<sup>485</sup> *Ibid* 5 April 1995]

In June 1995 it was again reported that medical graduates would be obliged to do two years’ compulsory service in underprivileged communities. Those who wished to enter private practice immediately, or to emigrate, would be compelled to buy themselves out at a cost of R400000. Some doctors’ groups questioned why the medical profession should be targeted for a ‘call-up system’.<sup>486</sup> [<sup>486</sup> *Sowetan* 19 June 1995] Judasa repeated that it opposed compulsory community service, as this would lead to greater numbers of young doctors leaving South Africa. The association said the majority of newly qualified doctors were keen to do community service, provided this was ‘incentive-driven’.<sup>487</sup> [<sup>487</sup> *The Citizen* 4 July 1995] At the time of writing, the issue remained unresolved.

A Pietermaritzburg tea merchant has contested the validity of a section of the Import and Export Control Act of 1963 on the basis that it prohibits free economic activity. The issue is one of those likely to be set down for hearing by the Constitutional Court in 1996.<sup>488</sup> [<sup>488</sup> *The Star* 27 December 1995]

## The Right to Fair Labour Relations

*Section 27: Every person has the right to fair labour practices, while workers have the right to join trade unions and employers to join employers’ organisations. Workers and employers have the right to bargain collectively, while for this purpose workers have the right to strike and employers to lockout.*

## The Right to Fair Labour Practices

The Labour Relations Act of 1995 was expected to take effect on 1st May 1996 (see also chapter on *Employment and Industrial Relations*).

In terms of the act, every employee has the right not to be unfairly dismissed. Dismissal is automatically unfair if, for example, the employee is dismissed for taking part in a protected strike, or on the grounds of race or gender. Dismissal for any other reason is still unfair unless the employer can prove that the reason was a fair one (based on operational requirements, for example) and that a fair procedure was also followed.<sup>489</sup> [<sup>489</sup> Sections 185, 187 and 188, Labour Relations Act of 1995]

A dismissed employee wishing to contest the fairness of the dismissal may, among other things, refer the dispute to the Commission for Conciliation, Mediation and Arbitration (the Commission) to be established under the act. If conciliation fails, arbitration may follow. The employee may also refer the matter to the Labour Court in certain circumstances.<sup>490</sup> [<sup>490</sup> Section 191, *ibid*]

The primary remedy for unfair dismissal is reinstatement. Compensation may instead be ordered in certain circumstances, and is limited to a maximum of two years' salary for a dismissal automatically deemed unfair. (The maximum compensation for dismissal in other circumstances is less.)<sup>491</sup> [<sup>491</sup> Sections 193, 194, *ibid*]

## **Joining Trade Unions and Employer Organisations**

In terms of the act, every employee has the right to join a trade union and participate in its lawful activities. An employee or job seeker cannot be required to give up union membership, or to forswear acquiring this.<sup>492</sup> [<sup>492</sup> Section 4, 5, *ibid*] Every employer has similar rights in relation to employer organisations.

## **The Right to Bargain Collectively**

A trade union that is both registered and 'sufficiently representative' of the employees in a given workplace has the right to enter into a collective agreement with the employer as to how it will exercise its various rights of recruitment and representation. A collective agreement binds the parties to it (as well as non-parties in certain circumstances) and supersedes any inconsistent contractual provisions between the employees and the employer.<sup>493</sup> [<sup>493</sup> Section 11, 21, 23, *ibid*]

The act also provides for the establishment of bargaining councils, which are to replace existing industrial councils. Bargaining councils are to have extensive powers to conclude and enforce collective agreements, as well as to prevent and resolve labour disputes.<sup>494</sup> [<sup>494</sup> Section 28, *ibid*]

## **The Right of Employees to Strike**

Every employee has the right to strike if:<sup>495</sup> [495 Section 64, *ibid*]

- the issue in dispute has been referred to a bargaining council or the Commission for resolution;
- a period of 30 days has elapsed since the referral, or a certificate has been issued stating it remains unresolved; and
- at least 48 hours' notice of the impending strike has been given to the appropriate person.

A strike is prohibited, however, in various circumstances. A secondary strike, mounted in support of a strike by other employees, is also prohibited unless, among other things, its 'nature and extent...is reasonable'.<sup>496</sup> [496 Section 66, *ibid*]

A strike which complies with the requirements of the act is a 'protected strike' and participation in it does not give rise to a delict or a breach of contract. An employer is not obliged to pay an employee who is taking part in a protected strike, but cannot dismiss an employee for this reason alone. Dismissal may, however, be fair if based on the employee's conduct during the strike, or on the employer's operational requirements.<sup>497</sup> [497 Section 67, *ibid*]

## **The Right of Employers to Lockout**

The employer's right to lockout is similar to the right to strike. An employer may have recourse to this only if:<sup>498</sup> [498 Section 64, *ibid*]

- the issue in dispute has been referred to a bargaining council or the Commission for resolution;
- a period of 30 days has elapsed since the referral, or a certificate has been issued stating it remains unresolved; and
- at least 48 hours' notice of the impending lockout has been given to the appropriate persons.

The right to lockout is restricted in the same way as the right to strike.<sup>499</sup> [499 Sections 64, 65, *ibid*] Where the lockout is protected, its implementation does not constitute a delict or breach of contract, and may not give rise to any civil legal proceedings. If the lockout is not protected, an interdict may be obtained to prevent it taking place, and compensation may be obtained for any loss arising from it.<sup>500</sup> [500 Section 68, *ibid*]

## **The Right to Property**

*Section 28: Every person has the right to property and no deprivation of rights in property is permitted except by law. Expropriation of property rights must be for public purposes only, and accompanied by the payment of compensation, either as agreed or as determined by a court of law as just and equitable. In determining the latter, a court must take into account all relevant factors, including the market value of the property, the history of its acquisition, and the value of the investments made in it.*

## **Rights to Property for the Rural Poor**

In June 1995 a draft Interim Protection of Informal Land Rights Bill was presented by Mr Derek Hanekom, minister of land affairs, to the cabinet for its approval. This, said Mr Hanekom, was intended to ‘introduce private land ownership for millions of rural South Africans’. It would empower those living on communal land, ‘at the mercy of tribal chiefs’, to acquire the land on which they had built their homes and planted their crops. This would be done by establishing a ‘set of legal and administrative procedures to convert the system of communal tenure to private tenure’. This was necessary to ‘modernise the rural economy by phasing out the centuries-old tribal system’,<sup>501</sup> [<sup>501</sup> *The Star* 21, 22 June 1995] while secure tenure would enable families on tribal land to qualify for the government’s housing subsidy (see also chapter on *Living Conditions*).<sup>502</sup> [<sup>502</sup> *Ibid* 22 June 1995]

Later in the month it was reported, however, that the bill was intended merely as a temporary measure to safeguard those with inadequate tenure against dispossession while giving the government a two-year period to find suitable long-term solutions. The bill was aimed not only at those on tribal land, but at all people occupying land on an informal basis.<sup>503</sup> [<sup>503</sup> *Ibid* 27, 29 June 1995]

In August 1995 the government was reported to be considering a R15000 subsidy scheme for the rural poor. This would be a ‘once-off grant’, to help these families acquire agricultural or other land. The subsidy scheme would buttress proposed legislation giving labour tenants the right, within certain limits, to acquire farmland (see *Rights to land for labour tenants* below) which they had traditionally occupied.<sup>504</sup> [<sup>504</sup> *Business Day* 15 August 1995]

## **Rights to Land for Labour Tenants**

The Land Reform (Labour Tenants) Bill was tabled in Parliament in mid-September 1995 but, at the time of writing, had not yet been passed. The bill provides that labour tenants may be evicted only for serious breach of contract, or where the owner can prove an overriding need for the land in question.<sup>505</sup> [<sup>505</sup> Section 8, Land Reform (Labour Tenants) Bill] This protection applies retrospectively to 2nd June 1995—the day the bill was first published, and a labour tenant evicted despite this is entitled to reinstatement (see also chapter on *Living Conditions*).<sup>506</sup> [<sup>506</sup> Section 12, *ibid*]

Labour tenants are also empowered to claim ownership of land they have traditionally occupied. A landowner who admits the claimant is a labour tenant may propose that the claimant acquire other land, or may pay the tenant compensation in lieu of the land claimed.<sup>507</sup> [<sup>507</sup> Section 18, *ibid*] If a dispute arises,

the Land Claims Court (see *Restitution of land rights* below) may appoint an arbitrator to decide the matter. Where land is successfully claimed, the landowner is entitled to ‘just and equitable’ compensation, determined according to section 28. This means that the amount of compensation payable must be determined according to a specified range of factors, of which market value is only one.<sup>508</sup> [508 Section 23, *ibid*]

## Upholding Property Rights Against Squatters

Various incidents of land invasion occurred during 1995. In February, for example, a group of residents from Eldorado Park (south of Johannesburg) illegally took possession of about 300 vacant houses in adjoining Lenasia. (The houses had been built by the former House of Delegates, and some had been empty for two to three years.)<sup>509</sup> [509 *Business Day* 15 February 1995] Mr Dan Mofokeng, the MEC for housing and local government in Gauteng, said the provincial administration would not permit this, and police evicted the squatters amid mounting tension.<sup>510</sup> [510 *The Citizen* 21 February 1995]

In April 1995 the Gauteng administration sought to defuse ongoing conflict over land invasions by calling on municipalities to identify land suitable for rapid development and capable of accommodating 6 000 to 7000 households. The rapid land release programme was intended to complement existing schemes, and the aim was to have families ‘securely settled on 15 000 new sites before July’.<sup>511</sup> [511 *The Star* 6 April, 29 May 1995] This did not occur, however.

In August 1995 the government warned that it would no longer tolerate land invasion and that ‘the full weight of the law’ would be brought to bear on illegal squatters. ‘Those who invade land in the hope that they will receive special and sympathetic treatment will find that this is not the case.’<sup>512</sup> [512 *The Citizen* 12 August 1995]

In the same month the Greater Johannesburg Transitional Metropolitan Council sought to evict about 2 000 squatters from Moffat Park in South Hills (Johannesburg).<sup>513</sup> [513 *The Star* 17 August 1995] The Witwatersrand Local Division of the Supreme Court held that the squatters could not be evicted from the park—which was open to the public—but that their shelters could be demolished. Demolition ultimately took place in December 1995.<sup>514</sup> [514 *Ibid* 19 December 1995] In other rulings on the rights of squatters, one judge held that eviction could not be ordered until alternative accommodation was available, while another said no ‘hard and fast’ rule was applicable and that each case must be considered on its merits.<sup>515</sup> [515 *The Citizen* 22 December 1995]

In October 1995 the Gauteng administration said it would spend R225m on providing land sites in 16 areas across the province to defuse the growing squatter crisis. The money necessary, it said, would be taken from the next year’s housing budget and would be used to provide 20 000 sites. The Gauteng MEC for urban and rural planning and development, land reform and the environment, Mr Sicelo Shiceka, said this endeavour formed part of the rapid land development programme. Basic facilities

would be provided initially and full services implemented later.<sup>516</sup> [<sup>516</sup> *Business Day* 10 October 1995]

## Expropriation for Land Distribution

The reconstruction and development programme (RDP) envisages redistributing 30% of arable land within five years.<sup>517</sup> [<sup>517</sup> *Ibid* 25 May 1995] Towards this end, the government in March 1995 launched a pilot land reform programme, comprising one pilot programme in each province.<sup>518</sup> [<sup>518</sup> *Sowetan* 2 March 1995] Announcing the launch, Mr Hanekom said land reform was essential, but that the government was not 'married to any target' and would maintain a flexible approach.<sup>519</sup> [<sup>519</sup> *The Citizen* 27 February, 1 March 1995]

In May 1995 Mr Hanekom said expropriation of land would generally not be necessary as there was enough land available on the free market for the government to buy.<sup>520</sup> [<sup>520</sup> *Ibid* 24 May 1995] The National Land Committee (NLC), a network of nongovernmental organisations working in rural areas, rejected his view, saying that the RDP target could be met only by acquiring land from its present white owners. The state could not afford to purchase this land, however, as white landowners would ask exorbitant prices and quickly exhaust the government's resources. Expropriation was necessary, accordingly, and farmers who failed to repay their government loans, said the NLC, should be the first to suffer this.<sup>521</sup> [<sup>521</sup> *Business Day* 25 May 1995]

## Restitution of Land Rights

In November 1994 the government enacted the Restitution of Land Rights Act to provide for the restitution of land rights to individuals or communities dispossessed of land under apartheid laws dating back to 1913. The act makes provision for the establishment of a Commission on the Restitution of Land Rights to handle claims for restitution and assist claimants.<sup>522</sup> [<sup>522</sup> Sections 4,6, Restitution of Land Rights Act of 1994] Any dispute arising from a claim which cannot be settled by mediation and negotiation is to be referred to a Land Claims Court,<sup>523</sup> [<sup>523</sup> Section 14, *ibid*] which is to be assisted in making its decisions by lay assessors 'with necessary skills and knowledge',<sup>524</sup> [<sup>524</sup> Section 27, *ibid*] In the event of expropriation, the former owner of the land is entitled to just and equitable compensation, determined according to the criteria contained in section 28 of the bill of rights.<sup>525</sup> [<sup>525</sup> Section 35, *ibid*]

The members of the commission were appointed in January 1995 and began work in May (see also chapter on *Living Conditions*).<sup>526</sup> [<sup>526</sup> *The Citizen* 19 January 1995, *Sowetan* 9 May 1995] The president of the Land Claims Court, Mr Justice Fikile Bam, said in July 1995 that restitution should 'eventually lead to the restoration of land to all those who had been dispossessed during the past two centuries'.<sup>527</sup> [<sup>527</sup> *Sowetan* 10 July 1995] By August more than 4 740 claims had been received and some 100 were being investigated.<sup>528</sup> [<sup>528</sup> *The Citizen* 25 August 1995]



Major shopping centres countrywide—including Cavendish Square in Cape Town, the Oriental Plaza in Johannesburg, Sammy Marks Square in Pretoria and the Pavilion Centre in Cato Manor (Durban)—were among the urban properties claimed. It was impossible to predict, said the commission's secretary, Mr Daan van der Westhuizen, how much the state might have to pay in compensation for these and other properties.<sup>529</sup> [<sup>529</sup> *Business Day*, *The Citizen* 9 October 1995]

## **The Right to a Healthy Environment**

*Section 29: Every person has the right to an environment which is not detrimental to health or well-being.*

## **The Environmental Impact of New Mining Operations**

In May 1995 an opencast diamond prospecting permit was granted by the Department of Mineral and Energy Affairs to a company called Duo Developers in an area in the Madimbo Corridor in the Matshakatini Nature Reserve adjoining the Kruger National Park (Mpumalanga and Northern Province). The area, dubbed the 'Golden Horseshoe', had been earmarked as an ecotourism park to be connected to nearby areas in Mozambique, Zimbabwe and Botswana. Dr Dawie de Villiers, minister of environmental affairs and tourism, said in August that his department was investigating legal steps to halt the prospecting, and that it had erred in failing to oppose the initial application for the permit.<sup>530</sup> [<sup>530</sup> *The Star* 18 August 1995]

An editorial in *The Star* said opencast diamond prospecting in the Madimbo Corridor would have 'far greater impact than the controversial dune mining at Lake St Lucia', and had 'the potential to destroy long-term plans for tourism in the region'. It called for a halt to all prospecting in the area, and stated that the citizens of all countries concerned—including those of Botswana, Mozambique and Zimbabwe—should first be consulted.<sup>531</sup> [<sup>531</sup> *Ibid*] The Department of Mineral and Energy Affairs was due to give a ruling on the matter at the end of November 1995, but failed to do so as it was still considering the arguments for and against mining in the area.<sup>532</sup> [<sup>532</sup> *Sowetan* 13 December 1995]

## **The Proposed Saldanha Bay Steel Mill**

In June 1995 the Cape Provincial Division of the Supreme Court granted an interdict preventing the construction of a new steel mill on a site at Saldanha Bay (Western Cape). The proposal for the R4,7bn steel mill had been made by Iscor and the Industrial Development Corporation (IDC). Environmentalists challenged the development on the basis that it would be too close to the ecologically sensitive Langebaan Lagoon. Dr de Villiers appointed a board of inquiry, under the chairmanship of Mr Justice J H Steyn, to investigate all relevant issues.<sup>533</sup> [<sup>533</sup> *Business Day* 29 June, 27 September 1995]

At the end of September 1995, Iscor announced its withdrawal from the project, saying that delays in obtaining the necessary consent had prompted a reassessment of the costs entailed. Iscor said the new

mill would have created 600 jobs in a depressed area and ‘produced foreign currency earnings of about R1,8bn a year from the beneficiation of local raw materials for export’.<sup>534</sup> [<sup>534</sup> *The Citizen* 27 September 1995]

In October 1995 the Steyn inquiry gave the go-ahead for the steel mill at a different site, some distance away from the Langebaan Lagoon. Judge Steyn said he hoped the project would proceed despite Iscor’s withdrawal, as it was ‘in the national interest’. The proposed site for the mill was, however, too close to the ‘sensitive wetlands’ of the Langebaan Lagoon, which were protected under international treaty. Judge Steyn added that ‘too much public participation in government decision making was potentially harmful’ and that a greater balance was needed in this regard.<sup>535</sup> [<sup>535</sup> *Ibid* 7 October 1995] Iscor confirmed the following month that it would proceed with the Saldanha Steel project, in partnership with the IDC.<sup>536</sup> [<sup>536</sup> *Ibid* 30 November 1995]

## Importing Toxic Waste

In August 1995 it emerged that the government had approved the importation from Finland of some 500 tonnes of toxic waste. The waste, described as ‘poisonous cupric arsenide’, was destined for recycling by a company in Benoni (east Rand), called JAD Metal Concentrate. Its chief executive officer, Mr Doug Gosling, said valuable metal compounds would be recovered from the material, while the balance would be treated and sold as a regular industrial chemical.<sup>537</sup> [<sup>537</sup> *Ibid* 19 August 1995] (An earlier report had said the balance would be dumped at a waste storage facility in Springs (east Rand).)<sup>538</sup> [<sup>538</sup> *The Star* 18 August 1995]

Environmentalists, however, objected to the importation of the waste and said it included ‘cancer-causing chemicals’, and at least 16% arsenic.<sup>539</sup> [<sup>539</sup> *The Citizen* 19 August 1995] Dr de Villiers promised to investigate how his department had come to issue the necessary permit, contrary to his earlier stated policy that South Africa would not import hazardous waste.<sup>540</sup> [<sup>540</sup> *The Star* 18 August 1995, 22 September 1995]

Soon thereafter, Dr de Villiers announced that the waste—still en route to South Africa—was being returned to Finland. Mr Gosling accused the environmentalists concerned, especially Earthlife Africa, of a ‘deliberate misinformation campaign’ and of having obscured the ‘vast difference between recyclable industrial waste chemicals and toxic waste’.<sup>541</sup> [<sup>541</sup> *The Citizen* 19 August 1995]

In August 1995 Mr Bantu Holomisa, deputy minister of environmental affairs and tourism, called for a commission of inquiry into the matter.<sup>542</sup> [<sup>542</sup> *The Star* 31 August 1995] Dr de Villiers said this was unnecessary as the waste had never arrived and had been intended for recycling rather than disposal. He nevertheless appointed the president of the regional magistrate’s court in Pretoria, Mr Jan Venter, to head an independent inquiry into waste importation. Environmentalists, together with Mr Peter Mokaba, the chairman of a parliamentary committee on the environment, rejected this as a window-dressing exercise, designed to cover up a serious matter.<sup>543</sup> [<sup>543</sup> *Ibid* 13, 19 September 1995] The investigation was due to be completed in March 1996.

## Managing Domestic Toxic Waste

### *The Holfontein Site*

In August 1995 an emergency dam had to be built at the Holfontein hazardous waste disposal site on the east Rand, managed by a company called Enviroserv, to prevent toxic waste leaking out. The unauthorised dam was constructed after a wall between two cells in the waste dump had collapsed. The managing director of Enviroserv, Mr Dick Pienaar, said the Department of Water Affairs and Forestry had been informed of the construction of the dam, and that it would be strong enough to hold the waste.<sup>544</sup> [<sup>544</sup> *The Star* 31 August 1995] A spokesman for the department said the absence of written permission for the dam was a 'technical point' which was being addressed. There was no danger of a leak, he added, as this had been prevented by 'safety measures far in excess of what was demanded by the law'.<sup>545</sup> [<sup>545</sup> *The Citizen* 1 September 1995]

The following day, however, the minister of water affairs and forestry, Professor Kader Asmal, decided to prosecute Enviroserv for building a waste disposal dam without permission. Professor Asmal said the department had neither been informed in advance, nor given its approval. Such irresponsible action, he said, could not be tolerated.<sup>546</sup> [<sup>546</sup> *Ibid* 2 September 1995]

Earlier, some residents of Sundra (near Springs), near the Holfontein site, said the dump was a health hazard which should never have been allowed, and cited studies by the CSIR showing excessive air pollution in the area. According to Enviroserv, the air pollution stemmed, among other things, from coal fires in the nearby township of Daveyton, while the CSIR's research had been unable to pinpoint Holfontein as its source.<sup>547</sup> [<sup>547</sup> *The Star* 31 August 1995] In mid-September 1995 a meeting of about 150 residents of Sundra resolved to launch a campaign of demonstrations against the hazards of the Holfontein site.<sup>548</sup> [<sup>548</sup> *Ibid* 18 September 1995]

The Holfontein site was inspected thereafter by the MEC for urban and rural planning and development, land reform and the environment in Gauteng, Mr Sicelo Shiceka. Mr Shiceka 'declared himself satisfied that no environmental danger existed at the facility'. He said he would study other reports, however, before deciding on hazardous waste disposal policies in the province.<sup>549</sup> [<sup>549</sup> *The Citizen*, *The Star* 19 September 1995]

In early October 1995, however, a leak occurred from the Holfontein site and some 8 000 litres of black acid oil treated with alkaline fly ash poured 150 metres into the veld. This occurred after the retaining wall of an ash-mixing pond broke one Sunday night. A spokesman for Professor Asmal's department said the leak had resulted from bad planning, and that an acid-oil mixture should not have been left in the pond over the weekend. Enviroserv said it believed the fly ash wall had been sabotaged, as it had never given trouble before and had been carefully checked late on the evening of the leak.<sup>550</sup> [<sup>550</sup> *The Star* 10 October 1995]

## ***The Margolis Site and Its Replacement***

The other hazardous waste site in the area, Margolis, operated by a company called Waste-tech, closed at the end of 1995. Waste-tech had, for some time, sought permission to open a replacement site at Chloorkop near Kempton Park (east Rand). This was refused in late August 1995, however, and the company's managing director, Mr Ken Bromfield, warned that Holfontein would soon become the only site available for storing Gauteng's 8,4m tonnes of hazardous waste per year.<sup>551</sup> [<sup>551</sup> Ibid 1 September 1995]

An article in *Business Day* commented that the closure of Margolis without providing a replacement would increase the tendency towards illegal dumping in the area—already estimated at ten tonnes a month. However, it would not be easy to find an alternative site, as this would prove unacceptable to residents in whatever area was chosen. Moreover, Western countries had begun phasing out landfill waste storage sites as they posed too great a hazard. The most common alternative was incineration, but the required air emission controls made this a costly option. There was no easy solution and the government needed urgently to develop a 'co-ordinated and comprehensive policy on waste management'.<sup>552</sup> [<sup>552</sup> *Business Day* 14 September 1995]

Waste-tech's proposal to proceed with the Chloorkop site drew the ire of the African National Congress (ANC). 'Our people are not prepared to be guinea pigs in a dangerous management experiment,' the ANC stated. Its statement added that the dump would 'sterilise' industry in the area, but would 'adversely affect the health of more than 600 000 people within a 3km radius of the site'. The proposal, it said, revealed a choice 'to ignore people and focus on profits'.<sup>553</sup> [<sup>553</sup> *The Star* 18 September 1995]

In October 1995 it was reported that a high-temperature hazardous waste incinerator was being planned near Holfontein. Environmentalists, however, vowed that they would fight the project 'tooth and nail', as it would 'simply encourage manufacturers to produce more toxic waste'. The incinerator, said its proponents, would handle up to 35 000 tonnes of waste a year and was a 'widely used and internationally accepted' means of hazardous waste disposal.<sup>554</sup> [<sup>554</sup> *Business Day* 6 October 1995]

In December 1995 Waste-tech entered into an alliance with a United States-based company specialising in the minimisation of waste and the maximum recovery of useful products. Mr Bromfield said the agreement reflected the imperative need to develop alternative technologies.<sup>555</sup> [<sup>555</sup> Ibid 12 December 1995]

## **Developing Environmental Policy**

In mid-August 1995 the first Consultative Conference on National Environmental Policy was held. Opening the conference, the president, Mr Nelson Mandela said sustainable economic development should be the core of the country's environmental policy. Dr de Villiers said environmental management had to become an integral part of industrial development and that 'polluters should be forced to pay for negative costs to the environment'. A new environmental policy, he added, should ensure that 'sensitive

and unique natural areas were protected; that developing communities shared in the management and benefits of neighbouring nature areas; and that land uses were managed to allow ecological systems to function effectively'.<sup>556</sup> [<sup>556</sup> Ibid 18 August 1995]

At the conclusion of the conference, delegates resolved to set up forums at provincial and local levels to discuss environmental issues. A task team would compile a green paper by March 1996, to be followed by further consultation and the development of a white paper by November that year. New legislation would be passed by Parliament in 1997. Delegates also supported a proposal by Dr de Villiers to form a new 18-member council on the environment to advise him in the interim.<sup>557</sup> [<sup>557</sup> *The Star* 21 August 1995]

## The Rights of Children

*Section 30: Every child has the right to a name and nationality; to parental care; to security, basic nutrition and basic health and social services; not to be subject to neglect or abuse; and not to be permitted to do hazardous or harmful work, nor be subjected to exploitative labour practices. In addition, any child in detention has a right to be treated in a manner cognisant of his or her age. (For the purposes of these rights, a child means a person under the age of 18 years.)*

### Rights to Parental Care, Nutrition and Basic Health Services

In May 1994 Mr Mandela promised free medical treatment for children under six, and implementation of this put considerable pressure on hospitals during the year (see 1994/95 Survey, p279 and chapter on *Health and Welfare*). A school feeding scheme was also promised by Mr Mandela and the primary school nutrition programme was implemented from 1st September 1994 (see 1994/95 Survey, p279).<sup>558</sup> [<sup>558</sup> *Hansard* (S) 3q cols 153–155, 31 March 1995] By the end of February 1995 the scheme was operative in 12 000 schools, covering 82% of the schools targeted for participation,<sup>559</sup> [<sup>559</sup> *Commentum* August 1995] and some R500m was allocated to it in the 1995/96 financial year.<sup>560</sup> [<sup>560</sup> *Hansard* (NA) 8q col 991, 30 May 1995] In November 1995, however, it was reported that 'massive fraud, involving about R12m, was being investigated in connection with school feeding schemes in most of South Africa's provinces'.<sup>561</sup> [<sup>561</sup> *The Citizen* 10 November 1995]

On 13th June 1995 the United Nations Convention on the Rights of the Child was ratified by both houses of Parliament, and the Instrument of Ratification was deposited at the United Nations headquarters in New York on 16th June. 'The convention recognises that children are individuals with the rights to develop physically, mentally and socially to their fullest potential, and to express opinions freely,' said Mr Mandela after the ratification. The convention, he added, was a 'template for the health, survival and progress of human society itself', and its ratification reflected the government's determination to improve the conditions of children in the country.<sup>562</sup> [<sup>562</sup> 'Rights of the child', in *RSA Review*, vol 8 no 6, July 1995, pp45–46]

## The Right Not to Be Abused

Statistics published in August 1995 showed that reported cases of child abuse had more than doubled in the four years between 1990 and 1994. In 1994 the child protection unit of the South African Police Service had dealt with 23664 cases of child abuse, an increase of 103,4% since 1990. During 1993 and 1994 reported cases of child rape increased by 62,7%, of common assault by 72,9%, of offences under the Child Care Act of 1983 (such as child neglect and abandonment) by 73%, and of the attempted murder of children by 82,2%. According to 33 national social and child welfare organisations, the true picture was even more serious as relatively few crimes against children were reported (see chapter on *Health and Welfare*).<sup>563</sup> [<sup>563</sup> *The Natal Witness* 11 August 1995]

According to the minister for health, Dr Nkosazana Zuma, the incidence of child abuse has become more common than childhood diseases such as measles. Opening a centre for abused children in Soweto in late October 1995, Dr Zuma said there had been some 16 500 cases of crimes against children in the first ten months of that year alone.<sup>564</sup> [<sup>564</sup> *Sowetan* 27 October 1995]

## Child Labour and Exploitation

Under the Basic Conditions of Employment Act of 1983 and the Child Care Act of 1983, the employment of children under 15 years of age is prohibited, but employers may apply to the minister for welfare and population development for exemption. This loophole—and the alleged absence of effective policing—is said to have contributed to a situation ‘where child labour is a common and accepted practice, especially on farms’.

The Network Against Child Labour, comprising 30 organisations, has been lobbying to close the loophole and has played a major part in drafting the proposed Child Care Amendment Bill, still in the process of enactment. The South African Agricultural Union said, however, that child labour should be allowed on farms subject to stringent safeguards. This was often requested by parents living on farms, it said, to give children occupation during school holidays.

According to the Farmworkers’ Resource and Research Project, however, ‘the use of child labour on farms was far more prevalent and abusive’ than this. It welcomed the proposed prohibition of child labour, but said it would be difficult to change conditions on farms in practice so long as ‘farmworkers remained rightless’.<sup>565</sup> [<sup>565</sup> *Mail and Guardian* 8 September 1995]

## Detention of Juveniles

Opening Parliament in May 1994, Mr Mandela said prisons must be emptied of children, who should be placed in suitable alternative care. The Correctional Services Act of 1959 was amended later in the year to prohibit the detention of juveniles under the age of 18 years in police cells or prisons. Such juveniles were instead, said Dr Siphon Mzimela, minister of correctional services, to be released into the custody of

their parents or guardians, or held at places of safety (see also 1994/95 Survey, p148).<sup>566</sup> [<sup>566</sup> *The Citizen* 30 August 1994; Correctional Services Amendment Act of 1994; *Business Day* 9 May 1995]

The amendment came into operation in early May 1995 and some 700 children were released from prisons and police cells. In many instances juveniles were released on to the streets with no one to take care of them, as places of safety were full and parents were unable or unwilling to take charge of them.<sup>567</sup> [<sup>567</sup> *The Star* 10 May 1995] The National Welfare, Social Services and Development Forum said: ‘To simply turn the children out on to the streets is unforgivable, and makes a mockery of the president’s intentions.’ The releases, it said, should have been phased in over a period.<sup>568</sup> [<sup>568</sup> *Business Day* 10 May 1995] The Democratic Party, Freedom Front and National Party also criticised the releases.

Dr Mzimela described criticism of the releases as ‘racist’. ‘Our sympathy lies with the children,’ he stated, ‘the vast majority of whom are victims of apartheid—a crime against humanity... I regard [this] criticism as racist because I am convinced that if we were talking about white children, their reaction would have been completely different.’<sup>569</sup> [<sup>569</sup> *The Citizen* 11 May 1995] An African National Congress (ANC) spokesman later admitted that inadequate communication between departments had resulted in a ‘foul-up’.<sup>570</sup> [<sup>570</sup> **Frontiers of Freedom**, no 5, third quarter 1995, p21]

In early June 1995, 65 juveniles awaiting trial on charges ranging from petty theft to armed robbery and murder escaped from a place of safety near Cullinan (Gauteng).<sup>571</sup> [<sup>571</sup> *The Citizen* 8 June 1995] Later in the month it emerged that nearly 400 of the children released from prison in May had escaped from places of safety across the country.<sup>572</sup> [<sup>572</sup> *Business Day* 18 June 1995]

In November 1995 the minister of justice, Mr Dullah Omar, said serious child offenders should be held in prisons until adequate places of safety had been provided by the government. Dr Mzimela responded that ‘unconvicted children did not belong in prison’.<sup>573</sup> [<sup>573</sup> *The Citizen* 15 November 1995] The ANC, however, endorsed Mr Omar’s view, stating that juveniles who had committed serious crimes had escaped from places of safety and thereafter committed further crimes. It was the duty of the government, it said, to protect the public.<sup>574</sup> [<sup>574</sup> *Ibid* 16 November 1995]

## Juvenile Whipping

Mr Omar said in January 1995 that the whipping of juveniles was ‘a terrible blight’ on South African society, and that legislation would be introduced to abolish it.<sup>575</sup> [<sup>575</sup> *Business Day* 11 January 1995] This proved unnecessary, however, as the Constitutional Court in June ruled that corporal punishment of juveniles was unconstitutional.

Delivering the court’s unanimous judgement, Mr Justice P Langa said: ‘It is my view that at this time, so close to the dawn of the 21st century, juvenile whipping is cruel, it is inhuman and it is degrading.’ The

provisions of section 30 of the bill of rights, he said, were designed to protect children, whereas juvenile whipping ‘infringed their right to security and not to be subjected to abuse’. Judge Langa added that ‘imaginative sentencing like house arrest, community service or job placement would humanise the criminal justice system and shift the emphasis from retribution to rehabilitation’.<sup>576</sup> [<sup>576</sup> *The Citizen* 10 June 1995]

## **Rights to Language and Culture**

*Section 31: Every person has the right to use the language and participate in the cultural life of his or her choice.*

### **The Right to Use the Language of Choice**

#### ***The Use of Afrikaans in Official Communications***

In June 1995 Dr Zola Skweyiya, minister for the public service and administration, wrote to the speaker of Parliament objecting to receiving official correspondence in Afrikaans, and saying he should be addressed in English, Xhosa or Zulu. The spokesman for the National Party on cultural issues, Mr Frik van Heerden, said the minister’s refusal to accept correspondence in Afrikaans was ‘malicious’. It was in conflict with the bill of rights, and showed that he was ‘deliberately seeking confrontation with Afrikaans-speaking people’.<sup>577</sup> [<sup>577</sup> *Ibid* 28 June 1995]

In September 1995 the Afrikaner Kulturbond successfully applied to the Witwatersrand Local Division of the Supreme Court for an interdict preventing the Gauteng provincial legislature debating the province’s School Education Bill. The bill, it said, did not conform to the transitional constitution because it had been tabled in English alone (see also chapter on *Education*). (The interdict was withdrawn the following week after it transpired that a typing error in the judgement had prevented the legislature from dealing with any of its normal business.)<sup>578</sup> [<sup>578</sup> *The Star* 22 September 1995]

#### ***The Status of Afrikaans on National Television***

During the period under review controversy arose, in particular, around the status of Afrikaans on the national television (TV) services of the South African Broadcasting Corporation (SABC). In May 1995 it was reported that the SABC intended to ‘relegate Afrikaans to a third-rate language only for rural people from the lower educational and income levels’. This would mean that Afrikaans would no longer be broadcast on TV1, and would share the SABC’s third TV channel with various other official languages. Prime time news would be in Afrikaans, Xhosa and Sesotho, with shorter bulletins in Ndebele, Siswati, Tsonga and Venda, and headlines in English.<sup>579</sup> [<sup>579</sup> *Ibid* 15 May 1995]

Various organisations, including the Afrikaanse Taalen Kultuurvereniging, the Federasie van Afrikaanse Kultuurvereniginge (FAK), the Rapportryers, the Stigting vir Afrikaans and the Transvaal Agricultural



Union, reacted in anger. The head of the FAK said the categorisation was ‘a blatant insult for all users of Afrikaans’. He warned that Afrikaners would resort to civil disobedience, such as refusing to pay licence fees, and that the move would be challenged if necessary before the Constitutional Court.<sup>580</sup> [<sup>580</sup> *The Citizen* 2, 5 May 1995; *The Star* 15 May 1995]

In September, however, the SABC was reported to have changed its stance—in response to pressure from the Afrikaans lobby—and adopted a format that would give greater preference to Afrikaans. This required the rescheduling of planned programmes, however, and was likely to delay the relaunch of the SABC’s three TV channels beyond the planned date of 1st February 1996.<sup>581</sup> [<sup>581</sup> *Sowetan* 14 September 1995]

Also in September, the SABC formally adopted English as its anchor language in TV broadcasts, saying this was for ‘pragmatic’ reasons. English, said a member of the SABC board, Dr Ruth Teer-Tomaselli, was ‘the second preferred language with the public’ and could become a ‘unifying factor’ on the various channels. Dr Teer-Tomaselli added that it was impossible to give as much prominence to Afrikaans as in the past, as ‘this would jeopardise the airtime of other languages’.<sup>582</sup> [<sup>582</sup> *The Citizen* 20 September 1995] In November 1995 the SABC announced that the prime TV air time allocated to Afrikaans would be reduced from 33% to 3,8% when the SABC’s three new channels were launched in February 1996.<sup>583</sup> [<sup>583</sup> *The Star* 30 November 1995]

## **The Pan South African Language Board**

In June 1995 draft legislation establishing a Pan South African Language Board was tabled in Parliament for public comment. The memorandum accompanying the bill described the country’s varied languages as ‘an asset not a liability’ and said they should be regarded ‘as part of South Africa’s natural resources in much the same way as [gold and other] minerals’. The envisaged board would act for all parts of South Africa, and would provide the necessary vehicle for promoting language diversity.<sup>584</sup> [<sup>584</sup> Memorandum on the Objections of the Pan South African Language Board Bill, pp22, 28]

Though the majority of comments on the bill advocated unilingualism as the appropriate principle and the adoption of English as the sole official language,<sup>585</sup> [<sup>585</sup> *Ibid*, pp22,24] these were rejected for conflicting with the transitional constitution. (Section 3 of the transitional constitution requires the ‘development and promotion of the equal use and enjoyment’ of all 11 official languages.) In September 1995 legislation was enacted establishing the board, and gave it a mandate to promote multilingualism.<sup>586</sup> [<sup>586</sup> Pan South African Language Board Act of 1995]

In terms of the act, the 13-member board, to be appointed by the Senate by a 75% majority,<sup>587</sup> [<sup>587</sup> Section 5, *ibid*] is to be an independent body, carrying out its functions ‘without fear or favour’.<sup>588</sup> [<sup>588</sup> Section 4, *ibid*] It will include four ‘language workers’ (interpreters, translators or language teachers) and three ‘language planners’ (with training and experience in language policy matters) as well as five persons with ‘special knowledge of language matters in South Africa’. All must be broadly representative of the

South African community and must support the principle of multilingualism. (No provision was made for representation on the board from each of the 11 language groups as ‘direct representation on the basis of ethnolinguistic factors would inevitably lead to undue ethnolinguistic centrism and possibly increase the potential for language conflict’.)<sup>589</sup> [<sup>589</sup> Memorandum on the Objections of the Pan South African Language Board Bill, p28]

The objects of the board are, among other things, to promote the equal use of all the official South African languages; prevent ‘the use of any language for the purposes of exploitation, domination or division’; promote multilingualism; and ensure the ‘non-diminution of rights relating to language and the status of languages existing at the commencement of the [transitional] constitution’.<sup>590</sup> [<sup>590</sup> Section 3, Pan South African Language Board Act of 1995]

The board will be empowered to investigate ‘any language issue at any level of government’, and to summon any person to give evidence before it and provide any information necessary for its functions. It will also be able to investigate, either at its own initiative or on receipt of a written complaint, ‘the alleged violation of any language right’, and must endeavour to resolve any resultant dispute by mediation and negotiation. Failing this, the board must—if it thinks there is good reason to pursue the matter further—assist the complainant by, among other things, ‘providing, in its sole discretion, the complainant with financial or other assistance to redress any damage’.<sup>591</sup> [<sup>591</sup> Sections 8, 9 and 11, *ibid*]

## **The Right to Participate in the Cultural Life of One’s Choice**

At the end of July 1995 a 23-member task group on arts and culture delivered a lengthy report on transforming and ‘democratising’ the arts to the minister of arts, culture, science and technology, Dr Ben Ngubane. Dr Ngubane said the report would be used to draft a white paper and lay the basis for necessary legislation.<sup>592</sup> [<sup>592</sup> *The Citizen* 2 August 1995]

The report recommended, among other things, the abolition of the performing arts councils (established in the four former provinces of South Africa) and their replacement by statutory arts, culture and heritage councils at national, provincial and local level. The existing councils, it said, had created ‘an untenable division in the arts’, while claiming the bulk of public funds. Their assets, it was advocated, should be transferred to government structures in their areas. The report also proposed new guidelines for funding, in terms of which at least one third of total funding and half of available facilities would go to ‘community-based arts and culture’.<sup>593</sup> [<sup>593</sup> *Business Day* 1 August 1995]

According to *The Citizen*, the key issue underlying the report was the replacement of Eurocentric art forms by Afrocentric ones. It recommended that indigenous dance and theatre be given every encouragement, but that ballet, drama, music and opera, should not be cast aside. Deliberate steps to ‘democratise’ the arts were inappropriate. Instead, ‘the natural mingling and development of the arts that had taken place in the previous couple of years should be allowed to continue’.<sup>594</sup> [<sup>594</sup> *The Citizen* 2 August 1995]

In October 1995 Dr Ngubane said new policy was still being formulated, but that the budget for the 1996/97 financial year would reflect revised funding priorities. ‘It is incumbent upon government,’ stated Dr Ngubane, ‘to address past imbalances, so that freedom of creative expression, enjoyment of the arts and participation in the cultural life of the community can indeed be exercised by all, and not just by a privileged few.’<sup>595</sup> [<sup>595</sup> *Sowetan* 9 October 1995]

## The Right to Education

*Section 32: Every person has the right to basic education and equal access to educational institutions; to instruction in the language of choice where reasonably practicable; and to establish, where practicable, educational institutions based on a common culture, language or religion provided there is no discrimination on the ground of race.*

### Equal Access to Educational Institutions

On 11th January 1995 state and state-aided schools in Gauteng opened for the year and were instructed by Ms Mary Metcalfe, the Gauteng MEC for education, that no child could be excluded from a school on the grounds of language, culture, or inability to pay school fees. Exclusion could be justified only if classes were full, on the basis of 40 pupils per class in primary school and 33 at secondary level.<sup>596</sup> [<sup>596</sup> *The Citizen* 10,12,13 January 1995] This policy is now reflected in the Gauteng School Education Bill (see chapter on *Education*).

### The Right to Instruction in the Language of Choice

At the beginning of the school year in 1995 a considerable number of children unable to speak Afrikaans were admitted to Afrikaans-medium schools in Gauteng, many of which undertook to teach in English as well.<sup>597</sup> [<sup>597</sup> *Ibid* 12 January 1995] Ms Metcalfe said the government would encourage those Afrikaans schools which had refused to adopt a dual medium of instruction to do so. ‘Afrikaans schools that insist on single-medium instruction are at liberty to go private,’ she said, ‘but when they receive state resources and make use of state buildings it is another matter.’<sup>598</sup> [<sup>598</sup> *Sunday Times* 15 January 1995]

The president, Mr Nelson Mandela, said that the bill of rights guaranteed education in the language of choice—but only where this was reasonably practicable.<sup>599</sup> [<sup>599</sup> *Rapport* 15 January 1995, author’s translation from Afrikaans] The executive deputy president from the largest minority party, Mr F W de Klerk, said a one-sided interpretation of the constitution was being applied, in which the right of equal access was emphasised and the ‘equally important basic right to education based on a common culture, language or religion’ overlooked. Mr de Klerk said that any unbalanced interpretation of the bill of rights would be counterproductive to ‘national unity, reconciliation and good intergroup relations’.<sup>600</sup> [<sup>600</sup> *The Citizen* 16 January 1995]

In March 1995 a white paper on education indicated that refusal by a school to admit a pupil who spoke a language different from that used by the school was permissible, provided there was another institution nearby which provided schooling in the pupil's preferred language. Schools would be encouraged to offer instruction in more than one language, but would not be obliged to offer the language preferred by a particular pupil if this was not reasonably practicable (see chapter on *Education*).<sup>601</sup> [<sup>601</sup> *Die Burger* 1 March 1995]

In November 1995 the minister of education, Professor Sibusiso Bengu, announced that the requirement that matric pupils must pass their language of instruction would fall away in 1996. Moreover, a pass mark in any two of the country's 11 official languages would be accepted as sufficient for matric.<sup>602</sup> [<sup>602</sup> *The Citizen* 16 November 1995, *Sowetan* 21 November 1995] The ANC welcomed the decision, saying it was 'a truly historic step that would finally liberate the education system from the clutches of languages spoken by the minority people in the country'.<sup>603</sup> [<sup>603</sup> *The Citizen* 16 November 1995] An editorial in *Business Day* commented that a lack of proficiency in English would place people at a disadvantage in tertiary educational institutions, in the world of commerce and industry, and in their dealings with countries beyond South Africa's borders (see also chapter on *Education*).<sup>604</sup> [<sup>604</sup> *Business Day* 16 November 1995]

### ***The Use of Afrikaans in Schools and Universities***

In January 1995 a number of changes to the core school syllabus were made, in terms of which it was announced that Afrikaans was no longer a compulsory school subject. Pupils from standard 2 onwards would study the province's language of instruction, and any second and possibly third language chosen by the school community from among the 11 official languages.<sup>605</sup> [<sup>605</sup> *Sowetan* 26 January 1995] In March it was reported, however, that most schools were still teaching Afrikaans on a voluntary basis and that 'no change was foreseen for the immediate future'.<sup>606</sup> [<sup>606</sup> *The Star* 1 March 1995]

### **The Report of the Committee to Review the Organisation, Governance and Funding of Schools**

In August 1995 the Committee to Review the Organisation, Governance and Funding of Schools, chaired by Professor Peter Hunter and appointed by the national Department of Education to review school organisation, governance and funding, presented its report. Among its recommendations were that the present powers of school governing bodies to determine admission standards as well as language policy be vested in provincial administrations instead (see chapter on *Education*).

### **The National Education Policy Bill**

In September 1995 the National Education Policy Bill was tabled in Parliament. It vests the power of decision over all aspects of education policy in the national minister of education (see chapter on *Education*). The bill also empowers the minister to override any provincial law on education.<sup>607</sup> [<sup>607</sup> *The*

*Citizen* 6 September 1995]

Opposition parties objected to the powers accorded the minister on the basis that education is a provincial function. They also objected to the ANC's 'bulldozing' the bill through the legislative process in the final week of the parliamentary session.<sup>608</sup> [<sup>608</sup> *Ibid* 7 September 1995] The ANC responded that it would use its majority to secure the passage of the bill and could not be 'held to ransom by opposition parties and their unfortunate temper tantrums'.<sup>609</sup> [<sup>609</sup> *Ibid* 8 September 1995]

When the bill came before the National Assembly, all opposition parties signed a petition obliging the government to refer the bill to the Constitutional Court for a ruling on its constitutionality. ANC members of the assembly decided to vote on the bill, even though it was then sub judice, and approved it by 216 votes.<sup>610</sup> [<sup>610</sup> *Business Day* 14 September 1995] In the Senate, by agreement of all parties, the normal rules were suspended to provide that the Senate would be deemed to have passed the bill if the Constitutional Court subsequently upheld its validity. In the meantime, the bill would not be promulgated (see chapter on *Education*).<sup>611</sup> [<sup>611</sup> *The Citizen* 16 September 1995]

## Transforming Education at Provincial Level

Similar controversy surrounded draft education bills in other provinces, especially Gauteng, where objections were voiced to proposals which would restrict the powers of school governing bodies and vest them instead in Ms Metcalfe. According to Dr Hennie van Deventer (chairman of the South African Federation for State-aided Schools), any diminution in the powers of school governing bodies is contrary to section 247 of the transitional constitution. (This bars national and provincial governments from altering the rights and powers of the governing bodies of state-aided schools except by agreement with them.) Ms Metcalfe was also accused of 'selective consultation' on the bill—of ignoring the views of major players, such as the majority of teachers, and focusing instead on minor groupings in education who were 'well-disposed towards the ANC'.<sup>612</sup> [<sup>612</sup> *Ibid* 15 June 1995]

In July 1995 Dr van Deventer objected to decisions by the Gauteng and Western Cape provincial governments to reduce the personnel strength at model C schools. This, he said, could contravene section 247 of the constitution, and legal action might be taken if provincial authorities continued to undermine the authority of the governing councils of model C schools.<sup>613</sup> [<sup>613</sup> *Ibid* 26 July 1995] In August controversy arose over a threat by Mr David Mabuza, the MEC for education in Mpumalanga, to take away all powers from model C schools. Mr Mabuza was quoted as saying he had cut 'model C subsidies and would remove all their powers. "I know I have these powers in my pocket,"' he added. Mr Renier Schoeman, the deputy minister of education, said this threat was unconstitutional (see chapter on *Education*).<sup>614</sup> [<sup>614</sup> *Ibid* 22 August 1995] In December 1995 the Transvaal Provincial Division of the Supreme Court in Pretoria set aside Mr Mabuza's decision to cut subsidies to model C schools, saying an injustice by the previous government could not be corrected through a new injustice.<sup>615</sup> [<sup>615</sup> *Ibid* 5 December 1995] Mr Mabuza responded that he would appeal against the ruling to the Constitutional Court.<sup>616</sup> [<sup>616</sup> *Ibid* 8 December 1995]

## Limitations on the Rights Contained in the Bill

*Section 33: The rights contained in the bill may be limited by laws of general application, provided that such limitation is reasonable; justifiable in an open and democratic society based on freedom and equality; and does not negate the essential content of the right in question. (In some circumstances, the limitation must be necessary as well.)*

### The Basic Limitation

Section 33 provides a general limitation on the rights reflected in the bill, and reflects the reality that human rights are generally not absolute, and must be weighed against the competing rights of others and the legitimate needs of the broader society. Hence, for example, the right to free speech should not include the right to publish defamatory untruths about another person. The right to freedom of assembly should not preclude the state from banning an intended protest march if the latter would result in death and injury to people. It is also, however, a fundamental tenet of human rights law that any limitation of fundamental freedoms must be narrowly and strictly interpreted so as to derogate as little as possible from the right guaranteed.<sup>617</sup> [<sup>617</sup> Erasmus G, 'Limitation and Suspension', in Van Wyk D, Dugard J, De Villiers B and Davis D, *Rights and Constitutionalism, The New South African Legal Order*, Juta & Co Ltd, Cape Town, 1994, pp629–663]

The first requirement reflected in section 33, accordingly, is that the limitation must be contained in a law 'of general application'. This prevents the government from targeting an individual or group for exclusion from the protection of the bill of rights. In addition, a limitation must be reasonable, meaning in essence that it must be rational, do as little 'damage' as possible to the right in question, and be proportional to the objective envisaged.<sup>618</sup> [<sup>618</sup> Ibid, pp648–649] Moreover, a limitation must be 'justifiable in an open and democratic society based on freedom and equality', meaning that it must be compatible with democratic rule as well as the need to redress the inequalities of the past.<sup>619</sup> [<sup>619</sup> Ibid, pp645–648] A limitation, in addition, must not negate the essential content of a right, meaning that it must leave the 'basic core' of the right intact.<sup>620</sup> [<sup>620</sup> Ibid, pp650]

The application of these tests depends on all the surrounding circumstances, and it is difficult to predict how the Constitutional Court will interpret them in the future. The cases decided by the Constitutional Court thus far have been too limited in number and too diverse in content to yield any specific principles on the interpretation of section 33. What is clear, however, is that the onus of showing that a limitation is justified within the terms of section 33 lies on the person or body alleging this.<sup>621</sup> [<sup>621</sup> Ibid, pp642–644]

### The Limitation Must Sometimes Also Be 'Necessary'

In some instances it is not enough to show that the limitation in question satisfies the criteria outlined above. In addition, it must be shown that the limitation is 'necessary' to protect the rights of others or the legitimate interests of the state.<sup>622</sup> [<sup>622</sup> Ibid, pp648–650] This stricter test applies to the rights to human

dignity and to freedom and security of the person; the guarantee against servitude or forced labour; freedom of religion and opinion as well as academic freedom; the rights to vote, stand for election and engage in free political activity; rights to fair trial and due process for those detained, arrested and accused; and the rights of children not to be abused, subjected to exploitative labour practices, or detained in ordinary prison cells and police lock-ups.<sup>623</sup> [<sup>623</sup> Sections 10, 11, 12, 14(1), 21, 25 and 30(1)(d) or (e) or (2), Constitution of the Republic of South Africa of 1993]

The stricter test of whether a limitation is also ‘necessary’ applies, in addition, to the rights of expression, assembly, association, and movement insofar as these rights ‘relate to free and fair political activity’. It also applies to the rights of access to information and administrative justice, insofar as these are linked to free political activity.<sup>624</sup> [<sup>624</sup> Sections 15, 16, 17, 18, 23, and 24, *ibid*]

## **The Supremacy of the Bill of Rights**

Section 33 also makes clear the supremacy of the bill of rights over all other law, whether forming part of statute, common law or customary law. No law—no matter what its source—may limit the rights contained in the bill unless it satisfies the criteria previously described. Rights and freedoms conferred by other laws remain in force, however, ‘to the extent that they are not inconsistent’ with the bill of rights.<sup>625</sup> [<sup>625</sup> Subsections 33(2) and (3), *ibid*]

## **The Prohibition of Unfair Discrimination by Private Persons**

In general, as previously discussed, the bill of rights has vertical rather than horizontal application and binds the state rather than private persons and institutions. Section 33 makes it clear that the bill of rights does not ‘preclude measures designed to prohibit unfair discrimination by bodies and persons’ other than the legislature and executive at all levels of government. Hence, for example, the proprietor of a club cannot rely on the right to freedom of association to bar individuals from membership of the club on grounds such as race, sex, political opinion or sexual orientation.<sup>626</sup> [<sup>626</sup> Sections 8 and 33(4), *ibid*]

## **Suspension Under a State of Emergency**

*Section 34: A state of emergency may be proclaimed in certain circumstances. Some of the rights contained in the bill may then be suspended, but only to the extent necessary to restore peace or order. Those detained under emergency rule have certain minimum rights.*

## **Proclaiming a State of Emergency**

A state of emergency can be proclaimed, with prospective effect, only:<sup>627</sup> [<sup>627</sup> Section 34(1), *ibid*]

- under the terms of an enabling statute;

- where the security of the country is threatened by ‘war, invasion, general insurrection or disorder or at a time of national disaster’; and
- if emergency rule is ‘necessary to restore peace or order’.

Once declared, a state of emergency remains in force for 21 days only. It can, however, be extended for successive three-month periods by resolution of the National Assembly, adopted by at least two thirds of its members.<sup>628</sup> [<sup>628</sup> Section 34(2), *ibid*] The validity of the declaration or extension of a state of emergency may be tested in the Supreme Court.<sup>629</sup> [<sup>629</sup> Section 34(3), *ibid*]

## **Suspending Some Fundamental Rights Under Emergency Rule**

If a state of emergency is declared, the rights contained in the bill may be suspended as a result, but ‘only to the extent necessary to restore peace or order’.<sup>630</sup> [<sup>630</sup> Section 34(4), *ibid*] Moreover, no suspension is possible in relation to the prohibition of unfair discrimination, torture and forced labour; the rights to life, human dignity, fair labour practices and freedom of association in the workplace; as well as freedom of religion and opinion, and the rights of children not to be abused, subjected to exploitative labour practices, or imprisoned in conditions unsuitable for juveniles.<sup>631</sup> [<sup>631</sup> Sections 8(2), 9, 10, 11(2), 12, 14, 27(1) and (2), 30(1)(d) and (e) and (2), *ibid*] In addition, the normal requirements for limiting rights contained in section 33 may not be suspended. Furthermore, a state of emergency cannot retrospectively create new crimes, nor confer indemnity either on the state itself or its agents.<sup>632</sup> [<sup>632</sup> Section 34(5), *ibid*]

## **Rights of Detainees Under a State of Emergency**

The right not to be detained without trial can lawfully be suspended under a state of emergency, as may the rights of ‘due process’ normally accorded persons who are detained, arrested or accused. Certain safeguards are therefore provided for detainees, and come into operation under emergency rule only.

In terms of these provisions, a family member or friend of the detainee must be informed of the detention as soon as reasonably possible, while the names of all detainees must be published in the *Government Gazette* within five days. Moreover, a detainee must be brought before a court of law within a maximum of ten days, or earlier if reasonably possible. The court must review the detention and order that the detainee be released ‘if it is satisfied that the detention is not necessary to restore peace or order’. Once ten days have elapsed since this review, the detainee may apply to court for further review and the court must order release ‘if it is satisfied that the detention is no longer necessary to restore peace or order’.<sup>633</sup> [<sup>633</sup> Section 34(6), *ibid*] The section is silent as to whether any further judicial review is possible.

When review proceedings are held, the state must submit to the court written reasons to justify the detention (or further detention) and a copy of these must be given to the detainee at least two days before



the review. If the court orders release, a detainee cannot be detained on the same grounds again unless the state shows good cause for this prior to such redetention.<sup>634</sup> [<sup>634</sup> Subsections 34(6) and 34(7), *ibid*]

A detainee held under emergency rule has the right to appear in court in person, be represented by legal counsel, and make representations against continued detention. The detainee is also entitled at all times to have access to a legal representative and medical practitioner of his or her choice.<sup>635</sup> [<sup>635</sup> Section 34(6), *ibid*]

## **Enactment of the State of Emergency Act of 1995**

In June 1995 a bill enabling the president to declare a state of emergency and suspend aspects of the bill of rights was tabled in Parliament. This was intended to replace the Public Safety Act of 1953 (under which successive states of emergency had been declared by the previous government) and to provide the legislative authorisation required by section 34.<sup>636</sup> [<sup>636</sup> *The Citizen* 30 June 1995] The bill was enacted by Parliament in September 1995.<sup>637</sup> [<sup>637</sup> *Ibid* 11 July 1995, 7 September 1995]

Under the act, the president may proclaim a state of emergency in the whole or any part of the country, and need not consult any provincial premier before doing so. While emergency rule remains in force, the president may make regulations—the breach of which is punishable by up to three years' imprisonment—to deal with the circumstances which necessitated its proclamation.<sup>638</sup> [<sup>638</sup> Sections 1 and 2, State of Emergency Act of 1995] Emergency rule ends when terminated by the president or revoked by the National Assembly, or by effluxion of time.<sup>639</sup> [<sup>639</sup> Section 2(3), *ibid*]

Detainees arrested in an area where emergency rule applies may be held elsewhere, but only if this is 'reasonably necessary for the restoration of peace or order' or if no suitable facility is available in the area. Recognised international humanitarian organisations (such as the Red Cross) must be allowed access to detainees to assess their conditions of detention.<sup>640</sup> [<sup>640</sup> Subsections 2(5) and 2(7), *ibid*] (See also chapter on *Politics and Security*.)

## **Interpretation of the Bill of Rights**

*Section 35: In interpreting the bill of rights a court of law must promote the values which underlie an open and democratic society based on freedom and equality, bearing in mind relevant principles of international law and, if it so chooses, comparable foreign case law. It must also have due regard to the spirit and objects of the bill of rights.*

This section of the bill of rights makes it clear that, in interpreting its provisions, less significance must be accorded to 'traditional notions about statutory interpretation'<sup>641</sup> [<sup>641</sup> Erasmus, 'Limitation and Suspension', p633]—which revolved around ascertaining the meaning of the words used—and more to the underlying purposes of the bill of rights and the values it embodies. These values are identified in section 35 as

those underpinning ‘an open and democratic society based on freedom and equality’. The meaning of these values remains to be more fully elucidated by the Constitutional Court. International law must be taken into account in interpretation, while comparative constitutional law may also be taken into consideration.<sup>642</sup> [642 Erasmus, ‘Limitation and Suspension’, p637]

In June 1995 a judgement of the Constitutional Court reflected a division within its ranks on whether a purposive or literal approach should apply in interpreting the bill of rights. The question at issue was whether the due process provisions in section 25 (particularly regarding the admissibility of confessions) should apply in proceedings which began before 27th April 1994, the date the transitional constitution came into operation. Section 241 of the constitution states: ‘All proceedings pending before any court... [immediately before 27 April 1994] shall be dealt with as if this constitution had not been passed.’ Four of the judges on the Constitutional Court held that a literal interpretation of the provision would exclude the constitutional right to a fair trial in proceedings which began before 27th April 1994. Two judges agreed with the outcome preferred by these four, but gave different reasons for this. Four judges handed down a dissenting judgment, and held that the words of the section should be given their clear meaning. Delivering the latter judgment, Mr Acting Justice S W Kentridge said: ‘With all respect to the judges who have taken a different view, I find it difficult to see what other meaning can reasonably be given to the language used.’<sup>643</sup> [643 *Business Day* 9 June 1995]

## THE ECONOMY

### BIRD’S EYE VIEW

The economy continued to grow during 1995 for the third consecutive year since the beginning of the recovery phase in 1993. However, structural factors in the economy hindered growth beyond 3%–4% a year.

The importance attached to economic growth by the government was highlighted by the establishment of a cabinet committee led by the president, Mr Nelson Mandela, to oversee economic policy. In February 1996 a report was published outlining a strategy and targets to achieve sustainable economic growth into the 21st century.

Capital continued to enter South Africa but in 1994 and the first half of 1995 it was primarily of a short-term nature, which underlined the cautious attitude many investors were adopting with regard to South Africa’s economic policies and fiscal discipline.

The volatility of the markets was highlighted by the sudden plunge in the rand—which was somewhat overvalued anyway—in February 1996 because of rumours about Mr Mandela’s health and the possible abolition of exchange controls on residents.

During the period under review interest rates remained high, with two increases being announced in

1995. Speculation that they might be lowered in the light of low inflation in 1995 was quashed, however, following the rand's plunge. Money supply growth (M3) was not restricted to within the guidelines recommended by the reserve bank (6%–10%). The year under review also saw the abolition of the financial rand. Fears were expressed, however, that if the rand's decline became permanent it would increase inflation and probably delay the abolition of exchange controls, which was regarded as an important sign to foreign investors that the government was committed to economic liberalisation.

A fairly cautious fiscal policy was maintained during the year under review, with the budget deficit not exceeding 6% of gross domestic product (GDP) during 1995/96. Notwithstanding projections that by 1998/99 the deficit would be 4,5% of GDP the minister of finance said that the government's overall debt burden would continue to grow until 1999.

Actual expenditure on the reconstruction and development programme was slow in 1995/96. Central government allocations to the provinces were criticised by provincial authorities as being too small, making it difficult for them to meet their commitments, particularly in education and social welfare. In some instances, however, provinces' financial difficulties were partly owing to the homeland administrations some had to integrate into their departments.

In December 1995 the third interim report of the Commission of Inquiry into Certain Aspects of the Tax Structure of South Africa made recommendations on tax reform, including support for the government's commitment to avoid increases in the present ratio of national and provincial tax revenue to GDP, of about 25%.

## KEY POINTS

- Real economic growth in 1995 was 3,3%, the highest since 1988 when the economy grew by 4,2%. (Real growth in 1994 was 2,3%, compared with 1,1% in 1993.)
- According to the governor of the South African Reserve Bank, Dr Chris Stals, the ratio of total gross domestic saving to gross domestic product (GDP) dropped marginally, from 17,2% in 1994 to 16,7% in 1995. He said a rate of 24% was necessary to support economic growth of 4% a year.
- The ratio of household debt to personal disposable income rose from 55% in the first half of 1993 to more than 60% in the first half of 1995.
- According to a survey by *The Economist*, workers in the Mexican clothing industry added four times as much value per garment as South African workers.
- In a report published by the Human Sciences Research Council (HSRC) in 1995 it was estimated that the poverty line for an urban household with two adults and three children in 1993 was about R840 per month. For a rural household with two adults and three children the figure was R740.

- According to the HSRC, 48,3% of all women lived below the poverty line in 1993, compared with 43,5% of men. In rural areas, however, about 63% of women were poor and 57% of men. More than half of all children (54%) were living in poverty.
- The average London gold price in 1995 was US\$384,17 compared with \$384,05 in 1994.
- The average inflation rate for 1995 was 8,7%, while producer inflation was 9,6%. Food price inflation was 8,7%.
- The real value of imports for 1995 increased by 20%, while the value of merchandise exports increased by 24,5% in 1995, according to the reserve bank.
- The current account deficit on the balance of payments was R12,7bn, or 2,6% of GDP, in 1995.
- From 21st February 1995 bank rate was increased to 14%, the last increase (to 13%) having been in September 1994. Bank rate increased again on 30th June 1995, to 15%.
- At the end of August 1995 real prime lending rate was 10,23%, the highest since January 1985, when it was 9,74%.
- Real gross domestic fixed investment (GDFI) in 1995 was R55,377bn compared with R50,175bn in 1994, an increase of 10,5%.

## MACRO-ECONOMIC PICTURE

### Growth Rate

Real gross domestic product (GDP) at market prices grew by 3,3% in 1995, the highest since 1988, when the economy grew by 4,2%.<sup>1</sup> [<sup>1</sup> *Business Day* 15 February 1996] In 1994 real economic growth at market prices was 2,7%, compared with growth of 1,3% in 1993 and declines of 2,2% in 1992 and 1% in 1991.<sup>2</sup> [<sup>2</sup> Information supplied by the Central Statistical Service (CSS) library, Pretoria, 15 February 1996] A real growth rate of between 3,5% and 4% was expected in 1996, according to the 1996 *Budget Review*.<sup>3</sup> [<sup>3</sup> Department of Finance, *Budget Review*, 13 March 1996]

All sectors of the economy experienced growth in 1995, with the exception of agriculture and mining, which dropped by 14,9% and 3,6% respectively.<sup>4</sup> [<sup>4</sup> Information supplied by the CSS library, Pretoria, 15 February 1996]

The growth of real gross national product, which represents the real income of South African nationals, declined from 4% in 1994 to 3% in 1995, a result of a deterioration in the terms of trade and of a rise in

South Africa's real net factor payments to the world.<sup>5</sup> [<sup>5</sup> Department of Finance, *Budget Review*, 13 March 1996]

The table below shows real GDP, real GDP per head and the current account of the balance of payments, in the period 1985–96:<sup>6</sup> [<sup>6</sup> Ibid]

*Economic growth and GDP per head: 1985–96*

Year

Real GDP<sup>a</sup>

RIncReal GDP per head<sup>a</sup>

RIncBal1985

254 175

(1,2%)

7 700

(3,5%)

5 208

**1986**

254 221

0,0%

7 517

(2,4%)

6 328

1987

259 561

2,1%

7 495

(0,3%)

6 708

**1988**

270 463

4,2%

7 631

(1,8%)

3 383

1989

276 940

2,4%

7 633

0,0%

3 467

**1990**

276 060

(0,3%)

7 434

(2,6%)

5 324

1991

273 249

(1,0%)

7 192

(3,3%)

6 187

**1992**

267 257

(2,2%)

6 879

(4,4%)

3 940

1993<sup>b</sup>

270 702

1,3%

6 816

(0,9%)

5 829

1994<sup>b</sup>

278 143

2,7%

6 854

0,6%

(2 231)

**1995<sup>b</sup>**

287 233

3,3%

6 932

1,1%

(12 656)

1996<sup>c</sup>

—

3,5%–4%

—

1,5%

—

*Average:*

1985–95

—





In the period 1985–95 real GDP per head dropped by 10%, although in 1994 and 1995 it grew by 0,6% and 1,1% respectively. In 1996 the South African Reserve Bank expected growth of 1,5% in real GDP per head.

Since the beginning of the recovery phase in the South African economy in May 1993 an average annual growth rate of 3% was maintained, the governor of the reserve bank, Dr Chris Stals, said in August 1995.<sup>7</sup> [7 Dr Chris Stals, governor of the South African Reserve Bank (SARB), address at the 75th ordinary general meeting of

shareholders of the bank, 22 August 1995] The chief economist of Standard Bank, Mr Nico Czypionka, said in the same month that he anticipated real growth of about 4% in 1996.<sup>8</sup> [<sup>8</sup> *The Citizen* 11 August 1995 ] The Southern Life Association expected a growth rate of about 4% for 1996. An economist at Southern Life, Ms Sandra Gordon, said in March 1996 that a growth rate of between 2,5% and 3% was anticipated in 1997.<sup>9</sup> [<sup>9</sup> *Ibid* 6 March 1996] According to the Union Bank of Switzerland, a growth rate of 3,7% for 1996 was expected. The bank's chief economist, Mr Peter Buomberger, said that favourable economic developments in South Africa included improved financial conditions, and that the current upswing was taking place against the background of high real interest rates and fiscal consolidation. South Africa also had access to foreign capital to finance a current account deficit, he said.<sup>10</sup> [<sup>10</sup> *The Star Business Report* 11 July 1995]

The table below gives a breakdown of GDP at factor cost at constant 1990 prices by kinds of economic activity from 1974 to 1994:<sup>11</sup> [<sup>11</sup> 1994/95 Survey, pp379–380; SARB, *Quarterly Bulletin*, March 1995]

*Real GDP by kinds of economic activity:<sup>a</sup> 1974–94*

Primary sector<sup>b</sup>

RSecondary sector<sup>c</sup>

RTertiary sector<sup>d</sup>

RTotInc1974

33 618

62 365

83 830

179 813

5,8%

**1975**

31 584

64 720

88 366

184 670

2,7%

1976

33 051

65 753

90 748

189 553

2,6%

**1977**

34 570

63 804

90 094

188 467

(0,6%)

1978

35 155

66 887

91 812

193 853

2,9%

**1979**

35 561

71 734

93 986

201 281

3,8%

**1980**

35 975

78 419

100 335

214 729

6,7%

**1981**

36 463

83 927

105 809

226 199

5,3%

**1982**

35 523

81 969

107 244

224 736

(0,6%)

**1983**

33 205

77 164

110 029

220 399

(1,9%)

1984

35 104

80 301

116 664

232 069

5,3%

**1985**

37 037

76 890

116 007

229 935

(0,9%)

1986

36 864

76 325

116 602

229 791

(0,06%)

**1987**

35 991

77 391

120 621

234 003

1,8%

1988

36 745

82 033

124 447

243 225

3,9%

**1989**

38 290

83 959

126 943

249 192

2,5%

1990

37 095

82 474

127 746

247 315

(0,8%)

**1991**

37 149

79 401

127 999

244 549

(1,1%)

1992

33 830

76 976

127 905

238 711

(2,4%)

**1993**

36 471

76 895

128 635

241 761

1,3%

1994

36 450

78 943

131 462

246 855

2,1%

a

Gross domestic product at factor cost and at constant 1990 prices. Figures may not add up owing to rounding.

b

Includes agriculture, fishing, forestry, mining and quarrying.

c



Includes construction, electricity, gas, manufacturing and water.

d

Includes accommodation, business services, catering, communication, community services, finance, insurance, real estate, social and personal services, storage, transport, and wholesale and retail trade.

In his address to the ordinary meeting of shareholders of the reserve bank in August 1995, Dr Stals said that the economy had certain macro-economic limitations on growth as a result of 'many years of distortion and uncertainty', which were exposed whenever the overall growth rate tried to move beyond 3%–4% a year. These constraints confined the 'sustainable growth' of the economy to a level that could not create sufficient jobs for the increasing labour force.<sup>12</sup> [<sup>12</sup> Dr Chris Stals, address at the 75th ordinary general meeting of shareholders of the bank, 22 August 1995] Earlier, in June 1995 Ms Gordon had said that South Africa was unlikely to attract substantial long-term capital investment unless the government addressed the structural factors which were limiting growth. Among the structural factors that needed to be changed were the high individual tax burden, the skilled labour shortage, high costs of labour in relation to skills and training, a low level of domestic saving, government dissaving, uncompetitive conditions, and an anti-export bias.<sup>13</sup> [<sup>13</sup> *Daily Dispatch* 30 June 1995]

According to the reserve bank, the ratio of total gross domestic saving to GDP dropped from 17% in 1994 to 16,5% in 1995.<sup>14</sup> [<sup>14</sup> SARB, *Quarterly Bulletin*, March 1996] According to Dr Stals, a rate of 24% was necessary to support economic growth of 4% a year.<sup>15</sup> [<sup>15</sup> Dr Chris Stals, address at the 75th ordinary general meeting of shareholders of the bank, 22 August 1995 ] The minister of finance, Mr Chris Liebenberg, said in August 1995 that a lack of domestic saving in the economy necessitated capital inflow even for a growth rate of 3%.<sup>16</sup> [<sup>16</sup> *The Citizen* 23 August 1995 ] According to the reserve bank's *Quarterly Bulletin*, the saving of households and the corporate sector as a proportion of GDP dropped from 8,5% in 1994 to 7% in 1995.<sup>17</sup> [<sup>17</sup> SARB, *Quarterly Bulletin*, March 1996]

The annual report of the reserve bank said in August 1995 that the ratio of household debt to personal disposable income rose from 55% in the first half of 1993 to more than 60% in the first half of 1995.<sup>18</sup> [<sup>18</sup> SARB, annual economic report, 1995] The already high ratio means that in the future private consumption expenditure cannot be the main engine of economic growth.<sup>19</sup> [<sup>19</sup> *The Star Business Report* 28 August 1995]

In February 1996 a team appointed by the executive deputy president from the majority party, Mr Thabo Mbeki, completed a growth and development strategy for the country. The targets of the government's strategy included the creation of 300 000–500 000 jobs a year by 2000; sustained annual GDP growth of at least 6% by 2000; a doubling in the share of national income received by the poorest households; and provision of basic household infrastructure to all by 2005.<sup>20</sup> [<sup>20</sup> *Business Day* 26 February 1996]

## Provincial Economic Growth

In the period 1991–93 most provinces' gross geographic product (GGP) declined, with the exception of the Eastern Cape's and Gauteng's, which grew by 0,4% and 0,8% respectively. Only the tertiary sector grew by between 3,7% and 5,6% in all nine provinces in the period.

The following table provides a proportional breakdown of GGP in each province in 1991 and 1993 (the latest year for which figures were available):<sup>21</sup> [21 CSS, *Gross geographic product at factor income by kind of economic activity and magisterial district 1993*, statistical news release, P0401, 8 May 1995]

### *Proportional gross geographic product: 1991 and 1993<sup>a</sup>*

Provinces

Primary sector

Secondary sector

Tertiary sector

Eastern Cape

1991

6,5%

31,2%

62,3%

1993

5,5%

29,5%

64,9%

Free State

1991

32,7%

24,0%

43,2%

1993

30,5%

23,2%

46,3%

Gauteng

1991

6,1%

34,8%

59,1%

1993

5,7%

32,7%

61,6%

KwaZulu/Natal

1991

8,2%

36,6%

55,3%

1993

7,3%

34,7%

58,1%

Mpumalanga

1991

28,9%

48,6%

22,5%

1993

28,2%

47,3%

24,5%

North-West

1991

50,7%

15,0%

34,4%

1993

48,8%

14,4%

36,8%

### Northern Cape

1991

37,4%

9,9%

52,7%

1993

35,2%

9,4%

55,4%

### Northern Province

1991

31,4%

18,4%

50,2%

1993

29,6%

17,5%

52,9%

Western Cape

1991

6,9%

31,4%

61,6%

1993

5,9%

29,6%

64,4%

a

Fi

The proportional contributions of the primary and secondary sectors to each province's GGP declined slightly in all provinces between 1991 and 1993, while the contribution of the tertiary sector increased. Some 48,8% of the North-West's GGP came from the primary sector in 1993, the highest of all provinces, while only 5,5% of the Eastern Cape's GGP came from the primary sector. Mpumalanga's secondary sector contributed 47,3% to its GGP—the highest in the country.

The table below shows actual value of GGP by province and the real change between 1991 and 1993:<sup>22</sup>  
[<sup>22</sup> Ibid]

*Gross geographic product by economic activity: 1991 and 1993*

Province

Primary sector R(000)

Secondary sector R(000)

## Tertiary sector R(000)

Total<sup>a</sup>

R(Eastern Cape

1991

1 181 239

5 685 936

11 331 806

18 198 981

1993

1 006 858

5 386 499

11 870 311

18 263 668

Real change

(14,7%)

(5,3%)

4,7%

0,4%

Free State

1991

5 087 011

3 733 537

6 715 827

15 536 375

1993

4 596 756

3 484 343

6 966 473

15 047 572

Real change

(9,6%)

(6,7%)

3,7%

(3,1%)

Gauteng

1991

5 456 722

31 318 545

53 155 895

89 931 162

1993



5 163 075

29 636 537

55 809 177

90 608 789

Real change

(5,4%)

(5,4%)

5,0%

0,8%

KwaZulu/Natal

1991

2 970 397

13 274 060

20 061 507

36 305 964

1993

2 632 908

12 571 983

21 064 267

36 269 158

## Real change

(11,4%)

(5,3%)

5,0%

(0,1%)

## Mpumalanga

1991

5 859 403

9 832 953

4 550 027

20 242 383

1993

5 468 389

9 184 467

4 746 793

19 399 649

## Real change

(6,7%)

(6,6%)

4,3%

(4,2%)

North-West

1991

6 788 404

2 004 991

4 607 646

13 401 041

1993

6 461 626

1 911 740

4 867 508

13 240 874

Real change

(4,8%)

(4,7%)

5,6%

(1,2%)

Northern Province<sup>b</sup>

1991

2 869 761

1 678 954

4 582 788

9 131 503

1993

2 666 489

1 577 365

4 774 416

9 018 270

Real change

(7,1%)

(6,1%)

4,2%

(1,2%)

Northern Cape

1991

1 936 411

510 117

2 726 988

5 173 516

1993

1 764 648

471 551

2 780 023

5 016 222

Real change

(8,9%)

(7,6%)

1,9%

(0,3%)

Western Cape

1991

2 313 036

10 495 438

20 564 996

33 374 470

1993

1 966 211

9 793 840

21 318 938

33 078 989

Real change

(15,0%)

(6,7%)

3,7%

(0,9%)

Total<sup>a</sup>

1991

34 462 384

78 534 531

128 297 480

241 294 395

1993

31 726 960

74 018 325

134 197 906

239 943 191

Real change

(7,9%)

(5,8%)

4,6%

(0,6%)

a

Figures may not add up owing to rounding.

b

No indices were available for Mpumalanga and Northern Province. The national consumer price in

The contribution of Gauteng's secondary sector to GDP was the biggest in the country in 1993 (40%), while the North-West province made the single largest contribution to the primary sector (20%). In the tertiary sector Gauteng's contribution to GDP was the largest in 1993 (41,6%).

## Unemployment

According to the *October Household Survey* published by the Central Statistical Service in March 1995, the official unemployment rate in October 1994 was 32,6% (4 656 076 people). The highest unemployment rate was among Africans, 41,1% or 4,1m people. Among Asians the unemployment rate was 17,1% or 70 000 people, among coloured people it was 23,3% or 348 000, and among whites it was 6,4% or 160 000. Almost half of the unemployed (48,7%) were under the age of 30. Some 97,7% did not have a post-school qualification while 86,9% were not trained or skilled for specific work.

Among the provinces, the Northern Province had the highest unemployment rate (47%), while the Western Cape had the lowest (17,3%). Gauteng had an unemployment rate of 28,7%.<sup>23</sup> [<sup>23</sup> CSS, *October Household Survey 1994*, statistical release, P0317, 30 March 1995]

In February 1995 the minister of labour, Mr Tito Mboweni, said that the official unemployment rate as at 31st December 1994 was 29% or 3587737 people. However, official unemployment figures in South Africa were 'extremely conservative', the minister said.<sup>24</sup> [<sup>24</sup> *Hansard* (S) 1q cols 17–18, 28 February 1995] (See also chapter on *Employment and Industrial Relations*.)

The director of the Bureau for Economic Research at the University of Stellenbosch, Dr Ockie Stuart, said in June 1995 that unemployment would rise for the next five years or more as the structure of the economy could not be changed 'overnight'. However, some of those not employed in the formal sector would find employment in the informal economy.<sup>25</sup> [<sup>25</sup> *Cape Times* 7 June 1995]

According to the governor of the South African Reserve Bank, Dr Chris Stals, the improved economic conditions during 1994 reversed the declining trend in total employment—in the second quarter of 1994 the total number of workers in the formal non-agricultural sector of the economy increased for the first time, after having contracted for four years. Total employment rose at a seasonally adjusted annualised rate of of 1,3% in the last three quarters of 1994, a rate 'well below' that of growth in the total labour force and 'therefore not high enough to prevent a further rise in the total number of unemployed

people'.<sup>26</sup> [26 Dr Chris Stals, address at the 75th ordinary general meeting of shareholders of the bank, 22 August 1995; SARB, *Quarterly Bulletin*, June 1995]

Total employment in the non-agricultural sectors declined at seasonally adjusted and annualised rates of 0,8% and 1,6% in the first and second quarters of 1995.<sup>27</sup> [27 SARB, *Quarterly Bulletin*, March 1996]

Between the second quarter of 1994 and the second quarter of 1995 there was a net gain of 40 000 employment opportunities in the private sector, compared with an increase of some 350 000 people in the economically active population (see also chapter on *Employment and Industrial Relations*).<sup>28</sup> [28 Ibid]

In January 1995 a report by the International Monetary Fund (IMF) identified unemployment, which was 'high and still rising', as a 'dark cloud on the horizon' in South Africa.<sup>29</sup> [29 *Sunday Times* 9 April 1995] The IMF also said that the rate at which the formal sector had been absorbing labour had deteriorated progressively in 1965–95, resulting in a quadrupling in the rate of formal joblessness.<sup>30</sup> [30 *Cape Times* 11 May 1995]

According to the Standard Bank, the economy would have to grow at 4,3% a year to maintain the unemployment figure at 4,7m people. To eliminate unemployment, economic growth of 8,8% a year would be required for the next ten years (assuming the current rate of growth in the labour force and the level of productivity). Only with significant investment from abroad could such a level of economic growth be achieved. However, the unemployment problem was more structural than cyclical and economic growth alone would not eliminate it. Structural factors included the increasing costs of gold mining, the uncompetitiveness of industry, and increased unionisation which had resulted in a 'certain degree of wage inflexibility'. The bank said that industrial council agreements on entry level wages had reduced opportunities for younger and unskilled workers to negotiate a lower wage.<sup>31</sup> [31 Standard Bank, *Economic Review*, April 1995]

In his 1995 annual review the chairman of the Anglo American Corporation of South Africa, Mr Julian Ogilvie Thompson, said that notwithstanding the current economic upturn no serious inroads had been made in employing more new job seekers and reducing the existing pool of the unemployed. With a gross domestic product growth rate of 3% a year formal employment would increase from just less than 8m in 1995 to about 8,5m in 2000, while a growth rate of 5% per year would boost formal employment to 9m.<sup>32</sup> [32 *The Citizen* 30 June 1995]

## Skills Shortages

The National Productivity Institute (NPI) said in its *Productivity Focus* in 1994 that the proportion of science and engineering students enrolled at universities had dropped from 17% in 1982 to 15% in 1989. More than 50% of university students in South Korea and Taiwan were studying the natural sciences or engineering, compared with only 13% in South Africa. Furthermore, South Africa had only 35 qualified



engineers per million of the population, while Japan had 500, the United States (US) 370, Germany 340, and the United Kingdom 250. According to the NPI, the shortage of engineers in South Africa was increasing, which negatively affected South Africa's competitive position.<sup>33</sup> [<sup>33</sup> National Productivity Institute, *Productivity Focus 1994*, 1994] The president of Mintek, Mr Aidan Edwards, said in March 1995 that the boom in the South African minerals industry was being thwarted by the shortage of qualified engineers and scientists. Twelve years ago 8% of all graduates were engineers but this figure had dropped to 5% in 1994. Mr Edwards also said that one third of engineers working in South Africa had been trained abroad.<sup>34</sup> [<sup>34</sup> *Business Day* 20 March 1995]

Economic growth and productivity would be affected negatively by the decline in the number of apprentices and artisans as well, the NPI said.<sup>35</sup> [<sup>35</sup> NPI, *Productivity Focus*, 1994] According to the Human Sciences Research Council, if human resource development (ie education and training) was neglected South Africa would not be able to achieve high economic growth in the long term. Economic expansion would be restricted because of the limited availability of suitably qualified people.<sup>36</sup> [<sup>36</sup> Human Sciences Research Council (HSRC), *In Focus*, February/ March 1995 ] According to the NPI, South African companies spent only between 0,5% and 1,5% of their payroll on training, compared with an average of 10% in Japan and 5% in the US.<sup>37</sup> [<sup>37</sup> NPI, *Productivity Focus*, 1994]

## Productivity Constraints

According to a survey done by *The Economist* in May 1995, workers in the Mexican clothing industry added four times as much value per garment as South African workers, while each Mexican car worker took about one third of the time a South African needed to build a car. South Korea and Taiwan's labour force productivity was twice that of South Africa in 1989.<sup>38</sup> [<sup>38</sup> *The Economist* 20 May 1995]

In his address at the ordinary general meeting of the reserve bank, in August 1995 the governor of the South African Reserve Bank, Dr Chris Stals, said that average real wages and salaries per worker increased by some 3% in 1994, more than the rate of increase in productivity per worker. This resulted in an increase in real unit labour costs, thus weakening the country's competitiveness vis-à-vis the world.<sup>39</sup> [<sup>39</sup> Dr Stals, address at the 75th ordinary general meeting of shareholders of the bank, 22 August 1995] In the same month Dr Stals said that relatively high wages combined with relatively low productivity had created 'an extremely high' average unit labour cost for industry, mining and farming.<sup>40</sup> [<sup>40</sup> *Business Day* 29 August 1995] The Standard Bank said in April 1995 that the current level of productivity in South Africa was 'well below levels necessary to foster increased foreign direct investment'.<sup>41</sup> [<sup>41</sup> Standard Bank, *Economic Review*, April 1995]

According to the reserve bank's *Quarterly Bulletin*, the rate of increase in labour productivity in the non-agricultural sectors of the economy rose from 0,4% in 1991 to 2,8% in 1993 and 1994. The year-on-year rate of increase in the first half of 1995 was 2,6%. The bank said, however, that the productivity

increases were achieved at the cost of declining employment.<sup>42</sup> [42 SARB, *Quarterly Bulletin*, March 1996]

## Poverty

In a report published by the Human Sciences Research Council (HSRC) in 1995 and entitled *A Profile of Poverty, Inequality and Human Development in South Africa*, it was estimated that the poverty line for an urban household with two adults and three children in 1993 was about R840 per month, and R740 for a rural household with two adults and three children. The tables below give the number of poor households by province and by race in 1993 (the latest year for which figures are available):<sup>43</sup> [43 HSRC, *A Profile of Poverty, Inequality and Human Development in South Africa*, 1995]

### *Poverty by province: 1993*

No of poor households

Proportion households living in poverty

Eastern Cape

710 257

56,8%

**Free State**

263 112

36,1%

Gauteng

299 821

15,4%

**KwaZulu/Natal**

626 889

40,4%

**Mpumalanga**

208 419

33,8%

**North-West**

232 947

29,7%

**Northern Cape**

51 466

38,2%

**Northern Province**

608 528

61,9%

**Western Cape**

125 208

14,1%

**Total**

3 126 6

*Poverty by race and location: 1993*

No of poor households

Proportion households living in poverty

No of poor individuals

Proportion individuals living in poverty

African

Rural

2 124 746

54,5%

12 904 727

63,9%

Urban

466 528

41,5%

2 506 978

50,8%

Metropolitan

355 651

29,1%

1 857 670

36,8%

Subtotal

2 946 925

47,2%

17 269 375

57,2%

*Asian*

Rural

—

—

—

—

Urban

10 626

8,0%

54 096

9,7%

Metropolitan

4 000

3,9%

15 864

3,4%

Subtotal

14 626

6,2%

69 960

6,8%

*Coloured*

Rural

9 611

21,2%

54 704

25,1%

Urban

74 440

28,6%

370 958

32,9%

Metropolitan

46 034

11,6%

230 219

11,8%

Subtotal

130 085

18,5%

655 881

19,8%

*White*

Rural

5 001

4,0%

7 427

1,8%

Urban

13 626

2,6%

48 874

3,1%

Metropolitan

16 384

1,6%

48 134

1,6%

Subtotal

35 011

2,1%

104 435

2,1%

*Total*

**Rural**

2 139 358

52,6%

12 966 858

62,3%

**Urban**

565 220

27,8%

2 980 906

36,3%

**Metropolitan**

422 069

15,2%

2 151 887

20,3%



## Total

3 126 647

According to the HSRC, the poverty gap in South Africa in 1993 was just over R15bn, which amounted to less than 5% of gross domestic product. (The poverty gap is calculated by summing the differences between the income of each poor household and the poverty line. It is important because it indicates the theoretical minimum government transfer to poor households needed to totally eliminate poverty.) See chapter on *Employment and Industrial Relations*.

According to the HSRC, 48,3% of all women lived below the poverty line, compared with 43,5% of men. In rural areas, however, about 63% of women were poor and 57% of men. More than half of all children (54%) were living in poverty in 1993. About 74% of all children in the Northern Province were poor and 70% in the Eastern Cape. The Western Cape and Gauteng had the lowest proportion of children living in poverty—22% and 25% respectively, while 49% of children in the North-West were poor. The Free State, KwaZulu/Natal, Mpumalanga and the Northern Cape had levels of child poverty higher than 50%. Some 64% of African children were poor, compared with 2% of white children, 10% of Asian children and 23% of coloured children (see also chapter on *Health and Welfare*).<sup>44</sup> [<sup>44</sup> Ibid]

A report published by the Centre for Development and Enterprise (CDE) in September 1995 estimated that in 1995 the number of households living in poverty (ie below the minimum living level) was 3,02m or 38,8% of all households. Although the proportion of households living in poverty in 1995 had dropped compared with 1985 (when it was 41,3%), the **number** had increased by about 17%. Ninety-four percent of all households living in poverty in 1995 were African, and 64% lived in small towns or rural areas. About 33% of all Africans in metropolitan areas in 1995 were poverty-stricken. The CDE said, however, that those calculations did not take into account informal sector activities, which could reduce poverty levels. As yet no research had been conducted into that.<sup>45</sup> [<sup>45</sup> Centre for Development and Enterprise, *Post-apartheid population and income trends: A new analysis*, CDE Research no 1, September 1995 ] See also chapter on *Employment and Industrial Relations*.

According to the Institute for Futures Research at the University of Stellenbosch, failure to achieve higher economic growth would have a significant impact on poverty. Low growth would hamper the economy's ability to meet the basic needs and development aspirations of a large proportion of the population.<sup>46</sup> [<sup>46</sup> Institute for Futures Research, *Business Futures Bulletin*, June 1995]

## Balance of Payments

According to the South African Reserve Bank, the current account of the balance of payments recorded a deficit of R2,2bn in 1994 (0,5% of GDP), compared with a surplus of R5,8bn in 1993 and R3,9bn in 1992. In 1995 the current account weakened further to a deficit of R12,7bn, or 2,5% of GDP.<sup>47</sup> [<sup>47</sup> SARB,

*Quarterly Bulletin*, March 1996]

The reserve bank attributed the current account deficit to the following:

- a rise in gross domestic expenditure, with a concomitant increase in merchandise imports;
- a slowdown in the value of net gold exports because of a drop in gold production (see also *Gold price* below);
- the fact that the increase in the value of merchandise exports only partly offset the developments in imports and gold exports; and
- the high level of net service and transfer payments to the rest of the world.

However, the reserve bank said in September 1995 that as the South African economy became more open, thus allowing for more favourable international capital movements beginning in 1994, it was no longer compelled to maintain surpluses on its current account.<sup>48</sup> [<sup>48</sup> SARB, annual economic report, 1995] In July 1995 the Standard Bank said that capital inflows had been quite adequate to maintain and increase foreign reserves.

Projections on the current account deficit for 1996 varied, from R13,5bn (Nedcor), to R10,7bn (Absa) and R5bn (Edey, Rogers).<sup>49</sup> [<sup>49</sup> *Fast Facts* no3 March 1995]

According to Nedcor's quarterly publication *Guide to the Economy*, the balance of payments was a potential economic problem in the future. The financing of the 'widening' current account deficit by short-term capital inflows raised the possibility of a 'Mexican-style crisis' in the future if the debt maturity profile remained unchanged.<sup>50</sup> [<sup>50</sup> *Nedcor, Guide to the Economy*, third quarter 1995 ] Earlier, in April 1995, the Standard Bank had said that as long as capital account inflows remained at 'recent levels' there would be no need for concern at the current account deficit. The bank added that there was no reason to expect a reversal in capital inflows as long as the government's policies were 'conducted in a manner acceptable to foreign lenders'.<sup>51</sup> [<sup>51</sup> Standard Bank, *Economic Review*, April 1995]

The capital account of the balance of payments improved during 1994 and in the first half of 1995. Large capital outflows (not related to reserves) to the amount of R51,7bn had been recorded from 1985 to mid-1994. In 1994 there was a net inflow of capital totalling R5,2bn, while in the first six months of 1995 the net inflow amounted to R9,8bn. Factors contributing to the large inflow included the following:<sup>52</sup> [<sup>52</sup> SARB, annual economic report, 1995]

- the normalisation of international financial relations, re-entry to international capital markets and certain tax and other changes to create a more investor-friendly environment;

- the ready availability of foreign trade financing, which together with an increase in the value of imports, encouraged the private sector to increase trade-related short-term liabilities;
- the willingness of the banking sector to borrow short-term funds abroad to fund their domestic activities;
- an improvement in nonresident investor confidence; and
- the large number of foreign companies which returned to or made new investments in South Africa.

Most of the net inflow in 1994 and the first half of 1995 took the form of short-term capital. The capital inflow in the second quarter of 1995, however, consisted largely of long-term funds (R3,7bn).

With the re-establishment of South Africa as a borrower in international capital markets, a global bond issue of US\$750m (R2,7bn) was made by the government in December 1994. This was followed by an issue in the Samurai market of Y30bn (R1,3bn) in May 1995.<sup>53</sup> [<sup>53</sup> Ibid; SARB, *Quarterly Bulletin*, September 1995] In the period June 1994 to June 1995 there was a total net inflow of capital of R18,6bn.<sup>54</sup> [<sup>54</sup> SARB, *Quarterly Bulletin*, September 1995]

The substantial net inflow of capital in 1995 was more than sufficient to finance the shortfall on the current account of the balance of payments. South Africa's gross gold and other foreign reserves rose from R14,1bn at the end of 1994 to R18,2bn at the end of 1995. Net gold and other foreign reserves rose by R9,1bn in 1995.<sup>55</sup> [<sup>55</sup> Ibid, March 1996]

South Africa's total outstanding foreign debt increased from US\$25,5bn at the end of 1993 to US\$27,9bn at the end of 1994, which amounted to 22,9% of GDP.<sup>56</sup> [<sup>56</sup> SARB, annual economic report, 1995] Since 1989, when the ratio of total foreign debt to GDP was 27,3%, it has been declining, reaching 21,6% in 1993 after which it rose slightly in 1994. The debt renegotiated in terms of the 1994 Debt Arrangements with foreign creditors amounted to US\$3,4bn. Of the remaining debt, US\$15,3bn was in foreign currency denominations and US\$9,2bn was rand-denominated debt.<sup>57</sup> [<sup>57</sup> SARB, *Quarterly Bulletin*, September 1995]

The table below shows the maturity structure of the foreign currency-denominated debt in American dollars as at the end of 1994:<sup>58</sup> [<sup>58</sup> Ibid]

*Maturity structure of foreign-currency denominated debt<sup>a</sup> in US\$*

Short term<sup>b</sup>

\$1995<sup>c</sup>

\$1991991991992002001<sup>d</sup>

\$mRenegotiated debt

—

372

258

226

202

774

774

774

Other foreign currency denominated debt

4 860

1 971

1 771

2 324

1 491

1 343

432

1 075

Total

4 860

2 343

2 029

2 550

1 693

2 117

1 206

1 849

a

As at end of 1994.

b

Liabilities with an original maturity of less than one year. Most of these are normally rolled over, renegotiated or replaced with new facilities.

c

Amounts falling due on long-term loans. These loans may also be partly rolled over and/or replaced by new foreign loans.

d

Maturities of the year 2001 and afterwards.

The maturity profile of South Africa's debt was published by the bank for the first time in August 1995 after the 1985 debt standstill (which was triggered when the country was unable to secure rollovers for its short-term debts).<sup>59</sup> [*59 Business Day* 2 August 1995]

In answer to a question in Parliament in March 1995, the minister of finance, Mr Chris Liebenberg, said that South Africa was classified as a 'less indebted country' by the World Bank in its publication *World Development Indicators 1994*. (Countries were classified into three categories: severely indebted, moderately indebted and less indebted.)<sup>60</sup> [<sup>60</sup> South African Chamber of Business (Sacob), This Week In Parliament, 7 March 1995]

## The Gold Price

The average London gold price for 1995 was US\$384,17 compared with \$384,05 in 1994.<sup>61</sup> [<sup>61</sup> Nedcor, Guide to the Economy, 29 September 1995]

The chairman of the Anglo American Corporation of South Africa (Anglo), Mr Julian Ogilvie Thompson, said in June 1995 that South Africa's gold output had dropped from 619 tonnes in 1993 to 584 tonnes in 1994. The loss in export earnings was R1,6bn, contributing nearly three quarters of the recorded current account deficit of R2,1bn. A fall in production of a similar magnitude in 1995 would mean that production was 70 tonnes lower than in 1993. The decline would cost South Africa some R3,1bn in lost export earnings. Mr Ogilvie Thompson added that the corrective action which had been taken in 1990–93 to lower the cost of gold production had been undermined by a static gold price, falling grades of gold mined, rapidly rising costs and, most importantly, a drop in tonnage milled.<sup>62</sup> [<sup>62</sup> Anglo American Corporation: 1995 chairman's statement, news release, 29 June 1995] The chairman of the gold and uranium division of Anglo, Mr Clem Sunter, said in the same month that although the group had big untapped deposits a sustained price of US\$450 an ounce was needed to make them viable.<sup>63</sup> [<sup>63</sup> Sunday Times 2 July 1995]

The average London gold price from 1981 to 1994 is shown below:<sup>64</sup> [<sup>64</sup> Chamber of Mines of South Africa, Statistical Tables, 1994]

*Average London gold price: 1981–94*

Price in American dollars

Price in South African rands<sup>a</sup>

Increase (decrease)<sup>b</sup>

1981

459,85

1 361,36

—

**1982**

375,85

1 213,38

(10,9%)

1983

424,31

1 247,75

2,8%

**1984**

360,45

1 248,25

0,04%

1985

317,29

1 447,31

15,9%

**1986**

367,59

1 443,95

(0,2%)

1987

446,60

1 344,39

(6,9%)

**1988**

437,09

1 301,29

(3,2%)

1989

381,54

1 142,89

(12,2%)

**1990**

383,58

991,88

(13,2%)

1991

362,19

866,90

(12,6%)



## 1992

343,72

746,37

(13,9%)

1993

359,70

816,61

9,4%

## 1994

384,05

748,73

(8,3%)

a

The rand price of gold is expressed in real terms with 1990 as the base year.

b

Change in t

In February 1996 the minister of mineral and energy affairs, Mr Roelof (Pik) Botha, said that annual gold production would probably drop to 416 tonnes by the end of 1997 because of closures and rationalisation. Mines would have to improve productivity to offset the effect of rising production costs, which would force many mines to close, Mr Botha said.<sup>65</sup> [<sup>65</sup> The Citizen 22 February 1996]

## Exchange Rate

According to the Nedcor economic unit, the nominal external value of the rand in 1995 was 27,54 American cents (a drop of 2,2% on 1994).<sup>66</sup> [<sup>66</sup> Nedcor, Guide to the Economy, fourth quarter 1995] In 1994 it was 28,17 American cents, a drop of 7,9% from the 1993 average of 30,6 American cents. Since 1990, when the rand was worth 38,64 American cents, the currency had dropped by 27%.<sup>67</sup> [<sup>67</sup> Bureau for Economic Research (BER), University of Stellenbosch, Trends, December 1995]

The nominal effective exchange rate of the rand declined on average by 8,5% during 1994, while the real effective exchange rate dropped by 3%. In the first five months of 1995 the rand declined by 7,6%, but then rose by 4,4% to the end of December. According to the South African Reserve Bank, from the end of 1992 to the end of December 1994 the real effective exchange rate of the rand dropped by 6,6%.<sup>68</sup> [<sup>68</sup> SARB, Quarterly Bulletin, March 1995] The decline in the average weighted value of the rand in 1995 was 3,6%.<sup>69</sup> [<sup>69</sup> Department of Finance, Budget Review, 13 March 1996]

Between the end of 1993 and July 1995 the rand had dropped by 6,2% against the United States dollar, by 13,4% against the British pound, by 25,3% against the German mark, and by 26% against the Japanese yen.<sup>70</sup> [<sup>70</sup> SARB, annual economic report, 1995] According to the Union Bank of Switzerland, the rand was expected to continue weakening. In the first half of 1995 the rand's trade-weighted exchange rate dropped by 8%. By the end of 1996 the rand would have dropped to R4,10 to the American dollar (or 24,39 American cents).<sup>71</sup> [<sup>71</sup> The Star Business Report 11 July 1995] Nedcor's economists anticipated that the rand would drop to 26,8 American cents in 1996 or by 2,5% compared with 1995.<sup>72</sup> [<sup>72</sup> Nedcor, Guide to the Economy, fourth quarter 1995] The Bureau for Economic Research at the University of Stellenbosch forecast that the rand would depreciate against the dollar by some 7,5% in 1996.<sup>73</sup> [<sup>73</sup> BER, Trends, December 1995]

Quoting from the annual report of the International Monetary Fund (IMF) in September 1995, the governor of the reserve bank, Dr Chris Stals, said that any depreciation of the rand should be considered in the context of real wage correction and labour market reform and be supported by macroeconomic policies; otherwise it could 'spark a wage-price spiral'.<sup>74</sup> [<sup>74</sup> Business Day 15 September 1995]

In February 1996 the rand dropped suddenly, following rumours about the health of the president, Mr Nelson Mandela, and speculation that the reserve bank would abolish exchange controls soon. Between 15th February and 16th February the rand dropped by some 3%, from 27,29 American cents to 26,49 cents, after reaching a record low of 25,64 American cents (R3,90).<sup>75</sup>

Dr Stals and the minister of finance, Mr Chris Liebenberg, said that they would 'let the markets lead the way in determining the exchange rate'. Mr Liebenberg stated that the bank would not 'fight the markets. At best we'll smooth them'. The currency drop had not changed the government's view on the lifting of exchange controls. Mr Liebenberg said that the pressure on the rand was a 'reminder' that there were still concerns about the sustainability of South Africa's policies among the investing public.<sup>76</sup> [<sup>76</sup> Business Day 21 February 1996] It was reported that economists believed that if the rand's effective devaluation proved permanent, it could result in another interest rate rise or postpone any fall in interest rates. Inflation would also move higher as imports became more expensive and the knock-on effect of higher

prices spread to all sectors. However, the rand's depreciation would give a boost to the export sector and provide relief to the gold mining industry.<sup>77</sup> [<sup>77</sup> The Star 20 February 1996]

Nedcor said in February 1996 that the rand's drops earlier in the month had shown how dependent a 'post-finrand' South Africa was on capital inflows and foreign confidence (see *Abolition of the financial rand* below).<sup>78</sup> [<sup>78</sup> Business Day 26 February 1996]

According to the Economist Intelligence Unit, 'if the currency had been regarded as intrinsically reasonably valued, it would—or should—have bounced back despite the rumours about Mr Mandela and the abolition of forex controls'. The fact that it did not demonstrated that it was 'ripe for a revaluation'.<sup>79</sup> [<sup>79</sup> The Economist Intelligence Unit, Business Africa, 1 March 1996]

The following table shows the value of the commercial and financial rands from 1975 to 1994:<sup>80</sup> [<sup>80</sup> BER, Trends, December 1995]

<i>Exc</i>
Commercial rand
Increase (decrease)
Financial rand
Discount <sup>a</sup>
1975
135
—
116
14,1%
<b>1976</b>
115
(14,8%)

78

32,2%

1977

115

0,0%

72

37,4%

**1978**

115

0,0%

73

36,5%

1979

119

3,5%

82

31,1%

**1980**

128

7,6%

94

26,5%

1981

114

(10,9%)

83

27,2%

**1982**

92

(19,3%)

76

17,4%

1983

90

(2,2%)

78

13,3%

**1984**

68

(24,4%)

N/A<sup>b</sup>

N/A

1985

45

(33,8%)

27

40,0%

**1986**

44

(2,2%)

22

50,0%

1987

49

11,4%

32

34,7%

**1988**

44

(10,2%)

26

40,9%

1989

38

(13,6%)

28

26,3%

**1990**

39

2,6%

30

23,1%

1991

36

7,7%

32

11,1%

**1992**

35

(2,8%)

21

40,0%

1993

31

(11,4%)

23

25,8%

**1994**

28

(9,7%)

25

10,7%

a

The difference between the commercial rand and the financial rand as a proportion of the commercial rand.

b

The financial rand was abolished in February 1983 and reintroduced in September 1985, owing to the foreign debt crisis.

N/A— Not applicable.

## Abolition of the Financial Rand

In March 1995 Mr Liebenberg announced that as from 13th March 1995 the financial rand and the dual exchange rate system would be terminated. There would therefore be one unitary exchange rate which would apply to both current and capital transactions between residents and nonresidents. Mr Liebenberg said that the abolition of the finrand was the first step by the government of national unity to full financial liberalisation. The remaining exchange controls applicable to foreign investments by South African residents, Mr Liebenberg said, were not being removed.<sup>81</sup> [<sup>81</sup> SARB, Quarterly Bulletin, statement issued



by Mr Chris Liebenberg, minister of finance, on the abolition of the financial rand system, 10 March 1995]

On the last day of trading in the finrand the discount against the commercial rand was only 3,6%, allowing the dual exchange rate system to be abolished with minimal disturbance of the foreign exchange and other financial markets.<sup>82</sup> [<sup>82</sup> SARB, annual economic report, 1995] The abolition of the financial rand was a ‘non-event’, the unified currency stabilising at about 27,7 American cents.<sup>83</sup> [<sup>83</sup> Southern Life Association, Quarterly Economic Comment, second quarter 1995]

Commenting on the abolition of the finrand, the South African Chamber of Business (Sacob) said that the move had signalled to the international community that the government had sufficient confidence in its ability to manage the economy that it was prepared to put its policies to the ‘test of the market’. Sacob added that the focus of attention should now shift towards the earliest lifting of remaining exchange controls on residents.<sup>84</sup> [<sup>84</sup> Sacob, Business Confidence Index, March 1995]

## **Abolition of Exchange Controls**

According to Dr Stals, the government extended a mandate to the reserve bank, following the abolition of the finrand, to gradually relax the restrictions on foreign portfolio investments by South African institutional investors. He said in August 1995 that the reserve bank believed that controls should be eased gradually in light of the reintegration of South Africa into the global financial system. However, this should be implemented ‘with caution’, particularly as long as the capital inflows remained predominantly short term, and while the improvement in foreign reserves was based on rising short-term foreign liabilities.<sup>85</sup> [<sup>85</sup> Dr Stals, address to the 75th ordinary general meeting of shareholders of the bank, 22 August 1995]

Following the rand’s slide in February 1996 economists said that the phasing out of exchange controls would probably be delayed. A director of Econometrix, Dr Azar Jammine, said that the rand’s depreciation ‘may have done some permanent damage in delaying exchange control abolition. Dr Jammine said that the lifting of exchange controls should happen gradually. A consultant at Edey, Rogers, Mr Edward Osborn, said, however, that exchange controls should be relaxed ‘now’, as one reason cited for the plunge in the rand was the rumour of the imminent easing of controls.<sup>86</sup> [<sup>86</sup> Business Day 20 February 1996]

The Union Bank of Switzerland said that the reserve bank was unlikely to abolish exchange controls before the 1999 elections, but might ease the rules before that.<sup>87</sup> [<sup>87</sup> Ibid 16 February 1996] In contrast, the Board of Executors believed that the rand’s drop could prompt the monetary authorities to move more quickly to remove controls, so as to reduce uncertainty in the market and contain speculative activity.<sup>88</sup> [<sup>88</sup> The Citizen 28 February 1996]

The chief economist at Syfrets, Mr Peter Hilsenrath, said that the rand’s slide had created ‘a window of opportunity for the government to relax exchange controls. With high real interest rates and a very weak currency, there is less chance of hefty capital outflows.<sup>89</sup> [<sup>89</sup> Mail and Guardian 23 February 1996]

## Inflation Rate

The average inflation rate for 1995 was 8,7%. In 1994 the inflation rate was 9%, compared with 9,7% in 1993. The average annual rates for lower-, middle and higher-income groups for 1995, according to the Central Statistical Service (CSS), were 8,5%, 8,8% and 8,6% respectively, compared with higher rates of 8,9%, 9,3% and 9% in 1994.<sup>90</sup> [<sup>90</sup> CSS, Consumer Price Index, December 1994, statistical news release, P0141.1, 26 January 1995; information supplied by the CSS library, 21 February 1996]

The South African Reserve Bank expected an inflation rate of 7% to 7,5% in 1996.

The following table shows changes in the inflation rate, as measured by the consumer price index (CPI), from 1983–95:<sup>93</sup> [<sup>93</sup> BER, Trends, December 1995; information supplied by the CSS library, 21 February 1996]

### *Inflation rate: 1983–95*

Lower-income group

Middle-income group

Higher-income group

All items

1983

12,4%

12,7%

12,1%

12,3%

**1984**

10,4%

12,0%

11,8%

11,6%

1985

13,9%

16,5%

16,7%

16,2%

**1986**

18,5%

18,9%

18,6%

18,6%

1987

17,5%

16,5%

15,5%

16,1%

**1988**

12,7%

12,7%

12,9%

12,8%

1989

12,9%

13,9%

15,8%

14,7%

**1990**

14,8%

14,4%

14,2%

14,3%

1991

15,0%

15,8%

15,3%

15,3%

**1992**

14,7%

14,5%

13,3%

13,9%

1993

8,6%

9,7%

10,2%

9,7%

**1994**

8,9%

9,3%

9,0%

9,0%

1995

8,5%

8,8%

8,6%

8,7%

The reserve bank ascribed the significant slowdown in inflation to the consistent application of a more conservative monetary policy since the late 1980s and the impact of the 1989–93 recession on inflation expectations and wage settlements. However, the reserve bank highlighted certain structural factors which would continue to inhibit a decline in the rate of inflation, such as:<sup>94</sup> [<sup>94</sup> SARB, annual economic report, 1995]

- expectations of further general price increases, which influenced wage negotiations aimed at maintaining or increasing real remuneration;

- an inflexible labour market which did not reflect underlying supply and demand conditions;
- the largely oligopolistic industrial structure, where a few large enterprises operated behind a protective tariff wall which allowed them to pass on increased input costs; and
- the still relatively large budget deficit, despite more fiscal restraint by the authorities, which instilled fear of a possible abandonment of fiscal discipline.

The governor of the reserve bank, Dr Chris Stals, said in August 1995 that the more buoyant domestic economic conditions and particularly the relatively sharp increases in domestic expenditure would add to inflationary pressures in t

According to Sanlam, the favourable downward trend in the inflation rate during 1994 and 1995 was the result of the sharp decline in the food price index, lower unit costs because of slower rises in labour costs and increases in productivity, more imports at lower costs because of subdued overseas inflation and a more stable rand, a stable oil price, lower inflation expectations, and the positive effects of a disciplined monetary and fiscal policy.<sup>96</sup> [<sup>96</sup> Sanlam, Economic Survey, December 1995]

## Provincial Inflation

According to the Bureau for Economic Research at the University of Stellenbosch, the Northern Cape had the highest inflation in 1993—11,7% (the latest year for which figures are available), while KwaZulu/Natal had the lowest inflation (9,2%). The table below shows provincial inflation rate in seven provinces in 1991–93:<sup>97</sup> [<sup>97</sup> BER, Trends, April 1995]

*Provincial inflation rates:<sup>a</sup>*

19

1991

1992

1993

Eastern Cape

15,5%

13,7%

9,4%

Free State

13,3%

12,9%

11,2%

Gauteng

15,5%

13,7%

9,6%

KwaZulu/Natal

14,2%

13,7%

9,2%

North-West

15,7%

12,9%

9,6%

Northern Cape

14,3%

14,1%

11,7%

Western Cape

15,5%

14,9%

9,9%

a

No figures were available for the Northern Province and Mpumalanga.

## Producer Inflation

The following table shows the rate of increase in the producer price index (PPI) between 1983 and 1995:<sup>98</sup> [98 CSS, *Production price index, December 1994*, statistical release, P0142.1, 13 February 1995; 1994/95 Survey, p391; fax communication from the CSS, 21 February 1996]

*Inc*1983

10,6%

**1984**

8,3%

1985

17,0%

**1986**

19,5%

1987

14,0%

**1988**



13,1%

1989

15,2%

**1990**

12,0%

1991

11,4%

**1992**

8,3%

1993

6,6%

**1994**

8,2%

1995

9,6%

The average PPI increase in 1995 was 9,6%, compared with 8,2% in 1994 and 6,6% in 1993.<sup>99</sup> [<sup>99</sup> Business Day 16 February 1996] According to the CSS, the PPI figures for 1993 and 1994 were the lowest since 1972, when it was 8,2%. In 1995 the average annual rate of change in the PPI for the total output of South African industry was 10,5%, compared with 8,9% in 1994, while the PPI for imported commodities rose by 7,6% in 1995, compared with 5,4% in 1994.<sup>100</sup> [<sup>100</sup> CSS, Production price index, December 1994, statistical release, P0142.1, 13 February 1995; fax communication from the CSS, 21 February 1996]

## Food Prices

According to the CSS, food price inflation in 1995 was 8,7%, compared with 13,8% in 1994 and 6,8% in 1993.<sup>101</sup> [<sup>101</sup> CSS, Consumer Price Index, statistical release, P0141.1, 26 January 1995; fax communication from the CSS, 21 February 1996]

Food prices at chainstores showed an annual rate of increase of 3,7% in 1995, while food prices at other retailers showed an annual rate of increase of 3,3%.<sup>102</sup> [<sup>102</sup> Fax communication from the CSS, 21 February 1996]

The following table gives a breakdown of the rate of increase or decrease in the prices of various foodstuffs from 1983 to 1994 (figures in brackets denote decreases):<sup>103</sup> [<sup>103</sup> BER, University of Stellenbosch, Trends, December 1995; 1994/95 Survey, p391]

*Food price inflation: 1983–94*

Fruit and nuts

Grain products

Meat

Milk, eggs and cheese

Vegetables

Average food price inflation

1983

15,0%

16,0%

4,4%

13,1%

27,8%

11,7%

**1984**

15,4%

14,1%

10,9%

10,0%

(0,9%)

10,9%

1985

9,7%

18,4%

10,6%

10,0%

0,5%

12,0%

**1986**

14,4%

14,4%

26,6%

16,1%

13,9%

20,3%

1987

13,3%

12,3%

31,7%

20,0%

28,4%

22,8%

**1988**

0,0%

12,1%

23,2%

13,3%

13,7%

15,6%

1989

15,3%

12,9%

9,5%

14,5%

3,4%

11,0%

**1990**

25,5%

16,6%

9,5%

20,5%

32,5%

16,1%

1991

41,9%

18,1%

19,1%

18,5%

15,4%

19,6%

**1992**

25,3%

17,7%

21,3%

21,7%

61,0%

25,3%

1993

2,6%

11,5%

8,4%

7,0%

(8,0%)

6,8%

**1994**

1,0%

8,5%

23,2%

5,7%

1

In December 1995 Sanlam said that the sharp decline in the food price index since the second half of 1994 had contributed to the favourable trend in the inflation rate. Sanlam added that although the prices of most foodstuffs had already reached a low, more favourable climatic conditions, the continued deregulation of the food industry and of other sectors in the economy, as well as increased competition, would prevent increases in the food price index from accelerating sharply.<sup>104</sup> [<sup>104</sup> Sanlam, Economic Survey, December 1995]

## Interest Rates

From 21st February 1995 bank rate was increased to 14%, the last increase (to 13%) having come into effect in September 1994. In announcing the increase the governor of the South African Reserve Bank, Dr Chris Stals, said that during 1994 the rate of increase in the money supply had exceeded the rate of

inflation and also the rate of growth in nominal gross domestic product. If this situation was allowed to continue through 1995 it would lead to an escalation of inflationary pressures in the economy. Therefore, the rate of money supply growth had to be restricted. Dr Stals said that the guidelines for an acceptable rate of growth in money supply (M3) for 1995 would be 6%–10%, compared with 6%–9% in 1994. It had become clear that bank rate was ‘unrealistically low’, thus encouraging banking institutions to pursue a more aggressive marketing policy for the extension of more credit, which created more money, Dr Stals said.<sup>105</sup> [<sup>105</sup> SARB, Quarterly Bulletin, March 1995]

Bank rate increased again on 30th June 1995 to 15%, primarily because of ‘untenable’ large increases in bank credit extension and in the money supply.<sup>106</sup> [<sup>106</sup> Ibid, September 1995 ] Prime lending rate of banks was raised from 16,25% to 17,5% on 22nd February 1995 and to 18,5% on 3rd July 1995.<sup>107</sup> [<sup>107</sup> SARB, annual economic report, 1995 ] At the end of August 1995 real prime lending rate was 10,23%, the highest since January 1985, when it was 9,74%. In August 1994 it was 5,38%.<sup>108</sup> [<sup>108</sup> Fax communication from the SARB, 13 October 1995]

Interest rates in South Africa between 1984 and 1994 are given below (figures in brackets denote negative real interest rates):<sup>109</sup> [<sup>109</sup> Ibid]

*Interest rates: 1984–94<sup>a</sup>*

Year end

Bank rate<sup>a</sup>

Prime overdraft rate<sup>b</sup>

Real prime lending rate<sup>c</sup>

1984

20,80%

24,00%

9,51%

**1985**

13,00%

16,50%

(1,67%)

1986

9,50%

13,19%

(5,14%)

**1987**

9,50%

12,50%

(1,94%)

1988

14,50%

18,00%

4,85%

**1989**

18,00%

21,00%

4,90%

1990

18,00%

21,00%



5,56%

**1991**

17,00%

20,25%

3,48%

1992

14,00%

17,25%

6,97%

**1993**

12,00%

15,25%

5,25%

1994

13,00%

16,25%

5,79%

a

Rate at which the reserve bank lends to banks.

b

Lowest overdraft rate charged by banks.

c

Actual prime overdraft rate adjusted fo

In August 1995 Dr Stals said that massive foreign capital inflows had created excessive liquidity which would have to be counteracted in order to make high interest rates more effective. In the year to June 1995 private sector credit extension had risen by 19,5%, while individual indebtedness had risen to a record level of about 60% of personal disposable income. Dr Stals added that the reserve bank would have to neutralise the undesirable effect of capital inflows on money market liquidity, on domestic interest rates, on bank credit extension and on the money supply.<sup>110</sup> [<sup>110</sup> Business Day 23 August 1995]

In September 1995 Dr Stals said that the International Monetary Fund had observed that South Africa's monetary policy, although conducted in a difficult environment in 1994, had been 'insufficiently restrictive', particularly in view of the upturn in inflation and the sharp deterioration in the external current account.<sup>111</sup> [<sup>111</sup> Ibid 15 September 1995]

The deputy governor of the reserve bank, Dr Jaap Meijer, said in October 1995 that the slowdown in the rate of growth of money supply as well as a high real bank rate could give the reserve bank some leeway to bring interest rates down.<sup>112</sup> In December, however, year-on-year money supply growth was 15,29% from November's 13,75%.<sup>113</sup> [<sup>113</sup> The Citizen 30 January 1996]

In December 1995 the Nedcor economic unit said that interest rates were exceptionally high for a country that had been experiencing single-digit inflation since 1993. It added that the high interest rates were also unusual in the context of substantial capital inflows and a firm exchange rate. Nedcor concluded, however, that the key signal for an early relaxation in interest rate policy would be a 'significant easing' in private sector credit demand. Nedcor pointed out that if credit growth was funding a boom in fixed investment spending it would be more sustainable and have fewer inflationary consequences than if it was supporting a consumption 'binge'. (South African credit statistics do not distinguish between the two.)<sup>114</sup> [<sup>114</sup> Nedcor, Guide to the Economy, fourth quarter 1995]

## Investment

Real gross domestic fixed investment (GDFI) increased by 8,5% in 1994 and by 10,5% in 1995. GDFI in 1995 was R55,377bn compared with R50,175bn in 1994 and R46,159bn in 1993.<sup>115</sup> [<sup>115</sup> SARB, Quarterly Bulletin, March 1996]

According to the South African Reserve Bank's annual economic report, one of the main features of the economic upswing, which started in May 1993, was the strong growth in total real GDFI. Investment in

machinery and transport equipment increased at a rapid rate, while more moderate increases were recorded in real investment in construction works and buildings. A large part of the higher investment was related to the replacement of ageing equipment, which had probably been deferred because of the long recession and the uncertainty about the outcome of the political transition. Other factors which contributed to the rapid rise in real fixed investment were:<sup>116</sup> [<sup>116</sup> SARB, annual economic report, 1995]

- the creation of a more investor-friendly environment and the fading away of the need to maintain a surplus on the current account of the balance of payments;
- a decline in the user cost of capital in 1993 and 1994;
- a rise in the utilisation of production capacity in the manufacturing sector from 77,5% in May 1993 to 83% in the first quarter of 1995; and
- a rise in the profitability of the corporate sector from the beginning of 1992.

The table below shows GDFI at constant 1990 prices from 1984 to 1994:<sup>117</sup> [<sup>117</sup> SARB, South Africa's national accounts 1946-1993, supplement to the Quarterly Bulletin, June 1994; SARB, Quarterly Bulletin, March 1996]

*Gross domestic fixed investment according to organisation: 1984–94<sup>a</sup>*

*Public authorities*

PriGenBusiness enterprises<sup>b</sup>

RPublic corporations<sup>c</sup>

RTotal<sup>d</sup>

RmIncrease (decrease)

1984

38 809

6 111

7 892

11 323

64 135

(1,5%)

**1985**

33 934

6 033

7 939

11 640

59 546

(7,0%)

1986

28 293

5 967

6 336

8 325

48 921

(18,6%)

**1987**

29 392

6 002

5 277

6 887

47 558

(5,1%)

1988

34 602

5 985

4 992

6 447

52 026

12,6%

**1989**

35 338

6 425

4 973

8 674

55 410

6,5%

1990

35 475

6 268

3 438

8 932

54 113

(2,3%)

**1991**

33 512

5 364

3 232

8 007

50 115

(7,4%)

1992

32 716

5 714

1 555

7 494

47 479

(6,2%)

**1993**

32 208

5 801

1 658

6 492

46 159

(2,8%)

1994

36 495

5 768

1 554

6 358

50 175

8,7%

a

At constant 1990 prices.

b

Includes parastatals

c

Includes Transnet, Telkom and the South African Post Office.

d

Figures may differ from 1994/95 Survey because of adjustments.

In 1994 GDFI realised the first increase in real terms since 1989. Fixed investment by private business

enterprises comprised 72,7% of total GDFI in 1994, compared with 60% in 1984—however, private fixed investment in 1994 (R36,495bn) had not reached 1984 levels, when it had amounted to R38,81bn. The value of GDFI dropped by 21,8% between 1984 and 1994. Fixed investment by public corporations dropped by 43,8% in 1984–94, by 5,6% in the case of general government, by 80,3% in public business enterprises and by 8,3% in private business enterprises.

An economist at the Southern Life Association, Ms Sandra Gordon, said in the *Quarterly Economic Comment* of Southern Life that the GDFI ‘boom’, which was set to continue during 1996, would be driven by the need to expand and modernise capacity in the face of international competition, and also by reconstruction and development programme (RDP)-related expenditure. Import tariff reductions, the removal of remaining import surcharges, high levels of business confidence and high corporate earnings growth would support growth in GDFI, Ms Gordon said.<sup>118</sup> [<sup>118</sup> The Southern Life Association, *Quarterly Economic Comment*, third quarter 1995]

Dr Terence Moll, an economist at Old Mutual, said in June 1995 that real fixed investment would grow at 10%–12% in 1995 and 1996 before slowing down in 1997–98.<sup>119</sup> [<sup>119</sup> *The Citizen* 15 June 1995]

A report on new capital projects by Frankel Pollak Vinderine, published in July 1995, said that the economy was experiencing a capital expenditure boom, with project investment topping R111bn. However, the investment surge should be treated with caution as structural constraints could inhibit its sustainability for any extended period. The investment revival had been led by the private sector, while the government and public corporations had been much slower in investing in new projects. More than R41bn was being spent by the manufacturing and mining sectors and R25bn was to be spent on RDP projects. Foreign companies had announced investments of R2,9bn, while foreign governments had pledged a further R11bn, the report said.<sup>120</sup> [<sup>120</sup> *Sunday Times* 30 July 1995]

Four investment waves were identified in the report. The first wave, which was drawing to an end, was associated with ‘megaprojects’ and new export-oriented industries and had seen about R16bn invested in 1993–95 in chemicals, pulp and paper, minerals processing, oil refining and sugar industries. The second wave was happening in the manufacturing industry as technology and production processes had been upgraded. Some R41bn was being invested. The third investment wave was starting as spending of R25bn on RDP projects was beginning. The fourth wave was investment by foreign private companies and governments which would contribute to the RDP.<sup>121</sup> [<sup>121</sup> *Ibid*]

## Trade

South Africa’s exports totalled R101,05bn in 1995, an increase of 12,3% compared with the figure of R89,91bn in 1994. Total imports were R98,04bn in 1995, up 28,7% compared with R76,15bn in 1994.<sup>122</sup> [<sup>122</sup> *Finance Week* 2 February 1995, 22 February 1996]

The Bureau for Economic Research at the University of Stellenbosch said that in 1996 South African



exports would be stimulated by an increase in world commodity prices and a general increase in world trade. The acceleration of export earnings during the forecast period would apply mostly to non-gold exports. Imports were also expected to show sharp growth during 1996.<sup>123</sup> [<sup>123</sup> BER, Economic Prospects, vol 10, No1, April 1995]

Nedcor expected imports to grow in real terms by 10% in 1996 and by 5% in 1997, while exports would grow by only 5,5% and 4% respectively.<sup>124</sup> [<sup>124</sup> Nedcor, Guide to the Economy, fourth quarter 1995]

More than 40% of the increase in imports in 1994 was accounted for by capital goods. The increase in consumer demand for final goods (although more significant than during 1993) was less dramatic than in previous recoveries, possibly because of relatively tight monetary policy, Nedcor said. During 1994 export growth was only 0,4% in real terms, mainly because precious metals and mineral products declined. Other categories, however, such as manufactured exports, showed increases, suggesting that a 'broader base of exporting capacity was being established'. Nedcor cautioned that if the increase in imports started shifting more to consumer goods, monetary authorities would start viewing this shift with concern.<sup>125</sup> [<sup>125</sup> Ibid, second quarter 1995]

In 1994 gold made up almost R23bn of total exports while the platinum group metals were the next largest category, bringing in more than R5bn. Europe remained South Africa's largest export market in 1994, Africa being the second largest. Exports to the rest of Africa, excluding Botswana, Lesotho and Swaziland—which are members of the Southern African Customs Union (Sacu)—amounted to R8,6bn in 1994, compared with R6,8bn in 1993.<sup>126</sup> [<sup>126</sup> Financial Mail 4 August 1995]

South Africa's top ten exporting partners in 1994 were the United States (US) (R6,407bn), the United Kingdom (UK) (R6,209bn), Switzerland (R5,925bn), Japan (R5,289bn), Germany (R4,047bn), Belgium (R2,479bn), Zimbabwe (R2,444bn), the Netherlands (R2,131bn), Italy (R1,722bn) and Taiwan (R1,704bn).<sup>127</sup> [<sup>127</sup> Fax communication from the South African Foreign Trade Organisation (Safto), 7 March 1996]

According to the South African Foreign Trade Organisation, some 17% of South Africa's imports in 1994 came from Germany (R12,988bn), while about 12% each came from the UK and the US. For the first time in 1994 imports from Iran ranked eighth (some 3% of total imports), followed by Switzerland and the Netherlands.<sup>128</sup> [<sup>128</sup> Ibid]

During 1994 exports (primarily steel and ferroalloys) to Indonesia, Malaysia and Thailand grew rapidly.<sup>129</sup> [<sup>129</sup> Financial Mail 4 August 1995]

In 1994 exports to Kenya, Malawi, Mozambique, Zambia and Zimbabwe were, at R6,3bn, almost five times as much as South Africa's imports from these countries.<sup>130</sup> [<sup>130</sup> Ibid 27 October 1995] South African exports to Africa, excluding countries in Sacu, rose from R1,62bn in 1987 to R8,63bn in 1994. Including Sacu, total exports to Africa in 1994 amounted to about R22,5bn. In the same year imports from Africa totalled R5,7bn, leading to a trade surplus of R16,7bn. Zimbabwe maintained its position as South

Africa's main African trading partner. During the first half of 1995 South African exports to Zimbabwe totalled R1,7bn. During the same period South Africa bought Zimbabwean products worth R445m.<sup>131</sup> [<sup>131</sup> Sunday Times 29 October 1995] However, the South African Chamber of Business warned that while the African market was large in terms of population, its purchasing power was limited.<sup>132</sup> [<sup>132</sup> Ibid 11 December 1995]

South African exports to Africa in 1994 in descending order of category were: machinery and equipment 16%; chemicals 15%; prepared foodstuffs, beverages and vegetable products 15%; base metals and articles thereof 14%; vehicles 10%; pulp and paper 7%; other 23%.<sup>133</sup> [<sup>133</sup> Financial Mail 27 October 1995]

The implementation of the General Agreement on Tariffs and Trade (Gatt) could double South Africa's trade by 2000, according to an economist at Transnet, Mr Mike Schussler. The average tariff reduction was estimated to be about 40%. Over the same five-year period, prices could be expected to be 25% lower, if the rand showed no 'significant' decline. Exports were expected to rise by 7% between 1995 and 2000. Mr Schussler also forecast that Gatt would boost South Africa's exports by 7% in volume terms and by 30% in rand value over the same period.<sup>134</sup> [<sup>134</sup> Sunday Times 12 March 1995] A study by the Industrial Development Corporation found that by 2000 the government would lose R600m as a result of tariff reductions.<sup>135</sup> [<sup>135</sup> Business Day 6 February 1996]

In April 1995 Parliament ratified the Gatt agreement, which secured a phase-in period of tariff reductions on a range of products including clothing, textiles and motor vehicles (see also chapter on *Business*).<sup>136</sup> [<sup>136</sup> Ibid 7 April 1995]

*The World Competitiveness Report*, published by the World Economic Forum and the International Institute for Management Development in Switzerland, using 380 criteria, placed South Africa 42nd out of 48 countries in November 1995. In 1994 South Africa was placed 35th. Of the various criteria used, South Africa ranked worst in the world in human resources. In scientific and technological capacity it ranked 28th; in managing enterprises 35th; in the extent of participation in international trade and investment flows 43rd; in the extent to which government policies were conducive to competition 38th; in the performance of capital markets and the quality of financial services 20th; in the extent to which resources and systems were adequate to serve the basic needs of business 19th; and in the strength of the domestic economy 42nd. The minister of trade and industry, Mr Trevor Manuel, said in November 1995 that although South Africa was increasingly exporting manufactured goods, the economy was still 'protectionist and top-heavy'.<sup>137</sup> [<sup>137</sup> Enterprise November 1995]

## FISCAL POLICY

According to the 1995 *Budget Review*, the broad goals of the government's fiscal policy were as follows:<sup>138</sup> [<sup>138</sup> Department of Finance, Budget Review, 15 March 1995]

- a reduction of the budget deficit and the level of general government dissaving;

- the avoidance of permanent increases in taxation levels;
- the reduction of consumption expenditure by general government relative to gross domestic product (GDP) from the present level of 21% to about 17% of GDP;
- the maintenance of overall wage and salary increases within the limits of inflation; and
- the strengthening of general government's contribution to gross domestic fixed investment.

In his budget speech in March 1995 the minister of finance, Mr Chris Liebenberg, said that during the past few years the government had made progress towards restoring and maintaining fiscal discipline. To this end the government had also begun work on a multiyear fiscal plan. The restructuring of the public sector was one area which would have important consequences for fiscal policy. In line with this the government would have to adopt restraint on salary and wage adjustments. Mr Liebenberg also said that the wage levels of low-income earners within the public service would have to be improved and the large differential between the lowest and the highest wages would have to be reduced.<sup>139</sup> [<sup>139</sup> Mr Chris Liebenberg, minister of finance, budget speech, 15 March 1995]

The Financial and Fiscal Commission set up in 1994 (see 1994/95 Survey, p342.) was expected to play an important role in facilitating sound fiscal policy at all levels of government. The commission could make recommendations on the sharing of certain revenue collected nationally, on the role of grants to subnational governments, and on their taxation powers and parameters for borrowing.<sup>140</sup> [<sup>140</sup> Ibid]

## Legislation

The Borrowing Powers of Provincial Governments Bill was tabled in the National Assembly in September 1995. The bill aimed to meet the requirements of the transitional constitution, which provided that a province should be competent to raise loans only for capital expenditure. Section 157 of the transitional constitution provided also that loans for current expenditure may be raised by means of bridging finance during a fiscal year, subject to the condition that they be redeemed within 12 months. The bill aimed to achieve equity in the distribution of available loan funds among provincial governments and to ensure success in entry (either directly or indirectly) into the domestic capital markets by provincial governments. The bill also regulated the raising of loans by provinces for capital expenditure.

According to the bill, bridging finance will be used by provincial governments to finance current expenditure 'in anticipation of the receipt of current revenue and not as a continuous and unlimited revolving credit'. Provision is also made for the amount of interest payable on loans not to exceed a certain percentage (determined by the minister of finance) of budgeted revenue. The bill also prohibits speculative activities (such as derivative financial products) with public funds. It further prohibits the

floating of public loans in foreign capital markets so that provincial borrowing activities do not 'influence the national interest and South Africa's credit rating in foreign markets'. The national government will also not guarantee domestic loans by provincial governments.

The bill also proposes the establishment of a loan co-ordinating committee, which will comprise the minister (who will also head it) and the premier of each province. Its purpose will be to co-ordinate the borrowing requirements of all levels of government and institutions under their direct control.

The bill will have been deemed to come into operation on 1st April 1995.<sup>141</sup> [<sup>141</sup> Borrowing Powers of Provincial Governments Bill, B 96-95]

## Main Budget

The expenditure level for 1995/96 was R157,36bn—R4,1bn higher than the original budget estimate. This was 14,3% higher than the actual expenditure level of R137,62bn in 1994/95. The revised estimate of expenditure was equal to 31,5% of GDP.<sup>142</sup> [<sup>142</sup> Department of Finance, Budget Review, 13 March 1996]

Total revenue for 1995/96 amounted to R127,27bn, which exceeded the budgeted amount by R3,08bn and comprised 25,5% of GDP.<sup>143</sup> [<sup>143</sup> Ibid]

Some R112,39bn was collected in ordinary revenue in 1994/95, while the budget deficit of R25,23bn was 5,7% of gross domestic product (GDP).<sup>144</sup> [<sup>144</sup> Ibid] Tax revenues increased by 16,2% in 1994/95 against a budgeted 11,2%. This increase was partly the result of higher tax collections on the back of stronger corporate earnings and improved consumer spending.<sup>145</sup> [<sup>145</sup> Business Day 12 March 1995]

Addressing the parliamentary joint standing committee on finance in March 1995, the minister of finance, Mr Chris Liebenberg, said that public debt would start coming down at the end of the century, if the government remained committed to fiscal discipline and the economy grew by an average of 3% in that period.<sup>146</sup> [<sup>146</sup> Sowetan 17 March 1995]

Some R5bn was allocated in the national budget in 1995/96 to expenditure for the reconstruction and development programme (RDP). Of that amount, some 49,5% was carry-through costs of RDP projects provided for on various departmental votes and the remainder was provided for on the vote of the Department of Finance for transfer to the RDP fund (see also *Reconstruction and development programme* below). According to the 1995 *Budget Review*, a total of R2,14bn had been identified for inclusion in the adjustments estimate towards the end of the 1995/96 financial year. Of that amount, 18,6% would be allocated for local government elections, 21% for drought relief, 5,5% for computer systems for the provinces, while 54,8% would comprise reserves for retrenchment costs, defence and the intelligence service. An amount of R600m would be voted in 1995/96 for expenditure on capital projects approved by the cabinet committee responsible for the RDP.<sup>147</sup> [<sup>147</sup> Department of Finance, Budget Review, 15 March 1995]

In 1995/96 budgeted provincial transfers for current expenditure were R60,63bn, an increase of 14,5% compared with the previous financial year (see *Provincial budgets* below). Capital transfers to provinces would increase by 14,6% to R5,76bn in 1995/96. However, the total expenditure of provincial government departments could exceed the amounts transferred from central government as provinces had certain funds at their disposal from their own revenue sources.<sup>148</sup> [<sup>148</sup> Ibid]

The table below shows the consolidated national and provincial budgets, functionally classified. However, only five of the nine provinces supplied information timeously. The expenditure of the remainder was estimated and classified on the basis of this information. Therefore, the 1995/96 figures should be regarded as preliminary projections.<sup>149</sup> [<sup>149</sup> Ibid]

*Functional classification of expenditure:1994/95 and 1995/96*

Functional classification

1994 1995 Inc Economic services

Agriculture, forestry and fishing

3 645

2 764

(24,2%)

Fuel and energy

433

138

(68,1%)

Manufacturing

802

621

(22,6%)

Mining

223

208

(6,7%)

Regional development

817

937

14,7%

Transport and communication

6 701

6 357

(5,1%)

Water schemes and related services

1 208

1 309

8,4%

Other economic services<sup>a</sup>

3 948

3 321

(15,9%)

Subtotal

17 777

15 655

(11,9%)

*General government services and unallocable expenditure*

Foreign affairs

1 320

1 321

0,08%

General research

506

510

0,8%

Other<sup>b</sup>

11 321

8 816

(22,1%)

Subtotal

13 147

10 647

(19,0%)

*Protection services*

**Courts of law**

1 601

1 705

6,5%

**Defence**

12 908

11 025

(14,6%)

**Police**

10 168

11 614

14,2%

**Prisons**

2 584

2 862

10,8%

**Subtotal**

27 261

27 206



(0,2%)

*Social services*

**Education**

31 428

32 616

3,8%

**Health**

15 565

16 885

8,5%

**Housing and related services**

1 648

4 226

156,4%

**Recreation and culture**

668

833

24,7%

**Social security and welfare**

13 672

16 713

22,2%

Other<sup>c</sup>

2 192

785

(64,2%)

Subtotal

65 173

72 058

10,6%

Interest

24 863

28 604

15,0%

Government enterprises

9

7

(22,2%)

Expenditure not yet classified<sup>d</sup>

—

2 735

—

Total consolidated expenditure

148 230

156 912<sup>e</sup>

5,9%

a

Includes export trade promotion, the Development Bank of Southern Africa, tourism, labour and multipurpose projects.

b

Mainly general administration, cost of raising loans and unallocable capital expenditure.

c

Sewerage, sanitation, community development and other community services.

d

R600m for inclusion in the supplementary estimate and R2,135bn for inclusion in the adjustments estimate.

e

The internationally standard functional classification used in this table does not correspond fully with the division of programmes between departmental votes. The total is also not the final revised estimate of expenditure for 1995/96.

In his budget speech in March 1995 Mr Liebenberg said that the challenge facing the government was 'to manage the budget in a way that promotes real economic growth'. A disciplined approach to fiscal and monetary policy was not regarded as inhibiting the 'attainment of the RDP objectives, but rather as a basic prerequisite for [their] attainment on a sustainable basis', the minister said.<sup>150</sup> [<sup>150</sup> Hansard (NA) 2 cols 159–160, 15 March 1995]

Ms Greta Steyn of *Business Day* said in February 1995 that ‘once delivery is no longer a problem and all the technical details are in place, RDP resources will be strained to the hilt. It will require extraordinary finesse from the fiscal policy makers to keep fiscal control once the pace of RDP spending has quickened’.<sup>151</sup> [<sup>151</sup> *Business Day* 9 February 1995]

According to the 1995/96 *Budget Review*, a total of R123,841bn was expected in ordinary revenue, an increase of 11% on the revised estimate for 1994/95. In the 1995/96 fiscal year all national income taxes, value added taxes, nonresident shareholders’ tax, stamp duties and fees, and mining leases previously collected by the ten homelands accrued to the national revenue account.<sup>152</sup> [<sup>152</sup> Department of Finance, *Budget Review*, 15 March 1995]

Direct taxes (ie taxes on income and profit) were expected to contribute the largest proportion to total tax revenue in 1995/96—52,6%. Personal income tax would be the single most important revenue source.<sup>153</sup> [<sup>153</sup> *Ibid*]

In February 1996 Mr Liebenberg asked Parliament to approve an extra R6bn in spending (which included R2bn that had already been added to the expenditure total in March 1995 but had not yet been formally approved by the legislature). The R4,2bn in overspending consisted of an allocation of R1,5bn for the underestimation of revenue in the provinces, the creation of a R1bn transitional reserve (to take care of further demands from the provinces), and almost R1,5bn in ‘unforeseen and unavoidable’ expenditure (mainly because of provincial expenditure).<sup>154</sup> [<sup>154</sup> *Business Day* 14 February 1996]

In an editorial *Business Day* said that the creation of a R1bn transitional reserve was ‘most worrying’. The money was mainly needed to meet provincial demands for extra welfare funds for civil pensions. While the national government believed that less than R400m would be needed by the provinces, the provinces had asked for more than double that amount. ‘For all Liebenberg’s claims that the transition from apartheid is to blame for the spending overruns, it is quite clear that in some instances the right checks and balances are not in place.’<sup>155</sup> [<sup>155</sup> *Ibid* 15 February 1996]

## Deficit

Mr Liebenberg said in his budget speech in March 1996 that the revised estimated budget deficit for 1995/96 would be 6% of GDP, which was based on the premise that the rollovers of unspent funds to 1996/97 would equal those of the previous financial year.<sup>156</sup> [<sup>156</sup> Republic of South Africa, budget speech of the Minister of Finance, Mr Chris Liebenberg, 13 March 1996] The government expected a budget deficit of 4,5% in 1998/99.<sup>157</sup> [<sup>157</sup> *The Star Business Report*, *Business Day* 14 February 1996]

According to the South African Reserve Bank, the government’s deficit before borrowing and debt repayment was R26bn in 1994/95, which was lower than the budgeted deficit of R29,5bn. This was owing to a higher rate of increase in government receipts than had been anticipated in the June 1994 budget.

The revised estimate of the deficit for 1994/95 was 6,4% of GDP. Mr Liebenberg said in March 1995 that after taking an estimated R9bn worth of loan redemptions into account the gross borrowing requirement for 1995/96 would be R38bn. Most of this would be financed from the domestic market, but provision had been made for foreign financing of about R1,5bn.<sup>158</sup> [<sup>158</sup> Mr Chris Liebenberg, budget speech, 15 March 1995]

Mr Liebenberg said in March 1995 that even under the existing strict fiscal regime the government's debt burden would continue growing until 1999, after which it would recede provided the government was able to stick to its 'milestones'. The government was spending six times more on interest than was being spent on the RDP. Such a situation was not sustainable and the 'only way out' would be to follow those 'milestones' that had been designed to keep the state from falling into a debt trap, Mr Liebenberg said.<sup>159</sup> [<sup>159</sup> Hansard (NA) 3, col 538, 31 March 1995]

During the same debate in Parliament Mr Liebenberg said that other factors adding to the debt were: shortages in government pension funds, debts of the former homelands, and losses incurred because of the forward cover that the government ran through the reserve bank.<sup>160</sup> [<sup>160</sup> Ibid]

Mr Liebenberg said that together with the net borrowing requirement of the 1995/96 budget the interest burden on the debt would be about 18,5% of total expenditure and the second largest expenditure item after education. Nearly R1 out of every R5 of taxpayers' money was spent on servicing the debt. 'Fiscal prudence' was, therefore, very necessary, Mr Liebenberg added.<sup>161</sup> [<sup>161</sup> Mr Chris Liebenberg, budget speech, 15 March 1995]

In its *Quarterly South African Economic Monitor* published in April 1995 Absa Bank said that government dissaving would negatively affect net private investment. The relatively large budget deficit could lead to higher interest rates, partly because of the uncertainty of foreign capital inflow.<sup>162</sup> [<sup>162</sup> Absa Bank, *Quarterly South African Economic Monitor*, April 1995]

The reserve bank said in December 1995 that by the end of September 1995 government debt as a proportion of GDP was 58% (R273,6bn), compared with 55% at the beginning of the 1995/96 fiscal year. In March 1996 the governor of the reserve bank, Dr Chris Stals, said that government debt was 'dangerously high' and that massive public borrowing was a major part of the reason for high real interest rates.<sup>163</sup> [<sup>163</sup> SARB, *Quarterly Bulletin*, December 1995; *Business Day* 15 March 1996]

The following table and graph show the proportion of GDP that the budget deficit represented between 1988/89 and 1995/96:<sup>164</sup> [<sup>164</sup> Department of Finance, *Budget Review*, 13 March 1996]

*The budget deficit: 1988/89–1995/96*

Year

## Proportion of GDP<sup>a</sup>

1988/89

3,6%

1989/90

0,6%

1990/91

4,1%

1991/92

4,9%

1992/93

9,0%

1993/94

10,2%

1994/95

6,4%

1995/96

6,0%

a

The calculation is based on expenditure from the national revenue account.

N/A— Not av

According to the chief economist of Old Mutual, Mr Dave Mohr, the government had to take radical steps, including far-reaching public sector retrenchments and the privatisation of state assets, to avoid a full-blown economic crisis this decade. He added that even the government's stated deficit target of 4,5% of GDP, to be achieved by 1999, was far above international norms and would be unattainable if the economy moved into recession. He believed the goal should be 2%–3% of GDP.

South Africa's ratio of government spending to GDP had doubled over three decades, Mr Mohr said. Furthermore, income taxes paid by individuals had shot up from 3,9% of GDP in 1960 to 10,1% in 1994, eroding personal savings.<sup>165</sup> [<sup>165</sup> Business Day 21 February 1996]

## **The Budget and Social Equity**

In his budget speech in March 1995, Mr Liebenberg said that the 'leveraging of government spending and the adaptation of the budgetary process so as to facilitate shifts in spending priorities' were the key features of the RDP fund mechanism, which aimed to achieve economic growth and social development.<sup>166</sup> [<sup>166</sup> Hansard (NA) 2 col 165, 15 March 1995]

In the consolidated 1995/96 budget, social services accounted for 57,4% of projected expenditure, a 'substantial' increase on the comparable 1994/95 figure of 52,8%. Mr Liebenberg said that education as a proportion of total non-interest expenditure amounted to 26%, compared with 25,5% in 1994/95. Health services increased to 13,4% from 12,5% in 1994/95, the increased spending going to primary health services, especially in rural areas. Allocations to housing and urban upgrading more than doubled, from 1,3% in 1994/95 to 3,4% in 1995/96. Increases in social expenditure were mainly financed by reductions in allocations to other government services, such as protection services, estimated spending on which dropped from 22,1% to 21,7%.<sup>167</sup> [<sup>167</sup> Ibid cols 171–172, 15 March 1995]

The table below shows the proportion of budgeted expenditure by selected functional classification in 1991/92 and 1994/95:<sup>168</sup> [<sup>168</sup> Department of Finance, Budget Review, 15 March 1995]

*Expenditure on protection and social services:<sup>a</sup> 1991/92 and 1994/95*

Proportion of the budget

Annual average growth

1991/92

1994/95

1991/92–1994/95

## Protection services

### Defence

12,7%

10,5%

7,2%

### Police

7,6%

8,2%

17,8%

### Other

3,1%

3,4%

18,4%

### Total

23,3%

22,1%

12,3%

## *Social services*

### Education

24,2%



25,4%

16,4%

Health

12,9%

12,6%

13,6%

Social security and welfare

9,0%

11,1%

2,5%

Other

4,7%

3,7%

5,4%

Total

50,8%

52,8%

15,9%

a

Revised estimate — national and provincial governments.

N/A— No

## ***The Reconstruction and Development Programme***

*According to the 1995 Budget Review*, the RDP office together with the Department of State Expenditure facilitated a budgetary reprioritisation process and a longer-term expenditure planning initiative.<sup>169</sup> [<sup>169</sup> Ibid]

The RDP fund was established to achieve the following objectives:<sup>170</sup> [<sup>170</sup> Ibid]

- to give maximum impetus to the redirection of government spending towards new priorities;
- to encourage insitutional reform and public sector restructuring;
- to facilitate redeployment of the civil service in line with new priorities;
- to initiate the presidential lead projects and launch longer-term programmes;
- to assist in directing government spending towards capital expenditure; and
- to change the budget process.

*According to the Budget Review*, the amount allocated to the RDP fund would increase by R2,5bn each year to an annual allocation of R12,5bn in 1998/99. The 1995/96 budget allowed about R5bn for the RDP, compared with R2,5bn in the 1994/95 budget. This included about R2,48bn which were carry-through costs of RDP projects approved in 1994/95, and R2,52bn provided for in the Department of Finance vote for transfer to the RDP fund. It was also proposed that an additional amount of R600m be voted in 1995/96 for expenditure on capital projects approved by the cabinet committee responsible for the RDP. This expenditure would be financed from the sale of strategic oil reserves.<sup>171</sup> [<sup>171</sup> Ibid]

In December 1995 the government announced that the budget allocations to the RDP for 1996/97 would increase to R7,5bn. The government intended its RDP fund to be used as a tool to move spending away from consumption and towards capital expenditure.<sup>172</sup> [<sup>172</sup> New Nation 22 December 1995]

In April 1995 the minister without portfolio, Mr Jay Naidoo, presented his report on the RDP's first year. Mr Naidoo said that among the RDP's successes in 1994 were the following:<sup>173</sup> [<sup>173</sup> Cape Times 24 April 1995]

- free health care—four times as many patients were being treated in rural clinics since the inception of the programme;

- electrification—a total of 378 171 houses were electrified during 1994, exceeding the target of 300 000; and
- primary school nutrition—over 5m children, out of the target of 6,8m benefited from the programme.

In June 1995 the cabinet agreed to the establishment of a national state lottery to raise money for the RDP. It was estimated that a national lottery would generate a R2bn annual turnover of which about R700m a year was expected to be clear profit. It was reported that a national lottery would be operational by 1997.<sup>174</sup> [<sup>174</sup> The Star 15 June 1995]

In August 1995 the chairwoman of the joint standing committee on finance, Ms Gill Marcus, said that the RDP ‘fundamentally undermines sound budgeting’. Ms Marcus suggested that RDP projects could be lodged with the departments which traditionally handled such areas, for example education and housing.<sup>175</sup> [<sup>175</sup> Financial Mail 18 August 1995]

In September 1995 the director general of the RDP, Dr Bernie Fanaroff, announced that up to R2bn of RDP funds would have to be rolled over at the end of the 1995/96 fiscal year.<sup>176</sup> [<sup>176</sup> The Mercury 7 September 1995] In October 1995 the department announced that only R1bn would be rolled over as funds were reallocated to different projects.<sup>177</sup> [<sup>177</sup> Business Day 27 October 1995]

In October 1995 the RDP office announced that over a four-year period (1995–99), R2,5bn in foreign grants and technical co-operation would be made available. Of the full amount, R700m would be made available in the 1995/96 financial year. Over the four-year period, non-governmental organisations would receive close to R2bn of the R2,5bn total. Countries which committed themselves to giving grants included Denmark, Germany, the Netherlands and Sweden.<sup>178</sup> [<sup>178</sup> Sowetan 19 October 1995]

In the same month Mr Naidoo announced that the government would spend R751,7m on projects to improve services in the townships. Funds would be allocated as follows: Eastern Cape (R128,3m), Free State (R51,3m), Gauteng (R86,7m), KwaZulu/Natal (R149,9m), Mpumalanga (R49,8m), North-West (R67,1m), Northern Cape (R54m), Northern Province (R111,8m) and Western Cape (R52,8m). Criteria for the provincial allocation of funds included population and levels of employment in the province.<sup>179</sup> [<sup>179</sup> Cape Times 11 October 1995]

In December 1995 Market Research Africa published an RDP index. The index showed that 10% of South Africans felt they had benefited from the RDP. The areas in which they had benefited, in decreasing order, were: installation of electricity, education facilities, access to water, housing, a better environment and improved health facilities.<sup>180</sup> [<sup>180</sup> Scan vol 12 December 1995]

In February 1996 the RDP office issued a detailed breakdown of projects. Mpumalanga and KwaZulu/Natal were operating 19 such projects each, followed by the Eastern Cape (17), and the Northern

Province and Gauteng, which had 16 each. Gauteng had been allocated the most money (R1,05bn), followed by KwaZulu/Natal (R960,4m), Northern Province (R931m), Eastern Cape (R892,36m) and Mpumalanga (R353,16m). The RDP steering committee had approved projects worth more than R8bn, with more than 43000 programmes expected to get under way by June 1996.<sup>181</sup> [<sup>181</sup> Business Day 13 February 1996]

Mr Naidoo said in February 1996 that in fiscal 1996/97 there would be a change in the way the RDP fund was used. The focus would shift from relatively small individual programmes to support for programmes that cut across government departments and which encouraged departments to co-operate.<sup>182</sup> [<sup>182</sup> Ibid]

## 1996/97 Budget

When this chapter was written the 1996/97 budget had not been tabled in Parliament. Following its tabling all economic indicators were updated based on the figures given in the 1996/97 *Budget Review*, however. Some of the key elements of the 1996/97 budget were the following:<sup>183</sup> [<sup>183</sup> Mr Chris Liebenberg, budget speech, 13 March 1996; Department of Finance, Budget Review, 13 March 1996]

- estimated total expenditure of R173,7bn, an increase of 10,4% on the revised estimate for 1995/96;
- total revenue of R141,19bn;
- a budget deficit equal to 5,1% of GDP, compared with an estimated 6% in 1995/96;
- no increase in value added tax, but the inclusion of financial services under the system;
- a tax of 17% on monthly gross interest and net rental income received by or which accrued to all pension, provident and retirement annuity funds; and
- an increase in the income level at which the maximum marginal rate of 45% is reached, from R80 000 to R100 000.

## Taxation

In his budget speech in March 1995 the minister of finance, Mr Chris Liebenberg, made, among others, the following announcements on taxation:<sup>184</sup> [<sup>184</sup> Department of Finance, Budget Review, 15 March 1995]

- the introduction of a single rate of income tax irrespective of sex and marital status, and the elimination of child rebates. This would benefit married working women and unmarried persons;
- the increase of the maximum marginal rate to 45% at a taxable income of R80 000;

- payment of the balance of 1,67% of the transition levy on taxable income in excess of R50 000, announced in 1994/95. The levy was expected to yield around R1,075bn;
- the abolition of the nonresident shareholders' tax from 1st October 1995; and
- the removal of the remaining import surcharges on 'white' (15%) and 'luxury' (40%) goods from 1st October 1995. This would cost the fiscus an estimated R455m for 1995/96. This step was expected to have a beneficial effect on domestic prices.

In order to assist the development of small business, Mr Liebenberg proposed that small enterprises be allowed to choose to be taxed on a cash-flow basis which would allow revenue and expenditure to be recognised only when cash was received or payment made. Mr Liebenberg added that the government would also take 'a very hard line' against the erosion and misuse of tax systems by various tax avoidance schemes. He said that the Commission of Inquiry into Certain Aspects of the Tax Structure of South Africa (the Katz commission) was also investigating the possibility of introducing anti-avoidance provisions.<sup>185</sup> [<sup>185</sup> Hansard (NA)2 cols 177–178, 181, 15 March 1995]

In December 1995 the third interim report of the Katz commission made various recommendations regarding tax reform in South Africa. According to the report, tax reforms should be introduced incrementally and a 'satisfactory' system of intergovernmental financial transfers be in place before specific taxes were introduced. The commission's recommendations included the following:<sup>186</sup> [<sup>186</sup> The Star Business Report, Business Day 6 December 1995]

- support for the government's commitment to avoid increases in the present ratio of national and provincial tax revenue to gross domestic product of about 25%;
- the further investigation of value added tax (VAT) reform, both with respect to an increase in the standard rate and a narrowing of the set of zero-rated items;
- the investigation of the relation between income tax reform and income distribution, including the broadening of the tax base by removing or limiting deductions, exemptions and other preferences; a reduction in the gradation of the marginal rate schedule; a reduction in the number of marginal rate brackets; the reduction of the maximum marginal rate; and the raising of the tax threshold;
- consideration of the assignment of a proportion of the fuel levy to road construction and maintenance;
- an investigation of the merits of a local level land tax and any 'undesirable distorting effects' it may have;
- no capital gains tax. However, after the completion of the restructuring of the tax administration the

issue should be re-examined;

- a limit of 15% of aggregate salary in the case of employers and 7,5% of taxable income for employees in deductible contributions to retirement funds;
- an end to the tax-free status of lump-sum payments by public sector pension funds;
- the same tax treatment of the income of public sector retirement funds as for the private sector;
- a flat tax rate of 30% on the value of benefits due on death or retirement, approved funds on interest, rental and other trading income. The report said that funds raised from increased taxation on retirement funds should be used to reduce the personal income tax burden;
- the retention of secondary tax on companies (STC) but a reduction in the rate to reduce the burden of the combined corporate tax rates and minimise the distorting effects of STC;
- the inclusion in the VAT system of all fee-based financial services and all fee-based services in respect of life insurance and other superannuation funds; and
- the application of normal income tax principles to operators of lotteries, with the sole exception of the national lottery, which should be exempt from income tax. The national lottery should be treated in the same manner as government departments, in that inputs be subjected to VAT, but no output VAT should be charged.

Mr Liebenberg announced in October 1995 a plan to improve tax collection by merging customs and excise, and inland revenue into an 'autonomous' revenue services entity to be run along business lines. The new body would remain within the public service. A board of directors would be appointed by the minister of finance as would tax experts and people with the necessary administrative and business skills. The director general of finance, Mr Estian Calitz, said that it could take two to three years before the transformation process was complete.<sup>187</sup> [<sup>187</sup> Business Day 27 October 1995]

## Provincial Taxation

According to the transitional constitution, the Financial and Fiscal Commission said in December 1995, provinces were allowed to raise a surcharge on personal income tax, whereas the draft final constitution published in November 1995 explicitly prohibited provinces from raising surcharges and levies on a range of taxes, including personal income tax. The chairman of the commission, Mr Murphy Morobe, said that without the ability to raise taxes, provinces would simply be spending agencies of the central government. A surcharge on personal tax was the easiest way to enable provinces to raise their own revenue, as other important revenue sources such as VAT created administrative difficulties. Mr Morobe said the commission would take this matter up with the Constitutional Assembly in 1996.<sup>188</sup> [<sup>188</sup> Ibid 20

December 1995]

## Provincial Budgets

The Financial and Fiscal Commission presented its provincial funding formula in September 1995. According to the formula, provincial funding would be on a per capita basis, but an extra weighting would be given to rural people and those needing education and medical care. The formula would also take account of a 'tax capacity equalisation grant' which would supplement the revenue of provinces wishing to raise their own revenue but which could not because of a limited tax base. (This element, however, could not be introduced before powers to levy taxes had been granted to the provinces.) Among the commission's proposals for provincial funding were the following proportional allocations in 1995 and in 2000:<sup>189</sup> [<sup>189</sup> Ibid 11 September 1995]

*Pro*

1995

2000

Eastern Cape

17,6%

15,5%

**Free State**

7,0%

7,0%

Gauteng

14,9%

18,6%

**KwaZulu/Natal**

20,0%

21,2%

Mpumalanga

5,8%

6,5%

**North-West**

8,3%

8,5%

Northern Cape

2,4%

1,6%

**Northern Province**

12,6%

13,0%

Western Cape

11,3%

7,9%

a

Figures may not add up owing to rounding. Figures add up vertically.

In September 1995 the Northern Cape provincial government called the proposals of the Financial and Fiscal Commission regarding provincial allocations 'laughable'. The proposals would perpetuate the skewed allocation of resources to provinces and punish poorer regions, such as the Northern Cape.<sup>190</sup> [190 Ibid 14 September 1995]



Budgeted provincial transfers for 1995/96 amounted to R66,39bn, of which 8,7% (R5,763bn) were capital transfers. Most of the funds would be voted in the finance vote. However, accountability for the use of those funds, once paid over, lies with the provincial government. The distribution of funds in 1994/95 and 1995/96 was as follows:<sup>191</sup> [191 Republic of South Africa, Estimate of Expenditure to be defrayed from the National Revenue Account during the Financial Year Ending 31 March 1996, RP2-1995; Department of Finance, Budget Review, 13 March 1996]

*Provincial transfers from the Department of Finance: 1994/95–1996/97*

199199Increase

199Increase

Eastern Cape

10 032

11 579

15,4%

13 901

20,1%

**Free State**

4 055

4 716

16,3%

5 195

10,2%

Gauteng

9 754

9 950

2,0%

11 108

11,6%

**KwaZulu/Natal**

11 604

13 370

15,2%

14 564

8,9%

**Mpumalanga**

2 255

3 859

71,1%

4 610

19,5%

**North-West**

3 875

5 450

40,6%

6 450

18,3%

Northern Cape

1 403

1 585

13,0%

1 769

11,6%

**Northern Province**

7 908

8 375

5,9%

9 324

11,3%

Western Cape

6 920

7 510

8,5%

8 378

11,6%

Total<sup>a</sup>

57 807

66 393

14,9%

75 299

13,4%

a

Figures may not add up owing to rounding.

In October 1995 the MEC for finance and economic affairs in Gauteng, Mr Jabu Moleketi, said that the province faced a R720m budget deficit, eight months into the financial year. Mr Moleketi said that Gauteng's deficit was the result of spending in health, education and welfare.

The Western Cape had an estimated R1,02bn deficit. The MEC for finance, expenditure and service commission in the Western Cape, Mr Kobus Meiring, said that the deficit was the result of 'underallocation' by the central government. Problems with health services were cited as the main cause of the province's deficit.

Also in October 1995, five provinces complained that central government allowed for very limited flexibility in terms of provincial government allocations, making it difficult for the provinces to reallocate their funds to areas where they were most needed. Mr Meiring said that 90% of the Western Cape's grant from the central government could not be reprioritised by the province. The MEC for economic affairs, trade and industry in the Northern Cape, Mr Goolam Akharwaray, said that ideally block grants should be linked to economic and development plans that were currently in the reconstruction and development programme (RDP) office. The MEC for finance in the Free State, Mr Harold Lerumo, said that the provinces did not have enough flexibility to implement their own spending priorities, while KwaZulu/Natal's MEC for finance, Mr Senzele Mhlungu, said that funds could not be diverted from certain functions without creating administrative and political problems.<sup>193</sup> [<sup>193</sup> Ibid 16 October 1995]

In February 1996 the minister of finance, Mr Chris Liebenberg, speaking in Parliament, praised the provinces for an 'outstanding' achievement in the face of extreme problems inherited from the previous regional governments. The Western Cape's overspending in 1995/96 was the biggest (R403m), while KwaZulu/Natal had no need for extra finance.<sup>194</sup> [<sup>194</sup> Ibid 14 February 1996]

## Eastern Cape

The table below shows the estimate of revenue to be received by the Eastern Cape for the financial year ending March 1996:<sup>195</sup> [195 Eastern Cape Province, Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1996]

*Eastern Cape revenue: 1995/96*

Transfer from the central government

R

National revenue fund

11 579 227 000

Subtotal

11 579 227 000

*Own revenue*

Taxation

475 338 000

Interest payments

10 254 000

Levies and fees

68 390 000

Recovery of loans and advances

1 044 000

Departmental activities

173 035 000

Miscellaneous

134 190 000

Subtotal

862 251 000

Total

12 44

In 1995/96, an amount of R11,58bn was allocated to the province from the national government, compared with R9,17bn in 1994/95, an increase of 26%. Some 93% of the Eastern Cape's revenue in 1995/96 would be derived from the national government.

The Eastern Cape's estimate of expenditure for 1995/96 increased by 25%, compared with 1994/95. The table below provides a breakdown of the items of expenditure for 1994/95 and 1995/96:<sup>196</sup> [196 Ibid]

*Eastern Cape budget: 1994/95 and 1995/96*

199199IncOffice of the premier

91 177 000

178 389 000

95,7%

**Provincial legislature**

—

25 323 000

—

Health

1 656 533 000

1 975 781 000

19,3%

**Welfare**

2 467 692 000

2 526 167 000

2,4%

**Works**

732 675 000

787 227 000

7,4%

**Education and culture**

2 511 158 000

4 499 850 000

79,2%

**Housing and local government**

264 549 000

310 309 000

17,3%

**Agriculture and environmental planning**

446 250 000

498 272 000

11,7%

Economic affairs

48 396 000

50 149 000

3,6%

**Transport**

185 282 000

195 112 000

5,3%

Administration, auxiliary services and land affairs

141 179 000

147 445 000

4,4%

**Finance and provincial expenditure**

1 405 716 000

1 247 450 000

(11,3%)

Improvement of conditions of service

—



2 000

—

**Reconstruction and development project**

—

1 000

—

Total

9 950 608 000

12 441 478 000

25,0%

Education received 36,2% of the 1995/96 budget, the biggest single allocation in the Eastern Cape, while welfare received 20,3% and health 15,9%.

**Free State**

No budget was available at the time of writing.

**Gauteng**

Mr Moleketi said in March 1995 that ‘national functional committees are effectively prioritising for the provinces, which makes it much harder for provincial governments to perform their democratic duties’. He added that the ‘national budgeting process has dealt Gauteng a poor hand. We are facing cuts which will severely curtail our ability to maintain the services and infrastructure at the levels required for effective economic activity’. Because of the top-down budgetary process ‘Gauteng [was] squeezed’ from all directions and was also unable ‘to undertake any significant interfunctional reprioritisation’.<sup>197</sup> [197 PWV government, Department of Finance and Economic Affairs, introductory speech delivered by the MEC for finance and economic affairs, Mr Jabu Moleketi, 22 March 1995]

Referring to the budget, Mr Moleketi said that the education allocation had decreased by R100m and although there had been an increase of R213m in the health allocation, health was still underfunded.

The provinces, he said, were awaiting legislation from Parliament to enable them to impose certain forms of taxation and levy user charges. The key potential shortfalls in Gauteng's expenditure in 1995/96 were in the areas of education (R384m); health (R580m); housing and local government (R39m); sport, recreation, arts and culture (R50m) and transport (R150m). A further R18m in potential shortfalls had also been identified.

The table below provides a breakdown of Gauteng's sources of revenue in 1995/96:

*Gauteng revenue: 1995/96*

Transfer from the central government

R

National revenue fund

9 949 737 000

Subtotal

9 949 737 000

*Own revenue*

Interest and dividends

6 800 000

Licences and permits

400 000

Recoveries of loans and advances

8 600 000

Departmental activities

1 600 000

State property rights

10 200 000

Moneys prescribed by law/ordinance

711 320 000

Moneys not prescribed by law/ordinance

59 900 000

Miscellaneous

28 123 000

Subtotal

826 943 000

Total

10 776 680 000

About 7,7% of Gauteng's estimate of revenue would be derived from own sources in 1995/96.

Gauteng's estimate of expenditure for 1995/96, compared with 1994/95, is sh

*Gauteng estimate of expenditure: 1995/96*

199199Increase (decrease)

Office of the premier

—

14 400 000

—

**Legislative assembly**

—

59 500 000

—

Finance and economic affairs

—

22 300 000

—

**Corporate services**

247 625 000

224 990 000

(9,1%)

Health

2 877 641 000

3 090 274 000

7,4%

**Education**

4 647 143 000

4 547 467 000

(2,1%)

Welfare

1 748 772 000

1 793 603 000

2,6%

**Housing and local government**

226 918 000

299 368 000

31,9%

Development planning and environmental management

36 343 000

40 732 000

12,1%

**Transport**

252 476 000

245 435 000

(2,8%)

Public safety and security

—

2 000 000

—

**Conservation and agriculture**

40 916 000

43 290 000

5,8%

Sport, recreation, arts and culture

19 894 000

26 179 000

31,6%

**Works**

409 201 000

364 539 000

(10,9%)

Provincial service commission

—

2 600 000

—

**Promoting the reconstruction and development programme**

—

2 000

—

Improvement of conditions of service

127 588 000

1 000

—

Total

10 634 517 000

10 776 680 000

1,

In 1995/96 no allocation was made to improvement of conditions of service.

## **Kwazulu/Natal**

Presenting the KwaZulu/Natal budget in May 1995, Mr Mhlungu said that because the province remained underfunded by the central government the private sector would have an important role to play in development. In particular, the provincial government would look to the private sector as a potential source of funding for infrastructural development projects, such as the King Shaka international airport. The provincial government would also identify new sources of funding, such as gambling and gaming, road traffic revenues, and borrowings for capital expenditure. However, Mr Mhlungu emphasised that loans would never be undertaken to finance current expenditure—only capital expenditure with long-term benefits would be funded from borrowings.<sup>201</sup> [<sup>201</sup> Budget statement for 1995/96 presented to the KwaZulu/Natal legislature by the MEC for finance, Mr Senzele Mhlungu, 4 May 1995]

Commenting on the central government allocation, Mr Mhlungu said the funds made available to KwaZulu/Natal were ‘insufficient to enable us to promote growth through capital investment or to jumpstart economic initiatives.’

KwaZulu/Natal received about R13,37bn from the central government for 1995/96 (a 15,2% increase compared with funds allocated for 1994/ 95). Some R643,7m would come from own sources and a further R60,95m from the Development Bank of Southern Africa.

The table below shows KwaZulu/Natal’s sources of revenue in 1995/96:<sup>202</sup> [<sup>202</sup> Ibid]

### *KwaZulu/Natal revenue: 1995/96*

#### Transfer from the central government

R

National revenue fund

13 370 005 000

Subtotal

13 370 005 000

*Own revenue*

Interest and dividends

171 306 000

Licences and permits

2 061 000

Recovery of loans and advances

5 751 000

Departmental activities

9 042 000

State property rights

4 768 000

Moneys prescribed by law/ordinance

370 460 000

Moneys not prescribed by law/ordinance

20 424 000



**Miscellaneous**

59 929 000

Subtotal

643 741 000

*Loans***Development Bank of Southern Africa**

60 955 000

Subtotal

60 955 000

Total

14 074 701 000

Allocations to education in the 1995/96 KwaZulu/Natal budget amounted to 34,9% of total expenditure, health to 22%, social welfare 20,5% and local government and housing 5,1%. The table below shows the estimate of expenditure for 1994/95

*KwaZulu/Natal estimate of expenditure: 1994/95 and 1995/96*

199199Increase (decrease)

Office of the premier

108 600 000

88 809 000

(18,2%)

**Provincial legislature**

—  
26 381 000

—  
Agriculture

299 508 000

293 887 000

(1,9%)

**Economic affairs and tourism**

88 390 000

94 216 000

(6,6%)

Education and culture

5 517 497 000

5 431 158 000

(1,6%)

**Finance and auxiliary services**

150 907 000

173 959 000

15,3%

Health

2 712 217 000

3 097 224 000

14,2%

**Local government and housing**

739 593 000

728 041 000

1,6%

Police services

—

1 458 000

—

**Provincial service commission**

79 003 000

12 174 000

(84,6%)

Traditional and environmental affairs

139 322 000

155 595 000

11,7%

**Transport**

602 321 000

502 987 000

(16,5%)

Social welfare

2 685 566 000

2 880 678 000

7,3%

**Public works**

653 393 000

588 133 000

(10,0%)

Promoting the RDP<sup>a</sup>

—

1 000

—

**Total**

13 776 317 000

14 074 701 000

2,2%

a

A nominal amount of R1 000 was provided for possible allocation from the reconstruction and development programme funds for 1995/96

## Mpumalanga

The table below shows the estimate of revenue to be received for 1995/96:

*Mpumalanga revenue: 1995/96*

Transfer from the central government

R

National revenue fund

3 874 124 000

Subtotal

3 874 124 000

*Own revenue*

Other taxation

8 888 000

Interest payments

2 793 000

Levies

74 290 000

Recovery of loans and advances

24 996 000

Departmental activities

56 742 000

Miscellaneous

11 319 000

Subtotal

179 028 000

*Concessionary loans*

31 988 000

Total

4 085 140 000

Most of Mpumalanga's revenue in 1995/96 (95%) would be derived from the national government, which increased its allocation for Mpumalanga by 11,5%, compared with 1994/95.

The table below compares the 1994/95 and 19

*Mpumalanga budget: 1994/95 and 1995/96*

199199Increase (decrease)

Office of the premier

61 117 000

70 891 000

16,0%

**Finance**

113 221 000

110 573 000

(2,3%)

Economic affairs

45 365 000

50 120 000

10,5%

**Local government**

75 972 000

83 413 000

9,8%

Agriculture

109 593 000

115 318 000

5,2%

**Environmental affairs**

58 929 000

57 148 000

(3,0%)

Education

1 665 575 000

1 795 462 000

7,8%

## **Works, roads and transport**

402 500 000

442 065 000

9,8%

## **Safety and security**

17 730 000

25 215 000

42,2%

## **Housing**

34 055 000

31 227 000

(8,3%)

## **Health and welfare**

1 029 431 000

1 266 667 000

23,0%

## **Public service commission**

10 079 000

16 808 000

66,8%

## **Provincial legislature**



13 560 000

20 233 000

49,2%

Total

3 637 127 000

4 085 140 000

12,3%

Education, and health and welfare received the largest allocations in 1995/96—44% and 31% respectively. There was a significant increase (42,2%) in the allocation to safety and security, compared with 1994/95, but the allocation to housing dropped by 8,3% in 1995/96.

## North-West

The MEC for finance in the North-West, Mr M J Kuscus, said in April 1995 that it was not possible to compare the 1994/95 estimates of expenditure with the 1995/96 estimates as in 1994 budgets were based on the former structures (ie homelands and the old boundaries of the provinces), and the 1994/95 provincial budget was only prepared for functions taken over by the provincial government and only from July 1994.

The 1995/96 budget allocated an amount of R242,9m for servicing of debt inherited from the Bophuthatswana homeland administration.<sup>205</sup> [<sup>205</sup> Budget speech of the MEC for finance in the North-West, Mr M J Kuscus, 20 April 1995]

Mr Kuscus added that it was 'essential' that total personnel expenditure be reduced to 35% of the provincial budget over five years as the level of personnel expenditure could only be financed at the expense of capital expenditure. At present personnel expenditure comprises some 45% of the total budget.

He highlighted some areas where increases in the anticipated expenditure level could be predicted. These were: drought relief, local government support, housing funds, 1995/96 salary increases, the police, the RDP and culture. Some R11m was budgeted for small business development. The table below shows the sources from which the North-West would derive its revenue in 1995/96:<sup>206</sup> [<sup>206</sup> North-West Province, Estimate of Expenditure to be Defrayed from the Provincial Revenue Account during the Financial Year Ending 31

March 1996]

*North-West revenue: 1995/96*

Transfer from the central government

R

National revenue fund

5 442 839 000

Subtotal

5 442 839 000

*Own revenue*

Taxation

219 260 000

Interest and dividends

56 469 000

Levies (eg fishing and hunting licences)

1 493 000

Recovery of loans

2 594 000

Departmental revenue

99 694 000

Property rentals and other miscellaneous revenue

28 929 000

**Subtotal**

408 439 000

*Loans*

**Development Bank of Southern Africa**

91 868 000

**Subtotal**

91 868 000

**Total**

5

Only 6,9% of revenue would be generated internally in 1995/96.

The table below shows the estimate of expenditure in 1994/95 and 1995/96:<sup>207</sup> [Ibid]

*North-West province estimate of expenditure: 1994/95 and 1995/96<sup>a</sup>*

199199Increase (decrease)

**Office of the premier**

46 211 000

23 138 000

99,7%

**Office of the legislator**

21 090 000

12 600 000

6,7%

Health and social welfare

1 803 892 000

—

—

**Public service commission**

21 800 000

32 400 000

(32,7%)

Safety and security

1 969 000

—

—

**Economics affairs**

56 544 000

84 709 000

33,2%

Finance and provincial expenditure

329 187 000

228 400 000

44,1%

**Education, training, youth and sport**

1 843 433 000

1 301 550 000

41,6%

**Local government, housing and planning**

417 966 000

393 645 000

6,2%

**Transport**

258 863 000

308 000 000

(16,0%)

**Public works**

707 612 000

193 430 000

265,8%

**Media, arts and culture**

169 578 000

181 200 000

(6,4%)

Agriculture and environmental affairs

311 590 000

299 961 000

(3,9%)

**Promoting the reconstruction and development programme**

1 000

—

—

Improvement of conditions of service

314 392 000

—

—

Total

6 304 128 000

3 059 033 000

106,1%

a

Figures may not add up owing to rounding

**Northern Cape**

The table below provides a breakdown of the sources from which revenue in the Northern Cape would

be derived in 1995/96:208 [208 Province of the Northern Cape, Estimate of Expenditure to be Defrayed from the Provincial Revenue Account During the Financial Year Ending 31 March 1996]

*Northern Cape revenue: 1995/96*

Transfer from the central government

R

National revenue fund

1 585 235 000

Subtotal

1 585 235 000

*Own revenue*

Taxation

32 698 000

Levies

115 000

Recovery of loans and advances<sup>a</sup>

1 214 000

Departmental activities<sup>b</sup>

28 291 000

Interest on investments

10 000 000

Miscellaneous

110 200

Subtotal

73 420 000

Total

1 658 655 000

a

Includes contract debt, subsidised motor transport and recoveries from local authorities.

b

Includes hospital fees, valuation receipts, public resorts, board and lodging, and capita

About 4,4% of the Northern Cape's estimate of revenue would be derived from own sources in 1995/96.

The table below compares the Northern Cape budgets for 1994/95 and 1995/96:<sup>209</sup> [<sup>209</sup> Ibid]

*Northern Cape estimate of expenditure: 1994/95 and 1995/96*

199199Increase (decrease)

Office of the premier

—

9 598 000

—

**Provincial legislature**

—

13 191 000



—  
Provincial service commission

—  
2 713 000

—  
**Promoting the reconstruction and development programme**

—  
1 000

—  
Education and culture

617 133 000

687 106 000

11,3%

**Works**

17 225 000

45 636 000

164,9%

Economic affairs, trade and industry

—  
2 331 000

**Recreation, sport and youth affairs**

—

2 331 000

—

Finance

—

4 955 000

**Auxiliary services**

6 130 000

14 460 000

135,9%

Improvement of conditions of service

—

1 000

—

**Housing and local government**

44 240 000

36 446 000

(17,6%)

Health

180 277 000

267 200 000

48,2%

**Welfare**

323 117 000

385 951 000

19,4%

Transport, roads and traffic control

104 816 000

140 562 000

34,1%

**Agriculture**

33 177 000

38 131 000

14,9%

Nature and environmental conservation

4 726 000

6 411 000

35,7%

**Safety and security**

—  
1 631 000

—  
Total

1 330 841 000

1 658 655 000

24

Some 83% of the budget was allocated to social services (ie education, health, housing and welfare), compared with 88% in 1994/95.

## Northern Province

Allocations to education comprised about 40% of total expenditure. Mr C E Mushwana, the MEC for finance in the Northern Province, said that the province was implementing controls to eliminate cheque fraud and maintain fiscal discipline.<sup>210</sup> [<sup>210</sup> Budget speech of MEC for finance in the Northern Province, Mr C E Mushwana, 1 June 1995]

The table below shows sources of revenue for 1995/96 in the Northern Province:<sup>211</sup> [<sup>211</sup> Northern Transvaal Province, Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1995]

### *Northern Province revenue: 1995/96*

Transfer from the central government

R

National revenue fund

8 375 307 000

Subtotal

8 375 307 000

*Own revenue*

**Agricultural revenue**

34 645 000

Provincial service commission

9 152 000

**Departmental and miscellaneous**

186 525 000

Fines and forfeitures

25 000 000

**Hospitals and clinics**

210 440 000

Hostel fees

42 000 000

**Horse racing and betting**

6 000 000

Interest

152 675 000

**Licences (general)**

15 000 000

Motor vehicle licences

146 076 000

**Pound fees**

1 000 000

Rent of government property

19 000 000

**Road traffic fees**

86 997 000

Sale of houses

15 000 000

**Tourism**

5 000 000

Town fees

105 000 000

Subtotal

1 059 510 000

Total

9 434 817 000

Some 11% of total revenue was expected to be derived from own sources in 1995/96.

The table below shows a breakdown of the 1995/96 budget. (Comparative figures for 1994/

*Northern Province estimate of expenditure: 1995/96*

199Office of the premier

72 959 000

**Economic affairs, trade and industry**

84 776 000

Education, arts, culture and sport

3 858 563 000

**Agriculture**

498 756 000

Land, housing and local government

249 566 000

**Environmental affairs and tourism**

42 676 000

Health

1 444 376 000

**Public transport**

198 477 000

Public works

874 466 000

**Finance and expenditure**

419 398 000

Welfare

1 376 669 000

### **Provincial service commission**

54 812 000

Commission on Traditional Authorities

108 676 000

### **Office of the speaker**

17 728 000

Commission on reconstruction and development programme

10 509 000

### **Improvement of conditions of service**

122 410 000

Total

9 434

## **Western Cape**

The MEC for finance, expenditure and service commission in the Western Cape, Mr Kobus Meiring, said in his budget speech on 29th March 1995 that the budget deficits the Western Cape and other provinces were facing, were probably a 'direct result of underfunding of the provinces relative to more generous allocations for central departments'.

Mr Meiring said that the province had no powers yet to generate substantive revenue, which limited its ability in the short term to increase its revenue. He also said that the issue of fiscal federalism should be examined again as it was 'essential' that the provinces be made more fiscally independent.<sup>213</sup> [213 Budget speech of the MEC for finance, expenditure and service commission, Mr Kobus Meiring, 29 March 1995]

Both health and education were seriously underfunded in the Western Cape's 1995/96 budget. Mr Meiring presented a number of possibilities to overcome this problem. These included:



- reducing expenditure levels through reprioritisation in the education and health departments in the province;
- finding new sources of income, such as gambling;
- increasing assistance from the RDP fund;
- additional budgetary assistance from the central government; and
- loans as a last resort.

The table below shows sources from which revenue was derived in 1995/96:

*Western Cape revenue: 1995/96*

Transfer from the central government

R

National revenue fund

7 509 615 000

Subtotal

7 509 615 000

*Own revenue*

Taxation

198 256 000

Levies

121 000

Recovering of loans and advances

7 315 000

Departmental activities

187 705 000

Miscellaneous

3 135 000

Subtotal

396 532 000

Total

7 906 147 000

Only 5% of total revenue for 1995/96 was expected to derive from own sources.

The table below provides a breakdown of the estimate of expenditure in 1994/95 and

*Western Cape estimate of expenditure: 1994/95 and 1995/96*

199199Increase (decrease)

Office of the premier

820 000

4 036 000

392,2%

**Provincial legislature**

—

16 668 000

—

Housing, local government and development planning

205 635 000

195 543 000

(4,9%)

**Promoting the reconstruction and development programme**

—

1 000

—

Economic affairs

—

10 501 000

—

**Health**

1 648 511 000

1 873 723 000

13,7%

Corporate services

64 136 000

49 918 000

(22,2%)

**Agricultural affairs**

52 507 000

59 144 000

12,6%

Social services

1 536 620 000

1 956 568 000

27,3%

**Environmental and cultural affairs**

76 939 000

82 897 000

7,7%

Education

3 389 493 000

3 131 784 000

(7,6%)

**Roads, transport and public works**

465 388 000

495 811 000

(6,5%)

Provincial service commission

—  
6 000 000

—  
**Provincial finance**

11 904 000  
21 532 000  
80,9%

Provincial public protector

—  
711 000

—  
**Provincial police services**

—  
1 309 000

—  
Improvement of conditions of service

73 747 000

1 000

—  
Total

7 525 700 000

7 906 147 000

5,

## KEY PROJECTIONS

- The Department of Finance estimated a growth rate of between 3,5% and 4% in 1996.
- According to the Standard Bank and Southern Life Association, a growth rate of about 4% was likely in 1996, while the Union Bank of Switzerland anticipated a rate of 3,7%.
- Real GDP per capita should grow by about 1,5% in 1996, the South African Reserve Bank said.
- With an economic growth rate of 3% a year, formal employment would increase from just less than 8m in 1995 to about 8,5m in 2000, while a growth rate of 5% a year would boost formal employment to 9m, the chairman of the Anglo American Corporation of South Africa, Mr Julian Ogilvie Thompson, said.
- The minister of mineral and energy affairs, Mr Roelof (Pik) Botha, said that annual gold production would probably drop to 416 tonnes by the end of 1997 because of closure and rationalisation.
- Projections of the current account deficit in 1996 varied from Nedcor's R13,5bn to Absa's R10,7bn and Edey, Rogers's R5bn.
- Nedcor's economists anticipated that the rand would drop to 26,8 American cents in 1996, or by 2,5% compared with 1995. The Union Bank of Switzerland expected it to drop to 24,39 American cents.
- Business executives of the top 100 industrial companies listed on the Johannesburg Stock Exchange expected inflation in 1996 to rise to between 9% and 10%, while the reserve bank expected an inflation rate of between 7% and 7,5%.
- According to the Standard Bank, producer price inflation was expected to be 7% in 1996, while Edey, Rogers expected it to be 10%.
- Dr Terence Moll, an economist at Old Mutual, forecast that real fixed investment would grow at 10%–12% in 1996 before slowing down in 1997–98. Edey, Rogers expected gross domestic fixed investment to grow by 8% in 1996.
- The real value of imports was expected to grow by 10% in 1996 and by 5% in 1997, while exports would grow by only 5,5% and 4% respectively, according to Nedcor.

- An economist at Transnet, Mr Mike Schussler, expected South Africa's trade to double in 1995–2000 because of the reduction in tariffs in line with General Agreement on Tariffs and Trade arrangements.

Sidiropoulos, E., et. al., South Africa Survey 1995-1996, (Johannesburg: South African Institute of Race Relations) 1996.