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GENDER EQUITY TENSIONS IN HIGHER EDUCATION: A CRITIQUE OF POST-APARTHEID GENDER EQUITY POLICY

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A THESIS SUBMITTED IN FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY TO THE WITS SCHOOL OF EDUCATION, UNIVERSITY OF THE WITWATERSRAND, JOHANNESBURG

SUPERVISORS: DOCTOR THOKOZANI MATHEBULA & PROFESSOR CARRIM NAZIR

DECLARATION

I declare that this thesis is my own work, written under the-supervision of Dr. Thokozani Mathebula and Professor Carrim Nazir. I submit it to the Wits School of Education, University of the Witwatersrand, Johannesburg, for the Degree of Doctor of Philosophy. It has not been previously submitted, either in part or whole, for any degree or examination at any other university.

Signed:

Beatrice M'mboga Akala

Date:

DEDICATION

This thesis is dedicated to my parents, Samson and Timina Adekha; for awakening in me the ambition of pursuing education to the highest level.

And to my family;

My dear husband Simon Akala; and sons, Francis, Charney and Arlson Akala. I hope this serves to inspire you to aim higher and achieve your dreams.

Acknowledgements

To my supervisors, Dr. Thokozani Mathebula and Prof. Carrim Nazir; I am grateful and indebted to you for the rigorous academic guidance throughout the whole process of writing this thesis.

To my husband Simon and children, Francis, Charney and Arlson; thank you for the encouragement in many moments of self-doubt, for your inspiration and unwavering support. This work would not have been possible and complete without you! Asanteni Sana.

To my siblings and their wonderful families, thanks for your love, sacrifices, loyalty and great support.

To Barnard Akala, my brother-in-law, thanks for countless inspirational, thought-provoking debates and sessions we had over this period.

To my parents, Samson and Timina; words cannot express my deep gratitude to you. I treasure your inspirational example.

To Neventia Singh, I will always treasure your friendship, loyalty and great support.

To my colleagues and friends at the Wits School of Education and beyond, thank you for such great friendship and collegiality. What a journey it has been!

ABSTRACT

Gender inequality has been an area of concern internationally, regionally and nationally. Black South African women in general suffered triple oppression during the apartheid regime, based on race, gender and class oppression. Higher education mirrored the varied forms of marginalisation that existed in society and therefore the majority did not have the access to quality higher education afforded their white minority counterparts. The few black women who did have access were concentrated in historically disadvantaged institutions or studied through correspondence (Chisholm & September, 2005). The courses for which they were enrolled were aimed at perpetuating male dominance in the public sphere and domesticating them through women's traditional roles of nurturing and caring. With the advent of democracy in 1994 the gates of higher education were opened to students who had previously been excluded. Effectively, black people in general and women in particular benefitted from race and gender categories of equity, according to the Department of Education, White Paper (1997). The equity clause that has been integrated in higher education policies encapsulates a clause that targets the redress of gender-related inequities and inequalities, aimed at ameliorating women's access to higher education. Although race, gender and disability were identified, the National Plan (2001) notes that race equity had been given primacy in policies over gender equity. I argue that aggregated data emanating from recent studies in higher education indicate that 57% of the current female population are accessing public higher education. Although the figures from documentary evidence affirm a high presence, on examination of other factors this study found a more nuanced picture. Specifically, a change in equity deduced from the same data indicates that fewer women were enrolled in courses such as Science, Engineering and Technology (SET) or in postgraduate studies. Other areas of concern include high dropout rates, attrition and throughput (CHE, 2010; Draft Green Paper, 2012). This argument is made using theoretical and thematic exploration of post-apartheid South African gender equity reform agenda in higher education. In addition, higher education policy documents (National Council for Higher Education, 1996; White Paper, 1997; Higher Education Act, 1997; National Plan for Higher Education, 2001) and gender laws and frameworks have informed the study. It has aligned itself to one of the goals of White Paper (1997) that noted that in order for equity

to be meaningful to the formerly disadvantaged; access and success have to run concurrently. Ultimately, the study has contended that by homogenising women the particular contexts of social justice have not been recognised (Young, 1990). The implication of the misrecognition of the particular and specific experiences of black women in higher education could be contributing to the enigmatic low throughput, high dropout rates and high levels of attrition currently being experienced in higher education. This thesis poses a challenge to policymakers and institutions of higher learning to shift their attention from viewing the attainment of gender equity and equality through notions of expanded access (global participation). To narrow the current gap it proposes a hybridisation of equity and equality policies (macro) with initiatives that target the particular and specific conditions (micro) of black women who access higher education.

Key words: gender, equity, higher education, post-apartheid, policy, women.

ACRONYMS AND ABBREVIATIONS

AA	Affirmative Action
AAA	Analytical and Advisory Assistance
ANC	African National Congress
AU	African Union
OAU	Organization of African Unity
BEE	Black Economic Empowerment
BBBEE	Broad Based Black Economic Empowerment
BCEA	Basic Conditions of Employment Act
BPfA	Beijing Platform for Action
CA	Capabilities Approach
CEE	Commission for Employment Equity
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CGE	Commission on Gender Equality
CHE	Council of Higher Education
CNE	Christian National Education
DBE	Department of Basic Education
DoE	Department of Education
DHE	Department of Higher Education
DHET	Department of Higher Education and Training
ECOSOC	United Nations Economic and Social Council
EFA	Education for All
FAWE	Forum for African Women Educationists
FSAW	Federation of South African Women
GEU	Gender Equality Unit
GER	Gross Enrolment Rates
GETT	Gender Equality Task Team
GIR	Gross Intake Rates
HADUs	Historically Advantaged Universities
HDUs	Historically Disadvantaged Universities
HBUs	Historically Black Universities
HED	Higher Education
HEQF	Higher Education Qualifications Framework

HEQSF	Higher Education Qualifications Sub Framework
HDI	Human Development Index
HWUs	Historically White Universities
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MGDs	Millennium Development Goals
MoE	Ministry of Education
NSFAS	National Students Financial Aid scheme
NCHE	National Council on Education and Training
NEPI	National Education Policy Initiatives
NER	Enrolment Rates
NQF	National Qualifications Framework
NGOs	Non-Governmental Organizations
UN	United Nations
UNDHR	United Nations Declaration of Human Rights
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nation International Children Education Fund
OECD	Organization for Economic Co-operation and Development
OSW	Office on the Status of Women
UPE	Universal Primary Education
PFET	Policy Framework for Education and Training
RCMA	Recognition of Customary Marriages Act
SADC	South African Development Community
SASCO	South African Students Congress
SAQA	South African Qualifications Authority
SET	Science, Engineering and Technology
SWC	Status of Women Council
UCT	University of Cape Town
WNC	Women National Coalition

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CHAPTER ONE

RESEARCH OVERVIEW

1.1. INTRODUCTION AND BACKGROUND TO THE STUDY

Not being an empirical study, the conclusions arrived at in this thesis are based on a theoretical and thematic exploration of gender equity in post-apartheid South African higher education. As is the norm with conceptual research, the thesis clarifies and appraises concepts such as gender, sex, equality and equity, and engages with conceptual analysis by using established theories with main of elucidating, expanding and justifying the meanings that have been allocated to them from existing theory and literature. The impetus and motivation to carry out a critical analysis of gender equity policy in post-1994 South African higher education was informed by recurrent tensions that affect black students in general and females in particular. Although there has been much talk about achieving it there is no single policy to support the claim and in view of this lacuna, black women have been subsumed in other categories of redress, such as race and social class, leaving their particular and specific experiences misrecognised, neutralised and generalised. This thesis argues that the contexts of social justice have to be recognized if redress is to be realised for the previously marginalised groups (Mackinnon, 1993; Rawls, 1971; Taylor, 1994; Young, 1990, 1991).

Internationally, the quest for gender equality, non-discrimination and gender equity-positive discrimination (Rawls, 1970) had gained prominence over the previous three decades. Equity and equality are now being highlighted because it has become increasingly difficult to separate the two constructs in policies frameworks. Nevertheless, conventions, declarations, conferences, protocols and platforms of action, such as the Convention on the Elimination of all Forms of Discrimination against Women[1] (CEDAW, 1981); the Beijing Conference (1995); the African Union Heads' solemn declaration on gender equality in Africa (2004); the Southern African Development Community (SADC) protocol on gender and development signed by the president in 2008; and the

[1] For the purpose of this study, the terms 'women'/'woman' will be used in a general way in reference to females of all race groups in South Africa, however, when the need arises direct reference to black women or any other category will be made directly.

Millennium Development Goals (MDGs) of the United Nations (UN, 2000) have amplified gender-related inequities in education and other facets of life.

Article 12 of the African Union Protocol (2003) deals with the elimination of all manner of discrimination against women, and it also guarantees equal access to opportunities in education and training to all. Other guarantees and promises in this charter include elimination of stereotypes that are exacerbated through syllabi and media. The article also promises punishment to perpetrators of any other forms of abuse, including sexual harassment in schools and education institutions. Contrary to the above promises and guarantees it has been noted by the ANC Policy Discussion Document (2012) that covert and overt sexual harassment and gender-related abuse still occur in institutions of learning.

South Africa has also been moving to facilitate gender equity and equality in society, meeting international obligations to comply with international, continental and regional declarations, conventions and platforms. It has enacted gender laws and policies (discussed in chapter 8) that are being used as vehicles for redressing inequalities and inequities, whilst the South African Constitution and Bill of rights (1996) enshrined democratic values and principles that were to prohibit sexism, racism and any forms of discrimination.

In public higher education, women's participation was minimal, especially during the apartheid era. The few women who did have access were segregated along racial lines and did not participate in mathematics or science courses. Courses in the humanities, teaching and hospitality were deemed 'feminine' because they inculcated nurturing and caring values perceived as synonymous with women's roles (Martineau, 1997; Fiske & Laud, 2004; Molteno, 1984).

Compared to the pre-liberation era, institutions of higher learning have largely included the previously marginalised learners. More women, 57%, are currently enrolled in institutions of higher learning, according to the Draft Green Paper (2012) and Council of Higher Education CHE (2013). The current achievements in higher education have a direct

link to the equity clause (White Paper, 1997)[2] that provided for the inclusion of quotas based on gender, race, disability and any other areas of disadvantage, in dealing with the remnants of apartheid.

According to Pityana (2009), the equity paradigm in higher education was adopted in order to expand opportunities, extend potential to those who might have been construed as unworthy, and to treat everyone with fairness (Pityana, 2009). The Office on the Status of Women (OSW, 2000) has defined gender equity as the fair and just distribution of means of resources and opportunities to men and women. While acknowledging this definition, I argue that the mere distribution of resources and opportunities may not be encapsulated since injustices are complex and insidious. When redress policies are presented in universal and egalitarian fashion they tend to be simplistic, because the underlying conditions and circumstances that exacerbate injustices are often misrepresented. Young (1990) and Satz (2007) argue that the universalisation and homogenisation of women are based on abstract principles of formal equality which undergird egalitarianism and assimilation at the expense of individualism and particularity.

Although the higher education landscape has changed substantially because of the redress mechanism that has been put in place, this thesis notes that institutions of higher learning and current students have not overcome the effects of the past political order. Although one may celebrate women's representation in higher education it has been undermined by unaddressed areas of marginalisation which include the articulation gap, social class disadvantages, racism and sexism (Badat, 2009; Robus & Macleod, 2006).

Contrary to evidence that women are well represented in higher education, equity in terms of participation and outcomes has still not been achieved (CHE, 2010; Draft Green Paper, 2012). Few women are pursuing predominantly male-dominated courses, such as Science, Engineering and Technology (SET) and their enrolment in postgraduate studies is also lower than that of their male counterparts. The two examples of inequity and others that have been discussed in subsequent chapters (5 and 8) demonstrate that gender equity is still largely elusive in South African higher education.

[2] The equity clause is part of the affirmative action initiative that was introduced in 1998 through the Department of Labour as a way of improving the employability of black South Africans and other minority groups who had suffered marginalisation through the apartheid structures.

In attempting to understand the persistence of gender inequalities in higher education, this study identified the framing of gender in higher education policies as a possible deterrent to the attainment of equity. Unterhalter (2007) extrapolates that the three ways in which gender has been operationalized are implausible and insufficient, namely, conceptualizing gender as a noun aligns itself to the sex binary that is linked to one being a boy or girl. This conceptualization ignores institutional power struggles and presupposes a unitary culture, hence denoting colour and social class blindness. The limitations of such framings include a lack of differentiation and isolation of female issues in order to allow for them to be investigated in detail. Power-related issues are also ignored because power in itself is complex, treacherous and vague, and therefore can be misunderstood, exaggerated or understated, depending on one's relationship with the symbol of power (Mackinnon, 1993; Nussbaum, 1994).

Defining gender alongside variation, differentiation and diversity amongst women is most favourable. It is problematized and seen as a vehicle for connecting and changing social conditions of women, a kind of framing contemplated by theories of gender construction, social constructivism and feminism in chapters 5 and 6, in which constructs such as formal equality, social global justice and the morality of rights and justice are questioned, evaluated and updated (Unterhalter, 2007; Nussbaum, 1999).

The thesis focuses its analysis on higher education policies,[3] gender regulatory frameworks, theories and literature on social justice, development of capabilities, post-structuralism, gender, feminism and the discourse of policy.

1.2. AIMS OF THE THESIS

The thesis aimed at exploring the tensions and complexities surrounding gender equity in post-apartheid higher education policies. The critique has formed around a tendency manifested in state policies to undermine women's participation, representation, social justice, human agency, equality and misrecognition. It argues that there is no singularity

[3] The core policies in higher education that have informed this study include: the Higher Education Act (1997); White Paper (1997) and National plan (2001). Additional policies (local) and frameworks that deal with gender equality, such as Women's charter on Equality (1994), ANC Policy Discussion Document - Gender Paper (2012), the South Africa's National Policy Framework for Women's Empowerment and Gender Equality (Office on the Status of Women, 2000). International, continental and regional Conventions, Declarations, Platforms and Conferences, have also provided insights into the discourse gender equity and equality.

in womanhood and therefore the universalisation and homogenisation of women in higher education misrepresents and misrecognises the 'particular' and 'specific' conditions, contexts and experiences that women bring to it.

The thesis proposes adoption of a substantive and adequacy outlook in state policies that is based on Fraser (2008), Mackinnon (1993), Taylor (1994), Young (1990) and other theorists of similar persuasion who argue that formal equality does not eliminate social differences and that the commitment to sameness expressed in policies obscures how those differences privilege and oppress people.

1.3. MAIN CLAIM AND SUBSEQUENT ARGUMENTS[4]

The main claim of the thesis is;

- The state policies have a tendency to undermine social justice and equitable access to higher education in post-apartheid South Africa.

Subsequent arguments are as follows;

- The absence of a gender equity policy has contributed to the enigmatic gender inequities in higher education.
- The framing of gender equity in state policies should encapsulate the particular and specific conditions of social justice instead of homogeneity and egalitarianism.
- The generic framing of gender has impacted negatively on gender equity and equality initiatives.
- Using conclusions from aggregated data has overshadowed the minimal participation of women in SET and postgraduate studies.
- Gender equity is susceptible to socio-cultural, economic, political, structural and institutional challenges.
- The re-examination and re-engineering of the current higher education policies in which gender equity is hosted is a prerequisite if gender equity is to be achieved in post-apartheid South Africa.

[4] Since this thesis is a conceptual piece, main and sub-questions have been replaced by main and subsequent arguments.

- An enactment of a gender equity policy in South African higher education requires urgent attention.

1.4. ORGANISATION OF THE THESIS

The thesis is organised into ten chapters, as follows.

Chapter one has provided an introduction and general overview to the study. It stated the aim, core argument and subsequent arguments.

Chapter two explores theories of social justice, which in order to prevail must include particular and specific contexts to redress strategies and mechanisms. The chapter argues that a substantive approach to social justice is the most viable option, a view supported by Rawls (1971), Miller, 1999), Sen (1980); Young (1990), Fraser (2008) and Taylor (1994). Social justice is a core element of redress policies in post-apartheid South Africa and in order to ground the study it gives an account of the underlying claims in social justice. Importantly, the equity and equality principles are evaluated in conjunction with gender equity policy. Social justice methodologies, such as procedural justice, utilitarianism, egalitarianism and a substantive approach to justice are also discussed. Theories of social justice have provided crucial information that has assisted the researcher in identifying approaches to gender equity that have been adapted by gender laws and post-1994 higher education.

Chapter three states the importance of education in human development. The main claim is premised on the view that no woman should be unduly obstructed, whether because of race group, social class, political affiliation or geographical position, from accessing and benefitting from education in general and higher education in particular. As Sen (1980) argued, education is a key component of human development and the chapter discusses underlying claims to a capability approach to human development and the core concepts (capabilities, functioning, freedoms, agency and diversity). Their relevance to gender equity policy is interlinked with theories of social justice because they embrace the gains of individuals within educational reform as opposed to generalisation to populations deduced from aggregated data.

Theories of gender are discussed in Chapter 4, which argues that, unlike the innatists, who view gender by a reductionist, unitary and one-dimensional approach, gender identity is more complex, multiple and fluid. It is aimed at espousing gender marginalisation as being dynamic and multidimensional, caused by a conglomeration of factors that influence the creation, propagation and sustenance of gender oppression and equality. It looks at essentialist theorists who see gender as a natural occurrence; social constructivists, who argue that gender does not exist independently of historical factors, cultural practices, norms, rules and values; and intersection theorists who present a compelling argument for recognising the complexity of theorizing gender identity from a generalized position which does not show its fluidity, multidimensionality or multiplicity. In departing from essentialism, it argues that the meaning and construction of gender identity should be based on a broad conception that can reflect and capture the multiplicity, fluidity and malleability of gender. Theorists who have been discussed in this chapter include Murdock (1949), Tiger and Fox (1974) and Parsons (1954) from the innatists school of thought, and Mead (1935), Butler (1988), De Beauvoir (1989) and Collins (2000), who represent the social constructionist school of thought.

Chapter 5 contextualises the discourse of gender by focusing on South Africa. It begins by arguing that although South African women experienced oppression in general, the experiences were varied and dependent on race and social class (Hassim, 1991; Meinjties, 1996; Molteno, 1984; Hassim & Walker, 1993; Martineau, 1998). It acknowledges that black women carried most of the burden of oppression through triple marginalisation (gender, race and social class). The chapter therefore interrogates pertinent ideologies (race) and patriarchy and how they have intersected in contributing to the creation and sustenance of gender inequalities. Other discussions in this chapter are centred on gender inequalities in education in general and higher education in particular (pre- and post-apartheid). It gives a clear picture of how black women continue to experience marginalisation in higher education, despite a myriad of policies supposedly guaranteeing non-sexism and equity.

Chapter 6 has acknowledged that gender inequality is an international phenomenon and as a result gender laws and regulations have been put in place to address it. It has been argued in this chapter that although gender marginalisation arises from different factors,

the tone in international, regional and local interventions largely universalises and homogenises women. The discussions in this chapter confirm that the equality principle has overridden the equity principle in gender interventions. The focus is on international laws, charters, declarations, platforms, conferences and convention, followed by regional gender laws and platforms, then local gender laws and regulatory frameworks. These include instruments such as CEDAW (1981); the Beijing Platform of Action (1995); the African Union Protocol (2003); and the Gender Equality Task Team Report (1997).

Chapter 7 begins by theorising the discourse of policy as process and product. It is argued that policy is complex, multidimensional and ever-changing (Ball, 1994; Hodges & Spours, 2006; Birkland, 2011; Corkery et al., 1995; Taylor et al., 1997). Ultimately, the chapter states that complexities in the policy processes are likely to impede the implementation process. It also elaborates on the meanings, values, goals and contexts of policies, providing a discussion on policy as text and discourse, knowledge and internationalisation and globalisation in policies and the challenges that occur while implementing social policies.

Chapters 8 and 9 provide a critique of post-apartheid higher education policies in which gender equity is positioned. The purpose is to show that apartheid era policies limited access to higher education for blacks (women included) in general and in courses such as SET. It is argued that although post-apartheid policies have brought about meaningful change in higher education, gender inequities are still being experienced by the previously disadvantaged women. The chapters also show that the post-apartheid policies (White Paper, 1997; Higher Education Act, 1997; National Plan, 2001) heralded transformation in higher education by unlocking spaces that were formally exclusive to a section of the population. Although they have changed the higher education landscape substantially, gender equity has not been achieved fully. The chapter discusses South African higher education policies during the apartheid era and after 1994, preparing the ground for post-apartheid higher education policies, notably transformation.

Finally, chapter 9 provides a conclusion of the study by providing a prognosis of the key arguments in the thesis and suggesting possible strategies that can be used to move the discourse of gender equity to the next level.

CHAPTER TWO

THEORIZING AND ENTRENCHING THE PRINCIPLES OF SOCIAL JUSTICE IN REDRESS MECHANISMS

2.1. INTRODUCTION

This study is located within the theory of social justice spearheaded by John Rawls, and Amartya Sen's capabilities approach to human development. Social justice theory is linked to the transformation agenda in South Africa in general and higher education in particular, whereas a capabilities approach to human development contextualizes the important role education plays in the lives of individuals and the society as a whole. Rawls (1971) theory of social justice is located within the macro- and micro-factors that heighten injustices in society, contextualized in South Africa's troubled past and the current dispensation. For instance, during the apartheid era rights were unevenly and selectively distributed and enjoyed by a minority. Higher education followed the apartheid ideology and segregated people along racial, social class and gender lines but, with the ushering in of the new dispensation, the transformation trajectory of 1994 has had the goal of redressing the injustice by opening up spaces that were previously exclusively to a particular race group, social class or gender type. Rawls' theory of justice as fairness gives a vantage point for assessing and fathoming the extent to which gender equity has been achieved in higher education.

This chapter begins by grounding the core social justice through a focused discussion on the core claims of the theory and their applicability to the South African reform agenda. It interrogates the principles of equality and equity to locate the two principles within higher education reform and gender equity policy. Different social justice methodologies are examined aimed at demonstrating that a substantive approach to justice is more desirable. It transcends the formal and legal provisions and penetrates the particular and specific spaces of beneficiaries of the redress mechanisms. By doing so, the contexts of social justice are addressed as opposed to universalizing people's situations and experiences.

A substantive approach to justice supports the key argument in this chapter, premised on a view that the misrecognition of the particular and specific circumstances of social justice denies a section of the populace an opportunity to fully enjoy the gains of

transformation. This strand of thinking has been supported by theorists such as Mackinnon (1993), Nussbaum (1998), Sen (1992) and Taylor (1994). This chapter demonstrates the existence of a symbiotic relationship between justice, equality, equity and substantive equality.

2.2. GROUNDING THE DISCOURSE OF SOCIAL JUSTICE

Rawls (2009,p.4) bases his conception of justice on a well-ordered society that constitutes the fundamentals of human association, thus, if human beings have a shared understanding of justice, friendships will be fostered and any contrary views that are aimed at advancing self-interest muted. A society is said to be well-ordered not only if it advances the goodness of its citizenry but also if it is regulated effectively by a public conception of justice. In brief, Rawls' (1971) theory is critical of welfarism and utilitarianism because the two paradigms are keen on equalizing people who have origins in different circumstances, races, experiences, gender and social class. Rawls counters the views of the proponents of welfarism and utilitarianism by arguing that justice should focus on providing primary goods (liberties) to all persons and, secondly, instead of seeking to maximize these goods across persons it should seek to maximize the smallest bundles of them (Rawls, 1971).

Miller (1999, p.6) also proposes three premises as prerequisites to social justice, namely, the existence of bounded human societies (*to gauge fairness or unfairness*); a system of social institutions that determines people's share of advantages and disadvantages *(political, economic and social systems that distribute rights and duties)*; and the existence of an agency to regulate the basic structure (*state*). Pursuant to Rawls' and Miller's conceptualizations of social justice, this study was concerned with how a public good such as higher education is distributed, who benefits most and who carries the burdens. Social justice as fairness, according to Rawls (1971, p.3), does not advocate the loss of freedom for some in order to bring about the greater good that is shared by many (utilitarianism). Rawls equates such sacrifices that are imposed on a few in order to advantage a majority with forms of injustice that should not be tolerated in any society which purports to be fair and just. He recognises rights and liberties as inviolable and non-negotiable, but contends that in some instances acquiescence on violations can be acceptable if the latter will avert greater injustices.

Miller's views on what is just and unjust are similar to those of Rawls on who bears the most burdens on behalf of the rest and who enjoys the most advantages:

> *We attack some policy or some state of affairs as socially unjust, we are claiming that a person, or more usually a category of persons, enjoys fewer advantages than that person or group of persons ought to enjoy (or bears more of the burdens than they ought to bear), given how other members of the society in question are faring.* (Miller, 2003, p.1)

For Rawls, meanwhile, the conception of justice should be based on principles that are generally accepted by all members of the society, as a social contract. In addition, social institutions have generally to satisfy these principles. Rawls (1971) and Miller (2003) observe that the test of how just a society is can be deduced from the social institutions, through which no arbitrary distinction can be made between individuals in determining the distribution of basic rights or duties, and a balance is struck between competing goals of social advantage (Miller, 2003, p.5). Rawls' views on social justice are clearly articulated in two principles of social justice, firstly, that each person is to have an equal right to the most extensive basic liberty compatible with similar liberty for all; and secondly, that social and economic inequalities are to be arranged so that they are both to the greatest benefit of the least advantaged members of the society, and attached to positions and offices open to all under conditions of fair equality of opportunity.

Besides determining individual rights and duties, social institutions influence people's prospects and life chances, that is, "what they can expect to be and how well they hope to do" (p.6). Rawls warns that social justice should not be assessed by its distributive role alone and that basic social institutions are fundamental in the conceptualisation of social justice. This is because people are born into different social positions which determine their life expectations, partly determined by the political systems, social and economic circumstances. For example, a child who is born of middle class parents will not have an environment, upbringing or exposure to opportunities and networks early in life similar to those of one born to working class parents. Therefore, the inequalities with which social institutions are imbued dictate people's life chances and social positioning, what Bourdieu (1984) terms 'social and cultural capital'. Based on this understanding, it can be concluded that the principles of social justice ought to be applied in such a way that the identified social and economic deprivations are addressed.

Rawls' view on social institutions is that they have to be assessed on their own merit so as to establish the desired outcomes which will be used to determine what type of remedy is required. In defining social justice, Rawls (1971, 1991 and 2009) argues that considerations have to be made with regards to the end result of the well-ordered societies that Rawls envisage, built on principles that work towards challenging injustices and fostering valuing of human diversity. Ideally, in conditions of social justice, all human beings are assumed to be equal and their rights have to be protected, upheld and enjoyed without constraint. No individual is supposed to be discriminated against in opportunities or choices in life.

Rawls (1971) argues for equitable sharing of resources amongst the polity, premised on fairness. Hypothetically, those who enter into social cooperation do so "rationally"[5] and under a "veil of ignorance". They enter agreements about the principles that should be used to assign duties and liberties and determine the sharing of social benefits (p.10). The less fortunate are taken care of by using constitutional essentials and principles of justice are said to be fair because they are agreed upon and adopted in a state of initial equality. The veil of ignorance, for the mutually disinterested, eliminates any advantages that might accrue if it were to be removed.

Although the presuppositions being made by Rawls are authentic, and carry weight in so far as conceptualising social justice is concerned, it is problematic to talk of assertions such as 'veil of ignorance', rationality and initial state of equality. Young (1990) and other theorists acknowledge diversity in humans, whilst, ontologically, people are not necessarily born in an initial state of equality because social arrangements are based on race, class, economic status, sexuality and gender (Young, 1990; Fraser, 1995; Nussbaum, 1999; Omora, 2000).

Rawls' (1971) theory of social justice provides an avenue through which institutions that purport to be just and to be engaging in the realisation of social justice can engage and be evaluated. Traces of Rawls' two principles can be found in the Bill of Rights (1996) and the South African Constitution, with policy frameworks and regulations that have been enacted and adapted to carry bold messages of social justice, equality, equity and

[5] I use the word 'rationally' reservedly because discourses on policy in chapter 7 have warned against looking at public processes that give rise to policies as being, seamless, linear and unproblematic. The processes are dynamic, political and unrelenting.

redress. The democratic principles and values of non-sexism, non-racism, equality and human rights dominate the higher education policies, mirroring Rawls' first principle of equality.

According to Rawls (1971, 1985, 2001, 2003 and 2009), the two principles of social justice can be conceptualised in the following manner. Equality means sameness, likeness, homogeneity or non-difference (globalised treatment), whilst equity denotes difference, variance, heterogeneity and distinctiveness, bearing in mind varied points of disjuncture amongst people (Mackinnon, 1993; Sen, 1992; Taylor, 1994; Rawls, 1971). Practically, the former is important because it guarantees the enjoyment of equal human rights and inviolable liberties, and ensures non-discrimination to the citizenry. The latter provides for special arrangements through which social economic or any other disadvantages can be addressed. Post-apartheid higher education policies have contemplated and embraced both principles in redressing historical burdens (White Paper, 1997; National Plan, 2001), but gender transformation in South African higher education can benefit from Rawls' second, as it elevates the ideal of recognition of the specific contexts of social justice through separate measures.

Recognising and empathising with the difficulties and inequalities that women had suffered over the years, President Mandela in his inaugural speech in 1994 concluded that South Africans could not claim to be free unless oppression and poor conditions were replaced by empowerment and equal treatment in all spheres of life:

> *It is vitally important that all structures of government… should fully understand … freedom cannot be achieved unless women have been emancipated from all forms of oppression… unless we see in visible and practical terms that the condition of women in our country has radically changed for the better, and that they have been empowered in all spheres of life as equals…*

The country's discriminative past provides fertile ground for engaging with Rawls' (1971) social justice theory, foregrounding the view that gender inequality is a matter of social injustice because it goes against the principles of fairness, justice and equality. Thus, South African women in general and black women in particular experienced decades of marginalisation compounded by racist systems and structures, gendering, patriarchy and social economic class Their human rights were denied and their participation in

productive activities in the public sphere restricted, with educational access limited (Hassim, 1991; Hassim & Walker, 1993).

Institutionalised racism obstructed women's enjoyment of their human rights and dignity, and access to goods, opportunities, resources, services and life chances, whilst patriarchy undergirding the social cultural practices of many communities. Denigration of women was experienced through the inferior and minor positions allocated to them, which meant that they could not participate on the same plane as their male counterparts in the public sphere, or engage in productive labour and decision-making. They experienced inequalities in most aspects of their lives (Camaroff, 1985; Hassim, 1991; OSW, 2000; Commission on Gender Equality, 2000).

Following 1994, transformation has been anchored in human rights and democratic values and principles, such as non-discrimination, non-racism, non-sexism and equality, drawn from the Bill of Rights and the Constitution (1996). On the distinctions between fairness and unfairness, or just and unjust, Rawls and Miller concur that they depend on whether people experience some form of hindrance (injustice) to enjoying what is rightfully theirs. The degree varies according to needs, class, gender, sexuality and political class. For example, children in a rural school will be more interested in having a roof over their classrooms to shield them from harsh weather conditions than those at a well-resourced suburban school who might be interested in having the latest electronic devices to facilitate their learning. Although learners in the two different contexts might feel some form of injustice if their needs go unmet, their grievances are different and reflect their contexts, social class and histories.

In summary, the discussions on social justice are timely, especially in conceptualizing a gender equity policy that should transcend the formal and legal penchant of justice. Reflecting on the various forms of oppression to which black South Africa women were exposed under apartheid, Mackinnon (1993) and other interlocutors argue for a gender equity policy that is founded on dialectical strategies that transcend macro-theorisation (micro-conceptualization) because it is not uniform. I therefore argue that instead of embarking on a trajectory that is monolithic and exclusively based on achieving equality for all, a substantive approach to social justice provides a highway that has many possibilities.

2.3. RAWLS' EQUALITY PRINCIPLE AND SOUTH AFRICAN LEGAL APPARATUSES

Primarily, the recognition of the bureaucracies of formal equality (legal) is the beginning point of social justice. Equality has been associated with a generalised sense of likeness, sameness and universality. In so far as justice is concerned, equality is the point of departure because no human state is seen as being above another. All human beings are equal, regardless of race, gender, religion, ethnicity, sexual orientation or geographical positioning. Rawls (2003, p.18) posits that equality means a fair distribution of capacities needed "to be normal and fully cooperating members of society over a complete life". As noted in earlier discussions, the purpose of formal equality is mainly to offer similar treatment to individuals in similar situations, treating like individuals the same. In Miller's theory (1999), equality dictates that the burdens and benefits in a social arrangement be shared equally. Although this principle is crucial in thinking and theorising for social justice it becomes problematic and narrow if interventions are not sufficiently broad to include diversity within humanity, as shall be demonstrated in ensuing debates in this chapter. The importance of invoking the equality principle in the case of South Africa was to annul the repercussions of the segregated past that reflected a society that was not well ordered and unequal in many ways. Therefore, invoking the equality principle at the dawn of democracy in 1994 was an affirmation that all human beings are bounded legally as equals. This kind of equality is contemplated and enshrined in the Bill of rights and the Constitution of the Republic of South Africa (1996). It addresses historical injustices by abhorring discrimination of any kind that might be exacerbated through race, gender, sex, religion, ethnicity and age differentiation. Rawls' first principle is more inclined to this form of equality. It entrenches people's indispensable and inalienable rights and freedoms (equal liberties).

Due to the equality principle, Rawls (2009) theorises that institutions that are just and well-balanced do not have arbitrary distinctions between individuals when it comes to sharing of basic rights and duties. The rules that govern such institutions also foster a proper balance between competing claims to the advantages of social life. Nussbaum (1999) concurs that all human beings are entitled to equal dignity and integrity, regardless of their individual creeds or conditions (poor, rich, male and female, rural,

urban). Thus, human dignity is determined by the shared humanness principle and not the fortunes of individuals or groups (Nussbaum, 1999).

Accordingly, Nussbaum (1997) argues that the cultivation of humanity is good for higher education on three grounds. Firstly, it enables an individual to develop a capacity to critically examination oneself and his/her traditions (an examined life according to Socrates); secondly, it enables one to see oneself as not belonging to his/her local context but as a member of the larger global community; and thirdly, it enables to cultivation of a critical "narrative imagination, which according to Nussbaum (1997) involves possessing the ability to put oneself in another person's shoes (who is different from oneself) and to intelligently read and understand his or her stories while appreciating his or her desires and emotions. It requires one to be non-judgemental towards people who may be different from one (race, gender, sex or social class). Rawls (2003, p.43) specifies that "Fair equality of opportunity" requires "not merely that public offices and social positions should open in the formal and literal sense, but that all and should have a fair chance to attain them."

The implication of what Rawls is espousing in the above excerpt adds weight to his second principle (see section 4 of this chapter); drawing attention to the claim that fairness through the provision of equality of opportunities is not an end in itself. The practicability of equality of opportunities should be realized by transcending the formal and literal penchants, otherwise formal equality for all that may not guarantee fair chances and opportunities to all and sundry should be revised. In order for this to be effective, the boundaries of equality have to be expanded, since affording people equal opportunities does not necessarily result in a more just and equal society (Scherlen & Robinson, 2008). I conclude that, in as much as adapting impartiality in social justice mechanisms is desirable, it gives little consideration to "otherness" that differentiates human beings from each other.

Nonetheless, formal equality is contemplated and given a place in the Constitution and Bill of rights (1996). Constitutionally, formal equality is envisioned as the point of departure in ensuring the enjoyment of all rights and freedoms by members of a polity in the absence of direct or indirect discrimination (Commission on Gender Equality, 2000; OSW, 2000; Department of Justice and Constitutional Development, 2004). From the

observations of the Commission on Gender Equality (2000) and OSW (2000), it is not possible to have cases of no direct or indirect discrimination at any given time. In addition, I argue that certain forms of discrimination are insidious and hidden in private spaces which may not be open to the scrutiny of the naked eye. Such cases require close attention as to how they are perpetuated, experienced and sustained.

I also note that inequalities are compounded by social arrangements in which people are situated. They are structured in a manner that could favour some people over others, overtly or covertly, depending on one's race, age, disability, marital status, class, gender, sex, political ideology and ethnicity. The Constitution recognizes this and instructs legal proceedings to be instituted against anyone found guilty of discrimination of any sort. Regardless of the legal provision, critiques may argue that incidences of discrimination might go unpunished because of their pervasive nature. Effectively, the Constitution judiciously acknowledges equality of all citizens regardless of their origin or creed, with Chapter 2 section 9(1-3) (1996) upholding the equality principle and condemning any form of discriminatory act that should be punishable by law. The Constitution accentuates the values of human dignity, equality, freedom and social justice in a united, non-racial and non-sexist society in which all may flourish (Ibid):

9. Equality

1) *Everyone is equal before the law and has the right to equal protection and benefit of the law.*
2) *Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken.*
3) *The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.*

On a similar note, South Africa and other member States of the United Nations' conglomeration of countries have embraced the equality principle in their constitutions in order to uphold human rights and to safeguard human dignity broadly. Despite this, Rawls (1971) argues that initial equality is important in conceptualizing justice as fairness, and that equality on its own cannot create equal societies. He thus juxtaposes the equality principle with the difference principle (equity), contending that the two principles of social justice (equality of liberties and the difference principle) are symbiotic,

the second of which can only be achieved if the conditions of the first have been met. It is important here to restate that gender laws and policies have connotations of equity and equality, in line with the Commission on Gender Equality (CGE, 2000) statement that gender equality is not about treating men and women equally but about recognizing the inequalities between men and women and addressing them.

2.4. Rawls' equity principle within the South African policy context

Whereas equality envisages sameness as a starting point to justice, equity looks at the variances between human beings and how they affect the way they access public goods and basic liberties. This kind of conceptualization is based on Rawls's second principle of differentiation. Essentially, the equity principle is construed as a redress mechanism that attenuates past injustices by providing relevant redress to social and economic imbalances. Thus, social justice does not stop with recognizing equality of all; it includes equity parameters that go down the road less travelled by formal equality. It looks at the particular contexts in which the reform agenda is being undertaken and the injustices that were committed (Miller, 2003).

On the other hand, it should be noted that although most of the policies in post-apartheid higher education and gender regulations are undergirded by social justice and redress undertones that prominently carry the equality label. For instance, gender equity has been convoluted by titles such as 'gender equality policy', 'Commission on Gender Equality', and 'Gender Equality Task Team'. The post-apartheid higher education policies appeal for a proactive recognition of racial and gender "discrimination" as an equity standard (Fiske & Ladd, 2004). I have argued in chapters 5 and 8 that instead of inserting equity clauses within policies that are aimed at equalizing people and opportunities, policy innovators should come up with more policies that carry the equity tag.

Although Rawls (1971) has demonstrated the importance of formal equality he has also shown that it seldom achieves social justice because it treats unequal individuals in an equal manner. His second principle goes beyond ascribed rights and liberties, with the principle used to address unfairness and prejudices that occur in social arrangements or societies that cannot be rectified through equal sharing or distributing of opportunities fairly by institutions that are attached to them (equal opportunities). For Rawls (1971),

the difference principle ought to go beyond the allocation of equal liberties, whilst the equity principle ensures that the least advantaged in society benefit from institutional arrangements that are meant to protect them and better their lives. Rawls (1971) calls for compensation for the economically and socially disadvantaged masses, to be undertaken within the confines of legally constituted institutions.

Additionally, Sen's (1980) critique of egalitarianism puts the complexity of basing social justice on the equality principle into perspective. In asking *"equality of what"* Sen demonstrates the complexities of basing reform for justice on equality in unequal societies. In response, I contend that what is being equalized, by and to who should be clearly defined and stated for the purpose of evaluating the outcomes. Sen (1980) maintains that social justice goes beyond equal redistribution of goods and burdens, whilst Rawls (1971) observes that, as a result of the unequal constitution of societies, the idea of giving unequal individuals equal opportunities is unsettling because it may not sufficiently address the existing inequalities or bring about social change (see chapter 3).

Satz (2007) and Bell (2007) postulate the complexities and implausibility of the interpretation of what the principle of 'equal opportunity' may mean in education reform, enjoining other theorists whose hypotheses are based on justice that do not generalize people's realities and experiences. Such theorists seek to understand how the peculiarities and dissimilarities that exist within humanity affect and inform individuals' decisions on and experiences of equal opportunities. Intermittently, Mackinnon (1993), Bell (2007) and Nussbaum (1999) believe that social justice can only be realized if the particular and specific conditions and contexts of individuals targeted to benefit from it are acknowledged, notably black, underprivileged, poor, rural, and struggling with language of instruction.

Bell (2007) and Nussbaum (1999) observe that if the historical and contextual factors of social justice are not taken into consideration, equality for all may not necessarily give rise to equal and similar results for all. The discourse on policy therefore envisages challenges that might originate from possible interpretations, reinterpretations and misinterpretation of a policy precipitated by a variance in expectations and intentions of stakeholders, implementers and consumers (Taylor et al., 1997). Similarly, Miller (2003) theorizes social justice as being plural and contextual, with people's views of justice

actually being pluralistic in that they are determined by the context of a situation (Miller, 2003,p.62-63). Thus, the situation dictates which principles of justice will be applicable for the greater good of that particular community or group of people.

In support of the notion of theorizing for varied lived experiences, the CGE (2000) notes that "As a social group, women do not have the same experiences - for example, due to their geographical location (urban/rural) and opportunities in education (literate/illiterate). Women with disabilities tend to be marginalised and excluded in mainstreaming initiatives (CGE, 2000). Linking Rawls' (1971) second principle to the South African higher education context means that the least disadvantaged people would benefit from the expansive landscape that was being envisioned; hence the redress mechanisms that were meant to expand higher education to all South Africans iterate the importance of addressing the racial and gender imbalances. The socio-economic challenges of the incoming students were also highlighted (NEPI, 1993: NCHE, 1996), at which time it was apparent that the reform agenda should adapt a holistic approach if it was to be successful and all-encompassing. White Paper (1997:7) categorized victims of marginalization as those who had suffered from oppression that emanated from race, gender, disability or any other forms as noted in paragraph 1.18: "Applying the principle of equity implies, on the one hand, a critical identification of existing inequalities which are the product of policies, structures and practices based on racial, gender, disability and other forms of discrimination or disadvantage".

Rawls' (1971) views regarding the deep-rooted inequalities that are propelled through political systems, economic and social circumstances are also applicable to the South African gender discourse. Understanding inequality involves coming to terms with constructs such as discrimination, hindrances to full human potential, and inaccessibility to basic liberties, rights and opportunities. CGE (2000) illustrated how the state of inequality against South African women had been constructed with skewed power relations. Gender had been used to determine and allocate powerful positions in society to men as opposed to their female counterparts, guaranteeing access to resources, personal development and higher chances of survival:

> *In our society at present, women are subordinate to men. Men have more institutional and social power, more access to all sorts of resources - including those needed for basic physical survival - and more opportunities to develop themselves. From the family to the*

> *highest public level, men are in positions of power over women. Why? Because we expect certain qualities and behaviours from each other, which are determined by our sex. (CGE, 2000, p.48)*

Despite gender inequality having been generally linked to South African women it is apparent that the level of marginalization was experienced differently. Overall, black South African women have been subjugated more in relation to the white, as reported in the African Development Bank's Report on South African Gender Machinery, Gender Mainstreaming and the Fight against Gender Based Violence (2009):

> *The majority led government of National Unity had in 1994 inherited a country in which gender disparities were deep, and women particularly in the black population faced many disadvantages and discriminations through apartheid, entrenched patriarchy and lack of basic social services. Even though the government has consistently supported gender equality, efforts to achieve women's empowerment have yet to make a noticeable impact in the lives of the majority of women, particularly black rural women. (Africa Development Bank, 2009, p. iii)*

Importantly, the tension within the racial groups and the experience of injustices has greatly informed the crafting of the South African gender equality policy laws. According to OSW (2000, p.3), the underlying assumption behind the gender equality policy was informed by acknowledgment that the majority of South Africans were living in abject poverty or fear becoming poor. The majority of women (black), faced with the threat of poverty, were living in peri-urban and rural settings, therefore the tone and priority in the policy was based on fulfilling the "basic needs" first, then the "strategic needs" (empowerment). The basic needs model is holistic and envisages an intersectional engagement that will be used to address the multiple needs of the targeted women:

> *By definition, a "basic needs" approach is holistic in nature. To comply with the principles embraced in this approach, the strategy for programme implementation has to be intersectoral. To deliver programmes, those involved will have to mobilise across a number of sectors to address the multiple needs assumed within this model. (OSW, 2000, p.3)*

Adapted by OSW, it can be linked to a substantive equality paradigm that supersedes formal equality. The determination for social justice in substantive equality is premised on the idea that rather than focusing on a provision of equality of opportunities the contextual and historical differences between individuals have to be addressed separately and extensively Mackinnon (1993).

The problematic nature of misrepresenting and convoluting equality and equity is demonstrated by the failings of the Gender Equality Task Team (GETT). Wolpe (in

Chisholm & September, 2005) argued that the post-apartheid gender equality machinery (GETT) that was initiated by the Department of Education (DoE) fell short of the vision of a basic needs approach. The conceptualization of gender equality in GETT was flawed, implausible and narrow as it misrecognized the statuses and needs of women who were given leadership positions (GETT-1997). This could be deduced from the narrowing of the lens or assessing the attainment of gender equality to the distribution of women in all educational departments nationwide. The distribution did not dovetail with possession of relevant skills, training or resources, through retraining, which were crucial for leadership and decision-making.

Other problematic areas preventing the achievement of the goals of GETT were linked to areas of contention and deviation between what was envisaged by GETT (1997) and the reality of implementation machinery at ground level. Initially, GETT's Report affirmed that a conceptualization of gender equity was to go beyond an affirmative action mechanism that favoured women in areas such as public service employment, procurements and access to education (Wolpe, in Chisholm & September, 2005). On the contrary, the failure may have been exacerbated by systemic and structural challenges that reflect patriarchy as the domineering narrative to gender differentiation and role allocation. Patriarchal systems buttress and subdue women in private spaces (OSW, 2000). In the same vein, Machika, (cited in *Mail and Guardian*, 12th August 2014) and CGE (cited in the *Mail and Guardian*, January, 23/29, 2015) continue to decry the persistence of gender inequalities in leadership echelons. Machika and CGE concede to the prevalence of 'revolving doors' and 'glass ceilings' that cast doubt on women's leadership skills and presuppose susceptibility to failure when put in charge of institutions. Besides the failures, I also note that although non-performance is a non-negotiable, blaming the ill-prepared women without dealing with their contextual issues was unfair and rushed. Apart from change coming from within the normative social institutions to which rules and regulations are applied and instituted, change has also to come from outside regulated institutions.

According to Wolpe et al. (1997), the realization of gender equity ought to be gauged upon the parameters of meeting the needs of women, men, girls and boys, in order for them to compete in the formal and informal labour markets, and whether they able to participate fully in civil society or fulfil their familial roles adequately without being

discriminated against because of their gender. Institutions of higher learning are tasked with the responsibility of developing human capabilities that translate into real life chances, and so are responsible for overseeing the implementation of equity policies.

I conclude that equity as a feature of social justice should move on a continuum which avails real and not mechanistic opportunities through special arrangements that will catalyse and afford the less privileged members of society real and tangible life changes. Rawls' (1971) principles of justice (equal liberties) and the difference principle (equity) provide a useful background to the transformation agenda in post-apartheid higher education. The principles can therefore be used to assess the level of consistency between government policies and the social justice interventions that are part of post-1994 higher education. The theory interrogates gender equity at a macro level, that is, the constitutional guarantees and the safety needs that have been laid to ensure non-discrimination and equality for all, and at a micro level, on which it interrogates the extent to which individual's personal conditions are addressed through special arrangements that compensate for social, economic and any other forms of marginalization that might have been suffered by the groups in question.

2.5. Social justice Methodologies: Explanation and Critique

Amongst the methodologies that have been criticized for not being viable conduits for conceptualization and transmission of social justice are those aimed at equal distribution of resources and opportunities (egalitarianism) and utilitarianism (aiming to maximize on the greater good of a society). Recognizing the equability of humans is important but it is not an end in itself. Viable as the distribution of resources and opportunities equally can be, seldom does it achieve much on its own. Instead of insulating the marginalized it may undermine them further and create a state of greater inequality and injustice. On the contrary, using the differentiated states of humanity as a lens to achieve social justice crucially informs how the sharing advantages and burdens can be undertaken (Miller, 1999; Rawls, 2009). This is reason enough for the theorization presented by Mackinnon (1993) and others who recommend recognition of the individual and particular circumstances of social justice (politics of recognition) as an alternative to egalitarianism and utilitarianism.

Some of the methodologies and currencies that have been identified for redress and social justice interventions include distributive justice, procedural justice, utilitarian and egalitarianism models. Egalitarian justice theorizes justice on fairness that arises from redistribution of resources and opportunities equally and fairly. Barry (2005) supports egalitarianism's equal allocation of opportunities and rights, and argues against any other approach to justice in noting that unless there are convincing reasons not to, social justice interventions should be purely conceptualized on equality of opportunities. Rousseau's and Kant's equal dignity egalitarianism approach, with a basis on liberty, equality and brotherhood, contributes to the viability of egalitarianism as a currency of social justice. However, the approach has been contested as being flawed because by treating everyone equally the unequal that exists in society is not taken into consideration.

Barry's (2005) contradiction regarding egalitarianism for social justice becomes apparent when he recognizes the importance of people's choices and the need for accountability. His acknowledgement of people's choices and accountability is plausible and in tension with the foundations of egalitarianism because choices are informed by, amongst other factors, the socio-economic positioning of individuals and domination. In the case of South Africa, a majority of black women are subdued economically and have little power to circumvent their situations. As such, they many not necessarily have many choices and chances in life. Their lived experiences and circumstances render them voiceless and without choices (Nussbaum, 1998). The scenario is likely to be replicated in higher education when women from marginalized communities do not engage and contribute to their optimum because of exposure or lack thereof that would have prepared them for the positions they are currently occupying.

Procedural justice, on the other hand, relies on agreed upon just and legal procedures for fairness. As Stowell (2004) argues, just procedures do not always guarantee just outcomes, as concepts such as justice; equal opportunity and fairness are problematic. They are often not treated subtly in order to expose their complexities therein. Areas such as unchallenged institutional cultures, structures, processes, formal and informal curricula are left out of justice and equity policies, but still harbour insidious power relations which ameliorate, reproduce and sustain inequalities. In essence, the crucial

role society plays in constructing and exposing identities is put at risk within procedural liberalism that is based on neutral application of rights (Taylor, 1994). In so far as education is concerned, Unterhalter (2007) has argued that the quest for social justice fails when gender is conceived along a unilateral array that is blind to factors such as unequal power relations, sexism, race and other positions that combine to inform the fluidity of gender identity

In contrast, utilitarianism seeks justice on the basis of the greater good and the ability of institutions to maximize the net balance of satisfaction for its members (Miller, 1999; Wolff, 1998). According to Rawls (2009, p.3), "justice denies that the loss of freedom for some is made right by a greater good that is shared by others". It is unjust and inhumane to deny an individual or a people their rights or freedoms in order to satisfy a majority. In the same vein, it would be unjust for redress policies in higher education to be judged purely on the basis of numerical value instead of being concerned about how people have benefitted or performed at an individual and personal level. Utilitarianism focuses attention on endeavours that are aimed at achieving the greater good of a society (Miller, 2003). In his critique of utilitarianism, Rawls (2009) maintains that utilitarianism does not take into consideration the distinctiveness of individuals whose common good is being pursued. Young (2000) argues that issues of justice cannot be based on the achievement of common good because injustices differ from one structurally different group to another. Therefore, it is difficult to administer justice on the grounds of achieving the common good for all, because what is good for one person may not necessarily satisfy the next. This line of argument is supported by Mackinnon (1993), who argues for recognition of diversity within humanity.

Distributive justice attempts to create a balance between primary goods for all and maximizing the goods, especially for those who have suffered economic and political deprivation (Rawls, 1971). According to Young (1990, 1992), in as much as distributive justice is a viable vehicle for achieving social justice, the redistributive paradigm is flawed because it is primarily concerned with the allocation of material things. Young (1992) believes that focusing on material distribution lessens and shifts concentration and attention from social structures, power struggles and institutions within which distribution and lack thereof takes place. As an alternative to redistribution, Young (1992)

proposes a holistic approach to justice, transcending redistribution of material things and targeting nuanced institutional structures and hierarchical power structures in which marginalization is lived and experienced daily, a view shared by Nussbaum (1998). Concomitantly, Young advises that it is imperative for social justice to encapsulate the specific and particular circumstances of individuals rather than sameness and universalized conditions.

2.6. TOWARDS SUBSTANTIVE EQUALITY; RECOGNITION OF CONTEXTS

In the context of social justice, Fraser (2008) postulates that, any endeavour that is being used to seek justice has to be intricately connected to the injustices being addressed. Two forms of injustices are, firstly, socio-economic, rooted in the political and social structures and having as remedy redistribution. Marginalization, exploitation and deprivation are ways through which this form of injustice is felt and experienced. The second form of injustice is cultural and symbolic, rooted in social patterns of representation, communication and interpretation. It is manifested through subjection to alien cultures, being invisible in one's culture and subjected to demeaning cultural stereotyping and misrepresentation. It requires recognition so as to redress disrespect, stereotyping and cultural imperialism (Fraser, 2008, p.93).

Marginalization of women in South Africa can be located in these two forms of injustice, and serve as reasons for deciding on who accesses family benefits and who carries the burdens (Rawls, 1971; Mills, 1999). For instance, in many African communities a male child is considered the centre of the family because it is assumed he will continue the family lineage through marriage, reproduction and ownership of family property. A female child, on the other hand, is less valued, will get married and leave her father's homestead. These binaries are deep-rooted in many societies and have been used to marginalize women under a dominant discourse of superiority of maleness (Oakley, 1986; Butler, 1988).

Young (1990, 1991 and 1992) contends that people's contexts of marginalization ought to be named and assigned appropriate meaning (looping effect) so as to avoid a situation whereby "the past is being lived now."[6] As with Fraser, Young (Ibid.) notes that

[6] Repetition of incident of marginalized states in a purportedly changed policy environment

exploitation, marginalization, cultural imperialism, powerlessness and violence represent the five faces of oppression of women. These can be linked to the suffering women have undergone at the hands of patriarchy, colonialism and sexism. For Satz (2007), the sources of differentiation begin in the race of life, namely parentage, income, gender, religion, geographical positioning, and race.

While reminiscing on the varied experiences of marginalization of women, Hassim (1991) argues that if and only if women's differences and varied experiences are recognized first then justice can be sought. The symbolic recognition of the 'different' and 'particular' has been supported as a possible mechanism to foreseeing justice and fairness (Fraser, 1995; Mackinnon, 1993; Taylor, 1994). Similarly, Omora (2000) calls for the inclusion of the particular and specific contexts of justice into policies, arguing that they are not averse to contexts nor are they as 'blind' as believed (see chapter 7 for discussions on policy). Policies, by their nature, bolster practices that support the privileged and dominant cultures. Nussbaum (1999) also implores policymakers and discussants to be more vigilant so as not to universalize the cultures and daily experiences of women in developing countries by using universalized concepts of justice, human rights or human development that are synonymous with western ideologies and colonialism.

In tandem with criticisms offered by commentators who support a substantive approach to justice, that is, social justice that encapsulates individual contexts and histories, this study argues that no single factor can form the basis for deciding the appropriate mechanisms that can be used to equalize people and solve societal problems. The contexts, personal biographies and historical dynamics provide a compelling narrative in conceptualization for social justice (Mills, 2003). It is therefore apparent that seeking justice for formerly and currently marginalized women in South Africa requires a substantive approach to equality and justice. This approach would surpass egalitarianism through acknowledgement and recognition of the differences that separate womanhood, wifehood and sisterhood from one another (Mackinnon, 1993). According to Young (1990), oppression and domination have to be part of the discussions that precede justice. In the case of gender inequality and inequities in South African higher education, redistribution alone cannot bridge the gap, but rather an understanding of the social positioning of groups in relation to each other, how and who enjoys the non-material

goods (respect, power and opportunity) and finally the role that social relations play in the sustainability of the enjoyment of the non-material things are key to correcting the imbalances of the past.

Sen (1992) and Nussbaum (1994) argue that, in the absence of real life opportunities, freedom is meaningless, and they envisage a type of equality that guarantees opportunities, choices, and develops human abilities. Women accessing higher education in South African can be gauged against the kinds of opportunities in debates that inform community development to which they are exposed, the choices they make, and the freedoms they are bound to enjoy. Taylor (1994), Sen, (1993) and Nussbaum (1998, 2000) posit that, rather than the politics of universalism focusing on the uniformity of the shared humanness and equality, they should concentrate on recognition of the uniqueness and fluidity of individual identities that distinguish them from any other human. Taylor (1994,p.38) writes that "differences cannot be resolved through assimilation nor annihilation", which are components of formal equality, whilst Alcoff (1988) argues that it is becoming increasingly impossible for feminists to hold on the claim that they know and understand what is good for *all* women. This is so because even if womanhood is the point of departure in feminist theory there is no such a thing as a unified sisterhood. Despite some commonalities, such as equal entitlement to human rights and opportunities, and a shared understanding of reproduction and reproductive rights, womanhood has many caveats and layers to it that have to be unravelled and understood in their own contexts and environments.

Besides a recognition of difference amongst people and the allocation of equal resources and opportunities to individuals, Satz (2007) advocates for an adequacy for citizenship approach in which equal civic status of citizens (equality principle) and a fair but not equal access to opportunities above citizens' thresholds is fundamental (equity principle). The adequacy approach is important in education because it sets the minimum thresholds of attainment for governments and other state apparatuses on which accountability can be based (how/when one determines whether equity has been attained. It is founded on the democratic role of education that is missing in the equal opportunity approach. White Paper (1997) asserts that those accessing higher education will have access to institutions that are entrenched in democratic values and principles

that are embedded in Constitution (1996). It can offer an explanation as to why some inequalities may require greater remedial attention than others (equity mechanisms). This is more realistic in approaching and understanding enigmatic inequalities in diverse communities such as South Africa. Therefore, on the basis of Satz's argument, women in higher education ought not to be treated as a homogenous group because they come to learning institutions from various contexts and histories that are bound to inform their experiences and daily realities in institutions of higher learning. At the same time, the equity clause in higher education recognizes the past inequalities and proposes unequal treatment of students, especially those from previously disadvantaged communities, so as to achieve greater access for all (White Paper, 1997).

On the contrary, although Fraser (2008) and others have argued that recognition of differences could adversely polarize society, it is Taylor's (1994) thesis that multiculturalism no longer appeals to a neutral culture that turns a blind eye to a myriad of problems facing society.[7] Similarly, Sen (1992) maintains that in order for equity and equality interventions to be meaningful to the needy and oppressed, diversity has to take centre stage, proposing that an undertaking be entered into that will explore the concept of 'basic heterogeneity of human beings' to the latter. The acknowledgement of diversity can provide a lens through which to view how various forms of injustices are produced, propagated and sustained. Unilateral approaches to social justice may not address succinctly the specific and particular issues that are contextual. Sen (1992) concludes that one kind of being cannot be taken to be the norm (able bodied/race/gender) because the kind of being one is affects his/her conversion of resources into valuable capabilities and functioning. People differ along the personal axis (race, gender, age), intersecting external axis (climate, wealth), and interpersonal axis (the ability to convert resources to valued outcomes). Sen's views on diversity concur with other discussants, such as Mackinnon (1993), Young (1990), Rawls (1971), Taylor (1994) and Nussbaum (1994) in preferring recognition of the particular and specific in human beings, rather than homogeneity.

[7] Insofar as Taylor (1994) is concerned, the politics of universalism or dignity deals with equal dignity of citizens, equalization of rights and entitlements and the principle of equal citizenship. On the other hand, the politics of difference recognizes the particular and distinctiveness of individuals.

Sen (1999, 2006) argues that when formal equality ignores heterogeneity in humans it bifurcates the way they use and convert resources to the desired outcomes, and greater inequalities resurface. Individual character, external circumstances, the conversion of resources to desirable outcomes and the conception of what a personal 'good' is are ways in which diversity can be experienced and expressed. Inadvertently, individual circumstances weigh heavily on any intervention and determine how an individual experiences or uses the opportunities that have been made available to him or her through an equity programme. Some will have positive experiences whereas others will be negatively impacted by the programme. Therefore, the pluralities of circumstances that have been highlighted by Miller (2003) suffice in understanding and conceptualizing equity.

2.7. Concluding Remarks

This chapter began by looking at the underpinning assumptions in the discourse of social justice, as generally linked to fairness and just practices. It established that in order to conceptualize social justice the principles of equality (seeking to maximize goods across persons) and equity (seeking to maximize the smallest bundles of goods) in the terms of Miller (1999) have to be present. Each principle was discussed separately and the importance stated. It was established that although the two principles enjoy a symbiotic relation the former should be premised on equity which aspires towards addressing the specific and individual contexts of social justice. Through the critique of various approaches it was further noted that although the point of departure in the social justice discourse is equality for all, the culmination of the debate makes a case for substantive equality that recognizes the particular and specific contexts, histories and differences in human experiences, as has been theorized by Satz (2007), Mackinnon (1993), Taylor (1994), Nussbaum (1999), Rawls (1971, 1985, 2001, 2003, 2009), Young (1990) and Sen (1980, 1999, 2006). This agrees with the core argument of the thesis that states that homogenizing peoples' circumstances does not amount to justice, but rather it is an injustice that is used to retain the status quo.

In lieu of the above, a substantive approach to justice has been contemplated in the South African transformation trajectory. Equally, this kind of conceptualization has informed the South African higher education policies and gender laws that are aimed at

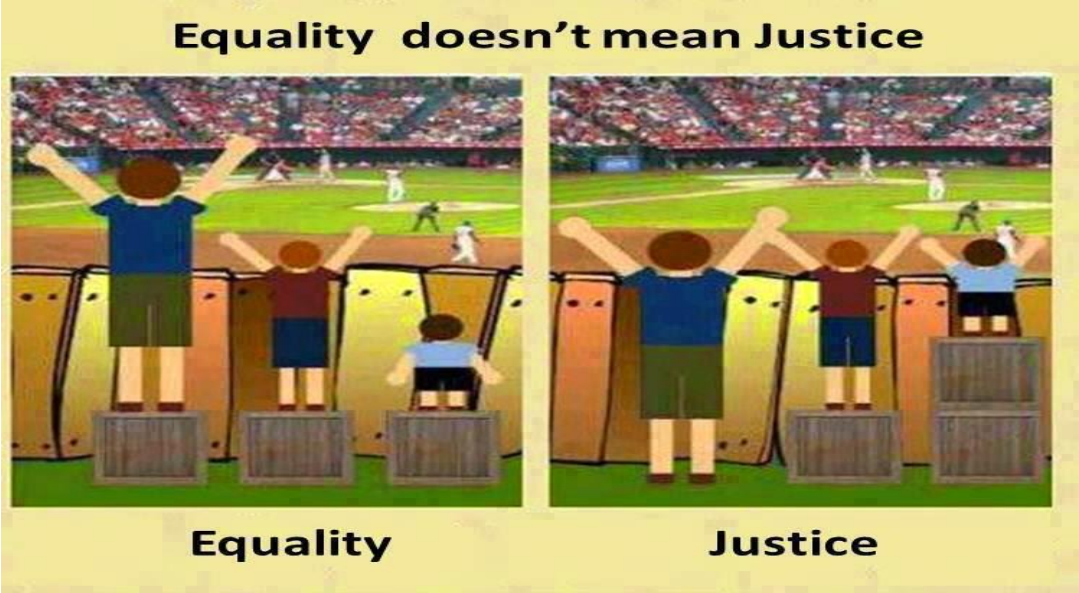
correcting the racial, class, sex and gender imbalances (White Paper, 1997; Fiske & Ladd, 2004). In supporting the acknowledgement of the diversity in humans, Taylor (1994) concluded that it would be wrong to ignore multiculturalism and advance a neutral culture that does not capture a myriad of problems facing society. Such an approach resonates with Young's thinking as she argued that "social policies have to offer special treatment for certain groups of people" (Young, 1990, p. 158).

In so far as South African higher education is concerned, the post-1994 higher education policies (see chapters 8 &9) are premised on redress and social justice. According to White Paper (1997), transformation in higher education ought to address historical injustices that were exacerbated through race, gender, social class, disability and other forms of marginalization. Owing to this, institutions of higher learning have devised various means of addressing the demands of the White Paper, for instance, chapter 9 gives examples of how the University of the Witwatersrand and University of Cape Town have devised quota systems that have been targeted at opening up opportunities for black and female students who were previously marginalized.

The next chapter looks at Sen's theorization of a capabilities approach to human development, proponents of which claim that human development cannot be evaluated through approaches based on egalitarianism or utilitarianism. Such approaches are limited because they do not provide enough information that can be used to evaluate and review social policy goals in relation to personal achievement/ well-being or lack thereof.

The figure below summarizes Rawls' theory of social justice, with equality for all not translating into justice for everyone.

PICTURE 1



Retrieved from http://glbtqja.blogspot.com/2013/05/equality-doesnt-mean-justice.html

CHAPTER THREE

AN EXPLORATION OF SOCIAL JUSTICE THROUGH A CAPABILITIES APPROACH HUMAN TO DEVELOPMENT

3.1. INTRODUCTION

The goals of South African higher education are closely related to the pivotal role education plays in society. Higher education in particular has been recognized for the development of human capabilities that translate into the requisite human resource production that is crucial for the survival of the economy and nation building (White Paper, 1997; National Plan, 2001; CHE, 2010). It is stipulated that, at an individual level, wellbeing is promoted as it translates into longevity due to adjusted lifestyles and precautionary health measures that improve people's mortality rates. Skills development, personal improvement economic development and international competitiveness have been cited as some of the important competencies that are developed through education (White Paper, 1997; National Plan, 2001) and conversely a lack of education has been linked to ignorance, poor health choices, inadequate participation in public debates and matters of importance to nation building, and stagnation of the economy.

Notwithstanding historical and socio-economic factors that impact on access to higher education for a majority of the previously disadvantaged groups in South Africa, I argue that access, participation and completion of higher education are paramount for women in general and black women in particular because of the value attached to them. The said value has been stipulated in a capability's approach to human development (Sen, 1999; Nussbaum, 1995) that will be discussed in subsequent sections of this chapter.

Against this background, this chapter argues that no women of any race group, social class, political affiliation or geographical positioning should be denied access to higher education. Gender equity and equality policies and frameworks do acknowledge the importance of equipping women and men with similar skills as a way of preparing them for the crucial roles that they would have to play in society as decision-makers, breadwinners, agents of change and meaningful employees (Women's Charter, 1954; Women's Chart for Effective Equality, 1994; CGE, 1998; GETT, 1997). The development of capabilities is a positive move towards black women empowerment, necessary because

they were previously excluded from participating meaningfully in education, politics and the economy (Hassim, 1993; Hassim & Walker, 1993).

At the same time, the need for women to have access to equal and quality education in order for their capabilities to be developed on symmetrical levels with their male counterparts has been recognized. The authenticity of engaging a capabilities approach to human development as a tool of analysis is based on its multi-dimensional nature, and therefore many variables can be looked at from various angles and using different disciplines. The approach has found favour and wide appeal in disciplines such as economics, developmental studies, justice and human rights, with Sen (1993,p.49) acknowledging "a plurality of purposes for which the capability approach can have relevance".

Insofar as Sen (1980) is concerned, the gains that accrue from education can be measured through a wide spectrum of human development and life activities. One will be interested to find out the extent to which people's lives have changed, invariably in terms of the general wellbeing, access and exercise of freedoms and liberties, access to opportunities in the education, political and economic realms, and the contribution that the citizenry can make to the general development of the country and the economy (Sen, 1999; Nussbaum, 1995).

To discuss the highlighted issues, this chapter is organized in three parts. The first looks at the underlying claims to a capabilities approach to human development; the second at core concepts (capabilities, functioning, freedoms, agency and diversity); and the third at the relevance of a capabilities approach to gender equity policy.

3.2. Theoretical perspectives on a Capabilities Approach (C.A.) to Human Development

The theoretical underpinning of a capabilities approach (CA) to Human development is grounded on Sen (1980) and Nussbaum's (1992) theorization of human development and freedom. Sen's capabilities approach emanated from a critique of utilitarianism and Rawls' theory of justice (1971), that identified primary goods and self-respect as prerequisites to equality (Sen, 1980). In contrast to utilitarianism and resource-based approaches to individual advantage, it assesses a person's advantage through his/her capability to do things he/she values or has reason to value. A person who has less

opportunity to do the things he/she values is judged on a lower scale than one who has access to more opportunities and is able to enjoy the necessary freedom (2009,p. 231). While departing from the claims made by the proponents of utilitarianism, Sen believes that utilitarianism, based as it is on the fulfilment of people's desires, happiness and pleasure, is problematic because it treats people in a homogenous manner. In this sense, Sen leans more towards the substantive approach to justice proposed by Rawls (1971).

Sen (1980) has further demonstrated that models that embrace welfarism, egalitarianism and utilitarianism are unlikely to give a veritable account of the real situation on the ground, because the models rely on generalized studies that have been criticized for exclusive utility and information instead of non-utility information from moral judgements. Sen (1980) argues that if the evaluative frameworks are not sufficiently broad to capture the concerns of all the stakeholders, universality will silence the voices of the marginalized. For Sen (1999a), aggregates or statistical indexes that show a people's/ a nation's well-being are not reliable due to the manner in which they universalize people's conditions without paying attention to individual circumstances:

> *Welfare economics is a major branch of 'practical reason'. There are no good grounds for expecting that the diverse considerations that are characteristic of practical reason, discussed, among others, by Aristotle, Kant, Smith, Hume, Marx, or Mill, can, in any real sense, be avoided by taking refuge in some simple formula like the utilitarian maximization of utility sums, or a general reliance on optimality, or going by some mechanical criterion of technical efficiency or maximization of the gross national product.*
>
> *(Sen, 1996a, p. 61)*

Such a penchant can easily distort vital personal information, dimensions and circumstances that may mislead outcomes as far as interpersonal or inter-temporal comparisons are concerned. People's lived experiences and circumstances are not encapsulated (Robeyns, 2003), as for example, disability, gender, and race carry intrinsic value and hence have to be considered in policy implementation.

According to Sen (1997, 2005), mental states may not be used to decide on what is morally right or wrong. For instance, women earning less than men for equal work, even if they happy with doing so, is morally wrong and discriminative. Ultimately, a capabilities approach discerns normative evaluations that are centred on commodities, material gain, income and resources that enhance people's wellbeing coupled with advantage. This is at the expense of factors that have intrinsic value, such as capabilities and functioning

(Robeyns, 2003; Sen, 2005; Unterhalter, 2004). Likewise, due to individual differences in test and preferences, Sen (2005) attests to the complexity in determining the sources of happiness and pain across a wide spectrum. Likewise, it is also difficult to differentiate between offensive tastes that other people might find appealing.

Whereas Sen (1980) acquiescence with Rawls' (1971) theory of social justice, he is critical of Rawls theorization of human freedom for focussing on developing and accessing human freedom at the expense of looking at the means of achieving it. Therefore, a capabilities approach is modelled on real-life opportunities that fulfil ends and afford people substantive freedoms to achieve what they value and have reason to have (Sen, 2009). This is a departure from approaches that place emphasis on economic value and shifts focus to people and the things they have reason to value. While supporting Sen, Summerfield and Pressman (in Madoka, 2003) argue that basing development on commodities and incomes rather than on the people themselves and their living conditions ignores the day-to-day realities and how they can be overcome. Summerfield and Pressman are critical of generalized conclusions that are drawn from the wider scenarios, such as utilitarianism or egalitarianism, preferring narrower accounts formed around individual experiences within which the true narrative of development or under-development occur. Summerfield and Pressman (in Madoka, 2003) concur with Miller's (1999) theorization of social justice that seeks to maximize the smallest bundles of goods.

Arguably, a capabilities approach to human development focuses on individual advantages that accrue from real-life opportunities. Sen's (1980) development of capability theory is based on the evaluation of the quality of life people lead and the fulfilment of their desires vis-à-vis the commodities they acquire. His contention with other models of assessing human development arises from a belief that basing people's wellbeing on their incomes and commodities is reductionist and does not necessarily explicate the kind of freedom they have or enjoy. The insufficiency can also be supported by the claim that people differ in the way they convert incomes and commodities into achievements. For instance, Sen (1992, 2009) states that one could be wealthy while at same time struggling with a kind of impairment, ill health or operating within structures that do not allow one to exercise one's rights to the maximum. This, he calls 'unfreedoms' that could be inherent or sculptured by society. The differences in needs

and requirements due to the special and prevailing circumstances might therefore require different commodities and social arrangements in order for some certain individuals to enjoy certain rights and opportunities.

A good example will be people with disabilities being unable to access lecture halls, despite education having been guaranteed as a human right in the South African Constitution. Prudence will have to be observed in providing such students with wheelchairs and ramps and lifts. In the case of ill health, a capabilities approach will consider the extent to which an individual can achieve what he/she values, for example, adequate weight, and has reason to value good health through choosing a diet and exercise regime that is sustainable. Although wealth can be seen as a means to satisfactory living it is not in itself a guarantee to good living.

Other contributory factors have to be weaved into ensuing narrative so as to make it comprehensive and complete. Sen (1980) concludes that commodities on their own do not give sufficient information about the welfare of people and the lives they lead or would want to lead. Rather, emphasis has to be put on how well people are able to function with the goods and services available to them. Sen places emphasis on the means that have to be just and fair in order to enable the achievement of a particular good rather than concentrating on the end itself (Sen, 1999). Such can be replicated in the South African context because if people are not concerned about the means used to achieve redress in higher education but concentrate on the outcomes alone many deserving people will miss out because they have not have the means to succeed.

Sen believes that freedom is about respecting people's will to be free to do the things they value, to determine what they want to do and decide from available choices. This line of argument is fundamental in relation to women's perceived place in society and the freedoms and choices to which they are exposed. It has been noted that many societies globally are still struggling to recognise women as equal citizens because of stringent patriarchal hegemonies that still deny them opportunities to enjoy and execute their constitutional rights or to make choices in tandem with their wishes and desires (Makau, 2014; Msimang, 2015).

Concomitantly, Nussbaum (1994, 1998, 2000 and 2011) also defends a capabilities approach that goes beyond aggregated indexes that measure the quality of life attained

by women through satisfaction and resourcing indicators. Whilst the indicators compare country performances, it is Robeyns' (2003) thesis that studies have to be designed so as to deal with the personal and individualized circumstances that are unique in nature to a person's wellbeing. Nussbaum instead questions the abilities that are developed and the kind of transformation (*the doing and becoming, or functioning*) that a woman goes through after receiving an education. I believe that the doings and functioning to which Nussbaum refers are dependent of the kind and level of education to which the women in question are exposed. The freedom to choose their career paths plays a crucial role in determining the future wellbeing of the majority of women.

Nussbaum (1994, 1998) also believes that availability of resources is a factor that can enable or stifle the functioning of women, depending on which side they find stand. For instance, the assessment of the viability of a resource such as an equity policy is not only important to the policymakers and stakeholders but also to the women whom it was meant to cushion from oppressive structures and ideologies. In the case of South African higher education the resource should contribute to the general liberation of women in terms of the freedoms they enjoy and the choices they make from the alternatives at their disposal. Alternatively, one can also assess the impact on women since the inception of the equity clause in higher education policies.

Limitations and unfreedoms could take the form of gender violence and sexual abuse, disparities in course selections or options, high dropout rates, and hierarchical power relations that assert male dominance and female servitude (Martineau, 1997; Walker, 2006; Unterhalter, 2005). More relevant to the scenario here would be Nussbaum would be questions directed at the policy itself, as what values the policy has added to the lives of those it was intended to buffer, in terms of what they study now and what they studied previously, why they take so long to complete their degrees and what is being done to amend the situation, what they become and what else impedes their desire to become whom they would most value to be. Of importance are the contextual issues that have been taken care of through the interventions that have been put in place, and Nussbaum (1994, 1998) would be interested in knowing the positioning of women in the society in relation to good living after attaining recognizable levels of education. She would also be interested in knowing whether all avenues of attaining social justice would

have been exhausted before blaming the victims for failing and choosing courses that are tailored to entrench femininity and masculinity.

Contrary to Sen (1980), Nussbaum advocates well-defined and universal capabilities that are embedded in constitutions and guaranteed to all individuals by governments (Robeyns, 2005; Nussbaum, 2011). Nussbaum's capability approach is attuned more to development of personality traits and people's skills than Sen's tendency to develop economic models that assist in the eradication of poverty and other areas of marginalization, such as gender inequality, access to basic health and basic education. Nussbaum developed three sets of capabilities: basic, internal and combined, not fundamentally different from Sen's capabilities, that can be viewed in relation to human rights, comprising (1) life; (2) bodily health; (3)bodily integrity; (4) senses, imagination and thought; (5) emotions; (6) practical reason; (7) affiliation; (8) other species; (9) play; and (10) control of one's environment. Nussbaum (2011) argues that the ten capabilities are pre-political entitlements and that it is the duty of nation states to ensure their citizens have access to them.

On the differences between capabilities and rights, Sen (2004) observes that rights are much broader in the sense that they include processes and opportunities (means and ends), whereas capabilities do not concern themselves with processes but rather opportunities (ends). Decoupling capabilities from processes tends to exonerate unfair and skewed processes and procedures from the failures of reform initiatives, for example, if processes that are supposed to afford students opportunities and access are not enabling enough, or if the processes are dubious and do not channel resources equitably the desired capabilities may be developed in such structures that are undergirded by questionable processes. If the development of capabilities is dependent on availability of resources alone, as has been argued by Nussbaum (1995), it is unlikely that those in dire need of resources might benefit from the development of capabilities, functioning and freedoms.

The scenario might promote inequitable development of capabilities, or incapability, which translates to inability to function, to articulate and enjoy basic rights and freedoms that are enshrined in the constitution (Nussbaum, 2011). Policy as process cannot be

decoupled from policy as product, and as Ball (1994) concluded, neither can policy as process be comprehended without fathoming policy as product.

3.3. Theorizing Capabilities, Functioning, Freedoms, Human Agency and Diversity

Sen's capability approach is embedded in capabilities, functioning, freedoms and unfreedoms. Capabilities are a reflection of an individual's ability to achieve a certain functioning (being or doing). It is a combination of functioning that reflects the ability for one to choose one type of life from several possible ones (Sen 1992, p.40). Alternatively, Sen (1999) defines 'capabilities' as substantive freedoms that are available to an individual in order for him/her to live the kind of life he/she values most. In essence, they are real opportunities of states of being and doing, otherwise known as functioning.

The abilities include being able to choose to live a healthy and be nourished, educated, employed and part of a supportive network (Alkire, 2005; Robeyns, 2005a; 2011; Sen, 1999; Unterhalter, 2004; Wilson-Strydom, 2011). These choices are made voluntarily and after considering the available choices. For example, one can have the ability to avoid hunger by eating but choose to fast, or have the ability to enrol one's child in a high-cost school but choose to take him/her to a public school after considering the quality and substance of the education being offered and the general needs of the family. In summing up the definition of a capability, Sen (1999) illustrates that it can be likened to substantive freedom that is a prerequisite for one to make informed choices regarding lifestyle:

> *A person's 'capability' refers to the alternative combinations of functionings* [sic] *that are feasible for her to achieve. Capability is thus a kind of freedom: the substantive freedom to achieve alternative functioning combinations (or less formerly put- the freedom to achieve various lifestyles. (Sen, 1999, p. 75)*

Functioning, on the other hand, refers to people's achievements, being able to do or to be, that make up their wellbeing. It entails being able to access the opportunities that have been presented in the best way possible and become the person on wishes to be. It can be used to evaluate the quality of life and capacity to function (Sen, 1980; Nussbaum, 1994), including being literate, numerate, having a healthy body, being safe, having a good job, being well-nourished and able to participate in community development (Alkire, 2005). For example, for one to be properly nourished one ought to be on a proper diet and have one's needs for food (commodities) being met. This should be achieved

while taking cognisance of other factors that might affect the actual process of the body being nourished, such as metabolism, age, body size and availability of information on nutrition (personal and social factors). Functioning can therefore refer to the use that a person makes of the commodities at his/her disposal. Sen (1992) claims that, one's ability to achieve the functioning one has reason to value provides a general way of evaluating social arrangements within which capabilities are being developed, as freedom, and assessing equality and equity claims in such social arrangements.

Freedom, according to Nussbaum (1999), includes political rights that are important for the formation and fulfilment of needs. Capabilities are linked to human rights because they encompass first generation rights, basic liberties, and second generation rights, social and economic freedoms. Capabilities and freedoms are thus indissoluble as the success of one depends on the accomplishment of the other. Sen (1999, 2009) posits that freedom provides more opportunity to pursue objectives which are linked to the things one values and has reason to value, notably an ability for people to live their lives as they wish, and defines freedom as "the real opportunity to accomplish the things we value" (1992,p.31). It also goes hand-in-hand with the process of choice, crucial in ensuring that people are not coerced, dominated or forced into making choices due to impositions by external forces (Sen, 2002).

As aspects of freedom, the notion of capability refers to *opportunity* whereas the notion of agency refers to the *process.* For example, instead of a poor rural woman being coerced to procure an abortion by her doctor because of the financial implication of having another child, exercising freedom dictates that the woman be empowered with relevant information and subsequent options to enable her make a reasonable decision she most values. Bearing in mind that harm should not be one of the choices that an individual has to choose, freedom can afford an individual a chance to refrain from a functioning if he/she has good reasons to do so (Sen, 1980). An educational example is that of a student who may choose to give up the comfort of staying in a single room and opt to share with two other students if the arrangement will enable him/her to focus and perform better in the course.

Fundamentally, freedom plays three key roles: *evaluative*, in being able to evaluate other rights based on their indivisibility; *constitutive*, of the self and wellbeing as ability to

function adequately as a result of developed capabilities on an individual and societal plane; and *effective*, as a lens through which the first two roles of freedom are judged and consolidated (Sen, 1999). While conceptualizing for development of freedom, attention has to be paid to the known and less well known imminent obstacles that may deter the eventual development of capabilities and freedoms. Unterhalter (2005) lists some of the recurring impediments to opportunities and outcomes in education as arising through structural and exclusionary power relations, discriminatory laws, draconian customary practices and institutional processes.

Sen (1999) writes of the intricate relationship between institutional arrangements, economic opportunities, unfreedoms and the exercise of freedoms:

> *What people can positively achieve is influenced by economic opportunities, political liberties, social powers, and the enabling conditions of good health, basic education, and the encouragement and cultivation of initiatives. The institutional arrangements for these opportunities are also influenced by the exercise of people's freedoms, through the liberty to participate in social choice and in the making of public decisions that impel the progress of these opportunities. (Sen, 1999, p.5)*

The observations being made here with regards to conditions that promote adequate functioning can also be traced in policy debates and policy documents. Ball (1998, 2006) sees policies as having two goals, material effects and rallying support for the attainment of the material effect. For instance, set policy goals can only be met if sufficient consideration has been given to the contexts of the beneficiaries and stakeholders, institutional arrangements and traditions, power relations and political ambiance of the country within which the policy is being implemented (Birkland, 2011; Bell & Stevenson, 2006). Fathoming the contexts of social redress is thus central to conceptualizing and analysing a gender equity policy.

Sen (1999) envisages that the development of requisite capabilities and freedoms has a ripple effect in promoting human agency. An agent is a person who effects and brings about change, as opposed to being coerced and oppressed (Sen, 1999). Agency affords an individual an opportunity to assess and implement what he/she deems good in his/her own life, other people's lives, and the community at large. It can also be linked to determination, self-reliance, autonomy and self-direction, hence, to a state in which an individual is able to pursue and achieve goals and objectives that have value within an enabling environment. To explicate the role of agency, Sen (1993) cites an instance of

trying to fight hunger and starvation in which a given group of people can choose between using traditional and western methods of farming to boost productivity and end starvation. Conversely, in environments that are separated by deep and wide socio-economic disparities, agency is absent and the landless may first have to fight for the right to own land (unfreedoms).

Agency is important in the education sector in that it informs the many layers of engagement in institutions of higher learning. However, it also can be impeded by circumstantial factors (unfreedoms) that are of socio-economic nature, unequal power relations and ignorance of rights and responsibilities. For instance, South African higher education has called for constant engagement so as to re-examine how far the system and structures have widened and entrenched democratic values and practices, access, equity and equality as constitutional requirements and higher education policy imperatives (Badat, 2009; CHE, 2010).

Notwithstanding the assumption that developed functioning impacts positively on people's wellbeing and freedom, Sen (1999) further confirms that human agency does strengthen social life and contribute to its betterment. The achievement of agency originates from the radicalization and politicization of societal commitment and organization. Agency is manifested in the actions of people when fundamental questions are asked about their leadership style, distribution of resources and opportunities, and operation and management of institutions. Through human agency, positions are elevated to the extent that they are seen as being active as opposed to passive, doing as opposed to being done to or for. It is further noted that people are not just beneficiaries of economic and social progression of society but architects of positive change in whatever position they occupy (Sen, 1999; Christie, 2008). Realistically, not everyone can be on the streets picketing and there are those who support revolutionary activities silently or through material contributions.

Finally, the narrative on development of capabilities and freedoms cannot be concluded without highlighting the importance of recognizing diversity in the human population. Sen proposes that an undertaking be entered into that will explore the concept of 'basic heterogeneity of human beings'. Although the idea that human beings are equal is a basis of justice, the recognition of human diversity is also fundamental as it tackles the causes

of inequalities in society and elevates those who would have benefitted minimally from unilateral approaches to social justice. Sen (1992) concludes that one kind of being cannot be taken to be the norm because the kind of being one is affects conversion of resources into valuable capabilities and functioning. People differ along the personal axis, in race, gender and age; an intersecting external axis, of climate and wealth; and an interpersonal axis, in ability to convert resources to valued outcomes. Sen's views on diversity concur with other discussants, such as Mackinnon (1993), Young (1990), Rawls (1971), Taylor (1994) and Nussbaum (1994). Recognition of the particular and specific in human beings is preferred to homogenizing people.

Reflecting on post-1994 H.E policies (see chapter 8), I state that some policies were in line with Rawls' (1971) views on diversity and included clauses on recognition of diversity in student and staff populations (White Paper, 1997; National Plan, 2001). However, Cross (2004) states that although institutions of higher learning have aspired to meet various requirements, challenges remain from global pressure, intellectual and pedagogical practices that reflect apartheid era nuances, and a lack of a critical theory to deal with the issues of diversity in relation to social justice. Recognition of diversity in H.E. should be part of a continuous reconceptualization and transformation of education in general (2004, p. 407).

3.4. Locating a Capabilities Approach within higher education equity policies

In advocating inclusion of all people in education, Sen (2003) argues that at a basic level a literate woman has a greater chance of survival and wellbeing because she can participate in decision-making both in and out of her domestic precincts. She also has a greater capacity to reclaim her legal rights than do illiterate woman. Firstly, although Sen does not give a comprehensive list of capabilities as a guideline to resolving the gender inequality impasse, gender inequality can be evaluated through the things that have intrinsic value, namely functioning and capabilities, rather than the means of achieving them. For instance, commodities and wealth do not guarantee happiness and fulfilment if the said individual faces a plethora of challenges and lack of freedom. South African policy recognizes key capabilities that ought to be developed upon completion of higher education, with White Paper (1997) setting out the purposes of education as: self-

fulfilment, fulfilment of specialized social functions through skills acquired; well socialized individuals who develop critical, enlightened and responsible citizenship; reflection; and working for the common good. Such wellbeing and functioning as developed by black women currently accessing higher education constitute the focus of my study.

Secondly, a capabilities approach concomitantly questions and takes cognisance of material, cultural, social, political and economic impediments (unfreedoms) and enablers that might impact negatively or positively on policies conceived to improve the conditions of individuals (Nussbaum, 2011). For instance, as far as gender equity in higher education is concerned, a capabilities approach will look not only at the policy as an end in itself but also at the extent to which the contexts within which the policy is made and received, as resources, overarching ideologies and hegemonies of racism and patriarchy, and impacts the policy and its beneficiaries. Hodgson and Spours (2006) (see discussions in chapter 7 on the discourse of policy) regard the various policy contexts as a policy triangle that conceptualizes the contexts of influence, policy and practitioner. Pursuing policy contexts links up with conclusions that have been drawn from substantive equality (chapter 2), as assumptions that have firmly motivated the conceptualization of social justice mechanisms in the contexts of redress.

Layder (1993) and Soudien (2001) provide a summary useful in locating my study in terms of various contexts converging and impacting on women's access to higher education, whether ideologically, institutionally, pedagogically or individuality. They identify interconnected research frames through which these identities can be understood and analysed, namely, the context, South Africa with its historical, power relations and material trajectories; the setting, with its institutional particularity; situated activity, notably learning; and the self, the one who is within the context of the social experience. Soudien (2011) classifies these models as *official*, state ideology; *formal*, institutional stance; and *informal*, individual socialization.

Additionally, a capabilities approach will also be concerned with the state of institutional conditions and contexts within which individuals are accessing education. Thus, the extent to which these institutions allow for freedom of choice is crucial to the vision of developing basic capabilities and functioning. Institutional contexts have embedded

histories, traditions, inherent power relations and structural arrangements that may not be amenable to new practices or structural changes (Foucault in Fraser, 1981; Ball, 1994). According to Ball (2006, 2012), by their very nature policies not only change existing power relations but also enter and mediate them by way of destabilizing, distributing, redistributing and redefining their structure. The dominant discourse and ideology provide direction on the way forward (Kogan, 1985; Bell & Stevenson, 2006; Taylor et al., 1997; Clark, 1993; Hodgson & Spours, 2006).

Thirdly, a capabilities approach to human development has the ability to penetrate private spaces and interrogate how individual women benefit from educational interventions. As noted in previous discussions, this model goes beyond the scope of paradigms such as utilitarian and egalitarian, which seek to equalize opportunities or achieving for the greatest good for the majority (Sen, 1971; Miller, 1999; Nussbaum, 1998). This model will also have serious concerns for the use of aggregated data to determine the attainment of gender equity. Although such data gives an indication of the status of representation it does not give a specific picture of the state of women in higher education. The gaps that are attributed to egalitarianism and utilitarianism are filled by a capabilities approach that addresses concerns such as what human beings can do in order to achieve progress and development through policy, political, social and economic arrangements. This gender equity policy is therefore different from the evaluation undertaken through human development indexes (HDI), which is based on material things that are measured through average achievement. Such a tool negates individual human wellbeing and concerns of inequity and other disparities that are propelled through gender, political class and economy, social class, ethnicity and race (Summerfield & Pressman, in Madoka, 2003; Sen, 2009; Nussbaum, 1995; Unterhalter, 2005, 2007).

Fourthly, Fukuda (2003) regards Sen's capability approach as a wellbeing paradigm that can be used to define public policy despite having no set prescriptions. The framework is flexible and non-prescriptive, allowing for social policy analysts to look at a wide range of variables and challenges that face poor nations and poor people. It makes it possible for an evaluation of human development to be undertaken in terms of human achievement and improvement of life by using key indicators of progress, namely the evaluative and agency aspects. Unterhalter (2005,p.115) suggests that one way to resolve tension

between international policies and local policies in cosmopolitanism and communitarian systems is to adapt a capabilities approach based on an expanded notion of human rights. The same variables that Unterhalter (2005,p.116) used in the assessment and analysis of adult education can also be useful in assessing the achievement of equity policy in wellbeing achievement, determining whether higher education ensures better health, freedom from discrimination, harassment and abuse. Has it facilitated choice of course, access to content that is not biased and useful resources, agency and achievement of goals and objectives, and agency and freedom of choice?

The Human Development Report (1995) proclaims that political processes are involved in the struggle for gender equality:

> *One of the defining movements of the 20th century has been the relentless struggle for gender equality, led mostly by women, but supported by growing numbers of men. . . Moving toward gender equality is not a technocratic goal 'it is a political process. (United Nations Development Programme 1995, p.1)*

Whilst recognizing the move to achieve gender equality as a political process, the United Nations' report puts the onus on individual nations to oversee the process of challenging gender inequality legally and by use of other constitutionally instituted mechanisms. In fulfilling its mandate through political and legal processes, the South Africa government promulgated several laws to address gender inequality and inequity at the dawn of independence. Transformation in higher education also targeted gender as one of the areas that required urgent redress. The legal apparatuses and policy frameworks are subjects of discussion and critical analysis in this study. Discussions in chapters 7 and 8 will provide a rich account of all the necessary steps, policies and interventions that have been taken in response to the problem.

Nussbaum (2011) demonstrates that human rights and a capabilities approach are intricately connected. Rather than compete with human rights, a capabilities approach compliments them by espousing the material and social aspects that ought to be developed by governments in order for them to be realized and enjoyed by fully. In the case of post-apartheid South Africa, the ANC-led government has demonstrated a willingness to tackle the legacies by allowing for legal apparatuses and policy frameworks to be put in place to make higher education more accessible to all who desire to have it. For the purposes of this study, the two imperatives of human rights and their material

and aspects are interlinked. By not discriminating against women in higher education the first imperative will have been fulfilled, whilst the second is part of the redress mechanism, eradicating the economic and material unfreedoms that could prevent women from accessing higher education.

The government and the Department of Education and Training has diligently enacted and reviewed policies, Bills and Acts in support of the reform agenda that began in 1994 to entrench the values of non-discrimination, non-sexism and non-racism on any conceivable ground and he Constitution of the Republic of South Africa (1996) and the Bill of rights (Chapter 2 of the Constitution) gave impetus to the process of transformation in all sectors, undergirded by democratic values of human dignity, human rights, non - sexism, non-racism, equality and freedoms based on fundamental human rights. All these have found prominence in higher education policies enacted since 1994 (Higher Education Act, 1997; White Paper, 1997; National Plan, 2001).

Fifthly, because rights are formal and universalistic in nature, I contend that formal and substantive approaches to justice are complementary. Rawls (1971) demonstrated that social justice rests on two principles of justice, *equality*, to secure basic liberties and political rights, and *difference*, to compensate for social economic distances or any other forms of injustice. The Equality Clause and Bill of Rights (1996) are good examples of the sections of law that guarantee universal equal rights regardless of individual circumstances. In order for the social and material aspects of rights to which Nussbaum (2011) alluded to be realized, Mackinnon (1993), Young (1990) and Rawls (1971) propose a substantive approach to justice and equality (see chapter 7).

Discourses of policy formulation has also taken cognisance of the contexts and been theorized for possible complexities and impediments that can arise if it does not reflect a localized agenda and intervention (McLaughlin, 2000; Corkery et al., 1995; Ball, 1994; 1998; Popkewitz, 1996). Caution is urged by Nussbaum (1999) and Bacchi and Eveline (2009) against treating education centres and those therein in a utopian manner, because education centres are sites that are rife with contestations. People struggle for a voice, resources, access to positions of power and an end to marginalization. The different variables that are part of education should not be ignored when choosing interventions that are egalitarian and utilitarian in nature. The insights provided by Young (1990), Sen

(1980), Nussbaum (2011) and Taylor (1994) on acknowledging heterogeneity of humans may here be a guiding principle.

Sixthly, although rights are indivisible and universal their inclusion in a capabilities approach has a wider appeal and resonance with policies. The appeal emanates from the use of legal language, a common practice when legal frameworks are used to support an intervention (Nussbaum, 2011). However, whilst Nussbaum presents a universalistic approach to capabilities and human rights she cautions against the impropriety of adapting cosmopolitanism in policy strategies, that is, treating women in a globalized manner, as this would be against the respect of diversity and plurality that are at the core of her thesis (Nussbaum, 1998; Sen, 1992).

On the contrary, a capabilities approach acknowledges diversity in human beings and how an individual's particular situation might impact on how they convert resources into meaningful outcomes. In the case of higher education, inequalities associated with race, gender, age and social class are amongst the factors that have been identified in redress policy frameworks (White Paper, 1997; National Plan, 2001). Similarly, higher education is presented with students who are from diverse backgrounds in terms of social milieu, economic status, racial groups, sex and gender, and so call for a succinct engagement with the particular and specific biographies of individual students as opposed to dwelling on an equality that is guaranteed constitutionally.

Real challenges that students face originate from incongruities between home culture, set institutional traditions and educational demands, summarized in the Bourdieuian framing of the interplay between social habitus and social field that is most likely to reproduce past social inequalities (Bourdieu, 1977; Webb et al., 2002). Personal biographies tell stories of advantage, disadvantage, dominance, marginalization, access and inaccessibility. History and personal biographies cannot be denied, but should be improved to benefit current and future generations. In the spirit of recognizing diversity in experiences, CGE (1998) concluded that no person can purport to represent the experiences or sufferings of a group to which he/she does not belong.

Seventhly, Sen (1990a), Nussbaum (2000), Conradie and Robeyns (2013) argue that special attention has to be paid to social norms and traditions that influence women's preferences, choices and aspirations. Values can be assessed in policy documents and

gender frameworks based on democratic principles of non-racism, non-sexism, equality, non-discrimination, as enshrined in the Constitution and Bill of Rights (1996). On the other hand, social norms, cultural practices and traditions are imbued in people's ways of life and therefore it becomes problematic to release constitutional requirements and maintain the cultural demands of a community bestows upon an individual. For instance, marginalization that is exhibited through course selection and the view that women are merely slotted into courses that are congruent with their related functions could be indicative of the recurrence of the underpinnings of traditional practices that thrive on predestined gendered relations and gendered assignment of social roles based on masculinity and femininity (Butler, 1988; Lorber, 1993; Oakley, 1986; Mead; 1935; Albertyn, 1994).

Machika (cited in *Mail and Guardian*, 12th August 2014), Msimang (2014) and Makau, (2014) highlighted the plight of women in modern urbanized societies who find themselves in a contradictory position of balancing freedom and constriction. As much as men may proclaim and embrace democratic values and freedoms they tend to hang onto old practices that privilege them, whilst women do not know whether to succumb to pressure from their social settings or embrace modern practices that have awarded them an equal footing in society, legally. Although women have been given leeway through policies and legal frameworks, some have internalized the oppressive nature of their relationships and reconstructed their reality as normal.

Lastly, as meaning-making beings, people are not mere bystanders but active participants in and curators of their own destinies and communities (Weber, 1948; Husserl, 1965). Even with transformation in higher education it remains a contested terrain that exhibits nuanced struggles against racism, stereotypes, sexism, quality, efficiency, economic emancipation, the nature of qualifications and conditions of employment. As an expression of frustration and anger, the majority of institutions of higher education are faced with strikes because the students are unable to afford school fees, food and accommodation (*Mail and Guardian*, 12th August, 2014; 23rdJanuary, 2015). The development of capabilities and functioning is therefore greatly influenced and impeded by the individual circumstances, social conditions, resources and contexts that create and obscure opportunities (Walker & Unterhalter, 2007; MacNaughton, 1998).

3.5. Concluding Remarks

The chapter has discussed the basic concepts of a capabilities approach to human development. According to Sen (1980) and Nussbaum (1999), capabilities, functioning, freedoms agency and wellbeing can be used to evaluate a social policy. As opposed to egalitarianism and utilitarianism, Sen (1980) argues that a capabilities approach is broad and can be used to assess the level of beneficiation individuals accrue from social policy initiatives. For instance, life choices are intricately connected to freedoms, therefore the freedom for individuals to choose a particular life depends on the available alternatives. Closely linked to capabilities and functioning are unfreedoms, which act as deterrents or constrictions to the development of capabilities and functions.

According to Sen (1980), Rawls (1971), Nussbaum (1993) and Unterhalter (2007), unfreedoms can be viewed in terms of historical burdens, cultural practices, socio-economic disadvantages and power imbalances that can inhibit women from participating meaningfully in society. The literature (Nussbaum, 1999, 2011; Rawls, 1970; Fraser, 1995; Young, 1990; Taylor, 1994; Satz, 2007) has shown that recognition of formal liberties cannot guarantee the development of women's capabilities and functioning, but rather their material needs have to be met and the institutional environments prepared to receive and accommodate them:

> *Nor does the protection of choice require only a formal defence of basic liberties. The various liberties of choice have material preconditions, in whose absence there is merely a simulacrum of choice. Many women who have in a sense the "choice" to go to school simply cannot do so: the economic circumstances of their lives make this impossible. Women, who "can" have economic independence, in the sense that no law prevents them, may be prevented simply by lacking assets, or access to credit. In short, liberty is not just a matter of having rights on paper, it requires being in a material position to exercise those rights. And this requires resources. (Nussbaum, 1999, p.231)*

Although the capabilities approach can be used as an evaluative tool in various disciplines, Sen observes that his theory does not amount to a theory of justice in the sense that was intended by theorists such as Rawls (Sen, 1995; 2004a). It does not embrace key aspects of social justice that are aggregative, distributive, procedural or non-discriminatory, but rather it stresses the importance of education as developing key skills that drive the development of society.

Education has also been viewed as a public good through which one attains freedom of choice, liberation from domestication and the ability to function meaningfully in society (Sen, 1999, 1993; Nussbaum, 1999; Freire, 1985; Nussbaum, 2011; Alkire, 2005). Effectively, higher education policies have posited skills development, personal development, local and international competiveness, rebuilding and redistribution as important deliverables to individuals and society at large.

Fukuda's (2003) summary on the three levels of analysis that a capabilities approach (similar to that of Sen and Nussbaum) can be insightful in refocusing and casting light on the status of gender equity in South African higher education:

- *The philosophical foundation of equality of capabilities and freedoms (focusing on individuals as the objective of gender in development)*
- *The evaluative aspect of capability expansion (the well-being , choices and freedoms of an individual)*
- *The agency aspect of capability expansion (an individual as an agent of change in the society) Fukuda (2003,p.313)*

Finally, this chapter has argued that higher education has great value in terms of human development, harnessing of human resources, enhancing personal freedoms and basic liberties. However, it was also argued that historical factors, structural impediments and socio-economic realities of a majority of the previously disenfranchised students impede the academic trajectory of black students. It is upon this basis that Sen (1990) and Nussbaum (1998) argue for recognition of diversity (heterogeneity) in the human race rather than homogenizing people. In the case of gender and higher education, women ought to be treated as a diverse group with diverse needs who require diverse interventions so as to retain them at university.

The next chapter discusses and interrogates key debates presented in gender construction theories, the aim being to demonstrate that gender is socially constructed and that a host of factors are responsible for the gendered states with which people are endowed.

CHAPTER FOUR

CONTESTED NOTIONS OF GENDER: PERSPECTIVES FROM GENDER THEORIES

4.1. INTRODUCTION

Generally, the meaning of gender has been based on the binary between boy/girl; male/female; man/woman, however, Unterhalter (2005) is critical of this kind of assigning meaning to gendered states because it is narrow and insensitive to how various discourses have informed gender and gendering. The discussions in this chapter are aimed at exploring the meaning of gender and sex, how it is constructed, and how gendered roles have been conceptualized and executed. Importantly, it argues that the marginalization of the female has been a result of a conglomeration of factors which range from the biological, social, cultural and historical. With this in mind, the thesis continues to advance the argument that women are not a unilateral group and therefore this has to be a guiding principle in any strategies and interventions that are aimed at dealing with past and current injustices. This can only be possible if the meaning allocated to gender is aligned to the abstractions provided by the proponents of social constructionists' ideals of gender and gendering.

In departing from essentialism, this chapter argues that the meaning and construction of gender identity should be based on a broad conception that can reflect and capture its multiplicity, fluidity and malleability (Butler, 1988; Weedon, 1997). This position is important in tackling marginalization through equity mechanisms that are based on social justice and substantive equality (Rawls, 1971, Miller, 1999; Sen, 1980; Young, 1990). Pursuing and establishing the meanings of gender is aimed at establishing and locating the preferred meaning that has been given visibility in equity policy. The discussions will also benefit the analysis chapters (8 and 9) in locating continuities and discontinuities between the preferred meaning of gender in policies and gender frameworks, and the impact it has had on gender struggles and positioning of black women in South African higher education.

This chapter commences with discussions about how gender has been defined with the guidance of essentialist theorists, as a natural occurrence, and social constructivists, for whom gender does not exist independently of historical factors, cultural practices, norms,

rules or values. Likewise, intersection theorists present a compelling argument for the complexity of theorizing gender identity from a generalized position which does not show its fluidity, multidimensionality or multiplicity. Interlocking with other identities, such as race, social class and sexual orientation, has implications for how an individual experiences life and accesses opportunities and resources, as explicated by the social justice theorists and the capabilities approach to human development (Rawls, 1971, 1985, 2001; Sen, 1980, 1992, 1995).

The sex-gender binary has also come under attack because of the way it limits people's subjectivities to two states. Questions have been posed about "the second sex",[8] for people who do not fall within the conventional or prescribed genders (male/female). The existence of such a group further complicates the so-called normative understanding and conceptualization of gender, sex and sexuality (De Beauvoir, 1997, 2012). In spite of biological factors that differentiate men from women, the conclusions of this chapter are aligned to a definition of gender that is not-reductionist and prescriptive as in innatist and essentialist theories. A definition is sought that is broad enough to encompass the complexities of societies in which gendered beings operate in conjunction with conflicting contexts and histories (Fraser, 2008; Omora, 2000; Mackinnon, 1993; Weedon, 1997).

4.2. LOCATING THE DIFFERENCE: SEX AND GENDER

On differences between the terms 'sex' and 'gender' it has generally been argued that the former is biologically determined whereas the latter is socially constructed, albeit conceptualization of sex has been grounded on deterministic anatomic, biological, physical, chromosomal, gonadal and hormonal factors (Oakley, 1985). The various aspects that manifest from the anatomic differences are used to define and determine maleness and femaleness (Kruger, 1997; Nanda, 1994; Fausto Sterling, 1985; Weedon, 1997; Ingraham, 1994; Richardson, 1981; Kramer, 1991; Oakley, 1985). From a minimalistic (biological) perspective, men and women are different from each other because men are able to provide sperm and women give birth and breastfeed. Meyerowitz summarizes the definition of sex as a combination of biological factors, as

[8] 'Second gender' is being used in reference to people who do not conform to the conventional genders of maleness and femaleness. These include bisexuals, transsexuals and any other group that does not fall into the traditional classifications.

well as the character traits that distinguish maleness from femaleness, masculinity from femininity:

> *Sex signified not only female and male, but also traits, attitudes, and behaviours associated with women and men […] the desires and practices known as masculine and feminine seemed to spring from the same biological process that divided female and male. All came bundled together within the broad-ranging concept of "sex". (Meyerowitz, 2002, p.3)*

Oakley iterates that sex is biological while gender is culturally determined:

> *Sex' is a word that refers to the biological differences between male and female: the visible difference in genitalia, the related difference in procreative function. 'Gender' however is a matter of culture: it refers to the social classification into 'masculine' and 'feminine'. (Oakley, 1985, p. 16)*

In the same vein, OSW (2000) defines sex along biological lines, whereas gender is seen as being social, historical and contextual:

> *Gender refers to the social roles allocated respectively to women and to men in particular societies and at particular times. Such roles, and the differences between them, are conditioned by a variety of political, economic, ideological and cultural factors and are characterised in most societies by unequal power relations. Gender is distinguished from sex which is biologically determined. (OSW, 2000, p. xviii)*

Apart from historical and cultural factors that constitute gendering, power is also a factor in the formation of the gender identity. Scott (1988, 1999) defines gender as "... a constitutive element of social relationships based on perceived differences between sexes, and gender is a primary way of signifying relationships of power."

Hirdman (1988, p.51) illustrates that the ideologies that undergird notions of maleness and femininity inform the social actions and performances of gender roles: "Gender can be understood as a variability of ideas of "men" and "women" (ideas that always use biological differences between bodies) which give rise to notions and social actions which also have influence on biology". Ethel and Lionel (1983) state that theories of gender identity (innatists) have failed to provide evidence to show that the natural or original gender state is masculine, feminine or innate. Instead, identity is a result of sex assignment and daily experiences, that is, socialization and interaction with members of a given society. Largely, gender construction results from social and historical factors and contexts that determine how relationships between men and women are formed and executed. The relationships are not linear but alterable, dynamic and multifaceted,

shaped by economic, political, cultural and social relations of power that impact men and women differently in predestined social institutions.

Wodak (1997) states that, although sexuality and sex allocation[9] is permanent and immutable, the traits and characteristics that are assigned to a particular sex are alterable because they are culturally determined. Transgendered represent a small but growing group in society that do not conform to normative prescriptions, arguing for otherness that is as a result of 'a mismatch', between what is expected of them, *who they should be*, and *who they really are.* Although some gender reassignment has been received favourably because of celebrity status in western society I speculate that it is unlikely to be so readily accepted in traditional societies that are largely essentialist, patriarchal and intolerant of *otherness.*

In determining the kind of definition South African policies and gender frameworks have taken into consideration, the biological binary which links with the equality principle also explicitly links gender oppression to social class, race, ethnicity and the disability-equity principle (White Paper, 1997:18; OSW, 2000). Therefore, clarity is required on how this recognition translates into real value and gains for the formally marginalized women. This observation leads me to argue that, although the basis and selection of the beneficiaries of gender equity in higher education is largely informed by race and social class the two factors are not sufficiently comprehensive to cover all the women who are disenfranchised and currently facing various challenges in higher education.

4.3. A FOCUS ON INNATISTS' THEORIZATION OF GENDER CONSTRUCTION

Apart from establishing the differences between sex and gender, it is important to understand the foundations that have informed various theorizations underpinning discourses on gender. One such school of thought is essentialism (Murdock, 1949; Parsons, 1954; Bowlby, 1969; Tiger & Fox, 1974), which presents gender as a natural attribution that is inherent and deterministic. This view has drawn much criticism from social constructivists, who believe that gender is socially and historically constructed.

Essentialists support the view that men and women are fundamentally different, owing to their biological composition, a position often based on a common-sensical and

[9]Sex allocation in this case refers to the genitalia and anatomy which is biologically determined.

detrimental understanding. Consequently, it has legitimized inequalities, division of labour and power imbalances, however, the variability and lack of consistency in sex roles, expectations and relations across communities makes the innatist claim implausible (Lorber, 1984). I believe that the approach is reductionist, general and inadequate as it ignores pertinent debates about how gender inequalities are created and experienced by women. To this effect, Unterhalter (2007) has argued that the experiences of gender are not unitary, but juxtaposed with skewed power relations, institutional arrangements, race and social class. The social construction of gender penchant that will be discussed in the next sub-section takes into consideration these factors, politicizes gender and renders it for greater scrutiny and analysis.

Tiger and Fox (1974) argued that the differences between men and women are a natural predisposition, originating from a hormonal 'bio-grammar'. For instance, males have testosterone that gives them strength and predisposes them to aggression, hunting, protecting their land and going to war, whilst women have oestrogen that is responsible for their meekness, body structure, reproduction and caring nature. For Murdock (1949), it was practical and logical to apportion certain roles and labour to one sex due to the biological differences, for example, child caring, cooking, nursing and gathering vegetables to women and heavy duties such as mining, house-building, lumbering and land clearing for men. On physical strength, Murdock noted that women stay at home or close by most of the time because of a weak physique, pregnancies and child rearing. On the other hand, men venture far and wide whilst hunting and fishing because of their strength and physique. Lorber and Moore (2002) and Connell (2005) acknowledge the strength and weakness binary through which sexism and male domination has been entrenched.

Contrary to most of the allegations being advanced by Murdock at various levels, Oakley (1985) regarded physical strength and superior physique as relative terms that could not be used against a particular gender. Certainly, there are stronger women in society who engage in activities such as mining, military, construction and land clearing, whilst childrearing itself is a task that requires great strength and character (Edwards, 1990). However, Mahony (1985) writes that the reproductive aspect of women's biological makeup is the dominant factor that is used to subjugate them.

In critiquing Murdock (1949) and other essentialist theorists, Oakley (1985) argues that one's sex or gender is no longer a factor in determining or allocating jobs in modern society. The current job market is interested in the skills rather than the gender or sex of the employee. For instance, in addition to building, construction and mining, although still challenging, more women are joining the military and police forces, areas traditionally reserved for men because of the danger and risk involved. On the other hand, more men now favour jobs related to nursing and home care, as well as the more traditional ones in hospitality, such as chefs and porters. They need feel no less 'male' for doing so, with the main factors being income and economic sustainability.

Parsons (1954) supported the traditional view that a sexual division of roles was a prerequisite for the survival and adequate functioning of families, with any counter-arrangement seen as a contradiction. Women taking up careers or staying away from home ran against the original position and would destabilize the smooth running of the family unit. Parsons (1954) posited that the instrumental roles (of men) and expressive roles (of women) worked in a complementary manner. Women would play the crucial roles of socializing the young, nurturing, and the stabilization of adult personalities, providing husbands with love, consideration and understanding. They were best suited for this role due to the strong bond that develops between mother and child in the early formative and development stages of life. The long absence of the father from the home in many cases, as breadwinner, was an indirect contributory factor to the position women occupied in the family. Women provided warmth, security and emotional support in the home. In essence, Parsons concluded that biological differences were responsible for the sexual division of labour, but society has changed and families have been forced to adjust and contend with absent mothers who have taken up demanding jobs to supplement the family income. Alternative arrangements have been sought to take up the role of housekeeping and nurturing, including domestic helpers, kindergartens, day care centres and stay-at-home fathers.

Bowlby (1969) believed the mother-child bond to be strong and therefore the mother's 'place' was in the home, nurturing her children, especially during early years of development. This has been supported by research (Bowlby, 1969) conducted on children in delinquent institutions who had been separated from their mothers at an early age and

so suffered psychological trauma. The supposed result was an inability to give or accept love and a high risk of developing a wide range of anti-social behaviours. Although Bowlby's (1969) conclusions are credible they may not apply to all delinquents and the current family realignments. Often, being a delinquent does not automatically deny a child an opportunity to form meaningful relationships. The reverse may be true in adulthood, when they may cherish family and relations as a conscious reaction to their lived childhood experiences. In addition, although it is more desirable for children to be under the care of their mothers in their formative and developmental stages, this in itself does not necessarily guarantee future uprightness.

Finally, the current socio-economic dynamics and realities are responsible for the new family rearrangements that are being experienced in many parts of the world. This has been a product of rights movements and advocates of gender equality who have fought for equal opportunities for men and women in public and private spheres (Loewenberg & Bogin, 1976; Donovan, 2012; CGE, 2000; Young, 2000). Reversal of gender roles on a broad scale is a relatively new phenomenon with which most modern societies are grappling. More women are taking on jobs that keep them away from home for long hours and husbands have to contend with taking over domestic chores and childcare. I doubt that children from such families can be seen as being maladjusted.

Perhaps similar examples can be drawn from communities in which males have taken on traditional female roles. For instance men amongst the Mbuti's of Congo and Kibbutz of Israel have reportedly taken on the so-called female designated roles and performed them well (Mead, 1935). Children born of nomadic parents do not spend much time with mothers who move in search of water and food, examples that demonstrate Bowlby's argument is flawed and inadequate in theorizing for the sustenance of sex and gendered roles. It would therefore be improper to conclude that children from such families are maladjusted because of the absence of the mother figure in the home.

As a rebuttal to essentialism, Oakley (1985) asserts and confirms the claim that is being made in this section, that the grounds upon which innatists base gender differentiation are reductionist and biased. The determined sexual roles are based on specific representations of Western European cultural constructions of gender and as such cannot be generalized to non-Western cultures and communities. As Mead's (1935)

research shows, the variability and inconsistencies between sex and gendered roles due to different cultural expectations and performances renders the natural debate on gender problematic and unacceptable.

Another area of contention that destabilizes the essentialists' narrative on gender is the existence of gender states other than male and female. Although complex, the states, experiences, sense of lived reality and discourse of trans-sexuality demonstrate that biological determinism and prescriptivism is malleable. Discourses and research advanced in this area have indicated that it may be easy to alter one's body to match the inner necessities but a greater challenge lies in changing one's mind and inner self. This is to say that, although gender is socially constructed, people work out how to conform or go against the constructions and the norms that are used to determine identity (Meyerowitz, 2002).

In demonstrating that sex roles are not prescriptive expectations because they vary from culture to culture, Mead's (1935) study on the New Guinea Island provides a compelling argument against biological assignment of aggression to masculinity and nurturance to femininity. Scholars such as Lorber (1984) suggest that gender is much more than roles played by men and women, just as the economy is much more than jobs performed by individuals. Gender roles are not entered into passively, but both men and women actively and reflexively shape their own, thus socialization is achieved through agency, interpretation of sexual attributes and negotiation (Connell 1987). This view resonates with De Beauvoir's claim (1989) that one becomes a woman through the dislodgement of what already exists naturally through the processes that have been suggested by Connell, such as agency, interpretation and negotiation.

Rozaldo (1980:400) postulates that a woman's worth and place in social life should not be evaluated on the things she does or, even less, on her biological factors. Rather, she should be evaluated on the basis of the meanings her actions acquire through concrete social interaction. Equally, social interactions and processes are responsible for shaping, defining and dictating how people relate to and treat each other. Caution should be taken to avoid reductionist views that present gender and sex roles as unproblematic and natural, because gender is not amorphous but contextual, and is operationalized through the interlocking relationship it has with other states, such as race, social class, ethnicity

and sexuality. These contribute to the total lived experiences (Young, 1990; Fraser, 2008; Sen, 1995; Nussbaum, 1998).

Finally, on the legitimization of the gender sex binary in higher education policies, black feminists have argued that the equal opportunity legislation of the 1970s in America has not been able to stop discrimination against black women in the 'ivory tower'[10] of higher education. As with black South African women, they are uniquely positioned in society and have experienced triple marginalization attributed to gender, race and social class (Collins, 2000; Oyewumi, 2003; Hassim, 1991; De la Rey, 1997). In Support of this view, others have also argued for an expanded theorization of gender inequality that will show that the natural and biological is acted upon socially and therefore the social cannot be decamped from the discourse of gender (Henry, 1994; Butler, 1990; Connell, 1987).

The next sub-section examines debates that indulge the social construction perspectives of gender.

4.4. Social Construction Perspectives of gender: A critique of innatists claims

As a departure from essentialism, the social construction of gender takes into cognisance factors other than the prescriptive physiological and congenital characteristics that differentiate male from females. As a means of rescinding the superiority that biological factors have allotted to men, feminists have vehemently argued that *anatomy is not destiny* and that *one is not born a woman, rather one becomes a woman (*De Beauvoir, 1989). Becoming a woman is attained through social processes that allocate privileges and dominant positions to certain groups of people and subservience and disenfranchisement to others (Henry, 1994; Mojab & Gorman, 2001).

Sunderland and Litosseliti (2002) and Butler's (1990) broad framing of sex and gender dispels the myth that a single factor can be responsible for masculinity or femininity. Secondly, gendering and being gendered is not a static process but rather a continuous one of "emergence and re-emergence of self."[11] Women of the 21st century are no longer confined to homes but have ventured into formerly male-dominated spaces and are

[10]In a traditional way and clichéd fashion, the concept refers to universities as places that are elitist, occupied by middle class male white scholars that produce and disseminate unbiased knowledge to the outside world (Henry, 1994).

[11]Due to the temporality of gender, the gender identity is transformed repeatedly due to historical and contextual factors.

exploring possibilities of meaningfully participating in nation-building. Murdock (1949) and Parsons (1954), Epstein (2007) and Assié-Lumumba (2006) argue that, despite inadequacies, gender is a basic social divide that is used to organize labour in homes and major institutions, workforce, politics and religion. The gender divide is entrenched and supported by the social, cultural and psychological mechanism. The innatist discourse has intentionally used the gender divide to reassert women's reproductive roles, making them passive, while limiting their autonomy, decision-making and public participation, allocating power and visibility to men.

However, Oakley (1985) states that using culture as a baseline to determine universal gender roles is reductionist and improper because there is no universal culture, but there exist diverse cultures that are identified with particular communities. This is to say that, even within communities that claim to be unified, the experience of culture is different for each individual because of the different subject positions they hold, depending on their social class, position, sexuality, age and gender. Moreover, substantive equality theorists (chapter 2) have demonstrated that the misrecognition of people's multiple identities, lived experiences and heterogeneity has serious implications for reform of social justice (Fraser, 2008; Mackinnon, 1993; Rawls, 1971; Sen, 1995; Young, 1990, 1991).

As to whether gender can be classified as a natural attribute, Oakley (1985), Nussbaum, (1999), Mead (1935), Acker (1990) and Wharton (2012) contradict claims advanced by innatists by showing that gender is not natural but rather is socially constructed within social establishments and regimes. The social construction of gender is geared towards preparing individuals to operate successfully in the existing social structures, such as schools, churches, workplace, sports grounds, homes, community halls, institutions of teaching and learning. It therefore follows that social establishments generally represent the reality and lived experiences of being gendered, having a gender and being a member of a certain gender group. The intricacies of gender and history are played out and felt in social institutions such as those of higher learning, in which people relate to and interact with one another on various levels.

As a critique of innatist claims, Ortner (1974) places emphasis on the general devaluation of women that is based not only on biological factors but also on the cultural devaluation

of a female biological body. By reiterating suppositions made by essentialists, Ortner demonstrates that women have been made to occupy positions inferior to those of men. For instance, women have been presented as being closer to nature due to childbearing, nurturing, socializing of young ones, taking care of the family and emotional connectedness with others (Bowlby, 1969). Men, on the other hand, have been seen as objective and less emotional, participating in politics, religion, and warfare, and hence closer to culture. Religion, social stratification of race, ethnicity, caste and class, and kinship in descent and ancestry systems are vital in determining who owns resources, but have also been used to devalue and condone oppression of women. These are forms of discrimination because they are blatantly used in asserting and normalizing masculinity (Rathgeber, 1990:494; Fraser, in Mills, 1994).

Whereas it is probable that certain women may not perform at the same level as men, with structural opportunities, resources and an enabling environment, they have exhibited equal strength and exuberance in fields that have previously been designated and preserved for men, such as politics, engineering and leadership (Hill & St Rose, 2010). Likewise, men in certain communities have played the so-called “feminine roles” adequately (Mead, 1935; Oakley, 1985; Afonja, 2005). The examples show that, in theorizing gender, a uniform approach should be treated with caution because people are heterogeneous and their experiences are not unilateral (Young, 1990).

Concomitantly, De Beauvoir’s (1989) claim “that one is not born, but, rather, becomes a woman” resonates with pertinent debates that surround the question of whether gender construction can be attributed to ‘nature or nurture’. Other than being born a female, possessing biological and congenital features that differentiate male from female, one becomes gendered through a variety of processes. Butler (1988) states that becoming a woman is an intricate process that repeatedly subjects the female body to historical and cultural conventions and conformities that are demeaning and inhibiting in many ways. The subjugated body carries a cultural identity that subsumes the values and norms of a particular culture:

> *… to compel the body to conform to an historical idea of 'woman,' to induce the body to become a cultural sign, to materialize oneself in obedience to an historically delimited possibility, and to do this as a sustained and repeated corporeal project .(1988,p.523).*

It is evident that the gender to which one has been assigned occupies a large part of an individual's life. Gender conditions, shapes and contributes to an individual's daily experiences, social circumstances and history (Schues et al., 2011; Butler, 1988). For instance, it has been suggested that, subject to the assigned gender, the socialization and enculturation that takes place is geared towards defining, configuring and upholding the expectations and roles of that particular individual. Thus, his or her name, prescribed roles, mannerism, habits, dress code, rules of engagement and communication are all coded and geared towards instilling and perpetuating the values of a specific gender Fisher (in Schues et al., 2011).

While socializing an individual in a way that befits their gender, the way children walk, talk, dress and sign according to gender norms, not all conform to conventions. There are those who will deviate and earn the label of 'deviant', such as girls who climb trees being labelled as 'tom boys' and boys who dress up and apply makeup as 'sissies'. Some of the labels may fade with time but in extreme cases the character traits may be communicating a deeper phenomenon. Butler (2004) and Schues et al. (2011) emphasize that gender ostensibly constitutes the liveable and the relational that is formed out of the relationship between gender norms and human survival. Butler states that a meaningful human livelihood is dependent on two complementary conditions, namely, the genetic predisposition that guarantees minimal survival and the social attribution that intervenes at the onset of life and establishes conditions for a liveable human life.

Butler (2004) argues against the christening of the male/female binary as the norm because other identities have been proven to co-exist with heterosexuals. Butler (2004) further notes that, the "heterosexual matrix"[12] is fixated on identifying heterosexuals as, "proper men" and "proper women". Clustering people in such a manner is delineating and the repercussions may be dire for those who are viewed as "outsiders" and "deviants". I also note that the meaning of 'proper' man/woman is too general and problematic. Without clear explanations, contexts and the tools of evaluation, the phrase/s remain vague and impositions that are normalized to oppress a section of the population. Hence, for instance, the violence that is advanced and perpetuated against

[12]The heterosexual matrix as presented by Butler ignores forms of sexuality other than heterosexuality that is deemed as the only natural identity assigned to human beings. The existence of gays/lesbians is seen as 'deviant' behaviour.

members of gay and lesbian orientations has been formed along normalized cultural and religious positions that are not shared by all. The assumption that gays and lesbians are deviating from performing and conforming to the "traditional heterosexual gender functions" of proper men and proper women is implausible (Butler, 1990, 2006).

Lorber (1994) wrote that gender begins with an assignment of sex at birth, depending on the genitalia, for instance male, female or hermaphrodite. The dynamics of allocating a particular gender to such individuals at birth can become problematic at puberty, when the individual turns out to have dominant genes and features. Nevertheless, what follows the assignment is the different role allocation, treatment and handling that is afforded to children on the basis of their gender, and to which most children respond. I believe those who fail to respond to the treatment are left confused and resort to finding other ways, good or bad, of coping with their reality and confusion. In spite of the variations in the responses, largely, conclusions can be made to the effect that, expectations, experiences and social roles are the aftermath of gender assignment with the duties of women and men being clearly defined (Tiger & Fox, 1974; Parsons, 1954).

Young (1990) confirms that the desired results of being socialized into a particular being or state are not always positive or congruent with the identifiable gender, offering two possible explanations. The first is linked to ideological positions of those who argue that gender identity is fluid and alterable, the second to the view that humans are meaning-making and hence question, contest, contrast, deconstruct and negotiate through socialization processes they undergo and come up with new meanings that suit their current situation. Both positions are shared by theorist such as Foucault (1984), Young (1990) and Omora (2000), who postulate that the human condition is relative, multiple and flexible. It is therefore possible that gender norms that have been set for a particular gender group can be questioned and appraised. In cases such as the aforementioned, the affability of a male/female binary becomes questionable (Fisher, in Schues et al., 2011; Butler, 1988).

Butler (1988) writes that the second sex of the body is attuned to act and behave in a way that suits the gender it is carrying. She also notes that the gendered roles are repeated and internalized through socialization processes which produce the anticipated result:

> *What we take to be an internal essence of gender is manufactured through a sustained set of acts, posited through the gendered stylization of the body" (Butler, 1990/2006, p. xv).*
>
> *"Gender is a kind of persistent impersonation that passes as the real" (Butler, 1990/2006, p. xxxi)*
>
> *Just as in Kafka's "Before the Law," where one sits before the door of the law awaiting that authority to be distributed, so, too, gender is "an expectation that ends up producing the very phenomenon that it anticipates (Butler, 1988, p. xiv).*

Importantly, it is clear that through various socialization agents, men and women have been assigned "instrumental and expressive roles that are geared towards creating stability in their own society"[13] (Lorber, 1994). It has been argued that socialization and the eventuality of the creation of particular subjectivities follows a convoluted process that encapsulates negotiation, contestation, acceptability and adaptability (Connell, 1987). Bourdieu (1977) introduces the terms *habitus* (socialized subjectivities) and *social fields* as processes and practices through which people are socialized into speaking, walking, standing, thinking and feeling. It is an embodiment of "being" and "doing" that is facilitated through social fields. Habitus, on the other hand, refers to institutionalized social contexts that create and sustain subjectivities.

According Webb et al. (2002), fields are:

> *Structured contexts which shape and produce these processes and practices; they are 'a series of institutions, rules, rituals, conventions, categories, designations, appointments and titles which constitute an objective hierarchy, and which produce and authorise certain discourses and activities' and that which counts as valuable 'capital' is determined.(Webb et al., 2002,p.20-21)*

Young (1990) criticizes socializing children into gendered roles, as when girls are encouraged to perform in a particular manner that objectifies them by adapting a third-person perspective on their bodies. If the socializing of children into gendered roles is replicated into adulthood, the subject and course choices in schools and institutions of higher learning tilt towards prescribed gender roles to a certain extent (Hill & St Rose, 2010; Mutekwe et al., 2011; Molteno, 1984).

Young (1990) and Bartky (1990) conclude that objectification and essentialization of girls can lead to self-objectification, a notion that is promoted through a cultural milieu that socializes girls and women to treat themselves as objects that ought to be evaluated on their appearance, as in beauty contests (Fredrickson & Harrison, 2005:81). This kind of

[13]This claim has been disputed by Oakley.

logic assists the essentialist narrative in entrenching the supremacy of biological factors to demean women. It also draws unhealthy competition between those who are perceived as 'beautiful' and those that are seen as being 'not so beautiful', and thus associated with attractiveness by society. Women who are not judged favourably can be adversely affected through the inhibition of their physical activity, emotional wellbeing and physical health, safety and cognitive functioning, leading to feelings of self-consciousness, shame and anxiety (Young, 1990; Fredrickson & Harrison, 2005).

Developments that are crafting a new terrain in the gender discourse can be found in Sweden, renowned for its gender-friendly policies and having achieved gender parity in general. Sweden has undertaken to re-socialize its citizenry in order to diminish gender inequalities, creating a gender-neutral society. Although this may be anathema to conservative thinking of traditionalists, the project has already targeted play schools and kindergartens in which gender-neutral toys and clothing have been introduced. Parents are being encouraged to opt for neutral colours that have no connotation or representation of a particular gender (*New York Times*, 4 November, 2013). Colours, that in some societies are often identified with a particular gender, for example, pink for girls and blue for boys, have been omitted from the acceptable kindergarten regalia, when it is believed socialization is at its peak. He/she is likely to accept what he/she is told unless he/she receives new and contradictory information regarding the subject (Fisher, in Schues et al., 2011). Deliberate efforts have also been directed at re-socializing citizenry by purposefully removing and eroding gender distinctions that are perpetuated through pronouns such as he/him (*Han*) and she/her (*Hon*). A new gender neutral pronoun *Hen* has been incorporated in daily conversations and official documents, including the dictionary which denotes gender neutrality (*New York Times*, 4 November, 2013). The move to target the symbols of gendering and the meaning and interpretation they elucidate (clothing and daily language) show the insidious nature of gendering and gender oppression mechanisms (Butler, 1988). However, the minutiae of socialization processes that have been cited by Lorber (1994 and 2000), Butler (1988, 1990) and De Beauvoir (1989) are deep-rooted and embedded in a people's histories and ways of life.

Some contradictory views indicate that whilst performing gender roles is important the processes of interpretation, negotiation and agency supersede the latter because through

them identities are constituted, constructed and cemented (Lorber, 1994; Butler, 1990). Similarly, the process of gendering regulates and organizes people's lives (Lorber, 1994). The processes of interpreting and negotiating that are embodied in gendering do not depict gender in a simplistic and unproblematized manner. Gender is a complex and contested phenomenon, emanating from divergent experiences, histories, cultures, contexts and power imbalance (De Beauvoir, 1989; Butler, 1988, 1990; Lorber, 1994). Likewise, gender roles are not static and permanent but susceptible to change that is prompted by the passage of time and contexts. Lorber (1994) traced a confutation to innatists' argument that alleged gender roles are predestined and determined biologically. Similarly, De Beauvoir (1989) had written that gender is not prescribed but is historical and contextual, and for Butler (1988), even though gender is historical, usually it is treated as ahistorical and non-contingent. The inability to appreciate the historicity of gender is attributed to a refusal to acknowledge and recognize the location of gender in local cultures and contexts. The misrecognition has been refuted by substantive equality persuasions which acknowledge a plurality of cultures, historical backgrounds and contexts in avoiding the universalization of human history and experiences (Nussbaum; 1999; Young, 1990; Fraser, 1995, 2008; Foucault, 1984, 2000).

Scholarly work by Laslett and Brenner (1989), Adelman and Ruggi (2008) and Lewontin (1982, p.382) postulate that social, historical and relational factors are paramount in transmitting cultural meanings through which biological differences are expressed and become socially significant. Hierarchical relations between men and women are also defined and set aside within the same arrangements. The hierarchical ordering is embedded in social structures and manifested through cultures and traditions that construct and mediate such relations. Nussbaum (1999, p.229) contends that cultures are scenes of debate and contestation, containing dominant voices that dictate what is frequently viewed as norms of female modesty, deference, obedience and self-sacrifice. On the other hand, the submerged voices of women who are purportedly spoken for exist (Scott & Jackson, 2002; Nanda, 1994; Giddens, 1989; Nussbaum, 1999).

Scott (1988, 1999) pointed to underlying power relations and struggles as responsible for differentiating women from men. According to Norlander (2003), Scott's conceptualization of gender is a valuable resource for understanding how power is

institutionalized and the implication it has for people in those institutions. It also provides an axis for understanding how gender is constructed within specific cultures and societies. The effects of power imbalances have also been traced in areas such as knowledge production, dominance over truth claims and power as the language that articulates gender differentiation. Scott's (1988, 1999) contributions appraise current debates on the location of gender in social institutions that produce knowledge that is often purported to be "neutral and value free", yet the reverse is probably also applicable, that is, knowledge and truth are not independent of power and gendered innuendos (Foucault, 1984).

While reiterating the multidimensionality of gender, Boydston (2008) states that it would be a great disservice to study and analyse gender exclusively, because of its interrelatedness with other identities such as race, class, ethnicity and sexual orientation: "*... But it is always gender as nested in, mingled with and inseparable from the cluster of other factors socially relevant in a given culture. It is never 'gender' alone"* (p.576).

Adelman and Ruggi (2008, p.555) argue that recent developments in sociology and anthropology have revealed that the social construction of the body embodies materiality and its symbolic and cultural construction, embedded within the context of power relationships that are linked to class, sex, gender and race. The position renders the body in which gender is lived and expressed as a site of a constellation of social struggles, contestations and negotiations, exacerbated through subjective positions of race, social class, gender, religion and cultural artefacts (Fraser, 2008; Young, 1990). Chapter 7 on the discourse of policy puts into perspective the intrusion of such discourses into policymaking and implementation processes. The struggles are linked not only to class, race, sex and race but also to resources, productive and reproductive rights, and ownership of space, voice, political and intellectual ownerships, ownership and claim to one's body (Butler, 1988; De Beauvoir, 1989; Foucault, 1984; Fraser, in Mills, 1994).

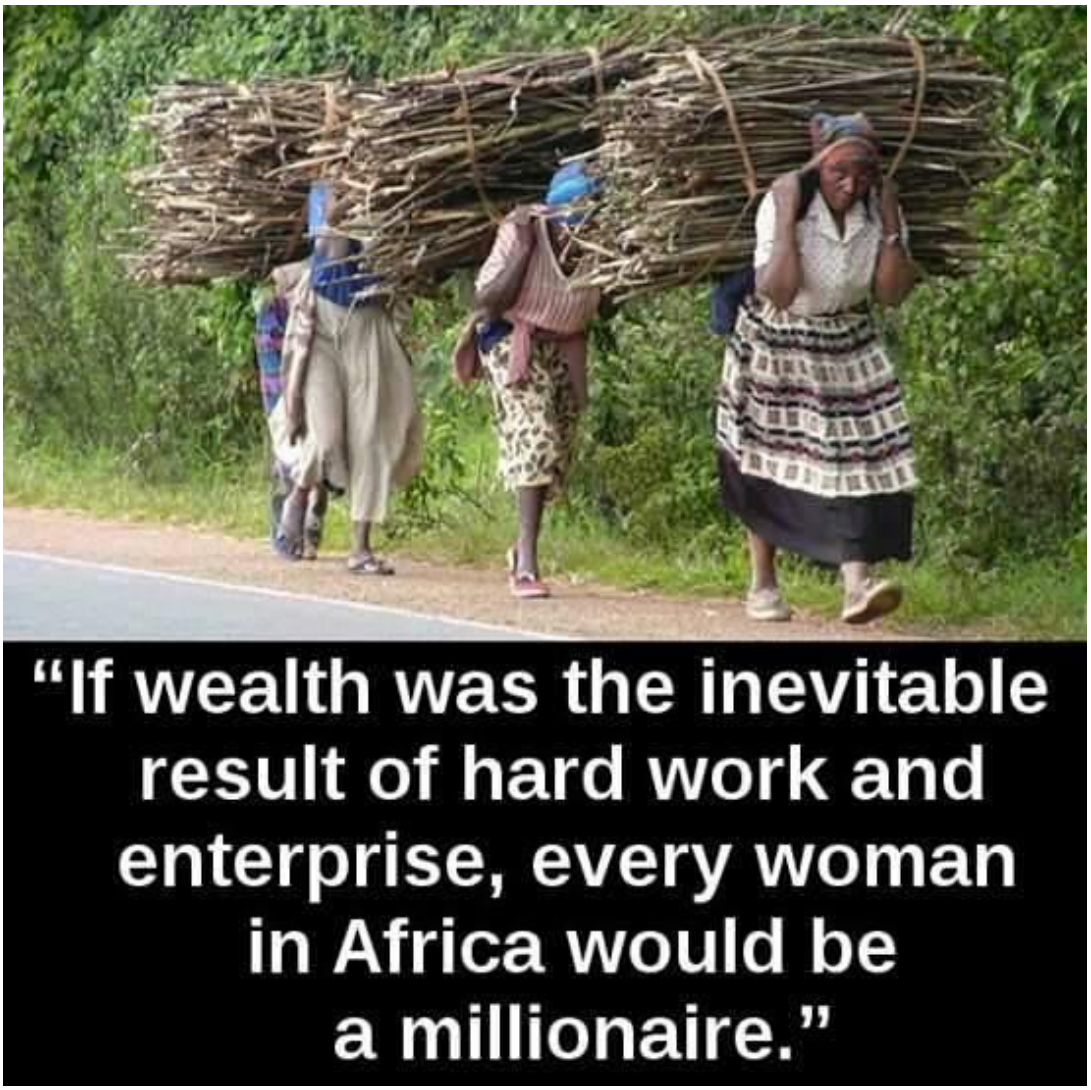
In accentuating the importance of structures of gender relations (power), materiality (economic factors) and action in amplifying gender oppressions, Hirdman (1987) states that gender theorization has to transcend the traditional modelling of gender along femininity and masculinity. However, I believe that the antithesis of this can be attributed to a male norm that determines skewed gender relations and power imbalances having

been left unchallenged, hence pushing women to the periphery of society. Therefore the adequacy of using Hirdman's unproblematized monolithic approach to understanding gender inequalities is questionable (Norlander, 2003; Butler (1988).

Finally, in responding to Hirdman (1990), Norlander (2003) singles out the implausibility of basing the definition of gender on established ideologies and processes that objectify and naturalize oppression of women (essentialism). Established ideologies are deep-rooted in hegemonies that are averse to change because they believe that things have to remain the way 'God' ordained. I argue that the deterministic and essentialization of women that has been presented by innatists is a good example of how gender inequities and inequalities can be propagated, institutionalized and normalized, regardless of the implications.

The picture below serves to demonstrate the burdens a majority of black women bear on a daily basis, yet they are not compensated or recognized as mainstream economic activities.

Picture 2



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https://www.facebook.com/photo.php?fbid=1398137953834508&set=a.1380989225549381.1073741825.100009149497381&type=1

4.5. Concluding Remarks

The notion of gender has led to much debate from essentialist and social construction theorists, providing fundamental input regarding the definition of sex and gender, the construction of gender and persistence of inequalities through gendered roles. It has been generally agreed that although gender and sex are at times convoluted, the two concepts are different. Sex is biological whilst gender is a social attribute (Oakley, 1985;

Butler, 1988, 1990). In theorizing gender, innatists (Bowlby, 1969; Parsons, 1954; Tiger & Fox, 1974; Murdock, 1949) have based their definition of gender on biological factors that are largely responsible for the disparity within the allocation of gendered roles. They see it as being natural, deterministic and unchanging. In contrast, social constructionists believe that gender arises from a conglobation of factors that include social, cultural, historical, contextual and relational, which implies hierarchical power relationships.

In view of the diverse factors responsible for gender and gendering, the social construction theorists have cogently argued that gender should be viewed as complex, multidimensional, flexible and malleable (Butler, 1988; De Beauvoir, 1989; Lorber, 1994; Boydston, 2008; Hirdman, 1987). Moreover, the neat account of gender and gendering that has been presented by essentialists has received fierce criticisms from the proponents of queer theory. Butler (1988, 1990) postulates that the gender sex binary is untenable as other states of being exist beyond heterosexuality.

The chapter has also argued that although the ideal approach to unlocking the gender marginalization impasse ought to be premised on a social constructivist penchant that recognizes diversity amongst women it has demonstrated that often the diverse factors are reflected in the interventions that are targeted at resolving gender inequalities. I have argued that the shortcomings of most of the interventions geared towards addressing gender inequalities are heavily reliant on innatists' views of gender construction. As a result, the approach and strategies that arise from it homogenize women's conditions. The approach is mainly based on an equality principle that does not address succinctly the needs of a diverse group of women with diverse needs.

Finally, the chapter is therefore in agreement with social justice theorists' claim that human conditions are not universal, but rather differ substantially according to the context of experiences (Rawls, 1971; Mackinnon, 1993; Taylor, 1994; Sen, 1995). In this case, social construction theorists have dispelled the myth that women belong to a homogenous and universal group as the proponents of essentialism allege.

The next chapter (5) provides a focused discussion on South African women's experience of marginalization in general and higher education in particular. It reasserts the view that gender is fluid and multidimensional. Invariably, in the case of South Africa, gender-

related marginalization that was directed at black women can be largely attributed to the intersection between race, gender, sex and social class.

CHAPTER FIVE

GENDER INEQUALITIES AND INEQUALITIES: A CASE OF SOUTH AFRICAN WOMEN

5.1. INTRODUCTION

This chapter is focused on exploring gender inequalities in the South African context. It has been argued that South African women experienced decades of marginalization and that the experiences have been divergent, attributable to ideological and hegemonic positions that were used as a vehicle of differentiation on grounds of race, sex, ethnicity and social class (CGE, 2000; OSW, 2000; Hassim, 1991). Black women in particular suffered what has been termed 'triple marginalization', of race, social class and sex. Again, this is a clear indication that a monolithic approach to dealing with gendered marginalization is not sufficient in addressing gender inequities and inequalities. It is around this realization that many of the interventions for social redress after 1994 attempt to address the triple marginalization. Similar thinking has been adapted in South African higher education.

The chapter is aimed at demonstrating that despite black women having suffered substantially during the apartheid era and before, their marginalization has not received the requisite attention in equal measure. Although gender marginalization in higher education was at its greatest during the apartheid era it has been argued that the policies enacted after 1994 were aimed at redressing disadvantages that were race-related while giving minimal attention to gender. The implications are that specific black women's issues have lacked the necessary attention, being subsumed in other discourses, such as race and social class. Martineau (1997) and Hassim and Walker (2005) postulate that many scholars have been silent about black women's experiences in education, which is an injustice (Young, 1990: Fraser, 2008; Omora, 2000; Taylor, 1994). It amounts to misrecognition of the particular and specific experiences of those women who are part of the cohort that is benefitting from transformational instruments. I believe that, in the case of higher education, specific areas of marginalization have to be spelt out clearly in order to avoid misalignment or misinformation within the interventions that are being put in place to address gender inequities and inequalities.

This chapter is organized in three sections, the first of which addresses pertinent ideologies (race) and patriarchy that have contributed to the creation and sustenance of gender inequalities in the South African context. The second and third sections discuss and analyse gender inequalities in education in general and higher education in particular (pre- and post-1994).

5.2. CONTEXTUALIZING GENDER MARGINALIZATION: CONTEXTUALIZING RACE AND PATRIARCHY

In this section, I interrogate race and patriarchy as factors that imposed gender injustices on black women in the South African context.

5.2.1. RACE AND GENDER AS FACTORS IN GENDER OPPRESSION

Largely, apart from the marginalization directed at blacks in general, black South African women's suffering has been attributed to a variety of factors that form what is known as a 'triple tragedy', caused by racism, social class and sexism (Hassim, 1991). Racism is the use of colour to extol superiority and privilege of a group of people and inferiority and subservience of another. It is used to justify the dominance of one racial group over other races, seen by Lorde (1992) as "the belief in the inherent superiority of one race over all others and thereby the right to dominance" (p.496).

Meanwhile, the manifestation of sex and sexism (discussed in chapter 4) can be seen through the femininity or masculinity that has been allocated to gendered roles. The origin of such allocations can be traced from the skewed arguments advanced by innatists, who view women as weaker beings in comparison to men due to biological factors. Sexism is biased, stereotypical and prejudicial against women. In the case of South Africa, race and racism are synonymous with colonialism and apartheid, under which white dominance and privilege (economic and political) over blacks was based on skin colour, whereas sexism is largely promoted through patriarchal systems that cut across the racial divide (CGE, 2000; Carrim, 2006).

The South African scenario is replete with contradictions that are formed around a dialectical relation that on one hand sees human action in the form of women engaging in the liberation struggle, and structural constraints around racism, and on the other hand the dominant and subordinate master-servant relationships (Camaroff, 2013). I argue that in order to have good a grip of how gender inequalities are constructed,

sustained and perpetuated, understanding the grotesque roles that colonialism, apartheid and capitalism played in distorting indigenous gender ideologies and relations is paramount.

Arguably, the predominant discourse during the struggle period revolved around racial hegemony (Molteno, 1984). Racially motivated oppression took precedence over gender and class oppression, although they happened simultaneously. This was due to the dominance of race in the political and legal ordering of South African society. At issue here is the tension within the South African women's liberation consciousness that divided them along lines of race and class. Middle class white women were mainly concerned with the acquisition of political and legal rights while black women's quest for liberation was based on the acquisition of political and economic equality (Hassim & Walker, 1993; Albertyn, 1994; Walker, 2005). According to Walker (1990), racial segregation and subordination created new forms of racial and gender inequality.

Although indigenous cultures have been seen as agents of marginalizing women it has also been noted that women were not completely subdued. They enjoyed some status as producers in farming rural communities even though they did not have authority. Meinjties (1996) notes that, even with the harsh circumstances, women found a way of asserting their independence out of traditional and customarily law, especially the few educated ones. Through Camaroff's assertion, it is demonstrated that education is important in sensitizing women to their rights and enabling them to stand up against their oppressors (Nussbaum, 1999; Sen, 1980). Although a majority of the rural women in the North West province have experienced marginalization at different levels the community was largely matrilineal and women controlled their homes and families. However, with colonialism, the family order was rearranged through migrant labour, then as more men moved to urban centres rural women continued to play a vital role in enhancing the survival of rural communities.

With the advent of new land reforms in South Africa, the scarcity of arable land that had been in the hands of the chiefs devalued women's status as producers. They lost their autonomy because they had to be attached to a male family member in order for them to be allocated farming land, and if they did not have a male kin it was left to the chief to decide on its allocation (Guy, 1990; Walker, 1990). Similarly, Meinjties (1996) explains

that the customary law denied rural women adult status and they were not allowed to own or inherit land or moveable property, or access credit. In addition, whilst motherhood was the sole responsibility of women, guardianship and custody of children rested with men (Meinjties 1996:53). These restrictions put women in a precarious position because their political, legal, socio-economic and reproductive powers were taken away from them. Treating women as weak, irrational, undeserving of any rights and always being attached to a male figure entrenched innatist views of the dominance of masculinity and inferiority of femininity (Oakley, 1985; Murdock, 1949; Parsons, 1954; Tiger & Fox, 1974).

Women's subjugation was entrenched when the colonial authorities incorporated traditional leaders into their governing systems and introduced customary law that formally instituted the inferiority of women to men. It should be noted that the customary law applied to black women because the 'Indian' and 'Coloured' women were governed by Western law and Muslims by personal law (Walker, 1990; Baden et al., 1998). Hassim (1991) argues that although black South African women suffered they were not alone in this struggle, only in the degree of suffering. She further observes that this view delineates and silences the oppression of racial groups other than blacks. When women marched against the Pass Laws to the Union Building in Pretoria in 1956 it was in solidarity with each other. At this moment in history, race, religion or creed did not separate them. The sisterhood alluded to by Doyle (2000), Ritzer (1996) and Basow (1992) was witnessed then.

The 1930s saw an influx of women into the urban centres in search of opportunities. Mining work was a preserve of men and since legal restrictions of movement for women into cities was reinforced; black women remained in the rural areas and worked as casual labourers on farms, whilst others moved to cities to work as domestics, hawking and brewing or selling beer in informal settlements (Walker, 1990). Demeaning as these jobs were they provided women and their families with food and shelter. Under apartheid, black South African women were limited in many ways, unprotected by the law and denied meaningful access to education, housing, transportation, health services and economic opportunities due to the colour of their skins. White South African women, on the other hand, had their limitations economically and professionally (Camaroff, 2013;

Meinjties, 1996; Martineau, 1997). There were a few choices rendered to them as far as jobs were concerned, mainly positions that were synonymous with traditional female gender roles, such as clerical and secretarial. Functions such as opening an account and accessing loans required permission from their husbands. The positioning of the white women in the economy was impacted on by a conservatism based on the binary of superiority and inferiority between men and women within the Afrikaner and English communities (Meinjties, 1996; Msimang, 2010).

In the urban centres and rural areas, women devised survival strategies (human action) and support systems to help them to deal with the economic and political oppression as well as cultural dislocation. They formed *manyano* (women's guilds) which were attached to churches, burial societies and savings groups (*stokvels*). According to Hassim (1991), these survival strategies did not address the underlying political ideology or structural forces that oppressed and subjugated them. The political inclination of some women led them to choose political engagement as a survival tactic. The point being made by Hassim is important because although the political ideology and structural forces were responsible for oppression of women during apartheid the same can be said of the current democratic structures in which women continue to experience marginalization (Ramagoshi, in Chisholm & September, 2005).

In the 1950s, the ANC Women's League (ANCWL) and the Federation of South African Women (FSAW) organized boycotts against pass laws, education and transport in the townships (Meinjties, 1996; Baden et al., 1998; Albertyn, 1994). During the 1980s, women organized themselves and took different positions in relation to issues of women in leadership, the cruelty of the administration and their day-to-day survival struggles. The organization was made possible through the strengthening of trade unions, and the role played by women in the liberation struggle in the 1970s and 1980s was to cement their place in the new democracy. Nevertheless, Hassim (1991) and Albertyn (1994) note that opposition politics of the 1980s was concerned with mobilizing women for the national liberation struggle rather than for their own liberation. Women continued to occupy the private spaces in politics whereas men were in the public sphere. Hassim (1991) further argues that such an approach reinforced male dominance rather than challenging the patriarchal order. This is evidence for an essentialist conceptualization of

gender roles that is dependent on factors such as biology, physiology, masculinity and femininity (Murdock, 1937, 1949).

Arguments have been advanced regarding South African women having secured their place in the liberation movement and subsequent liberation, supported by their increased representation in strategic positions in parliament and other spheres of the government (Baden et al., 1998; De la Rey & Kottler, 1999). However, this does not imply the living conditions of the majority of women, in socio-economic terms, have moved at the same pace or improved substantially. On the contrary, a majority of rural, illiterate and poor women are still maligned and excluded from mainstream political and economic structures (African Development Bank, 2009).

Pursuant to other factors that have been discussed, claims have been advanced to the effect that one of the key challenges in the South African transformation agenda is how to create a balance between gender, race and social class. Marks et al. (2000) and Seidman (2003) note that although race is given primacy in transformation discourses it has become increasingly difficult to separate race, gender and class because they are embedded in systems, institutions, traditions and cultures. The observations being made by Marks et al. (2000) and Seidman, (2003) support the view that gender inequality and inequities cannot be resolved adequately through the adaption of a monolith approach. Gender is dynamic and multiple, therefore approaches and strategies that are multifaceted are most likely to deal with the gender impasse (Nussbaum, 2009; Unterhalter, 2007; Fraser, 2005).

5.2.2. PATRIARCHY AND THE CREATION OF GENDER INEQUALITIES

Literature shows that patriarchy has been at the centre of oppression of women in the past and currently. This is to say that besides factors such as race, social class and sexual orientation, patriarchy has long been blamed for many of the woes that have been experienced by women in general and black women in particular (CGE, 2000).

The ANC Gender Policy Discussion Paper (2000) describes patriarchy as a system of ideologies, values, beliefs and practices that differentiates and propagates unequal relations between men and women. According to the later 2012 version, it has subordinated women in all spheres of life, whether private spaces, such as the home, or

public spaces, in the economy, education, politics and religion. Social institutions and cultural practices reassert and reproduce male dominance and female inferiority by allocating women roles that are seen as predominantly feminine and inferior. They mostly occupy invisible positions as they are not part of significant decision-making mechanisms. This view has been supported by social construction theorists who argue that patriarchy influences gender relations and determination of privileges and disadvantages in determined social spaces (Lorber, 1997; Pateman, 1988; Butler, 1990).

The ANC Gender Policy Discussion Paper (2012) notes the following;

> *Patriarchy is an ideological construct of a system encompassing ideologies, beliefs, values and practices underpinning the organization and structure of society – resulting in unequal power relations between women and men. The subjugation and subordination of women in all spheres of life beginning with the family is impacted upon by patriarchal attitudes. It is a historical and widespread phenomenon, continuously reinforced by social practices and institutions, including education, work, religion, culture, the arts and the media and has come to be seen as "natural, God-given or part of the tradition and culture. (ANC Gender policy Discussion Paper, 2012, p.5)*

In medieval times, patriarchy was understood as a noble duty to be bestowed upon men to take over the headship and protection of their families. Husbands cared for and provided for their wives and the immediate milieu, but later the relationship was redefined. More powers and status were allocated to men, whilst womanhood was made more inferior. The relationships were normalized and extended to the regulation of all in society, which led to greater inferiority and subordination of women and "supremacy of the fathers" (Coetzee, 2001). In the original order, women were not seen as inferior, but males and females were understood to be in a loving and complementary relationship of guidance and support (Coetzee, 2001).

The Commission on Gender Equality (1998, p.1) showed that patriarchy buttressed domination of men over women: "… as the common denominator of the South African nation; it is a system of domination of man over women, which transcends different economic systems, eras, regions and class." It has also been linked to the creation of societies that are less respectful of women's rights and potentials, by which resources and the political economy are skewed toward males, who own the means of production, whereas women are exploited through the provision of cheap labour (Mojab & Gorman, 2001; De Beauvoir, 1987). The underlying value that has helped the ideology to survive for centuries is based on the idea that patriarchy is constructed, sustained and

reproduced through social institutions and structures which condone power imbalances and hierarchical power relations.

Morris (1993) writes:

> *It is important to recognize that the focus of feminist studies is this institutionalized male dominance, operating through social structures like the law, education, employment, religion, the family and cultural practices. None of these is to be explained simplistically in terms of conscious intent, of ill-will or conspiracy of individual men or even groups of men. These self-sustaining structures of power, by means of which women's interests are always ultimately subordinated to male interests, constitute the social order known as "patriarchy, a designation which applies to almost all human societies, past and present. (Morris, 1993, p.4)*

This puts into perspective the argument pursued in chapter 6, in which it is noted that despite a multitude of gender laws, policies and other enabling frameworks having been put in place, gender inequalities continue to thrive in social institutions. The insidious nature of patriarchal ideology operating in them could be having a catalysing effect rather than causing the necessary and desired change. Coetzee (2001) concurs with the aforementioned views and posits that patriarchy thrives on the perpetuation of power imbalances between the sexes, as though it was created and divinely ordained, the unequal distribution and "illegal" application thereof. Patriarchy promotes a falsehood that is based on an essentialized view that conceptualizes women as inferior intellectually and physically, accounts that have been discounted through research (Mead, 1935). Over time, these falsehoods have been internalized by a majority of women who have accepted the *status quo* that has been created and fuelled through gender stereotypes. Owing to the transformation agenda following 1994, Coetzee concluded that South Africa in general and the educational landscape in particular had not changed substantially. He attributed his claim to the idea that the patriarchal hegemony continued to thrive and exacerbated discrimination between the sexes (Coetzee, 2001).

More generally, the commodification of women's sexuality and their reproductive capacities has been in existence for a long time. The development of agriculture in the Neolithic period saw tribal exchange of women as a means of cementing relations and avoiding war. For the agricultural societies, more women meant more children, which in turn translated into adequate labour for production and retention of the surplus. Women were bought or sold into marriages, for the benefit of their families, whist in times of war men were killed and women captured as slaves. Their sexuality was part of their labour

whereas the children they bore were the property of the master. By the second millennium BC, in Mesopotamia, daughters of the poor were sold into marriage or prostitution and those of the rich attracted a high bride price payable by the groom to enhance the family economy, while at the same time enabling the sons to marry (Lerner, 1986). A man who was unable to pay his debts used his wife and children as pawns to the debt collector (Lerner, 1986), tantamount to essentialization and objectification of women. Such practices persist in modern societies, with bride price, polygamy, child marriages and sex slaves. Young (1990) and Fredrickson and Harrison (2005) maintain that these entrench gender marginalization and promote a poor image of self for the affected women.

Race, patriarchy and gender were the dominant ideologies behind the setting up of industrial and reformist institutions for the white destitute and deviant in the early 1900s in South Africa. Albertyn (1994) found that the history of women's struggle in South Africa was premised on racial oppression and gender inequality. Racially, the degeneracy of blacks was seen as biologically predisposed, whereas white degeneracy was environmental induced. Women's mental incapacitation did not receive much attention because it was linked to their gender and sexuality (Walker, 1990; Coetzee, 2001), whilst Walker and Gilman (1985) postulated that the sexuality of black women had often been associated with primitivism, corruption and disease. In the 19th century, the Hottentot woman was epitomised as a symbol of primitive and deviant sexually. Zulu (1998) also noted that women's disempowerment had been heightened through oppression and violence within institutions and social structures. Structurally speaking, South Africa is still predominantly patriarchal in its social, economic and political undertakings, despite its new democratic dispensation (Coetzee, 2001).

According to Rifkin (1980), instead of the current laws challenging gender inequality, they concretize male domination. Likewise, the emergence of capitalism did not transcend the patriarchal or cultural exclusions of earlier civilizations but rather it excluded women from the public glare of monetary exchange by relegating them to private spaces of home and families. This was a reassertion of patriarchal and cultural hegemonies which commodified women. Male supremacists have used various tools of subordination to subvert equality, for instance cementing their dominance in society by denying women

adequate participation in politics, decision-making and economic dependence whilst subjecting them to sexual and physical harassment (Report of the Gender Equity Task Team, 1997, p. 23-25).

A stringent patriarchal order has also been singled out as a factor that heightened women's marginalization in South Africa. In this case, it was not only experienced by black women but also transcended the racial divide, which meant that although white hegemony was a currency for domination, white women in South Africa did not necessarily enjoy equal freedoms with their male counterparts. Thus, as previously alluded to, white women were also victims of conservative Afrikaner and English cultures that were shrouded in patriarchy. For instance, white women were not allowed to open bank accounts or obtain loans without the consent of their male relatives, and those who sought formal employment were limited to clerical and secretarial jobs (Msimang, 2010).

Fraser (in Mills, 1994) argued that the gendered division of labour defined and reproduced men as independent and possessive individuals with rights. In contrast, women were defined and reproduced as dependent and defective, not possessive individuals who had rights (p. 215). Further, Fraser noted that women's labour was regarded as inferior and as such they were relegated to housekeeping chores and subjected to constant surveillance and charity. This has led to the institutionalization and normalization of male domination both in private and public spaces (Mills, 1994). I note that Fraser's understanding of the theorization of gender relations in capitalistic systems is largely informed by innatists' views on the sex gender binary and gendered roles that are determined through biological factors (Murdock, 1937, 1949; Parsons, 1957).

Although South African women experienced some form of marginalization, the degree and magnitude varied substantially due to race, political affiliation and social class. As a result, gender inequality was experienced individually and variedly, repudiating any claims to homogenizing women's circumstances and experiences. The view is shared by the Commission on Gender Equity (2000), which stated that it would be frivolous for one race or religious group to purport to speak on behalf of another.

The Commission on Gender Equality (1998) and Coetzee (2001) argued that patriarchy was a common feature within both black and white communities, a fully-fledged ideology that was deep-rooted in Afrocentric and Eurocentric mythologies. It brutalized men whilst

women were neutralized across racial lines. As it was universal any attack on it was construed as going against the ideals and cultures of many communities. Furthermore, a statement on the 'Emancipation of Women in South Africa' issued by the ANC National Executive Committee on 2 May 1990 reinforced the notion that gender oppression was partially based on material endowments that were in the hands of men. Gender oppression was also exacerbated and expressed through deep-rooted structures of domination, socio- cultural practices, attitudes and traditions (Coetzee, 2001), hence the Commission on Gender Equality (1998) concluded that women were the most neglected and marginalized group of citizens in South Africa.

In lieu of the sentiments expressed by Coetzee (2001), it can be assumed that white and black men find it acceptable to talk about race rather than supporting gender issues that could jeopardize their institutional privilege. The excerpt below from the Commission on Gender Equality (1998) demonstrates how deeply rooted patriarchy is, and how it has been a feature of privilege and domination amongst the black, Afrikaner and British communities. Any attempts to dispute or even question the supreme power of men is seen as going against the establishment's ideals and traditions (Commission on Gender Equality, 1998):

> *It is a sad fact that one of the few profoundly non-racial institutions in South Africa is patriarchy ... indeed, it is so firmly rooted that it is given a cultural halo and identified with customs and personalities of different communities. Thus to challenge patriarchy, to dispute the idea that it is men who should be dominant figures in the family and society, is to be seen not as fighting against the male privilege, but as attempting to destroy African tradition, or to subvert Afrikaner ideals or undermine civilised and deemed British values ... Patriarchy brutalises men and neutralises women across the colour line. (Commission on Gender Equality, 1998, p.10)*

While acknowledging that patriarchy has been seen as an ideology that cuts across all communities and race groups, people should not ignore the particularized realities and experiences of gender injustice that are context-specific and hence varied and unique to individuals. It would be inconsiderate to expect one race group to articulate the experiences of groups of women due to the complexities and tensions that exist amongst them (Women's Charter for Effective Equality, 1994; ANC Policy document, 1996; Commission on Gender Equity, 2000).

The excerpt below (cited in Hassim & Walker, 1993) exemplifies the views expressed previously (CGE, 2000) about the inaccuracy of white woman speaking on behalf of a

black woman's experiences as though she is incapable of articulating her own struggle narratives. The excerpt points to how education and lack thereof for black women has been used to deny them a voice in key debates, in which they can take a leading role in championing their rights and articulating their positions (Foucault, 1984):

> *Yes, I am middle class because I have had access to education, but experientially I am a member of an underclass, and that is something that I feel I need to articulate. It cannot be articulated for me... white women are championing the struggles of black women. It is unacceptable. It is simply unacceptable, because as long as you continue to be the vanguard of the black women's struggle, she remains silent . . . . You publicise, you popularise, but to democratise knowledge, you actually have to let her speak for herself . . . . Academic rigour is not an excuse for excluding the majority of women in South Africa . . . . I need to actually be a researcher, no longer a fieldworker. (Participant at the Conference on Women and Gender in Southern Africa)* (*Cited in Hassim & Walker, 1993, p.523)*

5.2.3. CONTEXTUALIZING PAST TRENDS OF GENDER INEQUALITIES IN SOUTH AFRICAN EDUCATION

The structure of education in South Africa was greatly influenced by race, leading Martineau (1997) to argue that the experiences and unique challenges of black girls and women in educational institutions have received little scholarly attention. Many scholars have given primacy to race in their studies of gender experiences in historically black and historically white universities, but black women have been excluded from educational analysis.

Gender inequality in education was generally fostered through formal and informal curricula which reinforced and reproduced the dominant hegemonic views of stereotypical masculinity and femininity (Marshall, 2000). This explains why gender issues have not been given prominence in mainstream discourses in the past, but relegated to private spaces in which family, emotions, nurturance and relationships 'belong'. Labode (1993) and Msimang (2000) contend that the exclusionary nature of missionary education contributed to the perpetuation of patriarchal ideology. The colonial and missionary education was geared towards domesticity, subservience and maintaining social order and cohesion. It was also aimed at producing good Christian wives and mothers, according to Labode (1993), Gaitskell (1988), Adeyemi and Adeyinka, (2003). The 'native' boys were trained to take up leadership and entrepreneurial roles through training in farming, fighting, blacksmithing, masonry and hunting. On the other hand, the 'native' girls were trained to become good wives and home-keepers, they learnt sewing,

housekeeping and religious studies with a bit of reading and writing. This kind of curriculum symbolically used femininity and masculinity in preparing girls and boys for their gender roles while excluding them from participating meaningfully in prominent societal activities (Murdock 1949; Parsons, 1954; Bowlby, 1969).

Verwoerd's (1954) speech instilled the gender stereotype of nurturance and caring:

> *Since a woman is by nature so much better fitted for handling young children and as the great majority of Bantu pupils are to be found in the lower classes of the primary school, it follows there should be far more female than male teachers in the service. The Department will... declare the posts of assistants in lower and, perhaps to a certain extent in higher primary schools, to be female teachers' posts... This measure in the course of time will bring about a considerable saving of funds which can be devoted to another purpose, namely, to admit more children to school. (Quoted in Rose and Tunmer, 1975, p.265)*

Similarly, education under apartheid did not improve the black women's position because it was more segregated and gendered. The few women who managed to rise above their patriarchal disadvantage to venture into education were exposed to nurturing and home-keeping roles as in the previous dispensation. According to Molteno (1984), Bantu Education syllabi did not prepare black women to hold any prestigious positions in society but was meant to entrench segregation, gendered roles and acceptance of the *status quo*, with subordinate positions for blacks and superior ones for whites. They were taught basic communication skills and basic mathematics, for semi-skilled work, with emphasis on values such as honesty, cleanliness, punctuality, respect and courtesy, important in serving the master. The curriculum further stressed obedience, communal loyalty, ethnic and national diversity, acceptance of allocated social roles, piety and identification with rural culture (separation). This scenario alienated women more and heightened inequalities in all spheres of their lives (Lempert, 2007; Ramphele, 1995; Lemmer, 1993; Organization for Economic Co-operation and Development - OECD, 2008).

Verwoerd and his fellow bureaucrats did believed that there was no need for an African child, male or female, to be taught mathematics as the skill would be irrelevant to the nature of their jobs. In a 1954 speech he said: "There is no place for [the Bantu] in the European community above the level of certain forms of labour ... What is the use of teaching the Bantu child mathematics when it cannot use it in practice?" The black South African women's trajectory in higher education meanwhile demonstrates that participation was restricted and minimal. The exclusion was shrouded in intricate

intersections that were of systemic and ideological in nature. The Commission on Gender Equality (1998), Badat (2009) Marshall (2000) Jansen (2003) and Carrim (2006) concur that women's marginalization (triple discrimination)[14] is a product of a conflation between perennial constraints of racism, patriarchy and social class.

Badat (2009) observes that black women's representation in higher education in the 1960s and 1970s was marginal, thus, during the 1960s women constituted 13.3% (502) of the total black students' enrolment. In 1970 black women enrolment climaxed at 18.9% (1,580) and in 1975 the recorded number stood at 21.6% (3,928). The conclusion that can be drawn from this narrative is that the Native[15] universities were monopolized by black males up to 1975 (Herman, 1997). Even though women's representation in higher education during the apartheid era was minimal, further marginalization can be traced within the courses they studied. Thus, many women were concentrated in fields that were predominantly labelled and defined as 'feminine', synonymous with the problematic traditional roles of nurturing and caring that are associated with mothers. Examples of such courses include nursing, secretarial work and paramedical employment, with the exception of teaching, that had slightly more women than men in the same period. Courses such as Engineering, Agriculture, Computer Science, Architecture and Law had few black female enrolments (Badat, 2009; Martineau, 1997).

It was deliberate state policy to place female teachers in lower primary school and male teachers in higher primary and secondary school, based on a belief and assumption that the learners in lower primary still required care and therefore the female teachers would play a double role of mothers and instructors. Evans (1990) and Badat (2004) contend that it was part of the broader apartheid strategy to reproduce through teaching and research white and male privilege and black and female subordination. As such, the ramifications of this strategy are still being felt to date. Currently (as will be demonstrated in chapter 8) higher education is still grappling with the apartheid legacy as white males still hold prestigious positions in institutions of higher learning and research,

[14] Triple discrimination is used to illustrate three levels of marginalization that women faced in society, namely, class-, gender- and race-based forms of discrimination.

[15] Native Universities used in the same manner as Previously Black Institutions which were created using the Extension of Universities Act (1959).

knowledge production, and access to certain courses, and dominate postgraduate studies (White Paper, 1997; Badat, 2004).

Primarily, Mosetse (1998), Hill and St Rose (2010) and Mutekwe et al. (2011) report that girls and women aspire to take up jobs that are considered suitable for females. According to Mosetse, the hidden curriculum has been responsible for such conditioning in many of the female students, a claim with which Lemmer (1993) concurs, blaming gender differentiation as far as subject choices and curriculum is concerned on the classification of subjects as being masculine or feminine. Science, mathematics, engineering and technology are seen as male subjects because they are perceived as complex, whereas the arts, languages, social science and hospitality-related subjects are seen as feminine. This is a point that has been noted in chapter 6, whereby syllabi and curriculum have been singled out as instilling gender inequalities (CEDAW, 1981; The African Union Protocol, 2003).

The depiction of women in textbooks and school structures is also to blame for inferior positions being allocated to them. In most cases, women are not assigned important or meaningful roles that require serious work or intellectual capability. Roles such as being a grandmother, mother, queen, princes or a witch feed into the narrative that women are domesticated and ought not to be taken seriously outside their homes (Hill & St Rose, 2010; Mutekwe et al., 2011). Additionally, Schoeman (1998) illustrates that women are portrayed as the glamorous possessions of men and hence their roles as workers are diminished.

Hill and St Rose (2010) argue that performance and motivation of girls in mathematics is dependent on environmental factors, with those whose ability is doubted by teachers and parents developing bad attitudes about the subject, whereas those who are encouraged become confident and excel. Persistently using stereotypes, such as *boys are better than girls in maths and sciences,* lowers girls' aspirations in these fields and it has been noted that they lead to lower self-assessment for girls in maths and science subjects because of low self-esteem and self-fulfilling prophesies of society. Similarly, knowledge and learning are inseparable from daily experiences; contrary to the *"straitjacket of the masculine paradigm"* that does not fully consider how non-academic factors affect the learning experience of women (Farganis, 1994, 40).

As Hill and St Rose (2010) argue, the issue of gender inequity and inequality in higher education is complex. Socialization at home, by which women are meant to believe that certain domains are out of reach for them, is partly responsible for gender skewing. A similar message is reinforced through the curriculum and the interactions that take place in the lower tiers of education. By the time these women get to institutions of higher learning the damage is irreversible. I therefore suggest that education in general should adapt a bottom-up model to identify, mentor and groom future women scientists and engineers. This suggestion is based on the view that the current gender lacunae in higher education cannot be viewed in isolation of what happens in the lower tiers of education or the daily experiences of female students.

5.3. CURRENT GENDER GAPS IN SOUTH HIGHER EDUCATION

Previous abstractions have indicated that despite South African women having played a pivotal role in the liberation struggle they did not benefit materially from the gains of liberation (Hassim, 1991). Rather, they stepped into the new dispensation bearing scars of paternalism, colonialism and *African* apartheid that did not receive much attention because more attention was paid to race and racism (McEwen, 2003; Albertyn 1994; Hassim, 1991; Martineau, 1998).

An area of marginalization that required urgent attention was higher education, largely segregated along racial lines. Subsequently, the post-1994 policies (discussed and analysed in chapter 8) were geared towards transforming higher education structures, social redress and healing the scars inflicted through years of oppression. One of the key principles in the transformation trajectory of higher education was stated in Section 1.18 of White Paper (1997):

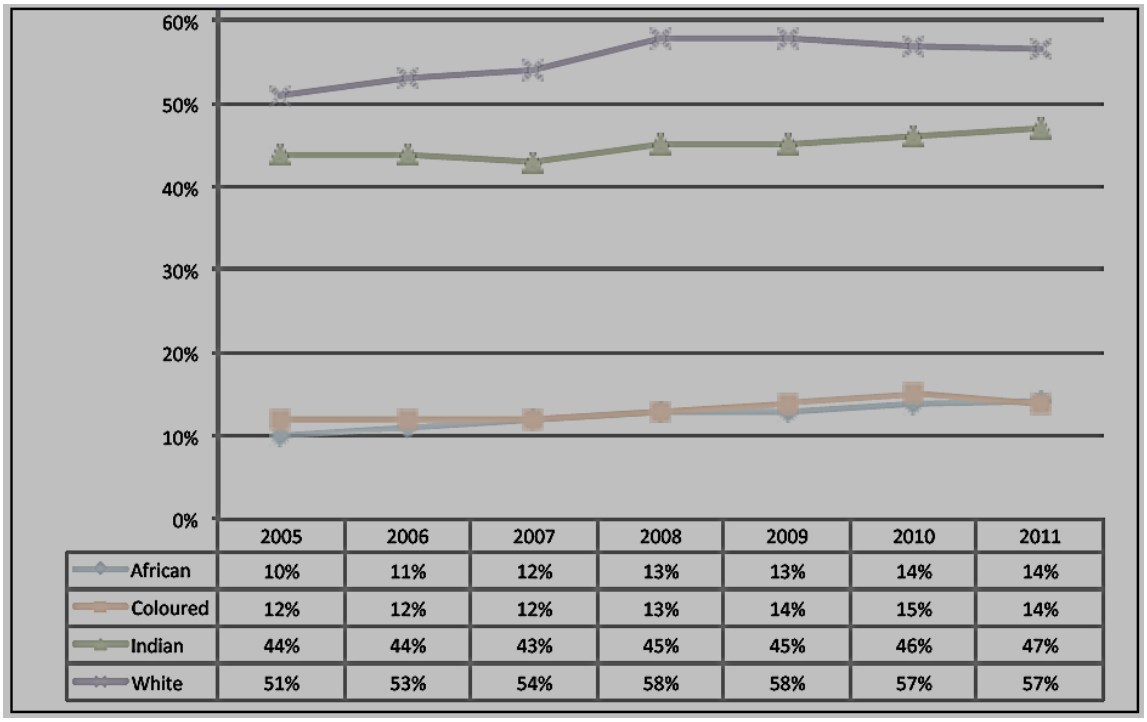
> *The principle of equity requires fair opportunities both to enter higher education programmes and to succeed in them. Applying the principle of equity implies, on the one hand, a critical identification of existing inequalities which are the product of policies, structures and practices based on racial, gender, disability and other forms of discrimination or disadvantage, and on the other a programme of transformation with a view to redress. Such transformation involves not only abolishing all existing forms of unjust differentiation, but also measures of empowerment, including financial support to bring about equal opportunity for individuals and institutions*. (White Paper, 1997, p.7)

Coetzee (2001, p.300) argues that post-1994 legislation has not achieved the aim of equalizing gender in society in general or education in particular but has merely scratched

the surface in so far as gender discrimination and gender relations are concerned, and although some gender inequalities are being addressed through various channels gender discrimination is still embedded in educational structures. For instance, it has been alleged that organizational power structures have not changed sufficiently to allow women to occupy significant positions (Machika, cited in *Mail and Guardian*, 12 August 2014), nor does the choice of area of study for girls and women reflect the egalitarianism fore- grounded in most of the policies. Girls have tended to gravitate towards the more 'feminine' courses as opposed to the 'masculine' ones (CHE, 2009). Other areas of inequalities include mode of attendance and participation in postgraduate studies.

Fundamentally, an analysis of the state of post-1994 higher education by CHE (2013) reveals a positive shift in enrolment and access to higher education in terms of gender and race between 1994 and 2010 (see Figures 1,2,3 &4 in sub section 5.3). Thus, an increase of 80% with a total enrolment of over 900,000 students was reached in 2010. Of these, 79% were from the African population group and 57% females. The graduation rate has improved marginally, from 15% in 1994 to 17% in 2010. The African and Coloured population groups have seen a substantial increase in graduation outputs. For instance, the number of African first-degree graduates grew by 50% between 1995 and 2010, which amounts to 31,000 graduates according to (CHE, 2013). At this moment, indications are such that South African higher education is likely to meet the projected 20% student enrolments by 2015/2016. However, these projections are still low in comparison to Latin America (34%) and Central Asia (31%), UNESCO (cited in CHE, 2013).

FIGURE 1 : SHOWS (GROWS HIGHER EDUCATION RATES BY RACE FROM 2005-2011)



	2005	2006	2007	2008	2009	2010	2011
African	10%	11%	12%	13%	13%	14%	14%
Coloured	12%	12%	12%	13%	14%	15%	14%
Indian	44%	44%	43%	45%	45%	46%	47%
White	51%	53%	54%	58%	58%	57%	57%

Adopted from CHE (2013)

Whereas the revelation by CHE (2013) regarding tangible improvements in terms of gender and racial representation and participation is a positive sign, the Draft Green Paper (2012) articulated the need for decisive measures to be taken to bolster opportunities for women and blacks in higher education. Marginalization of blacks in general, women included, has not relented in science engineering and technology or in business and commerce programmes, whilst low completion rates at undergraduate level and high attrition of black students across the board are concerning. Moreover, the Green Paper (2012) and OECD (2008) note that postgraduate figures for blacks and women are lower than those for the white population. For instance, in 2008, 45% of the total graduates were black whereas 41% were women. The academic staff composition is also skewed towards white middle class males. In 2006, 62% of staff was white while 42% were female (Green Paper, 2012). As a general point, the question arises as to how the slow pace of reform in the area of staffing affects teaching and learning.

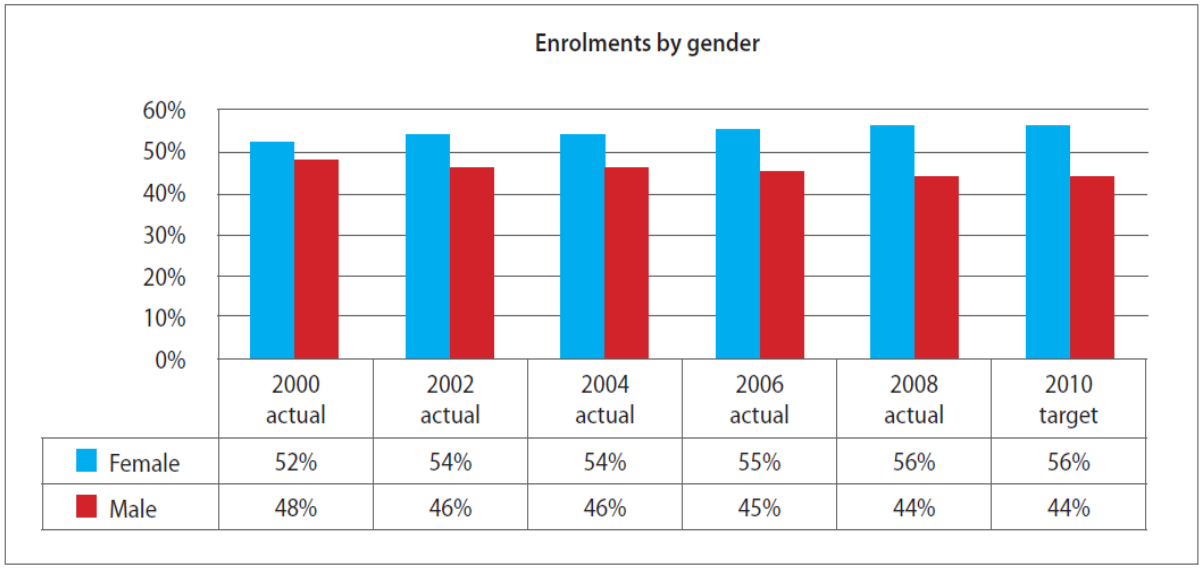
It is therefore my thesis that, in as much as women's representation in higher education has improved in terms of gender, other barriers still impede meaningful access and participation of women in South African higher education. Figures 2 and 3 reveal that many more females are accessing higher education than males (56% for women and 44%

for men), but a high proportion of these are in the distance mode of study, in comparison to more men who are in contact mode. A possible explanation could be the cost effectiveness of distance education and the flexibility that comes with it, especially for women who are in current employment and have family commitments, an example of the interconnectedness of productive and reproductive roles (Mojab & Gorman, 2001). Although the distance mode offers flexibility for working women and mothers it takes longer for them to complete their studies, potentially denying them valuable positions and promotion at the workplace, in comparison to their male counterparts who may complete in record time.

Figure 2 (below) shows that the enrolment of women in higher education has increased greatly since 2002; peaking in 2010 (56%). A recent analysis (CHE, 2013) revealed that it had increased to 57%. However, Figure 4 reveals that while more women are enrolled in higher education, most are concentrated in Humanities, Social Sciences, Education, Economics and Management Sciences, and Arts. As during the apartheid era, few are enrolled in Engineering, Built Environment or Science courses. This is a clear demonstration that the cycle of marginalization in the male-dominated courses is yet to be overcome. Nationally, data from 2007 demonstrates that men dominate Engineering, Science and Technology (57%), women dominate other fields, i.e., in Business, Commerce and Management (56%), Education (73%) and Human and Social Science (59%). The same trend has been consistent since 2004. Although data from Figure 4 is limited to three institutions of higher learning in South Africa, the findings are an expression of the situation at national level (CHE, 2013).

It has been noted that the trend presented by data in discussion is reminiscent of the broader challenge with which higher education is grappling (CHE, 20O9, 2010, 2013; Badat, 2009), and that could be linked to skewed inferences of women taking up careers either by default, ideologically and using biological actors of masculinity and femininity, or design through their own choice in female "traditional roles of caring and nurturing *inter alia"* (Unterhalter, 2007; Hill & St Rose, 2010). I argue that it is the prerogative of women to decide to exercise academic freedom and choose whichever courses they wish to study. However, if their choices are impeded by other factors (unfreedoms) this will be a cause for concern (Sen, 1980).

FIGURE 2: SHOWS ENROLMENT BY GENDER (2000-2010)

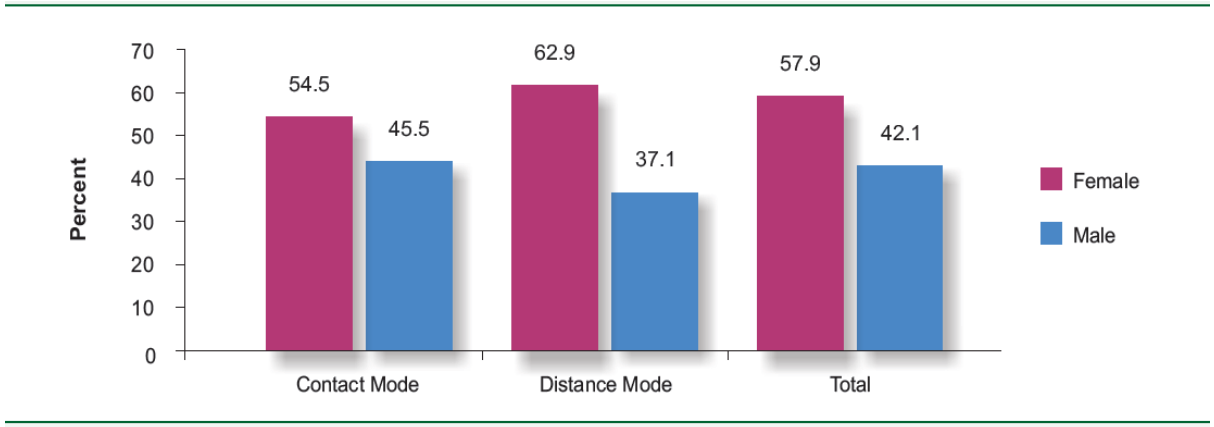


	2000 actual	2002 actual	2004 actual	2006 actual	2008 actual	2010 target
Female	52%	54%	54%	55%	56%	56%
Male	48%	46%	46%	45%	44%	44%

Source: Bunting, Sheppard, Cloete & Belding (2010) Performance indicators in South African higher education 2000–2008. CHET: Cape Town.

As adopted from Carrim and Wangenge-Ouma (2013)

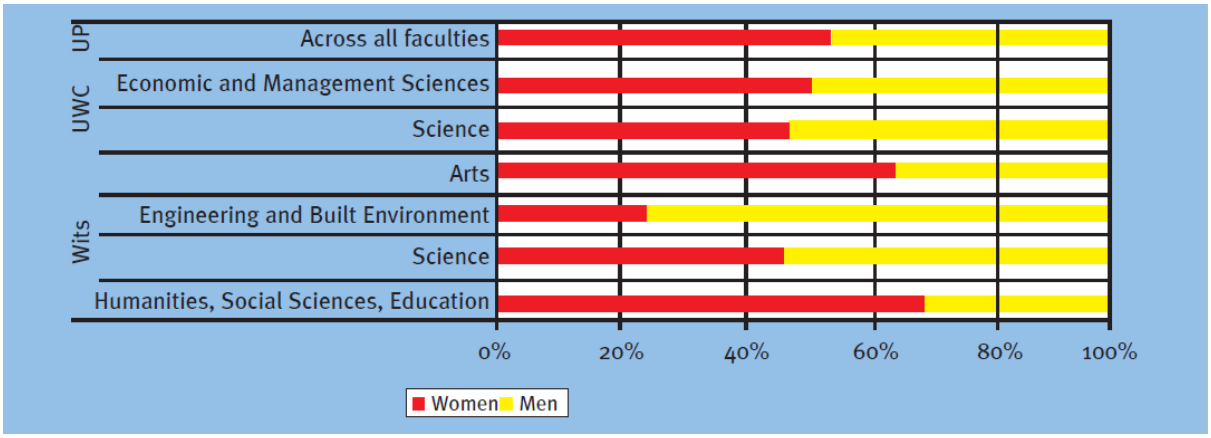
FIGURE 3: SHOWS PERCENTAGE DISTRIBUTION OF HEAD COUNT ENROLMENTS IN PUBLIC HIGHER EDUCATION INSTITUTIONS



By attendance mode and gender: 2011

Adopted from DHET statistics, (2013)

FIGURE 4 : GENDER ACROSS FACULTIES IN THREE PUBLIC UNIVERSITIES



Gender imbalance in science, Engineering and Technology (SET) was also a feature of the apartheid era higher education. Whilst a good percentage of women (48%) were attending higher education, as in the statistics in 1993, Martineau (1997) argued that the data was deceptive. A majority of the women who were in higher education were enrolled in part-time courses and therefore lacked contact hours with academics, or the traditional female dominated courses. The 1995 Information Directorate figures from 15 to 21 universities show that women graduates accounted for only 9% in Engineering, 28% in Agriculture, 38% in Medicine, and 47% in the Sciences (Government of South Africa Information Directorate, 1997; Badat, 2009; DHET, Draft Green Paper, 2012).

For the purpose of comparison, the views and statistical data presented by Martineau (1997), CHE (2009, 2013), and the Draft Green Paper (2012) suggest that the gender imbalances in SET have not been resolved substantially. This is an area of serious concern given that the current knowledge economy places emphasis on these areas of study. It therefore means that few women are enjoying the benefits associated with having qualifications in these fields. The dearth of women in the area of SET is contrary to the vision of White Paper (1997) that identified the importance of technology in moving the agenda of reconstruction and rebuilding of a new social order through higher education.

Section 1.12 of White Paper (1997:6) notes the following:

> *Production, acquisition and application of new knowledge: national growth and competitiveness is dependent on continuous technological improvement and innovation, driven by a well-organised, vibrant research and development system which integrates the research and training capacity of higher education with the needs of industry and of social reconstruction.*

In considering this document, Hill & St Rose (2010) conclude that although the foundation of Science Technology Engineering Mathematics (STEM) careers begins early in life, scientists and engineers are made in universities and the courses can be made attractive for female students if a boarder overview of the field can be part of the introductory courses. Universities and colleges should change their cultures and recruit more females to the faculty for mentorship and role modelling the students, dealing with biases and negativity against women engineers and scientists. Hill and St Rose (2010) assert that people view female engineers and scientists as less competitive in work than their male colleagues (Fraser, in Mills, 1994). On the contrary, those who prove to be competent are

seen as less likeable, but either way a woman engineer or scientist loses because in the eyes of society she is inferior. She is either competent or not likeable, or vice versa, but not both (Butler, 1990; De Beauvoir, 1989).

Lastly, postgraduate enrolment rates show that women and blacks are generally underrepresented. In 2008, 45% of doctoral graduates were black and 41% women (CHE, 2010; Badat, 2010; Draft Green Paper, 2012). Of the black population participating in postgraduate studies a majority are international students who are mainly from SADC and other African countries. Very few black South African students are represented in this cohort, especially at PhD level (CHE, 2009). Postgraduate studies were also targeted for improvement in the new dispensation because of inequalities that existed prior to 1994. A report by National Commission on Higher Education (NCHE, 1996) indicated that Historically White Institutions (HWIs) dominated enrolment in postgraduate studies and research output. Various funding mechanisms and policy directives were put into place to boost enrolments and participation at this level of learning. The main goal has been to 'churn out' people with exceptional and high level skills that are sought after in the economy and internationally (Sen, 1980; Nussbaum, 1998; Odora-Hoppers, 2009). CHE (2009) bears witness to the improvement in participation rates while also decrying the 'pile-up' syndrome that is becoming symptomatic of the major challenges facing higher education.

Notably, a similar pattern witnessed in undergraduate studies of underrepresentation and low participation of women in certain fields of study has been replicated at postgraduate level. The situation can be equated to the analogy of a river and its source. If the source dries the river will not continue flowing. I note that the more women access SET-related courses at undergraduate level the greater the chances of their enrolling in SET related fields at postgraduate level. It is unlikely people who lack the prerequisite qualifications and specialization in this field will wish to take up training at such a high level.

5.4. Concluding Remarks

This chapter has demonstrated that gender inequalities and inequities in South Africa are products of the apartheid legacy of racism, sexism social class ideologies and hegemonies

(Hasim, 1991). The ideologies which were embedded in policies and social structures dominated gender relations in public and private spheres. It has been illustrated that the structure and access to education were informed by the same ideologies. Education for blacks was gendered, minimal and inferior (Molteno, 1984; Meinjties, 1996) and the choice of curriculum was skewed in the same manner in the educational sector.

The post-1994 era has given rise to new policies that are slowly changing the higher education landscape. The data and information that has been presented in this chapter has shown that blacks in general and women in particular are firmly represented in institutions of higher learning. However, whereas statistical information that has been cited has shown that women's position in higher education has been secured firmly, buried deep beneath the statistical data are persistent inequalities and inequities characteristic of SET courses, postgraduate enrolments and the mode of attendance. These factors upset the narrative of transformation (CHE, 2009, 2010). An attempt at an explanation of the phenomenon by researchers has settled on the "leaking science pipes"[16] metaphor (Xie & Shauman, 2004), which posits that it is not as painstaking as the onerous task of identifying the leaking points, the causes of the leakages and how to fix them.

Massification and assessing gender equity numerically has not always given a true reflection of women's participation in higher education because people are homogenized and the individual realities are omitted from the narrative. The realities of 'quality' over 'quantity', class, race and gender differentiation are obscured through a numerical abstraction even though they cannot be wished away (Unterhalter, 2005; Nussbaum, 1998). The unavailability thereof of explicatory provisions on how to tackle underlying challenges embedded in women's particular and individual circumstances, and the subtle and structurally imposed impediments head-on, can be likened to burning a haystack to find a needle.

The next chapter looks at gender laws and regulations that have been instrumental in putting the discourse of gender equality on international, regional and local platforms.

[16] The leaking science pipe metaphor is premised on the cumulative loss of women throughout the education trajectory that begins that begins at secondary level. The metaphor does not explain the mechanisms that make the pipes leak.

CHAPTER SIX

GENDER LAWS AND REGULATORY FRAMEWORK: INTERNATIONAL, REGIONAL AND LOCAL PLATFORMS

6.1. INTRODUCTION

> *Human beings have a dignity that deserves respect from laws and social institutions. This idea has many origins in many traditions; by now it is at the core of modern democratic thought and practice all over the world. The idea of human dignity is usually taken to involve an idea of equal worth: rich and poor, rural and urban, female and male, all are equally deserving of respect, just in virtue of being human, and this respect should not be abridged on account of a characteristic that is distributed by the whims of fortune. Often, too, this idea of equal worth is connected to ideas of freedom and opportunity: to respect the equal worth of persons is, among other things, to promote their ability to fashion a life in accordance with their own view of what is deepest and most important.* (Nussbaum, 1999, p. 227)

Recent years have seen a proliferation of gender equality laws and regulations geared towards addressing some of the gender-related injustices that have been alluded to in chapters 4 and 5 (gender construction theories and gender marginalization in the South African context). As noted in the excerpt above (Nussbaum, 1999), human dignity and equal worth are important democratic imperatives that are being observed in many democracies around the world. As a result, gender equality laws and frameworks are undergirded by democratic values and principles that abhor discrimination. The initiatives have been heightened through global, regional and national regulatory frameworks and mechanisms (local) that will be discussed and analysed.

This chapter is organized into three sections. The first proceeds with a discussions and analysis of international laws, charters, declarations, platforms, conferences and conventions. The second deals with regional gender laws and platforms and the third discuses local gender laws and regulatory frameworks, with focus on South Africa, predisposed to this particular context and moving away from generalities to specifics. In recognition of the suffering and the scars of years of oppression that black South African women have faced, the policy context bears the aspirations of the women and people of South Africa in general towards a more equal and just society (Women's Charter for Effective Equality, 1994). It was anticipated that upon the attainment of independence, the political, social, educational and economic spaces would be open to all.

Although gender inequities and inequalities are experienced not only by women, for now, it has been generally acknowledged that women have faced many years of prejudicial subservience and disenfranchisement. In the case of South Africa, blacks in general have faced decades of marginalization, with black women being victims of triple marginalization through racism, sexism and social class prejudice (Camaroff, 1985; Hassim, 1993). Literature on gender construction theories (Butler, 1988, 1990; De Beauvoir, 1989; De la Rey& Kottler, 1999; Boydston, 2006; Connell, 2005) has strongly indicated that gender inequities are exacerbated through ideological and hegemonic factors. It is argued in this chapter that gender is multidimensional, a view that arises from a social constructivist approach to gender and gendering (as discussed in chapter 4). In the same vein, gender inequities and inequalities ought to be seen through a diverse lens (multi-dimensional) in order to regarding all as the same. The chapter suggests a multidisciplinary and integrated approach to interventions and strategies that are aimed at fighting inequities and inequalities. The suggested approach is in line with substantive equality (chapter 2) that takes into cognizance the specific and particular circumstances of individuals (Taylor, 1994; Fraser, 2005; Rawls, 1971). This approach to gender equity, although widely acknowledged, stands in contention with gender laws, regulations, declarations, charters and conventions discussed in this chapter. As shall be demonstrated, the legal frameworks address and dwell on the legal and formal application of rights based on the equality principle (Rawls, 1971).

This chapter therefore explicitly makes two points. Firstly, the equality principle, access to equal liberties, rights, resources and opportunities indiscriminately, is the overarching theme in most of the documents. According to Rawls (1971), Miller (1999), Young, (1990) and Nussbaum (1998), it is too formal, legalistic, general and superficial and unlikely to address salient and embedded contexts of social justice. The second point is a reiteration of the argument made in the social justice chapter (2) that although formal equality is the starting point of conceptualizing social justice, attending to the differences within the human family is the ultimate purpose of social justice (Rawls, 1971, 2001; Sen, 1980, 1995). Against this background, I re-assert that gender equality and equity frameworks have to transcend the formal and legalistic framing and address the personal and

individual circumstances of gender injustices (Mackinnon, 1993; Young, 1990; Nussbaum, 1998; Fraser, 1995, 2005).

This argument has received overwhelming support from evidence that indicates that in spite of the proliferation of extensive local and international gender laws and regulations aimed at achieving gender equity, nuanced gender inequalities and inequities pose a threat to the realization of envisaged social redress. This has been demonstrated in the chapter, as black women in particular continue to suffer marginalization in education despite gender inequalities and inequities being addressed through policies and gender laws (Martineau, 1997; Unterhalter, 2005; Hassim & Walker, 2007; CHE, 2009).

As a member of the international community, South Africa has been obligated to ratify regional and international charters, declarations and conventions, such as CEDAW and the Beijing Platform of Action and Protocol to the African Charter on Human and Peoples' Rights and Rights of women that was formed in 2003 and entered into law in 2005. The last section of the chapter looks at South Africa's gender policies and regulations that share common threads with international and regional policies, from global and ground level perspectives, a phenomenon that can be linked to interpretations of internationalization and globalization of gender issues as will be interrogated in chapter 7. Alternative approbation can be sought from Ball's (1994) explanation of the generic nature of policies.

Although the discussions in this section may not necessarily include gender inequalities and inequities in higher education *per see*, they do provide a crucial link that illustrates that gender laws and frameworks have been aimed at securing the equality of women to men. As noted above, gender injustices have been generalized and the aspirations of most of the international and regional gender laws and regulations that South Africa has assented to are based on enabling women to have equal access to opportunities and resources. Through such an aspiration, a majority of the regulatory frameworks are silent on gender equity, prompting me to iterate the issues that were raised regarding policy borrowing in chapter 7. Nussbaum (1999) and Bacchi and Eveline (2009) have been critical of the wholesale adaption of policies, not paying attention to contexts that homogenize and universalize people's circumstances and experiences. This issue is highlighted substantially throughout the study as a major flaw in the current policy

environment through the argument presented by Young (1990), Mackinnon (1993) and Satz (2007).

6.2. A CASE OF INTERNATIONAL GENDER REGULATIONS AND FRAMEWORKS

Globally, gender inequality has been seen as a great injustice against women and hence much effort has been directed towards achieving gender parity. Although the attention has brought about laudable change in women's access to opportunities and exercise of human rights, a majority of women have not benefitted from the provisions contemplated in gender laws and policies (Nussbaum, 2011). Acknowledging some achievements that have been realized so far towards attaining gender equality, this chapter regards international gender laws and policies as premised on formal and legalistic framing, which is equally important. Although the formal and substantive equality complement each other, Rawls (1971) wished for substantive equality.

International[17] and supranational organizations and local gender-related advocacies are based on the intractable and inalienable equality principle that disallows any forms of discrimination against any individual for reasons that may be related to their race, gender, sexuality, age, religion, culture or creed (UNDHR, 1948; Rawls, 1971, Sen, 1980; Nussbaum, 1997). Conventions, charters, declarations, acts, and protocols have been promulgated and adapted to advance the rights of women, notably the assertion of equality for all as the first principle in gender laws and frameworks.

The equality principle stems from the 1945 United Nations Charter that recognizes the inalienable right to dignity of all human beings, whether men or women, regardless of their nationality. The preamble aims "To reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small". One of the most important and oldest gender equality establishments was the United Nations Economic and Social Council (ECOSOC), which established the Status of Women Council (SWC) in 1946 to look into issues of

[17] Other international laws and regulations that are paramount in protecting the rights of women include the following; The rights of women agricultural workers are addressed in several conventions adopted by the International Labour Organization (ILO), particularly the Equal Remuneration Convention 100 of 1951, the Maternity Protection (Revised) Convention 103 of 1952, the Discrimination (Employment and Occupation) Convention 111 of 1958 and the Plantations Convention 110 of 1958 with its 1982 Protocol.

empowerment and gender equality. It was to advise and provide recommendations on human rights impediments in political, social, civic and educational realms. The second establishment was the United Nations Declaration of Human Rights (UNDHR, 1948) which provided a foundation for the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world. As stated below, Article 2 of the UNDHR emphasises the equal freedoms and liberties of all human beings and states that no circumstance(s) should be allowed to delimit the enjoyment of any of the rights:

> *Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it is independent, trust, non-self-governing or under any other limitation of sovereignty.* (UNDHR, 1948)

The third organization is the International Convention on Civil and Political Rights (ICCPR, 1966), which guaranteed political and civil rights to all persons regardless of race, sex and colour. The International Convention on Economic, Social and Cultural Rights (ICESCR) and the International Convention on Civic and Political Rights (ICCPR) adopted in 1966 by the General Assembly were committed to fostering of the equality principle, as stated in their conventions. For example, the ICESCR endeavoured to respect and ensure the protection of economic, social and cultural rights, including self-determination of all people, non-discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The equal rights of men and women in the ICESCR included work, health, cultural freedom and education. ICESCR obliged its members to take necessary steps in accordance with availability of resources to progressively secure them. However, the rights being protected through the outlined establishments have been contravened in private and public spaces, whether in education, the economy or politics (Connell, 2005; Boydston, 2008; Bowlby, 1969; Butler, 1988; Wharton, 2012).

The recommendations from world gender conferences have also heightened debates around gender inequality, mainly looking at entrenching the equality principle in all sectors of society as a response to gender discrimination. Areas of marginalization that have been identified include education, meaningful participation in the economy and

politics. The United Nations first World conference on the status of women (Mexico, 1975) coincided with the 1975 'Women's Year' in which the international community was reminded of perennial gender discrimination that women were experiencing in many parts of the world. Despite the weight of the matter under discussion at the conference, few concrete or focused solutions arose from it, only recommendations that were general and non-enforceable. For instance, there was a call on governments to come up with strategies to achieve gender equality, eliminate gender discrimination and integrate women in development, peace maintenance thereafter. At this juncture, there was no mention of the implications of non-compliance to the recommendations by the member States, nevertheless, the General Assembly declared 1976-1985 as the United Nations Decade for Women. On a positive note, the declaration was used as a conduit for promoting international dialogue on issues relating to gender inequalities.

Conferences that have been held since Mexico include the Copenhagen World Conference (1980), the second United Nations World Conference on the status of women. Three areas were identified for improvement that showed that women's rights were being disrespected and ignored, namely access to education in general, adequate healthcare service and employment opportunities. The areas identified are linked to basic liberties and rights that are covered in the equality principle that is not being upheld regardless of being entrenched in key gender frameworks (UNDHR, 1948).

The Third United Nations World Conference on the status of was held in Nairobi in 1985, aimed as following up on the promises made in Copenhagen. It was revealed that the targets set previously had benefitted few women, were too narrow and not all-encompassing. One of the key areas identified as needing urgent attention was violence against women and hence an agreement was arrived at on the constitutional apparatuses to be included in the Plan of Action. It was recognised that attaining gender equality was not an isolated issue but rather it needed to be encompassed in all facets of life, hence a more comprehensive categorization was agreed upon. For the purpose of measuring gender equality, the following basic categories were encapsulated: constitutional and legal measures; equality in social participation; and equality in political participation and decision-making. The categories that were suggested at the Nairobi conference (1985) were based on the broader spectrum of equality, aimed at imbuing the equality principle

in key facets of society; however, this kind of equality being advocated is in tandem with formal equality (Rawls, 1971, Mackinnon, 1993).

As discussed above, conceptualizing social justice on equal participation (social, economic, decision-making) is problematic because it does not guarantee equality for all or tackle the underlying ideologies, but rather sees hegemonies (patriarchy, racism and sexism) through dominance and subordination being constructed, sustained, reproduced and escalated (Unterhalter, 2007; McLaughlin, 2000; Walby, 200; Verloo, 2005; Young, 1990; Okin, 1989; Lorber, 1997).

Paragraph 11 of the Nairobi forward-looking strategy noted the following:

> *Equality is both a goal and a means whereby individuals are accorded equal treatment under the law and equal opportunities to enjoy their rights and to develop their potential talents and skills so that they can participate in national political, economic, social and cultural development and can benefit from its results. For women in particular, equality means the realization of rights that have been denied as a result of cultural, institution behavioural and attitudinal discrimination. Equality is important for development and peace because national and global inequities perpetuate themselves and increase tensions of all types.*

This resonates with formal equality as a condition for the attainment of justice. Although not sufficient on its own it is in the assertion of these rights that women are enabled to access spaces that were previously alien to them.

The fourth United Nations conference, held in Jomtien in 1990 under the theme 'Education for All, meeting the basic needs', iterated that education was a basic and fundamental right, singled out as playing a catalytic role in enabling developments in the social, political and economic realms. Similar views have been expressed by Sen (2005) and Nussbaum (1998, 2011), and South African higher education policies acknowledge the important role education plays in human development and rebuilding and restructuring the society (White Paper, 1997; National Plan for higher education, 2001). It was also enunciated that after 40 years of the promulgation of the United Nations Declaration of Human rights, the right to education by all was being marginally enjoyed by a few, a situation that has resulted in widespread illiteracy amongst adults and inaccessibility to education for many children of school going age.

The fifth United Nations World Conference, which gave rise to the Beijing Declaration and Platform for Action 1995 (BPfA) on the status of women, was themed 'Action for Equality,

Development and Peace'. It reasserted the claim that fundamental women's rights are also human rights, with rights to equality of treatment, inherent dignity and non-discrimination amongst others reiterated from earlier charters and declarations, such as UDHR (1948) and CEDAW. In its prelude, the BPfA promised to eradicate all forms of discrimination against women and girl children, while at the same time removing all obstacles to gender equality and the advancement and empowerment of women. It was pledged that equal access to education and treatment of women and men in healthcare would be ensured, as well as enhancing women's sexual and reproductive health and education. The BPfA tasked the United Nations, governments, the international community and other stakeholders to implement a gender perspective in their policies and turn around strategies so as to resolve gender inequality. However, including a gender perspective in policies did not necessarily translate automatically into equality. As with earlier conferences, the BPfA (1995) had good intentions, identifying areas of injustices and general suggestions to be made by nation states to come up with mechanisms to deal with gender inequalities. The following critical areas of concern were identified: women and poverty, education and training of women, women and health, violence against women, women and armed conflict, women and the economy, women in power and decision-making, institutional mechanisms for the advancement of women, human rights of women, women and the media, women and the environment and the girl child. It identified key and broader areas that required interventions but did not offer tangible solutions to the problem in the equity terms theorized by Rawls (1971) and Nussbaum (1999, 2004).

The Fifth international establishment on gender was the Convention on the Elimination of All forms of Discrimination against Women (CEDAW), adopted in 1979 and ratified in 1981. CEDAW is widely recognized as the international law for women, providing a comprehensive cover on women's issues. As a member of the international community, South Africa signed and ratified CEDAW without reservations in 1996, and has since integrated its provisions into law, gender policies and frameworks. It is noted in CEDAW's preamble that although all human beings are born free and equal, women are yet to enjoy and maximize this freedom. This is so because the equality principle that asserts the above has either been ignored or applied separately, and many more women than

men worldwide still face discrimination socially, economically, politically and educationally (also noted in the BPfA, 1995 and other conferences that have been discussed above). Due to the above observation, women are prevented from participating meaningfully in the development of their societies and nations. Through CEDAW's anti-discrimination clause, member states have been implored to take appropriate measures through their enacted laws in dealing with any cases that contradict the CEDAW requirements, as well as discouraging individual behaviours that exacerbate gender discrimination.

Article 1 of CEDAW sets out to define discrimination against women as any form of exclusion based on sex that hinders women from enjoying or exercising their rights, however the attempt was limited because it covered only one aspect of marginalization, linked to essentialism, but ignoring other factors of oppression (Murdock, 1949; Oakley, 1985; Butler, 1988; Nanda, 1994; De Beauvoir, 1989, 2012; Mead, 1935; Connell, 2005):

> *'Discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. (CEDAW, 1981)*

CEDAW recognized education as an impetus to development and enhancement of women's liberties and freedoms (see also Nussbaum, 1997; Sen, 1990) and expected individual states to uphold the equality principle whilst providing equal educational opportunities to men and women inclusively. This aspect of CEDAW is flawed because it is based on egalitarianism, which is problematic in societies that are inherently unequal due to sexism, racism and classism (Unterhalter, 2007; Rawls, 1971; Sen, 1980; Young, 2000; Fraser, 2008). As a prerequisite, member states are required to submit periodic reports for the purposes of monitoring women's achievements. However, as a tool of analysis, the periodic reports may occlude the truth about gender marginalization if they are not comprehensive. It has been argued that in order for such reports to be adequate they encapsulate the depth and breadth of access, access to opportunities, quality and levels of access to education, contexts of schooling, completion rates, dropouts and areas of study (Unterhalter, 2007; Nussbaum, 1998). This will be a move away from generalizing things and entering the specific realm. CEDAW, like the other initiatives, is more concerned about attaining equality for all women and not equity.

Article 10[18] of CEDAW provides for the right to basic education for all. Other tiers of education have also been provided for and member states have been obligated to make education opportunities available to all its citizens, regardless of gender, creed or race. This is based on the equality principle (Rawls, 1971; UNDHR, 1948), which has been noted as being insufficient to address cases that arise from previous marginalization (Rawls, 1971; Miller, 1999; Sen, 1980, 1995; Nussbaum, 1998). Further, it is acknowledged that impediments such as gender stereotyping and other forms of discrimination emanate from the curriculum and hence ought to be dealt with. The 1999 CEDAW Optional Protocol serves as a mechanism through which those who feel aggrieved or discriminated against can send their grievances to the Committee on the Elimination of All Forms of Discrimination against Women for consideration and further deliberation. Although sending grievances to the Committee for consideration and deliberation might offer reprieve to the aggrieved parties, it is complicated to gauge the impact of the interpretation of this statement on those who are experiencing some form of discrimination. Will they be motivated to report if the cases will be up for consideration and deliberation? A more strongly worded and decisive statement could have been used to convince the victims.

Other initiatives that have been at the forefront of fighting for women empowerment and access to opportunities have been championed through the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Declaration on the

[18] a)The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
d) The same opportunities to benefit from scholarships and other study grants;
e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, and gap in education existing between men and women;
f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
g) The same opportunities to participate actively in sports and physical education;
h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Elimination of Violence against Women (1993). Article 3 (1, 2, 3, 4) of UNESCO (1990) on universalizing access and promoting equity is geared towards promoting educational access to all at all levels (male and female), as is required by international legal apparatuses. Further, it is stipulated that gender-related disparities, stereotypes and obstacles ought to be dealt with in order to assure girls participate in and benefit from education. This is a reassertion of directives from other initiatives that have been discussed in the previous paragraphs. This means that the fight to eliminate stereotyping and gender inequalities in education has still not firmly provided gender equality initiatives, regardless of the difference in timeframes.

Article 8 calls for the enactment of supportive educational policies and environments commensurate with their implementation. South African higher education has followed this path (discussed in chapter 8) and come up with several education policies while dealing with environmental factors. Other important factors that could affect the implementation of education policies include having the political commitment and the goodwill from the incumbent state organs, institutional strengthening and the involvement and participation of strategic partners from the economic, social and nongovernmental milieus. This has also been noted as a possible challenge, if the relationships are not harmonized (Ball, 2012, 1998; Clark, 1993).

In addition, a sitting of the United Nations General Assembly of 2000 in New York outlined and committed itself to freedom, equality, solidarity, tolerance, and respect for nature, peace and security and shared responsibilities as core values and principles as enshrined in the United Nations Charter and the UDHR. With respect to human rights and democracy, section 3 of the agreement was committed to observing human rights, eliminating violence against women and implementing the proposals by CEDAW so as to promote gender equity. This was the first time equity had been mentioned, but the mechanisms for achieving it are more in tune with gender equality. Subsequently, the United Nations Millennium Developmental Goals (MDGs) were adopted by member states, eight of which were to be achieved by 2015, namely: eradication of extreme hunger and poverty; achievement of universal primary education; promotion of gender equality and women's empowerment; reduction in child mortality; improvement in maternal care; combating HIV/AIDs, Malaria and other diseases; environmental

sustainability; and development of a global partnership for development. The Dakar Forum (2000) brought together 169 countries under the auspices of 'Education for All' (EFA) and pledged to achieve this in their countries by 2015. Consequently, the Dakar Framework for Action, Education for All was adopted.

The United Nations progress report for 2012 noted commendable progress in so far as the achievement of the MDGs is concerned. For instance, extreme poverty had been reduced in all regions, poverty reduction targets met, and progress recorded in the area of universal primary education, especially in the Sub-Saharan region that was lagging behind. While recognizing the conclusions of this report, I argue that the findings have been arrived at using generalized aggregates that do not give sufficient information about the individual circumstances or experiences of the poor and those accessing universal primary education. A critical engagement with the goals in general might prove otherwise, especially if the specific and particular circumstances were to be computed and evaluated (Unterhalter, 2007; Nussbaum, 1998). Although areas of progress have been noted in the report, it also noted gender discrimination, inaccessibility to education, job opportunities, economic assets, accessing jobs in government enterprises and violence against women as impediments to meeting MDGs by 2015.

According to the report, women enter the job market as lower cadre workers even though they could be skilled. They were less well remunerated, less productive and only 'micro' in nature, working mostly in food processing, garment making and the service industry. These findings concur with the views expressed by Mojab and Gorman (2001) and Hill and St Rose (2010) regarding women occupying inferior and domesticated positions in the economy and being poorly compensated for their services in the labour market. The findings also assert the ideology of male dominance in the allocation of gender and sex roles (Parsons, 1954; Murdock, 1949):

> *Even where women represent a large share of wage workers, they are not on an equal footing with men. Although they may enter the labour market with the same educational and skill levels as men, they face more barriers in reaching top-level occupations. (United Nations Report, 2012, p.25)*

The laws and frameworks discussed in this section of the chapter have clearly demonstrated that social justice has been theorized in egalitarian terms (Rawls, 1971; Barry, 2005). Women have been treated as the same and equal and therefore little effort

has been directed at equity and heterogeneity. At the same time, the regulations and frameworks are general and mainly target the equalization of men and women in education, politics, economy and other areas of interest. The remedies suggested reflect generality but do not provide concrete avenues through which hegemonic masculinities, power imbalances, gender roles and class marginalization can be addressed (Acker, 1987). I contend that gender inequalities cannot be resolved by merely equalizing opportunities or resources. While noting the subjective positions women have held for many decades, I concur with Rawls (1971) and Sen (1980) in arguing that, in addition to the equality principle, social justice has to compensate socio-economic injustices in order to make equality of opportunities a reality for the minority in society.

In as much as the United Nations Progress report (2012) has identified areas of success in relation to the MGDs, areas such as stereotyping, gender-related violence and inaccessibility to opportunities have remained areas of serious concern. Similar areas have been a recurring phenomenon in South African higher education (CHE; 2009; Hill & St Rose, 2010; Badat, 2009), a more focused discussion of which will be undertaken in chapter 8.

6.3. A case of Regional and Sub-regional gender Frameworks and Initiatives

The discussions in this section serve to support the view several initiatives have been put in place to help eradicate gender equality. However, this section of the chapter also advances and supports earlier allegations that critique redress initiatives for generalizing women's circumstances. Women did not form a united, utopian seamless group, but rather a diverse group differentiated by class, race, religion, sexual orientation, geographical positioning and ethnicity (Fraser, 2008; Meinjties, 1996; Nussbaum, 1999).

Africa has also been at the forefront of fighting gender related inequalities. As well as the international gender laws, regulations conventions and declarations, the continent has also ratified gender equality laws and policies through pan African bodies, such as the Organization of African Unity (OAU) and African Union (AU). Thus, as most African countries were gaining independence in the 1960s, access to equal education opportunities was firmly on the agenda of many nation states. The UNESCO Convention against Discrimination in Education in December 1960 became enforceable in May 1962,

as the discourse of African gender inequality was put on the global platform. The African Charter on Human and Peoples' Rights (1981) was signed into law by member states of the OAU who were also committed to the adherence, preservation and observation of people's rights, as stipulated in declarations, conventions and other legal instruments, such as CEDAW. Article 2 of the African Charter affirms that all humans have a right to freedoms guaranteed in the Charter, without limitations emanating from gender, race, ethnic group, colour, sex, language, religion, political affiliation, national, social origin, fortune, status or birth. This was aimed at observing the equality principle (UNDHR, 1948: Rawls, 1971, 1985, 2009). In the same vein, Article 18 empowered member states to protect the rights of women and ensure that no form of discrimination would be levelled against women or children. Although the state plays the custodial role of protecting people's rights it could also hinder the realization of the rights if the underlying ideologies and hegemonies are in contention with the values and principles therein (Bell & Stevenson, 2006; Ball, 1994; Hodgson & Spours, 2006).

Member states of the newly formed AU adopted the Protocol to African Charter on Human and Peoples' Rights and Rights of Women in 2003, entered into law in 2005. South Africa signed and ratified the Protocol in 2004, which recognized and affirmed that human rights were universal and intractable, whereby women were protected by certain rights regardless of race, gender, sex, creed or religion. Similarly, the principles of equality and non-discrimination have been flagged and centrally positioned in order to avoid any incident of discrimination or unequal treatment. The member states have equally been commissioned to observe and uphold the rights. Other categories of rights, second generation, were also enlisted and affirmed by the protocol, notably social, cultural, political, civic and economic. The Protocol identified potential areas of gender marginalization and how the equality principle had to be upheld in order to eliminate all forms of marginalization. However, the framing remained problematic since equality for all was not sufficient to address salient and insidious forms of oppression (Young, 1990, 1991; Taylor, 1994).

As a further commitment to ensuring that women's rights would be promoted and realized, the Protocol aspired to entrench constitutionalism and human rights, thus, this can be interpreted as procedural justice that relies on just legal procedure for fairness. In

itself it poses problems because of the complexity involved in conceptualization of what is fair and just (Stowell, 2004). The conclusion is dependent on one's experiences of the legal apparatuses. Article 2(1) of the Protocol states that parties shall ensure the equality principle between men and women is enshrined in their constitutions and legislative frameworks; combat all forms of discrimination against women through appropriate legislative, institutional and other measures; include gender perspectives in policies and other legal frameworks; and, finally, provide support to local, national, regional and continental gender equality initiatives that are aimed at eradicating discrimination s women.

Article 2(1) of the Protocol states that In this regard they shall:

- *Include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application;*
- *Enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women;*
- *Integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;*
- *Take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;*
- *Support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.*

The unrelenting gender inequality in education has been highlighted substantially in international and regional instruments. As a result, Article 12 (1, a-b) of the Protocol is dedicated to gender inequalities in education, calling on states to take all necessary steps to eliminate discrimination and ensure that girls and women have access to education and training. As in the case of CEDAW (1981), each state should also ensure all stereotypes arising from syllabi, textbooks, and the media that perpetuate gender discrimination are eradicated. This acknowledgement points out that gender inequalities are multifaceted, one-dimensional solutions that may undermine crucial areas of marginalization (Butler, 1988). As with White Paper (1997), Section 2 (b) of the article urges member states to promote education and training at all levels, particularly in the fields of science and technology. This assertion is a confirmation that education is important for human development, but more crucially placed are areas which have been monopolized by men for decades. It is therefore important for this monopoly to be

broken and have more women join this area (Sen, 1980; Nussbaum, 1997; Martineau, 1998).

The Southern African Development Community Protocol on Gender and Development was adopted in 2008 by member states of the sub-regional body. It recognized and embraced all global, continental and regional commitments that had been made with regards to the attainment of gender equality and endeavoured to enhance the agreed upon instruments by addressing relevant gaps and setting targets in areas that had not been explored. All SADC members were held accountable and a forum was provided for best practices to be shared by member states. For education in general and higher education in particular it upheld the equality principle and aspired to equal education for all, which is problematic if the people and society in question are unequal (Miller, 1999). Article 14 stated that there ought to be equal access to quality education and training for men and women and was cognisant of the existence of stereotypes and gender-related violence in educational institutions that had to be challenged. As noted in other international frameworks, the SADC Protocol iterated the equality principle that does not allow for any form of discrimination to be advanced against an individual, regardless of gender, sex, religion, race and other affiliations. It is therefore the thesis of this Protocol that all governments in the region should enshrine this right in their constitutions as taking precedence over customary law and any other laws that might curtail its enjoyment.

The Forum for African Women Educationists (FAWE) was founded in 1992 as a Pan African nongovernmental organization (NGO) operating in 32 African countries. FAWE advocated gender equity and equality in education in general for girls and women across the continent through development of gender responsive education policies, attitudes and practices. It was the rationale of FAWE, CEDAW and others, such as Nussbaum(1999), that in educating girls and women, liberties and freedoms would be enhanced, community development become imminent through knowledge, and skills attained through higher education learning. Women would have access to opportunities and positions that would enable them to advance in their careers and enjoy possible upward mobility in social and economic status. Another area of importance was the right to exercise their choices and democratic rights in areas of governance and democracy that

would enable them to champion policies that might shape their communities (Mama, 2003).

The African continent has taken commendable steps towards achieving gender equality, with women steadily rising and occupying visible positions in politics and the economy. So far, Africa has had two female presidents in comparison to established democracies such as the USA, which has had none. Rwanda has the highest number of women representatives in parliament (64%), whilst South Africa has 40% (Msimang, 2015). However, as the gains being made on the continent are celebrated, many African women are yet to enjoy the guarantees provided through protocols, international declarations, conventions and the African Charter on people's rights. African women continue to be subjected to acts of perennial discrimination and harmful practices, such as the Kenyan women public stripping incident, female genital mutilation and sexual violations perpetuated by groups such as the Boko Haram of Nigeria (Makau, 2014; Msimang, 2015; CGE, 2000).

6.4. General gender Regulations and Initiatives in pre- and post-apartheid South Africa

While acknowledging the difficult past for its citizens in general and women in particular, South Africa has adapted gender-friendly laws and policies as part of a reform agenda, therefore the discussions in this sub-section focus on post-apartheid South African gender laws, regulations and initiatives. The aim is to establish the extent to which 'women friendly' policies have alleviated gender inequalities and inequities in society in general and benefitted higher education in particular. Apart from gender equity and equality policy frameworks and regulations being specific to the South African conditions and contexts they have also borrowed heavily from international and regional laws, conventions, platforms and declarations to which it has signed up as a member of the international community. Although the practice is acceptable (Taylor & Henry, 2000; Blackmore, 1999), more localized solutions are preferred when dealing with specific contextual issues (Kogan, 1985; Bell & Stevenson, 2006; Taylor et al., 1997).

South African women in general have experienced some form of discrimination, however the severity depended on social class, race, sexual orientation, religion, ethnicity and proximity and positioning in relation to the figure of power (Hassim, 1993; Meinjties,

1996; Camaroff, 1985; Unterhalter, 2007; Msimang, 2010). For instance, black women in particular experienced marginalization on various fronts. Stringent patriarchal systems, racism, diminutive cultural and religious practices and social economic placements exacerbated cemented their inferiority and subservient position in society (Hassim, 1991; Coetzee, 2001; De la Rey, 1997). The result of decades of marginalization has led to gender-skewed power imbalances, entrenched patriarchal systems and ideologies (ANC Gender paper, 2012). Although the case of black women has been cited here it should be noted that other race groups (white women) experienced some form of oppression which was propelled through oppressive systems that denied them political rights, educational access and meaningful participation in the economy (Msimang, 2010). However, black working class women experienced the worst of the oppression through ideologies and hegemonies that used race and masculinity to apportion privileges whilst blackness and femininity was seen as inferior and underserving of recognition in the advancement of production and reproduction (De la Rey, 1997; Connell, 2005; Mojab & Gorman, 2001; Morrel, 2000; Morrel et al., 2012). The challenges ranged from working hours, levels of pay, sexual harassment, customary law, child care, immigrant laws and travelling hours to work (Baden et al., 1998; Morrel et al., 2012).

Subjugation of White South African women, on the other hand, has been documented as originating from strict adherents to religious beliefs, such as Calvinism, and conservatism within the Afrikaner and English communities (Carrim, 2006). Factors related to patriarchy could also have contributed to the suppression of white women and therefore the experiences between the white and black women were varied and contextual. Against this backdrop it may be inconsiderate to expect one race group to wholly articulate the experiences of the other groups of women in South Africa. The varied and widely dispersed natures of experiences are different and specific to individuals during different times in history (Constitution, 1996; Women's charter on Gender Equality, 1994; ANC Policy document, 1996; Meinjties, 1996).

Diversity amongst women has received attention during the period leading to independence (1994), with Meinjties (1996) stating that the Women National Coalition (WNC), an umbrella body that brought together over 30 women organizations and was responsible for drawing up the Women's Charter for Effective Equality (1994), was

sensitive to the issue. It was argued that although South African women shared subordination and oppression their experiences were different because of their material conditions. Thus, middle class women and working class women, black or white, Christian, Hindu or Islamic, saw and experienced life differently (Meinjties, 1996:59). The sentiments being expressed resonate with the broader argument that has been stated and advanced by those who are inclined towards the recognition of the specific and particular contexts of women's disadvantage as opposed to homogenizing people's experiences (Nussbaum, 1994; Mackinnon, 1993; Taylor, 1994). A similar argument has been made by opponents of the policy (Nussbaum, 1999; Bacchi & Eveline, 2009), who have stated that contexts are contested terrains and that a unilateral approach to tackling issues of previous marginalization may not bear fruit if policies from dissimilar environments are implemented blindly.

Notwithstanding the above, educationally speaking, CGE (2013) illustrates that during the apartheid era schooling was criticised for entrenching gender stereotyping through textbooks and curricula (as in CEDAW, 1981; African Protocol, 2003; SADC Protocol on gender equality, 2008). Girls and women were portrayed as playing domesticated and subservient roles whilst boys were inquisitive, clever and courageous (Lemmer, 1993). This way of thinking was perpetuated through the discourse of deterministic gendered roles that originated with essentialist theorists (Murdock, 1949; Parsons, 1954), narrowing and limiting the options on courses available for girls. Despite institutions of higher learning having experienced a surge in women's representation and access to higher education, the courses for which they enrol are largely representative of what is commonly categorized as female related, compounding ideologies used to propagate domination of males over females by clandestine arguments that women are best suited to work in environments that provide caring and nurturing services (Bowlby, 1969).

Whereas patriarchy has been singled out as a facilitator to the retention of the *status quo*, systemic and structural factors play a crucial in reproducing and sustaining gender inequalities (CHE, 2009, 201; Foucault, 1984; Ball, 1994; Butler, 1988). Thus, institutional histories and traditions, power imbalances and general systemic factors do play a role in the way issues of gender and access to opportunities are organized and executed.

Laws, policies and strategies that have been put in place to ameliorate gender equality and equity have been progressive, comprehensive and multidimensional as the discussions in the next section will reveal. The crux of the matter is whether the policies have progressed or retrogressed women's desire to improve in equal measure.

6.5. Women's Charter, Gender Equality Act and other related initiatives

Firstly, the quest for equal recognition and anti-discrimination against South African women was registered in the Women's Charter (1954), setting the impetus for the recognition of equality for all. Sections of the Charter also acknowledge that South African women as a block suffered some form of marginalization regardless of creed, colour or religion, albeit the degree of suffering varied from one race group to the other (Msimang, 2010; CGE, 2000). For this reason, the Charter stressed the unity of all women as a prerequisite for winning the war against the oppressive systems that overrode their rights and limited their access to available opportunities in the economy and political realms. Fundamentally, all women were called upon to rally against all laws, regulations, conventions and customs that discriminated against them and denied them their inherent rights to opportunities, privileges and responsibilities that were accorded to a section of the community. This is a demonstration of the limited sisterhood or shared womanhood that has been alluded to by some theorists (Doyal, 2000; Ritzer, 1996; Basow, 1992). Further, the Charter noted that South Africa cannot be totally free if a section of the population is living in bondage of the other (Women's Charter, 1954; Msimang, 2010).

Secondly, the spirit of the 1954 Women's Charter and 1992 proposed a Bill of rights and laid the foundation for a non-discriminative and non-sexist South Africa. The WNC of 1992 contemplated the equality principle but conceptualized it as not being a mere constitutional imperative or a ritual but to lay the foundation for effective (substantive) gender equality. Frene Ginwala (Chair of WNC) was quoted as saying that, as part of the objectives of the Coalition, "Women will have to make sure that the constitution goes beyond a ritualistic commitment to equality and actually lays the basis for effective gender equality" (cited in Meinjties, 1996, p.59). This concurs with claims made by Rawls (1971) and Sen (1980) with regards to equality not being seen as an end in itself, but rather as a starting point to social justice.

Equality is also emphasized in Article (1) of the Bill of Rights (1992), rejecting any forms of discrimination on grounds such as gender, race and religion. Article 7 upheld the rights of men and women in private or public lives, such as education, employment and within family life, which is in line with the thoughts that have been advanced by liberal feminists (Donovan, 2012; Walby, 2003-4; Verloo, 2005). The need to recognize the work that women do at home, in the workplace and community has been asserted in the preamble of the Women's Charter for Effective Equality (1994). A similar claim was made by Fraser (in Mills, 1994), Rathgeber (1990), De Beauvoir (1987), Lorber (1997), Mahony (1985) and Moser (1993). The production and reproduction labour links with the economic freedom and the socio-economic and reproductive rights of women that are protected by the Constitution, as shall be demonstrated in the subsequent section. If these rights are attained they can contribute to the empowerment of women who will in turn be able to take care of themselves and their families. Poverty and financial dependency have been core causes of gender violence and abuse that women have endured for decades.

The Charter also recognized the inclusion of women in the fight for a non-sexist and non-racist society as a matter of right. This recognition places women at the centre of their issues while upholding their capabilities in areas of serious engagement, such as decision-making, which is contrary to the view that discounts and misrecognizes the importance of women's engagement in public discourse. The domestic and familial spaces have been seen as their preserve by traditional and conservative systems:

> *As women, citizens of South Africa, we are here to claim our rights. We want recognition and respect for the work we do in the home, in the work place and in the community. We claim full and equal participation in the creation of a non-sexist, non-racist democratic society.* (*The women's charter for Effective Equality, 1994)*

Articles 1 of the Women's Charter for Effective Equality (1994) heightened gender equality by calling for the recognition of the marginalization and suffering that women have experienced in the past. As stated above, South African women suffered variedly and hence the call for the recognition. Profoundly, the Women's Charter was calling for inclusion of the circumstances and contexts of social justice into the policies and interventions that were inclined towards improving women's lives (Rawls, 1971; Mackinnon, 1993). Effectively, the Women's Charter for Effective Equality was advocating substantive equality, as were Young (1990) and others, for the particular and specific

conditions of those benefitting from a social justice intervention to be acknowledged and included in the initiatives. Additionally, Article 1 calls for a distinction to be made between men and women in order for true equality to be a possibility between the sexes. This approach might seem contradictory to the equality clause but the distinction is necessary in addressing past inequalities that were mainly based on gender, race and social class.

The positioning of women in education has also been expounded in Article 3, which prefaces the need for an education system that would meet economic, social, cultural and political needs of the South African woman. The approach can be termed as progression in comparison to a previous dispensation that fostered segregation in education at all levels. The magnitude of segregation was seen through the lenses of its inappropriateness, amorphousness, racial discrimination, and inferior delivery of content for blacks, and inclination to males (Christie, 2008). In principle, the males who were preferred during the apartheid era were from the white designated population, whilst black males suffered segregation similar to black women.

The only deviation amongst the black population correlated with some gender specific roles. GETT (1997) noted that white males still had an upper hand in institutions of higher learning as they held prestigious positions and led in research and publications. Women, on the other hand, trailed in key and strategic positions, such as higher management, a majority holding administrative posts. CGE (as cited in the *Mail and Guardian,* 12 August, 2014) also found it absurd that of the 23 vice chancellors in public universities, only two were female, which shows that, ideologically, women were not yet trusted to hold high positions. Institutional barriers still barricade and protect the privileged positions, making it complicated for women to break the 'glass ceilings' (Ball, 1994, 2012; Corkery et al., 1995).

According to Machika (cited in *Mail and Guardian*, 12 August 2014), the experiences of women in academia are often ones of construction and negotiation of identities that have led to the absence of senior women in higher echelons of power. Factors that can be considered in explicating the various levels of self-construction and multiple identities range from male domination, self-objectification, discrimination and unequal power relations, institutional stereotypes related to the inability of women to hold positions of

power and decision making, family pressure and responsibilities, childrearing and inability to travel. Such challenges contribute to women's reluctance to apply for promotions and professional development opportunities. It has also been suggested that women's recognition does not come easily, as they work twice as hard as men in order to earn honour and respect. With supporting structures both at home and institutionally, overcoming stereotypes, availing opportunities for professional development, promoting healthy environments in which collegial relations thrive and interaction with fellow women in high positions of power, such challenges can be overcome (Machika, cited in *Mail and Guardian*, 12 August, 2014).

Thirdly, the reform agenda would have been incomplete without the promulgation of the Constitution (1996), heralding a transition from oppressive laws of the apartheid regime to the adoption of democratic values and principles that have been instrumental in transforming a fragmented, sexist and racist landscape. The Equality Clause asserts that everyone is equal before the law and no grounds should be advanced in the promotion of any forms of discrimination. Sections (9-12) guarantee equal rights, dignity, freedom, non-discrimination, security, non-violence, and a right to make choices on reproductive health.

Sections 26 to 29 of the South African Constitution (1996) guaranteed basic needs and liberties, such as housing, health, water, social security, food and education (Rawls, 1971; Nussbaum, 2004). It also recognized women's rights as human rights but alongside the familial and children's rights these had the potential to cause tension because they might seem to promote the view that women and children were one entity, whereas there are women in society who by choice or design have no children or families (husbands and children) to protect or be linked to. Similarly, the framing was discriminatory in the sense that it promoted a view that women were inferior and minors, and needed a male figure to access or own land, property and access credit (Meinjties, 1996; Msimang, 2010). This was in clear contravention of the equality clause.

The excerpt extols the values of equality and non-discrimination:

> *Everyone is equal before the law and has the right to equal protection and benefit of the law. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or*

advance persons or categories of persons disadvantaged by unfair discrimination, may be taken .(Constitution of the Republic of South Africa , Act 108 of 1996)

Fourthly, the inception of the Gender Equality Act (1996) was tailored, *inter alia,* to tackle women's issues*.* Congruencies can be found between the Act and other frameworks because the Act reiterated earlier pronouncements of creating a non-discriminatory and non-sexist society (Bill of Rights, 1992; Women's Charter for Effective Equality, 1994).

Additionally, the Act prohibited unfair discrimination, harassment and hate speech, specifically discriminatory actions that hindered women from accessing opportunities and meaningful participation in the society. Other areas covered extensively included gender-based violence, discrimination of the basis of pregnancy, female genital mutilation, cultural, religious and traditional practices that inhibited women's progression politically, socially and economically, prohibitive succession and land laws and the unfair division of labour on the basis of sexuality.

Finally, the Act allowed people who were aggrieved in one way or another to find redress in the Equality Court. It is broad and detailed in conceptualization and coverage of women's oppressions. It remains to be seen how the enumerated areas of discrimination are translated into real life-changing deliverables, but it was crucial in facilitating and legitimizing the establishment of the CGE in 1997, as provided for in section 119 of the Constitution (1996). Thus, CGE is an independent statutory, advisory and research body and as noted above, the setting up was primarily to promote gender equality and to advise government and other legislative bodies on gender equality matters and the status of women. Other responsibilities included monitoring and evaluating government and private sector gender-related policies and practices, reviewing current and upcoming legislation from a gender perspective, promotion, development and achievement of gender equality.

In addition, CGE is charged with overseeing government compliance and implementation of gender related international laws, legislation, charters, protocols and conventions, such as CEDAW. It has been lauded for its work in tackling gender inequalities in different parts of society, for example, the political, educational and economic spaces that were previously the preserve of middle class white males being opened up for some women (Mummenthey, 2010; DoE, 1997; Wolpe et al., 1997). Compared to other countries on

the African continent, with the exception of Rwanda, more black South African women occupy key political positions in the National Assembly (Msimang, 2015). However, a majority of black rural women are yet to benefit fully from the gains of independence as they live in appalling conditions, experience abject poverty, and their rights are not guaranteed because of the traditional regimes that still oppress them in so far as land ownership and justice is concerned (African Development Bank, 2009; Msimang, 2015). In this case, the fortunes of a few are being used to generalize the whole population, constituting an injustice because it occludes key areas of injustice that are supposed to be addressed succinctly. The same can be said of higher education, in which aggregates or tyranny of numbers are used to demonstrate that gender equality has been attained and yet the ground level narrative is different.

CGE faced challenges that are threatening to overshadow the good that has been achieved thus far. Some of the challenges related to budgetary constraints are inability to isolate and focus on women issues, individual interests and engaging in unrelated functions such as political lobbying that are outside their mandate and scope. Regarding the challenges faced by CGE, I refer to some of the implementation conundrums emanating from the complexity of policy processes, stakeholder interests and the negotiations listed by Ball (2012, 1998), Clark (1993) and Foucault (in Fraser, 1981) in chapter 7. Largely, cases of power struggles amongst stakeholders (sites and agencies are contested terrains) with each having varied intentions and interests can lead to the collapse of a well-intentioned policy (Kogan, 1985; Bell & Stevenson, 2006; Taylor et al., 1997). The availability of resources is largely dependent on the good will of the stakeholders, subject to what they stand to lose or gain from the policy, or whether funding can be made available (McLaughlin, 2000; Corkery et al., 1995).

Gender stereotyping and lack of adequate skills due to inadequate training is an area that is linked to allegations about the ability or lack thereof of women to execute leadership roles and work in areas that are isolated as male domains, notably sciences and engineering (Hill & St Rose, 2010). A lack of clarity on roles also depicts the laxity of stakeholders and those in echelons of power to let go of their privileges, because policies change the existing power structures, redefine, destabilize and mediate power within structures (Ball, 1994, 2006, 2012). Those who were selected in the said roles struggled to

make meaning of their new positions and what was required from them. Ball (1994) also reports on the disjuncture between policy as text and the realities on the ground. Such realities emanate from contexts, resources and historical burdens that can derail well-intentioned policy. Thus, policy statements should be realistic in the demands they make of situations they are meant to reform, in order to avoid wide disparities in expectations.

Ideally, CGE was to oversee and implement government strategies that would have created visible changes in formerly marginalized women's lives, but the inability to separate the political from the policy implementation process has impacted negatively on the CGE, which has also come under scrutiny with calls having been made to disband it due to leadership wrangles and internal divisions that have plunged the organization into disarray, as noted by a Parliamentary Review Report (Parliament of the Republic of South Africa, 2007; Baden et al., 1998). Regardless of the mismanagement and failures that might be attributed to CGE, it will be unorthodox to transfer the current known problems to a new organization for the problems can be resolved within the current structures.

Fifthly, the appointment of the Gender Equity Task Team Unit (GETT) in 1996 was to deal with the disparate post-apartheid gender landscape in education. Chapter 6 has shown that women's representation and participation in education was at its lowest during the apartheid era. The formulation of GETT was partly informed by the need to address the problem of minimal access to education in general. Likewise, GETT was to fill the vacuum that was created as a result of education policy initiatives failing in the agitation of addressing gender and sexism in education (Wolpe et al., 1997; Wolpe, in Chisholm & September, 2005).

In order for the above mentioned lacunae to be filled, GETT's brief was:

- *To investigate and advice on the establishment of a permanent Gender Equality Unit (GEU) in the department of education*

In its conceptualization GEU was established to:

- *advise on the purpose and functions of a GEU while taking cognizance to paragraph 67 of White paper (see below)*
- *advise on the composition, functioning, infrastructure and give a detailed plan for setting it up*
- *be consulted together with the CGE by the national and provincial education departments and all stakeholders in education- (national and international) on matters related to education*

- *advise on how gender matters should be dealt with should there be failure to establish a GEU*

Paragraph 66 (Do E, 1995) sets the terms of reference for GETT as being to:

- *Investigate and advise the Department of Education on the establishment of a permanent Gender Equity Unit in the Department of Education, initially with seconded or attached staff. In cooperation with provincial Departments of Education, through the Heads of Education Departments Committee, the Gender Equity Unit will study and* advise *the Director-*General *on all aspects of gender equity in the education system, and in particular:*
- *Identify means of correcting gender imbalances in enrolment, dropout, subject choice, career paths, and performance*
- *Advise on the educational and social desirability and legal implications of single-sex schools*
- *Propose guidelines to address sexism in curricula, textbooks, teaching, and guidance*
- *Propose affirmative action strategies for increasing the representation of women in professional leadership and management positions, and for increasing the influence and authority of women teachers*
- *Propose a complete strategy, including legislation, to counter and eliminate sexism, sexual harassment and violence throughout the education system*
- *Develop close relations with the organised teaching profession, organised student bodies, the Education Labour Relations Council, national women's organisations, and other organisations whose cooperation would be essential in pursuing the aims of the unit.*

From GETT's brief it is apparent that gender equity was contemplated in all matters of education, such as enrolments, completion, subject and course choices and addressing stereotypes that are heightened through curricula. Chisholm and September (2005) explicate that GETT went beyond its mandate by looking at the conditions and structural constraints to gender equity, the role education has played and can play in addressing gender inequalities, and the relationship between education, civil society and familial situations. It has been evinced that the GETT report (1997) is the most comprehensive account of gender through the lenses of different levels of education to date.

The report noted that the difficulty with women representation and participation in higher education stems from factors such as area of study (course selection) and the level of study (undergraduate/postgraduate). At the time, the report showed that many of the women who were accessing higher education then were concentrated in the college of education, but fewer were studying Science, Engineering or Technology. Those who managed to access technikons registered for business and office management courses as well as those related to service delivery (as discussed in chapter 5). The situation has

changed little in the current higher education landscape. Although the number of women accessing higher education has been steadily increasing, the pendulum is still at a similar point with regards to the areas of study identified since apartheid. This observation fits the conclusions that had been drawn earlier in relation to women being admitted to or "choosing" fields/courses compatible with care and nurturing and reasserting the ideology of gender differentiation in terms of role allocation (Wolpe et al., 1997; GCE; Hill & St Rose, 2010; Policy Brief, 2013; Bowlby, 1969).

Other areas of concern for GETT were in connection with staff composition that was skewed towards white middle class males. Many of the senior positions in academia were being held by white males, as were the publications. Earlier discussions that mapped gender inequality in South Africa had indicated that gender oppression was experienced variedly amongst race groups and hence generalizing experience would be unfair. In this case, although white South African women were perceived as being privileged in comparison to black women the same privileges were limited in places of employment (Wolpe et al., 1997).

Black women continued to lag behind in particular as fewer of them were registering for postgraduate studies, a scenario still be observed currently. Postgraduate qualifications play a major role in expanding career development and job enlargement opportunities, a lack of which diminishes the dreams of upward mobility in academic circles (Wolpe et al., 1997; GCE, Policy Brief, 2013). Also cited as possible deterrents to women's progression in higher education were unfavourable institutional structures and conditions that did not allow for flexibility for those with family responsibilities to study and pursue employment; lack of institutional goodwill in implementing gender equity policies due to ideological and behavioural factors; sexual harassment and violence on campuses; and lack of women's perspectives in the academic content knowledge taught in institutions of higher learning (also discussed in chapter 7). Other factors, mainly contextual, have also been cited as impediments to policy implementation (Ball, 1994; Mapesela & Hay, 2009; Corkery et al., 1995).

Foucault (1981), Ball (1994, 2012) and Codd (2006) argued that stakeholders and actors tussled over voice and positioning in policies, and those with authority had the final say whereas the marginalized voices of women remained on the margins. Mature students

represented the complexity of people' identities, fluid and multifaceted, thus the female student body was not homogenous and hence had to learn to cope variedly within their circumstances. Additionally, Ball (1998, 2012), Clark (1993) and Corkery et al. (1995) observed that ideological incongruences and stakeholder interests and intentions required careful negotiation so as to avoid sabotaging the policy. The political space within which policies were made and received played a crucial role in the implementation process (Hodgson & Spours, 2006), but some of the above challenges that were registered by the GETT (1997) report have not been overcome and are still prevalent in the current higher education landscape (Draft Green Paper, 2011; Machika cited in *Mail and Guardian*, 12 August, 2014).

Some of the recommendations made with regards to the challenges ranged from ensuring equity and growth by earmarking funds to be tailored towards specific needs of women and academic support (dealing with the material conditions) (Rawls, 1971; Nussbaum, 2004), ensuring a safe and friendly environment for female students and staff; relevant legislation to address sexual violence and harassment; and development of women's studies to be given primacy in academic development. The recommendations targeted the securing of rights for female students as guaranteed in the Constitution (1996) and entrenching procedural justice through legal apparatuses (Stowell, 2004).

Consequently, as a follow-up of the GETT report, Wolpe (in Chisholm & September, 2005) noted that the misrecognition of gender differentiation apparently overt due to social class, race and gender does not help in resolving gender inequalities in the education sector. Secondly, although an understanding of human rights has generally been established there is a need to establish an understanding of how men, women, boys and girls are impacted upon by such an understanding. It is also important to concretize the meaning of a gender equity plan. The observations made by Wolpe borders on clarifying meaning in texts so as to minimize susceptibility to misinterpretations and re-interpretations (Ball, 1994; Foucault, 1981; True, 2003; Walby, 2003; Unterhalter, 2007). As with CGE, the problem with the realization of the recommendations of the GETT report can be traced to the implementation level. Impediments ranging from lack of commitment and political will, lack of resources and inadequate training for Gender Focal Persons have been displayed as disabling the process (CGE Policy Brief, 2013).

These problems can also be linked to tensions between institutional environments in which policies are implemented, the desires of the stakeholders, funding dynamics, the timing of the policy or report, and the context in which the policy is being received (Ball, 1994; Corkery et al., 1995). Consequently, Ramagosh (in Chisholm & September, 2005) concludes that no matter how well the government's intentions are in wanting to redress the past, gender imbalances and its structures have not changed substantially: "the face of the vehicles we use to address these is masculine and it wears a traditional and cultural mask" (p.135). If the context has not changed to be in tune with the current democratic realizations and gains it follows that the grand ideas and philosophies found in policies may not have the impact expected. Malcolm (in Cross et al., 2002) argues that great political skill, creativity, productive thinking and technical skills are requisite to successful policy implementation, whilst Corkery et al. (1995) and Jansen (2003) conclude that the choice to implement a policy depends on technical skill and political considerations.

Finally, the Office of the Status of Women (OSW) was set up 1996 and has recently been converted to the Department of Gender and People with Disabilities, first in the office of the Deputy President then the Presidency. The core mandate was to oversee gender mainstreaming in all government departments and structures, promote gender equality and women's empowerment, develop national action plans for mainstreaming gender in government structures, develop and define gender policy frameworks and their implementation strategies, and monitor and evaluate them. Finally, it was to liaise with civil society to promote gender equality. Baden et al. (1998) found that, although OSW was created to offer oversight in terms of gender mainstreaming, it lacked the propensity and power to influence policy because it was not directly linked to policy drafting and lacked the capacity to address women's concerns directly. Above all, it did not have stakeholder status (Ball, 1994).

In conclusion, I note that several attempts have been made to eliminate gender inequities and inequalities in higher education, with gender laws and other initiatives upholding the equality principle against discrimination on grounds of sex, race, class or creed. Whilst gender regulations and frameworks have addressed some of the crucial gender gaps, areas of marginalization remain. For instance, scarcity of resources, power

struggles amongst stakeholders and the absence of goodwill from the government and funding agencies are persistent barriers, issues also highlighted by the gender equality draft policy (2012).

6.6. Related South African gender Legislation

In widening the tools needed to combat gender inequality and oppression, several legislative frameworks and blueprints have also been put in place, the mandate of which is to protect women from arbitrary discrimination and promote equality as per section 9(4) of the Constitution (1996). Although they may not have a direct link to higher education they do address other areas of marginalization that might affect women in higher education in one way or the other. It has been suggested that in order for gender equality to be realistic a holistic approach should be adapted, as a female student will be uncomfortable and unsettled in lecture halls if she is experiencing domestic violence and sexual harassment at home or on campus. Likewise, her comfort is subject to the enjoyment of other reproductive and socio-economic rights.

Firstly, the Basic Conditions of Employment Act (BCEA), (1997) outlined rights that applied to all female employees and which would affect women in higher education when they joined the labour market, with regard to sick leave, termination of duty, fair remuneration and payment for overtime. The Act covered areas such as maternity leave, the rights and working conditions and hours of lactating mothers. Special attention was paid to what might be deemed as hazardous work, long working hours and night shifts in Chapter 3, sections 25 & 26. Coming from a past that did not recognize women's work as important (Women's Charter, 1994), this Act aimed to protect women from exploitation and to ensure that their productive and reproductive rights would be guaranteed and conditions of work amiable. This legislation collaborates the views of socialist feminists who argued the production and reproductive roles of women were understated and that they were not compensated well in capitalist arrangements for the services they rendered (Mojab & Gorman, 2001; Rathgeber, 1990; Young, 1990b).

Secondly, the Broad Based Economic Empowerment Act (2003) aimed at promoting and empowering blacks economically. Black women were singled out as needing assistance to transcend their previous and current disadvantages (discussed in chapter 5). Section 2 (d)

aimed at increasing the extent to which black women could own and manage existing and new enterprises while at the same time increasing their access to infrastructure, skills training and economic activities. Essentially, the assistance was aligned to the equity principle (Rawls, 1971) that provides for special measures to be undertaken in order to address specific injustices. Equity is used to compensate for socio-economic disadvantages and any areas of marginalization that might have been experienced.

In addition, the Employment Equity Act (1998) was established to deal with discrimination at the workplace and to provide measures to deal with past discriminations against women, blacks and people living with disabilities, as also stipulated in the Constitution (1996). More so, the Act prohibits direct or indirect discrimination on the basis of sex, gender or pregnancy, thus, section 9 (2) allows for "adaptation of positive measures" in a holistic manner in promoting equality for all. It is worth noting that affirmative action was constituted through this Act.

Thirdly, the Termination of Pregnancy Act (1996) afforded women reproductive freedom to seek safe and legal termination of a pregnancy within the stipulated timeframes if the pregnancy was the result of rape, incest or if the implications of the pregnancy might be burdensome economically and socially. Although this provision has been guaranteed through this Act, women, even in higher education, still seek dangerous backstreet abortions due to fear, lack of resources to pay for the safe abortions, and stigmatization. The situation is accelerated by religious and cultural beliefs that are contrary to termination of human life regardless of the prevailing circumstances. In this sense, women are not always free to exercise freedom over their bodies.

Fourthly, the Recognition of Customary Marriages Act (RCMA) 1998 and as amended in 2001 recognizes traditional marriages, and gives women the right to own property during and after a marriage has been dissolved. This Act protects women in higher education who might be in such marriages. While recognizing the equality between husband and wife, it allows a wife in a customary marriage to own property independently of her husband and dispose of it at her will, enter into other contracts and litigate subsequent to other powers and rights espoused to her in customary marriage. Although polygamous marriages are given the same recognition as civil marriages, it is the husband and not the wife in such a marriage who applies to the court before entering into it. In Section 6 of

the Act (Equal status and capacity of spouses), the provision of the husband applying to enter into such a union is based on the notion that he receives consent from the existing wife/wives, which may not be easy to ascertain. By implication, therefore, the RCMA (1998) bestows more power to the male in a polygamous marriage than to the female, who may not be recognized as an equal partner.

Such a situation is in tension with the equality of those entering the institution of marriage and could have dire economic and relational implications to the woman or women in the relationship. In view of this discussion, Msimang (2015) postulates that although women's rights have been guaranteed in the Bill of Rights, some conservative males are still hostile to the idea of a woman being independent, understanding or claiming these rights. A good example is a bill that was brought before the South Africa parliament in 2012 which if passed would have declared all women in rural areas legal minors (Meintjes, 1996). Effectively, such women would have been at the mercy of traditional chiefs (Msimang, 2014). Re-enacting a law that gravely undermined women during the apartheid era shows that patriarchy is still a major factor in society today (Hassim, 1993; Kruger, 1997). Likewise, the Domestic Violence Act No 116 of 1998 sought to strengthen legislation on matters regarding domestic violations, broadened to include emotional, economic and threatened violence, and stalking. Protection orders against the perpetrators and possible imprisonment of serial offenders have been singled out as the main strengths of the Act.

In addition to providing reform on rape and sexual offences, sentencing of offenders and combating child abuse, the Sexual Offences Bill (2003) and Sexual Offences Act (2007) redefined rape as encompassing vaginal, oral and anal penetration. Forceful circumcision was also outlawed by the Bill. Legislation covering social, economic and cultural life has also been put in place to further protect the rights of women in the workplace, maintenance, recognition of customary marriages, administration of justice, access to information and civil law. Sexual harassment and abuse occurs in institutions of higher learning and this piece of legislation is crucial in addressing the plight of victims, given that many institutions have not enacted laws or policies to address it (CGE, 2013).

The following legislations have been at the forefront of protecting the said rights:

- *The Promotion of Equality and Prevention of Unfair Discrimination Act, No.4 of 2000*

- *Promotion of Administrative Justice Act No 3 of 2000*
- *Promotion of Access to Information Act No 2 of 2000*
- *Recognition of Customary Marriages Act No 120 of 1998*

In retrospect, contrary to the view that the presence and enactment of laws against sexual abuse and general violation of women, cases of domestic violence and sexual abuse go unreported. Partly, the complexity of supervising what happens in private spaces is responsible for this situation. Other links can be made to secondary violations that happen in police stations, in situations of poverty and out of fear of backlash from family and community members. In recognizing the complexities in reporting abuse and violence cases, much still needs to be done to arrest the situation if the laws are not to be seen as overrated and securing the safety of children, women and men who are also violated and abused by their spouses.

While acknowledging the overarching constitutional values of human dignity, equality, social justice, non-racism and non-sexism and other conventions, declarations and statutes to which South Africa has assented, the Promotion of Equality and Prevention of Unfair Discrimination Act (2000) reported that a great deal had been achieved in transforming and restructuring South African society and its institutions. Chapter 2 prohibited any form of discrimination, Chapter 3 outlawed unfair discrimination on grounds of gender, and chapter 5 bestowed upon the State the duty and responsibility to ensure equality would be achieved. The furtherance of equality was also expected from people working in the public domains, private sector, NGOs and traditional institutions. This was aligned to Rawls' first principle. Apart from the requirements in terms of legislation that prohibits any forms of discrimination against any individuals, the Act pledged to advance legally or through other means the plight of those who suffered historical injustices at a community or individual level so as to restore their human dignity, equality, equity, social progress and freedom (Rawls' second principle). However, the Act further noted that inequalities and unfair discrimination were still embedded in social structures, practices and attitudes that undermined the Bill of Rights and Constitution.

Subsequently, Draft Green Paper titled 'Towards a Gender Equality Bill' (2011) recognized the milestones that had been achieved, however, areas alluded to in the CEDAW Report

covering 1998-2008 as compiled by the CGE (2010) were ineffective in implementation of policies and legislation, leaving gaps within the current legislation, such as a lack of a proper definition of discrimination upon which offenders could be prosecuted, and ascertaining gender equality gaps. The challenges were also related to discordances in the discourse of policy implementation (Ball, 1994, 2006; Codd, 1988). Some of the above challenges were not unique since they had previously been blamed for the failure of implementing the GETT report (1997) as well as the work of CGE (Chisholm & September, 2005; Wolpe, 2005).

Finally, in its preclude, the Women Empowerment and Gender Equality Draft Bill (2012) provided a conduit through which the Minister and other stakeholders would be enabled to develop legislation and frameworks that would empower women, adopt and implement gender mainstreaming strategies, meet international obligations and regulate and punish offenders. The contents of the draft Bill were not unique as they had similar objectives to previously discussed bills, gender regulations, and reports by GETT and CGE. Accordingly, the draft gave impetus to the values of non-racism and non-sexism as stipulated in the Constitution (1996). It would foresee women's participation in social, economic and political realms. Gender mainstreaming and women's empowerment in the public and private sectors would be realized as provided for in Chapter nine of the Constitution, and eradicate detrimental cultural, religious, social, economic and traditional practices that harmed women (Gender Equality Draft Bill, 2012). The draft Bill was extensive in the coverage of different contexts that propelled gender inequalities (Butler, 1990; Fraser, 2008; Hassim, 1991; OSW, 2000; Young, 1990).

Policies, by their nature, are prone to periodic assessment and reviews in order to ascertain if indeed they have met the set goals and objectives (Ball, 1994). I therefore conclude that such a draft Bill, coming in 2012, was an indication that women were still disenfranchised and more interventions were needed to be put in place, comprehensive in articulating areas of marginalization that have continued to propel gender inequality. Ramagosh (in Chisholm & September, 2005) pointed out that the willingness of government to change the *status quo* was noble, if indeed it was well-intentioned and the vehicles through which the reform was being channelled had also embraced change. However, other impediments that are propelled through systemic, historical, cultural and

socio-economic factors are equally to blame for the slow change (Gender Equality Draft Bill, 2012; CHE, 2013). Hence the saying, *new wine cannot be put in old wine skins, for the old wine skins will burst* (Bible, New International Version, 1984), and it is my thesis that a re-examination of the existing structures be undertaken and those that require an overhaul be dealt with so that the gender equality agenda can be reinvigorated.

6.7. Concluding Remarks

The discussions in this chapter have shown that the discourse of gender and gender inequality has received attention internationally, regionally and locally. Conventions, declarations, platforms and a United Nation conference have been used as instruments of championing the course (CEDAW, BPfA). The equality principle that rejects any form of discrimination against any human beings has been the guiding principle in all the frameworks and proposed initiatives, but it has also been criticised for being too general and not encompassing the particular and specific areas of marginalization (Nussbaum, 1999; Rawls, 1971; Fraser, 2008; Young, 1990, 1991). Regional and continental bodies have also ratified international statutes, declarations and conventions. The African Charter on Human and Peoples' Rights (1981), the Protocol to the African Charter on Human and Peoples' Rights and Rights of Women (2003), and the SADC Protocol on Gender and Development (2008) serve as examples of the initiatives that have been adapted by member States of the African continent and the SADC community.

Locally, gender and equity policies, gender equality frameworks, charters and legal apparatuses have been used as avenues through which to elicit support in a society that does not discriminate against a section of the population. The following instruments have been at the forefront of the struggle for women's rights in South Africa: Women's Charter (1954), Women's Charter (1992), Women's Charter for Effective Equality (1994), GETT (1997), CGE, (2000), OSW, (2000). The Constitution and Bill of rights (1996) have also delegitimized sexism, racism and discrimination and entrenched democratic values that are reminiscent of the democratic ambiance prevailing in the country since 1994.

Lastly, although commendable progress has been noted in women's representation in politics and the economic sector, the prevalence of discrimination, sexual harassment and abuse, gender stereotyping through curriculum and other educational materials are areas that still manifest gender oppression (CEDAW, 1981; SADC Protocol on Gender and

Development 2008; Chisholm & September, 2005). As argued by De Clerq (1997), different policy types are geared towards achieving specific goals. In this case policy innovators have to be careful to draw up policies and initiatives that tackle the problem at hand holistically. In most cases, a majority of the policies that are inclined towards gender equality and equity are limited in what they can achieve because they are regulatory, procedural and egalitarian in nature. This has been the case in the policies and interventions that have been discussed in this chapter, with equality (generalization of women) having taken precedence over equity (specific and particular). This has led to the homogenization of women and their experiences because they have been aimed at achieving an equal society without paying attention to the underlying discourses of marginality ((Young, 1990; Fraser, 2008; Omora, 2000).

The next chapter is based on the discourse of policy, that is, the dialectical relationship between policy as product and the process of making it.

CHAPTER SEVEN

CONCEPTUALIZING THE DISCOURSE OF POLICY MAKING, IMPLEMENTATION AND IMPLICATIONS

7.1. INTRODUCTION

Women have generally been identified as a group facing severe marginalization in many communities. Gender construction theorists (Butler, 1990; De Beauvoir, 1989) and social justice proponents (Rawls, 1971; Young, 1990; Fraser 2008; Sen, 1980; Nussbaum, 1999) have argued that addressing gender inequities and inequalities have to be prioritized through public policy interventions. This can be expressed in different forms, for instance, government-related policies find expression in ministerial statements, green and white papers, bills, acts and amendments to acts. Birkland (2011) posits that policy statements can also be drawn from individual national constitutions, laws, statutes, court decisions, agency or leadership decisions and the behaviour of government leadership at all levels. Similarly, parliamentary debates, committee hearings and portfolio committee proceedings are instrumental in understanding government legislation and policies. It can also be understood that, in spite of policy being contained in parliamentary legislation, ministerial documentation or departmental circulars and policy papers can also be produced outside the confines of government ministries and departments. Therefore, policy centres, commissions and NGOs generate vital documentation that feeds into the legislative process. As texts, they can provide a wealth of material for policy analysis (Corkery et al., 1995).

This chapter therefore provides a candid discussion on the discourse of policy, policy values, goals and contexts; the dichotomy of policy as text and discourse; the discourse of power in policy processes; internationalization and globalization in policy; and challenges in policy processes and implementation. I argue that, despite popular theorizations that portray policy processes as linear and smooth, in general the processes are complex, messy and tedious. I also note that aspects of policy processes enter into predetermined power relations that have to be navigated and overcome. It is in this predestined power relation that sexism, gender and gendering are reproduced, nurtured and sustained. Ultimately, policy goals, values, policy type and the funding mechanisms thereof are dependent on the power tilt. Other factors that foresee the fruition of the

implementation of policies include the interpretation by implementers, goodwill from relevant stakeholders, availability of resources (human and physical) and the location of the policy (understanding of context). All the aforementioned issues can also be traced in South African Higher education.

Walker (1981, p.225) argues that the task of the social policy analyst is to assess the distributional impact of the existing policy and proposals, and the rationales underlying them. Taylor et al. (1997, p.37) propose the following questions, incorporated in the discussions in this chapter. The questions can offer guidance to the analysis of public policy:

- *Why was this policy adopted?*
- *On whose terms was the policy adopted?*
- *On what grounds have these selections been justified and why?*
- *How have the competing interests been negotiated? Whose interest supersedes the rest?*
- *Why now? Why has the policy emerged at this time?*
- *What are the consequences?*
- *In particular, what are the consequences for professional practice and outcomes?*

7.2. The policy forum: Definition, Policy goals, Values and Contexts

The discussions in this section elucidate the complexities and intricacies of the processes of policymaking and implementation. Conglomerations of intersecting factors are convened to ensure that a desired policy has been developed and delivered to the public. For instance, Ball (1994) postulates that situating policies within the right context with the desired meanings, goals and values is a highly technical exercise that requires rigor and in-depth understanding of the policy issue.

The term 'policy' has several meanings, ranging from values, ideals and statement of intent. Defined by the *Oxford English Dictionary* (2000) as "a plan of action or a statement of aims of ideals", Birkland (2011), Dye (1995) and Roux (2002) regard it as a statement by government about a problem and what it intends to do or not to do about it. Birkland (2011) observes that a lack of an explicit statement does not necessarily imply a lack of a policy statement; rather it could be interpreted as there being an implicit policy statement. Often, the following key statements are included in formulating the meanings

associated with policy, *in the public interest, plan or course of action, broad statements, objectives and goals, the wishes of governments, legitimate organizations, or meeting the aspirations of citizenry or members* (Birkland, 2011).

Policy has been attached to "things", to give a parochial account of aims, contexts, meaning, processes and outcomes. On the contrary, Ball (1993, p.11) differs in conceptualizing policies as "things" because such a penchant is narrow and less engaging. Thus, Ball calls it "shielding the bigger picture within policies", while Birkland, (2011) observes that policies are broad in nature. As such, they have a life outside texts and regulations and continue to work and be reinvented through the implementation processes that determine the beneficiaries, the deliverables, the deliverer and the cost-bearer. Hence, Ball (1993) asserts that conceptualizing policies as processes and outcomes opens them to deeper scrutiny and understanding. Ball (2012) presupposes that by looking at policies as processes one is able to make links to and interrogate the specific contexts and histories in which they are embedded.

Kogan (in McNay & Ozga, 1985, p.11) terms 'policy' as operational statements of values, moral propensities or feelings about how things ought to be, that undergird certain ideologies. Although this may be the case for many policies in some cases they have no ideological undertones that privilege a certain programme or aspiration of a particular group. Bell and Stevenson (2006, pp.2-3) affirm that policies are derived from values that highlight and identify dominant discourses in the socio-political environments within which they are generated and implemented. For Kogan (1985), Bell and Stevenson (2006) and Taylor et al. (1997), values should not be seen as neutral but rather as laden with meanings that are contested and often subjected to negotiation, compromise and conflict.

Values are often embedded in a dynamic policy environment that serves as a context, whether social, educational, institutional or economic (ibid.). White Paper (1995, 1997), NCHE (1996) and the National Plan for Higher Education (2001) imbue values that are in line with the new democratic order of creating a society that is non-sexist and non-racist and that respects and observes human rights. The desire of the policy innovators can be said to be in tandem with the ideology of the incumbent government of expanding participation and access to opportunities to all South Africans.

The context and environment in which policy is developed and implemented has been an area of interest to policy analysts. Bell and Stevenson (2006) point out that policy does not exist in isolation but is crystallized through a hybrid of powerful structural, cultural, economic, ideological and human agency forces. Bowe and Ball (1992) regard the process of policy development as a cycle that consists of policy contexts while Taylor et al. (1997) question why it has emerged (context), and in whose interest. This can be linked to Bell and Stevenson's point regarding the varied stakeholders who participate in the process.

Hodgson and Spours (2006) refer to the different contexts as a 'policy triangle', which comprises the *context of influence*, as the realm of power and how it is played out in processes; the *context of policy*, or the environment in which it is produced; and the *context of the practitioner*, that is, the implementation process. Values are influenced by a particular policy context which they are co-opted to serve, but there is a possibility that if values are not shared by the stakeholders, tension may arise within the different contexts. In many instances, it is about whose values are dominating the debate, and in which particular context they are generated. I argue that individuals within certain contexts have their own values that might not necessarily concur with those presented in policies. In such a case the need might arise for people to devise strategies that will enable them to navigate between tensions that occur between individual values and the ones envisaged in policies. It is a delicate process that requires a balance of negotiation between introducing new frames and breaking loose from the old ones.

In supporting the claims raised by Hodgson and Spours (2006) and other interlocutors regarding policy contexts, Ball (1998, 2006) observes that policies are rooted in their social contexts, composed of what he calls *the fissured social, political and economic conditions of education and social policy making.* Arguably, the fissured social contexts in which policies are created and received by various stakeholders and actors could enable or deter the successful implementation of the policy. For instance, challenges to policy innovators could arise at various stages of development. The conception or implementation stages would pose problems, such as variances in experiences, expectations and intentions of the stakeholders and actors. Therefore, it is advisable that for the purposes of policy analysis to be sound the veracity of the intentions, goals and values that undergird policies have to be understood within their social, political and

economic conditions (contexts). These contexts are also linked to the circumstances of social justice that have been discussed in chapter 2 (Rawls, 1971, 2001; Miller, 1999).

Policies have underlying goals that they are set to achieve but the relationship between them and the goals is mutual and intertwined. Ball (1998, 2006) writes that policies have two goals: to have material effects and to rally support for the attainment of the material effect. Linking education to futuristic economic development is an example advocates of a particular policy in education could use to garner support for material effects of that policy. Mapesela &Haye (2009) note that; goals, objectives and rationale within which a policy is enacted provide an avenue for interrogation and evaluation of the appropriateness, success or failure of an intervention or policy. For instance, an approach that can be used to interrogate the onset of the reform process in post-1994 South African higher education may look at the Draft Policy for Education and Training (ANC, 1994) that outlined a vision and goals that expressed what the ANC intended to do and the reasons behind it (Motara & Pampallis, 2001).

The goals stated in White Paper (1997, p.3) indicated that the transformation of higher education was to be in line with the demands of the democratization process of creating a new social order. It was to address issues of redress and inequality; social, economic and cultural transformation (instrumental and functional roles); pressing and urgent national needs (skilled manpower for economic development); and new realities and opportunities. The Paper noted the importance of harnessing of intellectual power from all South Africans for the purpose of reconstruction and development of the nation state, developing capabilities for human development (Sen, 1971). For the purpose of accountability, an analysis can be undertaken to check the extent to which the goals on the checklist provided in the White paper have been fulfilled (see chapter 8).

Ball (1998) argues that at times policy decisions may be in tension with policy goals, arising from material effect (resources) being given attention in the policy when the reality on the ground may vary (individual circumstances). An example can be drawn from a policy that is crafted around skills development for better chances of employability in a country with high unemployment levels and poor education standards. Such a policy could struggle to meet its goal due to extraneous factors. Likewise, White Paper (1997) points to the challenge of modern economies (science and technologically driven) vis-à-

vis the lack of trained graduates in the areas of Science, Engineering and Technology (SET) and commerce due to historical factors that excluded black and female students from participating in them (Molteno, 1984; Martineau, 1998; Meinjties, 1996).

7.3. The dichotomy of policy: Textuality and Discourse

Analysis of policy encounters a dichotomy between textuality and the discourse that informs and undergirds it.

7.3.1. The Textuality of policy

Ball (1994, 2006) contends that the meaning of policy can be deduced from the policy dichotomy, an approach similar to what is seen as policy as process and product (Taylor, et al., 1997). Although the two differ substantially, Ball concludes that the parallel notions are interwoven, consequently, policy cannot be tied to either and "they are implicit in each other" (1994, p.15). As a further explication, Ball (1994) argues that the textuality of policies is two-pronged. Firstly, policies are textual representations that are coded in complex ways, as struggles, compromises, public interpretations and reinterpretations. Secondly, they are decoded in complex ways through a multiplicity of readers who have their own interpretations and meanings in relation to their contexts, histories, experiences, values, skills and resources (Ball, 1994, 2006). Due to the duality of authorship and readership of policies, a variance in interpretation, meaning and understanding is an area of tension that can affect implementation. An example has been cited previously of how the meaning of constructs such as gender, equity and equality has been conflated and led to undesirable results (Unterhalter, 2007; Stowell, 2004).

The policy community should be prepared to dispel any misconceptions and contentious issues that can arise from a particular decision and intervention. Those who are familiar with policy processes articulate that development is a continuous process (Bell & Stevenson, 2006; Bowel & Ball, 1992), with re-examination and reconceptualization helping to find some of the contentious issues that might be linked to incongruent values, policy contexts and public interpretation. Ball (1994) asserts the fact that policies as texts should not be taken for granted, but they are received into nuanced social or institutional contexts that eventually provide the historical and interpretational apparatuses that will impact on how they are received by various actors

> *The physical text that pops through the school letterbox, or whatever, does not 'arrive out of the blue'- it has an interpretational and representational history – and neither does it enter a social and institutional vacuum. (Ball, 1994, p.17)*

Of particular interest is Ball's (2006) observation that policies could pose problems to the recipients that require contextual solutions (Omora, 2000; Young, 1990, 1992). For instance, whereas policies as texts are expected to be acted upon it is difficult to deduce how they will be acted on by different people in different settings, the impact they will have and if there will be any room for actors to create their own niche and manoeuvring space (Ball, 1996,p.18). For this reason, Ball (1996) concludes that the success of policy implementation is dependent on commitment; understanding; availability of resources; capability; practical limitations and inter-textual compatibility, being in synch with other policy texts that are in circulation. Wolpe (2005) noted that GETT (1997) failed in executing some of its mandates because of a majority of the factors identified by Ball (1996). For Bell and Stevenson (2006) the ability of individuals to shape and respond to policy is circumscribed by institutional power structures. If these are not part of the transformation process the intervention may not necessarily meet its goals. Their views can be linked to Foucault's (1984) hypothesis that those in positions of power struggle to relinquish their privileges, fighting to retain the *status quo.*

The textuality of policy, its authorship, readership and interpretation, depends heavily on language therein. From a postmodern perspective, linguistic practices and symbolism are important in constructing and maintaining individual and collective identities. Similarly, policies are inscribed in a particular language that communicates the intentions of a specific policy. Closely related to the intention is the link to discourses of transformation transmitted through emblematic phrases such as equality, equity, democracy, non-sexism, non-racism and redress. Policies are also imbued in metaphorical language, the role of which is to produce divergent meanings, contradictions and omissions in order to produce varied effects on the different readers (Codd, 2006, p.235). The postmodern linguistic attribute is paramount in analysing gender equity policy, in the sense that it poses an opportunity to interrogate the framing and portrayal of gender identity in policies. Identities are not treated as mere natural occurrences but rather are seen as being constructed and implicated through narratives, texts, discursive frameworks and policies. Whereas some identities are sublimated and others given minimal attention, the

implication thereof is heightened in sharing meagre resources (Codd, 2006; Unterhalter, 2007).

Finally, Fataar (2003) notes that the suggested frames of redress and systemic reform do provide the language and concepts, such as equity, non-sexism, non-racism, non-discrimination, democratic principles, equality and human rights, freedom, that can best explain and be used to evaluate post-1994 higher education policies in South Africa.

7.3.2. POLICY AS DISCOURSE: POWER AND POLITICAL LEGITIMIZATION

Theorizing policy as discourse is based on the manner in which policies are framed and the discourses that develop around them. Similarly, the discourses that shape and constrain the scope for individual agency are also highlighted (Bell & Stevenson, 2006:18). Understanding policy as discourse gives credence to human agency in forging the way forward for what is desirable to them. However, such desires have to be placed side by side with institutional power structures, pressures and other economic needs that have a decisive influence on policy. Foucault's (1984) theorization of the relationship and interrelationship between power, truth and knowledge stands as a good example of understanding policy as discourse. According to Foucault, discourses embody meaning and social relations, subsuming subjectivities and power relations in a hierarchical manner. On the veracity of discourses, Ball (1994, p.8) writes that *"discourse speaks to us",* as it shapes the policy positions that are taken.

Equally, policies are enacted within circumstances that are not devoid of power and therefore policies as texts enter into nuanced and clandestine power relations. The unabated power relations cannot be extracted from other relationships, whether economic, knowledge, gender, social class or political. The intricacies of circumstances and different layers of power relations can be linked to the contexts that have already been noted by other scholars in prior discussions, such as Hodgson and Spours (2006). Foucault (in Fraser, 1981) illustrates that power and knowledge are interlinked, that is to say, within knowledge forms of power are manifested. At the same time, knowledge is permeated by certain forms of power in the sense that power dictates what counts as knowledge, who has the right to it, and the holder of the privileged position of saying what counts as knowledge and truth.

In agreeing with erstwhile views, Odora-Hoppers (2001) presents power in a contextual, cultural and historical periodization, arguing that although the voices of the victims of power imbalances and oppression have been submerged in competitive knowledge production the victims have a good sense of what it means to produce and protect life. They represent the new faces and voices of liberation and transformation: “Power remains locked in a geo-political formation that continues to benefit from the cumulative effects of colonisation and leaves an acute imprint of protracted Western domination everywhere” (Odora- Hoppers, 2001, p.21).

Ball (1994, 2006, 2012) states that, by their very nature, policies not only change existing power relations but also enter and mediate power relationships through or by destabilizing, distributing, redistributing and redefining power relationships within structures. The success of any policy is dependent on how it is juxtaposed and perceived in power relations and the good will that is exuded by those in power. Any position that will threaten any existing power relations may be received with condescension, hostility and disdain (Foucault, 1984; Ball, 1994).

Ball (1998, 2006:72) postulates that, as systems of value and symbolism, policies account for, regularize and legitimize political decisions. Codd (2006, p.235) and Bell and Stevenson (2006) explicate that the other imperatives of policy include the legitimization of political power and the language that is used in the text. The political aspect of policies is vested in the power of determining what ought to be done, who the beneficiaries are, the purpose of the policy and who should pay for the reform agenda (Taylor et al., 1997). For the case of public policy one will not be mistaken in thinking that the government has the greatest say and share in public policies, because of how it is positioned as their sponsor and executor.

Jansen (in Kraak & Young, 2001) argues that ‘political symbolism’ underlies a majority of policies today. Apart from the genuine need to bring about reform through policies, politicians do not always invent them because they want to change practice but because they want to legitimize their positions and that of the political ideology they support. While supporting Jansen, Codd (2006) confirms that policies are not only a vessel for communicating government’s intentions and course of action on an impending problem, but some are meant to enhance and contribute to political legitimization and engineering

of consensus building through public discourse. Additionally, Ball (1994) asserts that policies play a crucial role in representing, accounting for and legitimizing political decisions and the overarching ideology/ideologies. For instance, the policies that were enacted after 1994 support the ideology of building a democratic society that does not discriminate against anyone on the basis of race, sex, gender, culture, religion or ethnicity (South African Constitution, 1996; CGE, 2000).

In spite of the positions taken by Jansen and Codd, I argue that although policies may carry political symbolism they also address real issues with the aim of ending human suffering. For example, post-1994 higher education policies in South Africa may not be entirely successful but they have brought some good to the formerly marginalized communities. Secondly, although policies may be used to legitimize political power and ideology this may not be the case all the time. The debates presented by Ball (1994, 2006) unearth the vulnerability of policy processes, thus since policies are read differently they are susceptible to varied interpretations, reinterpretations and misinterpretations, as new meaning is sought and adopted in specific social contexts. It is possible that through this process, political legitimization might meet serious contestations that stifle, weaken and undermine the wishes of the regime in power. Discussions in chapter 8 show how students have reacted variedly to the policy provisions that were deemed friendly and enabling.

Given the importance of policies in engineering and steering reforms in a certain identified and focused direction, I agree with Ball's (1994,p.19) argument that incumbent policies do not dictate what ought to be done but rather create circumstances through which options are narrowed and goals and outcomes set. It is in setting the right goals that the identified problem can be resolved adequately.

7.4. Dissonance in policy formulation: Stakeholders, Considerations and Alignments

Birkland (2011) and Bell and Stevenson (2006) contend that policymaking must be seen as a dialectic process that is developed and shaped by all stakeholders. In view of this, policy processes are complex, multi-faceted and contested, and the stakeholders tussle for ideas, voice and a stake in them. Although the main stakeholder in public policy is government, ideas are also solicited from outside government or through interaction

between government and NGOs. Apart from government policies, other organizations do have their own policies that are specific to what the organizations are mandated to do.

Largely, policy formulation processes are complex and multifaceted. Foremost in policy formulation is the identification of the underlying problem that requires a well thought out intervention that will meet the set goals and objectives. The policy issue is closely and fundamentally linked to the nature of the policy required to resolve it, such as equal access or social justice. Fataar (2003) notes that due to the apartheid legacy and post-1994 shifting discursive frames, the education policy trajectory that South Africa has taken on now mainly revolves around two constructs: redress policy and systemic reformation. The former deals with matters of social justice in terms stipulated by Rawls (1971, 2001, 2009), Miller (1999) and Young (1990), whilst the latter looks at the general structure of higher education, as shall be expounded on in chapter 8. Barnes (2006) sums up the issues that are being addressed, related to social justice, as social redress; monetary aspect for socio-economic troubles and institutional redress; and physical infrastructure for teaching, learning, administration and management.

De Clerq (1997) observes that there are several types of policies that can be adapted in addressing social injustices or the policy problem that would have been identified. Firstly, substantive policies spell out what the government should do in accordance with the problem being pursued. Secondly, procedural policies name who would be taking action and the mechanisms through which it shall be undertaken (procedural justice). Thirdly, material policies provide real resources to interest groups for implementation. Fourthly, symbolic policies remain at the rhetorical level of need for change. Fifthly, redistributive policies look at shifts of resources and power relations amongst people in social groups, and lastly, regulatory policies regulate behaviour and the actions of individuals. Policy types that have been identified by De Clerq (1997) are in conversation with the social justice methodologies discussed in chapter 2. It was argued that policies that are geared towards achieving substantive equality are most desirable because they address issues arising from the contexts of social justice succinctly (Nussbaum, 1999; Rawls, 1971; Sen, 1980; Fraser, 2008).

A determination has to be made to identify a statement that will state the destiny of the policy however temporal it may be, for instance White Paper (1997) titled *A Programme*

for Higher Education Transformation, the main aim of which was to transform and correct historical imbalances of the previous system. In stating the goal or objective of the policy, direction is derived with regards to participants, stakeholders and information-gathering processes. Clear policy objectives are instrumental in monitoring, evaluating and reviewing policy implementation and the messages contained in policies influence the scope, purpose, target group, locus of implementation, distribution of costs and benefits (Corkery et al., 1995). For some (Trawler, 2003; Bell & Stevenson, 2006; Bowe & Ball, 1992), the dynamics and complexities in policies can be attributed to their continuous evolution and response to particular contextual needs

The views and positions of stakeholders, including government, civil society, donor agencies and the recipients of the policy (Ball, 1994; Corkery et.al. 1995) carry weight and can swing the policy either way. Different voices express interests that are multifaceted, and arise from conflation of views between the policymakers and implementers; important issues to be included and the desired goals and objectives to be attained; the policy description and the actual interpretation; and the complexity and reality of the implementation of the policy on the ground.

McLaughlin (2000) and Corkery et al. (1995) elucidate that the dynamic institutional environment and context in which the policy is being produced and implemented can pose challenges. In an institutional environment, attempts are made to understand the manner in which specific issues are packaged and expressed and to consider who would stand to gain or lose from the policy being produced and why. For example, an education policy may seem narrow and specific to certain institutions but in the long run the ripple effects may be broad enough to apply to national economies through skills development and individual gains.

Hodgson and Spours (2006) and Jansen (2003) state that policy matters require a clear understanding of the political space in which they are created and operationalized as well as the stakeholders' position on the policy itself. The political space does impact on the kinds of policies that are enacted as well as the funding aspect of the policy. At the same time, Ball (1994) suggests that an understanding of the existing power relations has to be established at different levels (macro and micro) as the intersection affects the process of conception and implementation of policies. By design, power relations breed bias, with

some more favoured than others, and yet they have a great influence on policy adoption and implementation (Foucault, 1984). Alternatively, cues can be deduced from Hodgson and Spours' (2006) policy triangle that conceptualizes the contexts of influence, of policy and of the practitioner. By way of example, the policies that are operating in post-apartheid South Africa are premised on core values of democracy, equality, non-sexism, non-racism, redress and transformation. These values are drawn from the Constitution (1996) and the Bill of Rights, which oblige the government to ensure that the promises in the policies are delivered to the citizens. The contexts of influence are in tension with each other, fuelled by personal interests, a difference in values systems, material effect, and interpretation or reinterpretation of the policy (Ball, 1998; Bell & Stevenson, 2006; Hodgson & Spours, 2006).

Ball (1990, p.19) equates the process and production of policy to "an educational state", a form of institutional entity, thing or set of functions consisting of a conglomeration of sites and agencies that are concerned with the regulation of education. Those of the educational state are not neutral but rather are contested terrains (Kogan, 1985; Bell & Stevenson, 2006; Taylor et al., 1997), converging to represent sectional interests that have conflicting and contesting views in policy formulation processes and debates. According to Ball (1990), in the broader educational state they can be attributed the meaning of education and the people who are mandated to control education policy as text and as discourse.

While agreeing with the observations made by Ball (1990), Clark (1993) points out the complexities, conflicts and tensions involved in policy development and processes as multidimensional, representing personal interests and messy:

> *It is an awkward thing to say, other than to those you can trust, but policies are neither determined nor evolved on a simple assessment of National, or even Party, interest. Personal motives-ambition, mischief making, a view to public obligations and opportunities in the future, sometimes raw vindictiveness- all come into it.* (Clark, 1993, p.64)

Pursuant to the views expressed in this section, it has been argued that the impetus to implement policies rests upon the plan of action that would have been derived from available options and choices. Corkery et al. (1995) recommend that, during the policy analysis stage, stakeholders be presented with various options from which a choice has to

be made. Ideally, the elimination process is linked to two factors: the goals or objectives of the policy and the people who would benefit or lose from the choices provided. For Corkery et al. (1995), in most cases choices are minimized to technical and political considerations, with the latter holding out. This justifies the saying that *"he who blows the pipe prepares the tune".* To a large extent the desires of the government are crystallized in public policy decisions.

7.5. Globalization and the Knowledge Economy: An aspect of higher education policy

The effects of globalization on social policies, in particular on higher education, cannot be ignored. Adapting globalized decisions and interventions without paying attention to local contexts amounts to universalization of human conditions; opposed by theorists like Mackinnon (1993), Cox (1997), Young (1990), Taylor (1994), Nussbaum (1998) and Fraser (2008). In addition, Camaroff (2013, p.3) maintains that local and global systems are often systematic and contradictory, engaged in relations that are characterized by symbiosis and struggles. The importance of having an education system that is responsive to international trends and needs has been highlighted extensively in South African Higher education. Castells (1991) persuades developing countries to invest in higher education in order for them to enter into the global knowledge economy. The propensity for South African higher education to compete internationally has been enlisted as one of the goals that have to be pursued (White Paper, 1995, 1997; National Plan, 2001; Draft Green Paper, 2012).

In this sense, institutions of higher learning have been tasked with producing and sharing high calibre scholars and skilled people with competencies who can also compete at an international level. Fataar (2003,p.33) posits that the higher education *"policy force field"*[19] was greatly influenced by globalization in that the government adopted an interventionist approach to restructuring and steering the higher education system. Global discourses of managerialism, efficacy, alignment of programmes to meet international demands and quality assurance have penetrated higher education policies and individual institutional visions and mission statements.

[19] Policy field used by Fataar (2003) in reference to the context within which the policy is received and reconstituted

The caption from White Paper (1997) explains the international positioning of higher education:

> ....*higher education must provide education and training to develop the skills and innovations necessary for national development and successful participation in the global economy. In addition, higher education has to be internally restructured to face the challenge of globalisation, in particular, the breaking down of national and institutional boundaries which remove the spatial and geographic barriers to access. (White Paper, 1997, pp.6-7)*

Globalization is understood as having integrated economies and economic systems; trade systems; technological diffusion; greater access to information and communication that have limitless time and space and the development of post-Fordist work practices (World Development Report, 2012, p.254). New social orders have also arisen whereby those who occupied subjective positions are penetrating and sharing previously exclusive terrains. New and brave discourses and methodologies are emerging to re-examine what it means to co-exist and to determine knowledge production, culture and scientific values and claims, human rights imperatives, and global citizenship (Odora-Hoppers, 2009). An example is the current South African higher education landscape that boasts of having students from diverse backgrounds, unheard of during the apartheid era.

The knowledge economy extends a lifeline to globalization through the production of high level scientific and technological knowledge and innovations that create high value products whose demand is astronomical internationally. Castells (1991, 1995) and Odora-Hoppers (2009) argue that globalization is often mistaken for internationalization, understood as an exercise that includes the adaption of policies and practices by academic systems, institutions and individuals to cope with a globalized academic environment (Altbach & Knight, 2004, p.290). An Internationalized academy has an adaption and general use of English as the *lingua franca* in teaching, scientific research and learning, cross-border campuses and collaboration through exchange programmes, and inclusion of international content and pedagogy to cater for international students (Altbach & Knight, 2007). Odora -Hoppers (2009) posits that internationalization was the forerunner of globalization, thus, before it universities were fixated with international relations, international education, international trade and international diplomacy.

The World Development Report (2012) notes that as a result of the world becoming increasingly integrated, more job opportunities and access to economic opportunities

have been created for women. Therefore, countries with high levels of gender inequality may not be able to compete internationally, especially those with potential for exporting goods and services that have a high level of female employment. Women's rights have been made generally known globally through advocacies and public policies (as discussed in chapter 6). Advancement in technological systems has exposed the world to demeaning norms and cultures from parts that still undermine the place of women in society. There is a general push from the international community to close the gender gap so that women can fully benefit from the fruits of globalization (Ibid.). Chapter 6 looked at the international and regional policies and legal frameworks that have been put in place to uplift women and affirm their human rights. The World Development Report (2012) concludes that gender inequality cannot be corrected by globalization alone, however, as Nussbaum (1998) and Young (1990) maintain, localized solutions are best suited to addressing contextualized problems.

Public policy, public action and agency and access to economic opportunities can contribute to closing the gender gap, in a holistic approach to resolving gender inequality. In return, countries will be able to capitalize fully on the opportunities that have been made available through globalization for their own development and achievement of gender equality. The shift in paradigm from internationalization to globalization has given rise to neo-liberal offshoots that have created a new world in which the anti-colonial and post-colonial voices have converged and are systematically questioning and problematizing neat traditions and claims to knowledge and truth (Odora-Hoppers, 2009; Nussbaum, 1998).

Constructs such as culture, diversity, contexts and difference are now occupying new spaces in discourses of globalization, which has led to the inevitability of changes in theorization. New methodologies are used due to new meaning that is streaming in from the conflation of the abovementioned discourses with human rights and critical dimensions from other parts of the world (Odora-Hoppers, 2009). Worldwide, many governments are widening access to higher education in their reform trajectories so as to meet the demands of national development pegged to intellectual capital. At a global level, higher education is expected to produce the brilliant workers who will participate meticulously in the new knowledge economy (Naidoo, 2003; Odora-Hoppers; 2001, 2009;

Sen, 1980, 2009; Nussbaum, 1999, 2004). Simultaneously, higher education is expected to pursue strategies that increase skills development for local, national and international markets while at the same time ensuring that formally disadvantaged groups benefit from the envisaged intellectual boom. Some scholars have considered the move to globalize and commodify the intellectual capital as problematic and a great challenge to reforms in higher education (Naidoo, 2003; Cross, 2004; Singh, 2007).

Taylor and Henry (2000) and Blackmore (1999) contend that although the hallmark of policies may reflect a national or sub-regional tradition they may not necessarily be confined to a particular context or nation. The phenomenon can be attributed to the events of globalization and the 'perceived unity of purpose' in agitating for similar reforms and intentions, as a country can borrow a policy from another or revisit previous policies for information and appraisal. Policy borrowing can be characterized in four stages: Cross-National Attraction (Impulses and Externalising Potential); Decision; Implementation; Internalisation/Indigenisation (Phillips & Ochs, 2010, p.542). Though policy borrowing, also referred to as copying, appropriation, assimilation, transfer, importation (Phillips & Ochs, 2010, p.542), has been heralded as an element of policy production, it has faced criticism. For example, Halpin and Troyna (1995, p.304) argue that cross-national education policy borrowing has less to do with the success of the policies in their country of origin than with the legitimization of other related policies. The success of borrowing of another country's solutions, implementation style and administration of the reform process relies on several factors, including the synchrony of political ideologies, historical and socio-cultural settings of education policy formulation, development and implementation of the countries in question.

Edward and Whitty (1992) cite the example of an investigation of cross-national education policy borrowing between Britain and America which revealed that politicians are more likely to borrow a policy due to its political discourse and further reassurance and legitimization of other existing policies as opposed to the detail in the policy. Significantly, Ball (1994, 1998) and Popkewitz (1996) postulate that, in as much as policies are enacted to address and respond to a localized and a particularized phenomenon, traces of generality, commonalities and convergences can also be drawn from various

localities (see chapter 6 for cases of generality in the goals of gender equality policies and legal instruments).

International influence on policies is a factor of social and political networking, also known as 'international circulation of ideas'. Some scholars are of the view that, apart from political expediency and discourse, policy borrowing by politicians has been influenced by quick appearances and immense pressure to find quick and short-term solutions to inherent problems that have no recognizable solutions (Halpin and Troyna, 1995; Phillips & Ochs, 2010). Although globalization has been hailed for the good that it offers across border in dismantling political, social and economic boundaries; it should be noted that globalization tends to homogenize people in global policies (Singh, 2001, p.8). Despite pressure to conform to global economic principles, differences in social, political, moral and economic systems have to tally with contexts within which reform in higher education is occurring. Singh's observation is aligned to arguments made by Young (1990), Omora (2000), Satz (2007), Taylor (1994), Fraser (2008) and Mackinnon (1993) regarding the dangers of homogenizing people's circumstances, lest cases of incongruence surface and the global agenda is most likely to occlude the local and national contexts that should take precedence in public policy interventions. White Paper (1995) is also categorical on this matter as it states that that no matter how the South African education sojourn may look like those of other countries it has to be understood within the context of its unique history of paternalism, colonialism and apartheid.

White Paper (1997) recognizes the overlapping relationship between national and global economic relations, and that in order to overcome policy challenges that might arise, creativity and critical engagement ought to be undertaken so as to create a balance between global policy imperatives and national and regional values, goals, priorities and responsibilities. Ball (1994) and Malcolm (in Cross et al., 2002) maintain that overcoming policy challenges requires great creativity, technicality and political skill:

> *These economic and technological changes will necessarily have an impact on the national agenda given the interlocking nature of global economic relations. The policy challenge is to ensure that we engage critically and creatively with the global imperatives as we determine our national and regional goals, priorities and responsibilities.* (White Paper, 1997:5)

Likewise, in retrospect, Rizvi and Lingard (2000, 2013) observe that globalization remains a complex system that is often associated with global capitalism and homogeneity. Whilst it has been accused of ignoring the plight of individual societies and the individuality of people, and for homogenizing people's material conditions and experiences, policy is received in spaces that are bounded politically, socially and economically (Cox, 1997; Nussbaum, 1998). It has also been credited with turning the world into a 'global village' through communication and information sharing technologies, political, economic, social networking, information-sharing and technological unification.

On a similar note, the conceptualization of gender and gendering has been shaped by globalization and cross-national policy borrowing. Gender inequity has been recognized as a human catastrophe in international and local circles, as has been detailed in chapter 6. Due to this, gender theorists (chapter 4) have suggested several mechanisms that can help alleviate the problem. Stromquist and Monkman (2014) state that although the media, international and local, have been instrumental in highlighting gender inequities they have also contributed to reproducing gender inequalities by allocating to gendered roles and casting gender equality in a negative light (Butler, 1988, 1990).

Finally, while reforms and transformation policies (chapters 6, 8 & 9) that have been enacted were narrowed to address local circumstances and needs of the socio-economic and political economy, global and international trends have also permeated the educational space. Higher education in South Africa policies articulate the need for a broader perspective on education that transcends the local, but it is implausible to gauge how globalized or internationalized the students became when they are imbued in the local and national spheres in which they operate.

7.6. IDENTIFYING POLICY CHALLENGES AND LIMITATIONS IN THE FORUM FIELD

Whereas policy production and implementation may be premised on good intentions, limitations and challenges can stifle the realization of the values and goals enshrined therein. The successful implementation of the goals stated in policies arises from processes and the policy itself. Similarly, meaning, values, goals, policy contexts and availability of resources pose conundrums to policy production and implementation (Ball, 1994, 2006; Bell & Stevenson, 2006; Bowe & Ball, 1992; Hodgson & Spours', 2006). For

Ball (1990; 2012), it is the existence of a feeble and complex relationship between sites and agencies, otherwise known as stakeholders. In the process of making their specific interests and intentions known and heard sites and agencies converge, compete, discord, contest and negotiate with each other. Earlier commentators stated that the process of policy production and implementation is onerous, dynamic and messy (Taylor et al., 1997; Bowe & Ball, 1992).

Ball (1994, 2006) and Codd (1988) argue that policies are susceptible to contestations because of the varied ways in which they are read and the interpretations that are derived from them by different readers. Effectively, a policy is both contested and changing, always in a state of "becoming", of "was" and" never quite" (Ball, 2006, p.44). The continuous process of being is based on the new meanings and interpretations that are arrived at after reviews of existing policies have been undertaken. An example can be drawn from chapter 8, whereby higher education policies and regulatory frameworks have been reviewed several times (Draft Green Paper, 2012 is currently in circulation). Codd (1988:239) notes that "For any text, a plurality of reading produces a plurality of meaning". Another element of policy contestations is derived from the ordering and combination of words in specific ways that exclude or include other combinations. In the case of South Africa, combinations such as previously advantaged and previously disadvantaged connote privileges to those who benefitted substantially during the apartheid era, in which case those who did not belong to a certain cluster were automatically disadvantaged and excluded. Currently, the same combination could attract a series of meanings, depending on which side of the divide one was (Chisholm & September, 2005).

On a similar note, True (2003), Walby (2003-4) and Unterhalter (2007) argued that constructs such as gender, gender mainstreaming, equity and equality have been areas of contention in policy circles because they have been understood and interpreted variably. A case in point is mainstreaming gender that has been subjected to fierce debates. Some hold the view that the framing of gender mainstreaming ought to be located within institutional borders that will safeguard against practices that hinder fair access to opportunities for men and women. Others opine that gender differentiation should be the point of departure and a core principle of policy formulation and implementation

(Unterhalter, 2007). Such an example demonstrates that the goals that undergird certain policies may not be achieved due to misconceptions fuelled through misinterpretations and reinterpretations (Ball, 1994; Foucault, 1984; Unterhalter, 2007).

Arts and Van Tatenhove (2005) write that the introduction of new and attractive vocabulary might cause confusion to policy innovators and implementers. The existence of words such as 'governance', 'complexity', 'discourse', 'networks', 'interdependence', and 'institutional capacity' may be misleading if the intended meaning is not established and foregrounded in the policy document. On the interests and intentions of the educational state, all the players who participate in policy debate, Codd (1988) argues that in the literal sense, analysing authorial intention in texts is fallacious. This is so because intentions are not private mental processes and others can harbour similar intentions (objectives), different from statements of intent (what is hoped for), and people can be mistaken about their own intentions (what they really want to achieve).

Allusions have been made by Foucault (in Fraser, 1981) to the effect that policy processes are not innocent as they stand in contention with other possibilities, meanings, rights and claims that are competing for the same space, in what he calls *the principle of discontinuity*. The process can be reminiscent, especially when looking at what has been described by Ball (1994), as the "messy" policy processes that see stakeholders and actors competing for voice and positioning in the policy being produced. Voice and positioning are means of securing and ensuring ownership of the reform agenda by the stakeholders.

Ball (2012, p. 3, 21) asserts that the process of making and producing policies is irrational and unscientific, with discontinuities, exceptions, compromises and omissions being important aspects of policy processes because they mirror the complexities of making a policy in a modern pluralist society. Higher education policies in South Africa have aimed at pursuing multiple and sometimes competing goals (Badat, 2009), and as Fataar (2003) states, have entered into a contested terrain replete with hegemonic struggles of race, gender, sex and social class. Meeting the demands of a burgeoning higher education system against social welfare and public policies has brought about budgetary constrictions that have made it impossible to accomplish institutional financial demands, of the students, staff and infrastructural development. Apart from budgetary constraints, social welfarism and egalitarianism approaches to social justice have been discouraged by

theorists who are inclined to use a substantive equality approach to justice in dealing with specific and contextual conditions of social injustice (Rawls, 1971, 2009; Miller, 2003).

Ramphele (2001) highlights that amongst other struggles, solidarity and comradeship formed during the struggle days could hinder the outcome of well-intended policies. In the current dispensation, these relationships tend to permeate all spheres of operation and may interfere with policies that are meant to improve people's situations. Thus, higher education has become a victim of power struggle, especially with the *election* rather than *selection* of leadership. These institutions have been thrown into a deeper disarray of mismanagement because the weaker are elected in such powerful positions. When the institutions fail to deliver, instead of tackling the problem, a more reinforced racial stereotypical position is entrenched.

Corkery et al. (1995) and Bell and Stevenson (2006) contest the mechanistic way policy processes are portrayed. If unproblematized and presented as linear, rational, coherent, well-conceived and smooth the fierce struggles, disorders and contestations that undergird them will not be dealt with and the results may be dire for policy innovators and implementers (Corkery et. al., 1995; Lamb, 1987; Howell, 1992). As opposed to the smooth portrayal, in reality policy processes are not well signposted or fair, often haphazard and highly political, made on the basis of conventional wisdom, perceptions and attitudes of particular stakeholders or bureaucrats. Eventually, policies that are enacted in such a manner may attract unanticipated outcomes leading to reversals in certain instances. The summary provided by Corkery et al. (1995) captures some of the flaws in policy formulation and implementation procedures as originating from the incongruities between policy formulation and implementation, inter-group competition, unpretentious power relations and the political aspect.

> *It draws an artificial line between the process of policy formulation (usually ending at the stage of decision-making) and the process of policy implementation. It fails to evoke or even to suggest the distinctively political aspects of policy-making, its apparent disorder, and the strikingly different ways in which policies emerge. It provides little understanding of the process of designing policy alternatives, nor of the politics, rules and intergroup competition that influence policy-making.* (Corkery et al., 1995, p.5)

The process of making and adopting education policies can be used to support these claims, not only as a product of national or party interests but also as reflecting a host of

ideas that result from negotiations and a consensus building exercise that underlies the process (NEPI, 1993). It will therefore be dishonest to extradite the personal interests of the stakeholders from the process. In the case of South Africa, for instance, the liberation and subsequent transition from apartheid to democracy was a negotiated process between various interested parties. It followed that national policies promulgated to drive the transformation agenda were a product of negotiations and consensus building settlements (CHE, 2004; Motara & Pampallis, 2001; Odhav, 2009).

Ball (1998, p.126) and Clark (1993) concluded that in order for policy implementation to succeed, relationships had to be managed adequately. Apart from the consultative processes in which different stakeholders are consulted according to the constituencies they represent, considerations are given to borrowing from local and international policies and tested solutions, and their applicability to local contexts and problems. Pertinent research and theories are also interrogated for insights on the issue; however, Offe (1984) was sceptical about public involvement and participation in public policy discussion. Public participation is a public relations attempt to marshal public support and speed up the acceptability of the policy being proposed. The exercise can be seen as an element of seeking political legitimization (Jansen, 2003).

In any case, many policies are classified and branded as being in the 'public interest' yet the difference between public and private interest is immeasurable. Questions such as 'how public is the public interest?' being posed in policies require serious thought and analysis. They can be linked to Taylor et al.'s (1997) question that seeks to know whose interests are being covered in a particular policy and how other competing interests have been negotiated. As Offe (1984) notes, a thin line has to be drawn between meaningful participation and a mere public relations affair in determining the role various stakeholders play in the process of policy development and implementation.

Another area of challenge in policies has been identified as emanating from a disjuncture between policy as both text and practice. According to Ball (1994, p.19), the mismatch between policy and praxis is a result of the realities within which policy is enacted, namely, constraints, circumstances and practicalities. On the other hand, the realities posed by the translations of abstract, crude, simplicities of policy texts into interactive sustainable practices have to be grappled with. Therefore, Ball advises that policies have

to move away from ideological abstractions and confront realities that are prevalent in the context of practice such as poverty, multilingualism, and poorly trained teachers, inadequacy of resources and facilities and historical burdens and legacies, as in the case of South Africa.

While agreeing with Ball, De Clerq (1997) highlights the implausibility of South African education policies to bring about meaningful and total change in the education sector because of the disjuncture in the conceptualization of the problem and the reality on the ground in conjunction with the wrong assumptions held about policy processes. De Clerq (1997) presents a suggestion that includes a broad conceptualization of policies that will encompass vertical and horizontal factors that accentuate the root causes of the problem being addressed through the policy initiative in their entirety, notably poverty, racism, and sexism. For instance, providing access to higher education to the formerly marginalized groups may not guarantee completion of degree courses if their socio-economic trouble is not addressed (Mills, 2000).

On a similar note, structures and monolithic institutions that are embedded in stringent patriarchal practices may not necessarily provide opportunities for women to participate and excel in the traditional male fields. The ensuing debates lead me to conclude that in order to resolve the current problems bedevilling South African higher education, the dialectical relationship between public issues and individual troubles ought to be placed firmly as a policy goal (Mills, 2000, Giddens, 1986; Draper et al., 2006; Christie, 2008). Challenges that emanate from specific contexts can occlude the successful implementation of policies. Assie-Lumumba (2006) and Badat (2007) argue that unresolved historical burdens, colonialism, and socio-economic and cultural factors impact on policy implementation in a majority of African countries, and many who want to access higher education on the continent have been unable to do so. In addition, Mapesela and Hay (2009) and Corkery et al. (1995) identify inadequate resources, poor planning, patronage by stakeholders and a lack of synergy between policymakers and implementers as possible deterrents to policy implementation.

In considering the inevitability and challenges that emanate from policy borrowing discussed in the previous sub-section, I note that the influences from contexts that are dissimilar ought to be given little attention. A careful assessment of values and their

applicability to local contexts, which are varied and diverse, should be undertaken lest the country is exposed to values that are out of context and with which its citizenry cannot identify. The observation being made is in line with statements that are attributed to my study in connection to policies being embedded in social contexts, and as such they are not free floating, that is, they belong to a social context.

Non-sexism, non-racism, equality and non-discrimination are values that have been committed to by institutions of higher learning in South Africa. In essence, policies are deep-rooted in values that are used to connote morality, undergirding certain ideologies (Bell & Stevenson, 2006) and replete with complexities of intricate power relationships and interrelationships that are fluid, multiple and multidimensional (Ball, 1994). For instance, a certain policy may have undertones of donor agencies or ideological positions that can be linked to former colonial masters which might influence the way in which they may be implemented (Hodgson & Spours, 2006; Jansen, 2003; Kogan, in McNay & Ozga, 1985:11). Therefore, Nussbaum (1999) and Bacchi and Eveline (2009) warn of the dangers of treating education policy with unanimity. Although cross-cultural framing can help achieve a perceived common goal, prudence ought to be exercised in order not to exemplify values from dominant cultures and ideologies at the expense of minority, diverse contexts and cultures. In particular, local contexts and cultures are classified as marginalized and of minority communities because they tend to be swallowed in the broader global theses, but some commentators have noted that the renaissance of the local identities is a move towards rebutting the misappropriation of globalization with regards to indigenous cultures and exotic groups (Stromquist & Monkman, 2014; Naidoo, 2003)

White Paper (1995) sets the tone for the particularization of education policies to the South African context. In view of the uniqueness of the injustices that were experienced variedly by different race groups the Paper notes:

> *In these respects, our circumstances may be similar to those of many other developing or industrialising societies, but our circumstances are the result of our own history, not any other people. The unique pattern of South African inequality and under-development has been laid down over the generations of minority rule and ethnically-based economic, labour and social development policies. The gradations between rich and poor, articulate and voiceless, housed and homeless, well-fed and malnourished, educated and illiterate, therefore mirror South Africa's complex racial and ethnic hierarchies. By every index, African communities, followed by Coloured*

communities, have the highest deficits in the provision of basic services, and lowest level of access to the means of providing a better quality of life. (White Paper, 1995:13)

7.7. CONCLUDING REMARKS

The discussions in this chapter have illustrated that the process of policymaking and implementation is complex. It does not happen in a linear and smooth manner but rather, the process is multi-dimensional, onerous, tedious, contested and messy. As such, decisions and the final text that appears for public use is undergirded by ideologies, values and wishes of the various stakeholders (Ball, 1994; Taylor et al., 1997; Bell & Stevenson, 2006; Bowe & Ball, 1992). It has been argued that policy development is a continuous process of making, remaking and re-contextualization of policy contexts. Ball (2006) stated that because of the instability of policies, they are both contested and changing, always in a state of "becoming", of "was" and "never quite" (Ball, 2006:44).

The chapter has also argued that in spite of globalization and internationalization being envisaged in policy goals, ultimately social policy has to be embedded in local contexts. The local context in the case of the thesis would reflect the South African higher education terrain with its main players who are students drawn from various race groups, genders, social classes, ethnic and geographical landscapes. The thesis contends that the aforementioned factors differentiate and inform the way women experienced higher education in South Africa after 1994. This view is based on borrowed policy decisions and interventions not necessarily addressing problems in a context that is different (Nussbaum, 1998; Odora-Hoppers, 2009). In addition, localization of policy avoids homogenization of people's experiences and interventions. This in itself is a paradigm that has been argued for by using claims that have been advanced by social justice theorists (Rawls, 1971; Young, 1990; Mackinnon, 1993; Taylor, 1994; Fraser, 2008; Nussbaum, 1998).

Finally, the chapter has also elucidated the challenges that may arise from policy processes and product (policymaking, policy as text and implementation). Ball (1994, 2012) acknowledges that some challenges are as a result of a tumultuous relationship between sites (contexts) and agents (stakeholders). Codd (1988) and Ball (1994, 2006) link policy challenges to how policies are read, interpretation and reinterpreted. At the

same time, the incongruences in values within policies and institutional arrangements are areas of possible discord (Fataar, 2003; Bell & Stevenson, 2006). Invariably, a mismatch between the policy goals and the reality on the ground is another major area that breeds many problems for in the policy implementation stage (Mapesela & Hay, 2009; Corkery et al., 1995). In dealing with some of these challenges, it has been suggested that policy should largely be reflective of the local contexts that it represents, with relationships between stakeholders managed so that policy processes are not stifled and innovators come up with appropriate policies that can address the policy issue holistically (Ball, 1994; De Clerq, 1997; Nussbaum, 1999).

CHAPTER EIGHT

CRITIQUING GENDER EQUITY IN POST-1994 HIGHER EDUCATION POLICIES

8.1. INTRODUCTION

In the apartheid era, higher education was skewed, limiting and exclusive, hence the goals of post-apartheid higher education were meant to address a legacy of incongruencies, one of the core goals being to address gender inequalities and inequities. This chapter provides a critique of post-1994 gender equity policy, though there is currently no single one in higher education. Due to the challenges posed by this lacuna, the chapter reviews and critiques several higher education policies that have clauses in which gender equity is implied, and although enabling and promising policies are a hallmark to transformation, silencing areas of unaccomplished aspirations co-exist side-by-side with the success stories told of transformation and redress.

Of three sections, the first gives a brief overview of the apartheid era policies that were used to entrench inequalities in higher education to contextualize the interrelationship between apartheid and current policies. The trend espoused under apartheid was for race to be the main currency used to determine access, an agenda in tandem with segregation and separatist ideology, crucial in embedding racism and sexism under the Bantu Education Act (1953) and the Extension of Universities Act (1959). The nexus between apartheid era policies and post-1994 policies gave rise to inequalities, and current policies enacted to respond to and address the legacies of the past era. By using the proposed theoretical framework in chapters 2 and 3 with support from insights provide by gender and policy theorists in chapters 4 and 7, this chapter highlights the issues of social injustices and denigration (Rawls, 1980; Miller, 1999) that necessitated the need for transformation. The system with its flaws is renowned for producing black men and women whose capabilities were underdeveloped due to the inferior education (Sen, 1980; Molteno, 1984).

The second section focuses on post-apartheid higher education policies and laws that reflect the goals of the incumbent government policy enactment and adaption period. The policies are based on democratic principles informed by the Constitution and the values of non-racism, non-discrimination and non-sexism. The final section is mainly

characterized as the policy implementation period. The critique in this section demonstrates that even with the progressive policies a majority of students, black and female, still face insurmountable challenges in accessing higher education. The critique is based on social justice and development of capabilities, theories that have rendered themselves to the scrutiny of policies including the framing of gender and gender equity, the portrayal and acknowledgement of contexts of social justice, the evaluation of the attainment of gender equity, and the challenges and unfreedoms that constrict the trajectory to social justice.

8.2. CONTEXTUALIZING THE REFORM TRAJECTORY

The nefarious policies that were developed during the apartheid era were aimed at retaining the *status quo,* as exemplified by the National Party's ideology of dominance and supremacy.[20] Black South Africans in particular were relegated to inferior education that incapacitated them and denied them a chance to participate in meaningful nation building. Apart from racial separation, their education was aimed at equipping them with meagre skills for menial labour and industrial training that kept them away from aspiring to be part of social classes that were out of their reach. They were to occupy lower tier positions in the economy and execute menial and domestic work in homes, factories and mines (Molteno, 1984). The stratification was also a move towards the enhancement of capitalist relations.

The policies adapted in the period preceding 1959 intensified racial segregation in higher education (De la Rey, 2001). In particular, the Bantu Education Act (Act No.47 of 1953) and the Extension of Universities' Education Act (Act 47 of 1959) threw basic education and higher education into disarray. Although the Bantu Education Act was not directly related to higher education, the ripple effects affected higher education to a great extent. The two policies in particular are credited for entrenching further stratification, restriction and preservation of higher education for the dominant white minority.

[20]The term 'black' is used exclusively to refer to the native (African descend) people of South Africa except in cases where Black Economic Empowerment is alluded to, then the meaning will encompass groups that are classified as Coloured and Indian.

The messages that were engraved in the policies communicated specific ideological positions, hence the slogan 'Separate Development[21] was another feature of apartheid education that determined and differentiated the kind of education to which each race group was exposed. Even though black South Africans were already experiencing alienation, the slogan 'separate but equal development'[22] plunged black students deeper into segregation. Thus, it became a mechanism through which black South Africans were to be educated separately, within their ethnic identities, in basic literacy and numeracy with a view of 'expanding the economy'[23] (Fiske & Ladd, 2004; DoE, White Paper, 1995; OECD, 2008; Christie, 2008). Expanding the economy is not sincerely stated here because the expansion was a one-directional system that benefitted the white minority whilst he black community had to bear the burdens in terms of hard labour for little pay (Miller, 1999).

In using a slogan such as '*not showing the Black child the green pastures of the European society that he will not be allowed to graze in',* Verwoerd widened the racial divide in education (Bantu Education Act, 1953; Jansen, 2003; Lindsay, 1997; Nkomo, 1981; Muller et al., 1988; Robus & Macleod, 2006), entrenching the deceptive view that there was a chasm between whites and blacks, and that the spaces between the two races could not be crossed or closed. The obsession by the apartheid regime to frustrate the academic trajectory of the blacks, to retain a docile and subservient group, can be captured in the statements made in the House of Assembly in 1954 by Verwoerd. The sentiments illustrate the intention of the apartheid system to foster separatism, and limit the scope of engagement and participation for the black people by not allowing an African child to *dream beyond his/her horizon* because *he/she will "never*" be able to test the joys of the white designated horizon.

Verwoerd put many stumbling blocks (unfreedoms) on the educational path of the blacks, arguing that the Bantu was not to be educated beyond a certain level. The level attained was to enable them to do clerical jobs and menial labour, so as to sustain *"the being of*

[21]Separate development as was envisaged required that higher education be run concurrently with development programmes of Bantustans. Similarly, Bantu higher education was placed under the Department of Native affairs.

[22] In keeping with the separationist ideology of the apartheid regime, the term equal is used in a manner that homogenizes the Black but heterogeneous ethnic tribes in South Africa.

[23] Expanding the economy is taken to imply that the semi- educated Black community would provide unskilled labour in the new expansive economy.

the white people" Molteno (1984) and the burgeoning mining industry while at the same time leaving them in perpetual subordination to whites. This system incapacitated them because they had minimal freedom of choice in what they wished to study and to what level. This right was taken over by the oligarchic state, going against Sen's (1980) conceptualization of education and capabilities. When people's basic capabilities have been developed through education their chances of having greater choices and enjoying basic liberties and freedoms are bolstered. In this case, the rights and choices of the blacks were taken. The ability of the system to 'churn out' graduates who could meet the demands of a modern booming economy was questionable because it was limited in so far as equitable human resource development was concerned. The underdeveloped skills hindered blacks from participating in community development and the general wellbeing of the society (Sen, 1980). In general, higher education was disorderly and did not pass the litmus test for an orderly society set by Rawls, (1971). The disorder that was witnessed was demonstrated through skewed allocation of privileges to whites whilst the burdens of society and the system were carried by blacks (Miller, 1999). Thus, the policies were laced with overtones of power relations that were mainly based on race and racism.

Against this backdrop, the next section focuses on the post-1994 higher education policies and regulatory frameworks, including the National Council for Higher Education (NCHE, 1996), White Paper (1997), Higher Education Act (1997), National Plan for Higher Education (2001), SAQA (2005) and Green paper (2012).

8.2.1. Analysing Gender Equity: A case of post-1994 higher education policies

The analysis in this sub-section covers the period ranging from 1994 to 1999, significant in the history of South African higher education because it saw most of the current policies being enacted and adapted. As stated in the introduction, the analysis is informed by theories of social justice and development of capabilities, however, it is complemented by gender construction theories and abstractions from policy theories. In the embryonic stages of conceptualizing transformation in higher education, consummate policies were enacted to legitimize the process. The policymakers were also tasked with providing direction on how to reform the segregated and unstructured landscape that had characterized the many years of the apartheid regime. Of concern was the rampant

discrimination along lines of race, sex, gender and social class (Soudien, 2010; Fataar, 2003; Robus & Macleod, 2006).

Contextualization of the inequalities in higher education was pivotal if the inequalities were to be addressed succinctly. Section 1.4 of White Paper (1997, p.4) acknowledged that race, gender, class and geographical positioning had been categories used to segregate people in higher education during the apartheid era:

> *There is an inequitable distribution of access and opportunity for students and staff along lines of race, gender, class and geography. There are gross discrepancies in the participation rates of students from different population groups, indefensible imbalances in the ratios of black and female staff compared to whites and males, and equally untenable disparities between historically black and historically white institutions in terms of facilities and capacities. (White Paper, 1997:4)*

Ball (1994) and Birkland (2011) argued that policy decisions were derived from prolonged and messy discussions and negotiations, which confirms that the transformation and policies enacted after 1994 were a product of such discussions by stakeholders at various levels. The discussions culminated in the passing and adaption of policy positions and regulations that have been crucial in carrying forward the reform and transformation agenda in higher education. Overall, the envisioned changes were also a direct response to the demands of the democratic changes taking place in the country that had intricately expanded democracy and opened up democratic spaces once considered untenable.

On a positive note, emerging literature has indicated that the enacted policies have brought about meaningful change in institutions of higher learning. Equity in terms of student demographics appears to have been achieved and substantial changes have been noted in the representation of black students and women in higher education (Jansen, 2003; CHE, 2009; Badat, 2009, 2010; Draft Green Paper, 2012). It is also evident that higher education is grappling with many challenges, of which gender equity is enlisted (Badat, 2009; CHE, 2010), leading one to conclude that, in spite of the promise of equity and equality of access and participation in higher education policies, gender equity remains as elusive as during the apartheid era. This is supported by the view that higher education has homogenized women and paid little attention to the particular experiences of the black women currently enrolled (Young, 1990; Mackinnon, 1993; Fraser, 2008).

This is supported by the view that there is no single policy in higher education that is targeted towards redressing women's issues in particular (Commission on Gender Equity,

2013). This is a gap in policy that has limited the extent to which they can be isolated and addressed directly and succinctly. If gender equity and equality were taken seriously by those in power there would have been a demonstration of the same by enacting a policy that would address gender-related issues, but because gender redress has been included in the broader redress policies, the depth and breadth of gender marginalization is not given the attention it requires. In this case, Martineau (1998), Robus and Macleod (2006) and the National Plan (2001) acknowledge that race equity has been given primacy over gender equity. The question arises as to why this should be the case, yet there is clear documentation of how South African women in general and black women in particular suffered during the apartheid era. A viable explanation for this could be a factor of power relations whereby women and their issues are not given the required attention. This negation unproblematizes gender identity in higher education and can be viewed as misrecognition of the context of social justice and an injustice that requires urgent attention (Mackinnon, 1993; Fraser, 2008; Young, 1990, 1991; Taylor, 1994; Satz, 2007; Unterhalter, 2007).

Adapting Rawls' (1971, 1985, 2001) theorization would mean that gender, social class or any other forms of marginalization advanced against a group of people can be addressed through the second principle, equity, which calls for special arrangements to be put in place to address social economic disadvantages suffered by a section of the population. As discussed in chapter 7, policies as texts are contentious and susceptible to multiple readings. In certain cases, some interpretation can give a certain item greater emphasis than the rest. For the case of redress in higher education it has been stated that race equity has been given more visibility than gender equity. At the same time policies as texts are not broad enough to encompass all aspects of social justice (Ball 1994, 2006; Codd, 1988). I propose that some of the special arrangements that are being envisioned should be sought outside the policy. For instance, financial assistance that is linked to individual circumstances could be one way to deal with poor female students.

Nussbaum (1999) argues that sex (biological predispositions) is used to treat many women unequally in education and employment, and their bodily safety, integrity, nutrition, healthcare and political voice form a large part of what is questioned and problematized. As during the apartheid era, Nussbaum argues that laws and institutions

construct and perpetuate these inequalities. I argue that institutions are masculine and that to be able to safeguard them and maintain male dominance they tend to marginalize women through the creation of rules and regulations that subjugate them.

Badat (2009:457) makes a case for equity in South African higher education on the basis of race and social economic marginalization. The two categories fall within the categories suggested by Rawls (1971), Nussbaum (1997), Young (1990) and Sen (1980). On the eve of independence, higher education participation was skewed along racial lines, for instance, of the total estimation of 17% of those between 20-24 years of age enrolled in higher education, 9% were from the African population group, 13% Coloureds, 40% Indians and 70% Whites. This is a clear indication that more whites, although in the minority, participated and had greater access to higher education than the other three groups combined. At the same time, the indigenous population were more disadvantaged, even though they formed the majority (70%). Severe laws governed and regulated every aspect of their lives and therefore with meagre resources and harsh segregation laws their participation and access to higher education was minimal (Molteno, 1984). Although Badat (2009) has put into perspective the key areas of marginalization that warranted equity quotas in post-1994 higher education, he misrepresents or omits gender as a category of redress. This is a clear case of a gender-blind approach that does not take marginalization of women seriously. Such an approach assumes that so long as blacks are taken care of, oppression of women falls off automatically, which is not the case. According to Unterhalter (2007), colour- and gender-blind policies tend to shield robust engagement with institutional arrangements then power relations reproduce and sustain marginalization against minority groups. Badat's categories help to revamp the argument being pursued in the thesis that gender equity has not been given the necessary attention in post-1994 transformation policies.

According to Nussbaum (1999), women's lives and experiences are different and varied; therefore it is myopic to dwell on solving problems or conditions that are shared by a group or nation while ignoring the gender-specific problems that may be faced by women in particular economic or political arrangements:

> *But human dignity is frequently violated on grounds of sex. Many women all over the world find themselves treated unequally with respect to employment, bodily safety and integrity, basic nutrition and health care, education and political voice. In many cases*

these hardships are caused by their being women, and in many cases laws and institutions construct or perpetuate these inequalities. All over the world, women are resisting inequality and claiming the right to be treated with respect. (Nussbaum, 199, p.227)

Jansen (2004:293) notes that the current higher education landscape bears no resemblance to the apartheid structures that were distorted and fragmented before 1994. Currently, the higher education landscape consists of 23 public institutions (11 universities, six comprehensive universities and six universities of technology), with a total enrolment of 938,200 students. In terms of percentages, female enrolment in public higher education is at 57% (DHET stats, 2013; CHE, 2010, 2013; Carrim & Wangenge-Ouma, 2012). A survey by NCHE (1996) concluded that apartheid era higher education propagated racial, gender, ethnic and class inequalities. Although this was the case during the apartheid era one ought not to celebrate the statistics that show women outnumber men in higher education currently without testing the data to find out what 57% signifies in terms of gender equity.

Jansen (2004:293) identified the following areas as registering a paradigm shift in comparison to the apartheid era higher education landscape:

- *Size and shape of higher education (dealt with restructuring of the higher education landscape as envisaged in the 2001 National Plan for Higher education)*
- *Meaning of autonomy and accountability (the struggle between what it means for institutions to have autonomy void of government interruptions; be accountable, the creation of NQF and SAQA to harmonize qualifications; shifting from academic self-rule to the adoption of new policies and practices that extol professional university managers*
- *Nature of higher education providers (change in the nature of institutions of higher education; public institutions sharing a platform with private higher education institutions and the nature of negotiations that have to be undertaken in order to create harmony*
- *Characteristics of student distribution and composition (the demographics and the distribution of students in institutions of higher education after the curtains of apartheid had fallen. Opportunities were opened up for Black universities to gain access to institutions that were previously classified and [preserved for white students)*
- *Organization of university management and governance (decentralization and refocusing of governance and administrative structures; managerial functions and positions as opposed to the centralization approach that was prevalent during apartheid created new social relations on campuses across South Africa - staff, students, managers, administrators)*
- *Changing roles of student politics and organization (the new look and privileges accorded to students' leaders after 1994 raised eyebrows in comparison to the simplicity of the student leaders of the 1960s, 1970s and 1980s. Introduction of fees and reconfiguration of the office of the Vice-Chancellor through the introduction of a legislation that empowered the Minister of Education to appoint an Administrator if the vice chancellor is*

unable to manage the institution, tamed students unions, regulated students behaviour and allowed for more government support and participation in matters of higher education)

- *Models of delivery (technological advancement allowed for exploration into other modes of delivery other than the traditional contact and correspondence modes. A shift towards an entrepreneurial enterprise has also been adapted by many institutions of higher learning)*
- *Notion of higher education (public good and free trade). Value of university programmes (decline in humanities and rise in economic sciences)*
- *Nature of academic work place (limited resources and retrenchments have led to staff apathy, competition amongst local and international institutions of higher learning has put pressure on institutions and staff, decline in student enrolment due to the superficial engagement between students and staff; pressure on academics and administrative staff has increased surveillance and calls for accountability amongst staff)*

The list of changes shows major shifts in higher education, namely, the structural ones reflected in the adaption of new structures, equity in terms of demographics of the student population and student leadership, redefinition of power relations, and the decentralization of administrative and managerial systems and courses that have been refocused so as to meet the demands of the 21st century. This is in accordance with Rawls's (1971, 2009) and Miller's (1999) theorizations of an ordered society. Accordingly, Rawls (2009) maintains that justice thrives in social institutions that are stable, effective and well-coordinated. People's plans and activities have to be organized in such a manner that they are compatible and can be carried out without interfering with other individuals' rights. The social ends have to be attained in a manner that is compatible with principles of justice. Working within provided rules and regulations stabilizes the society and secures basic rights and liberties (Rawls, 1971, 2009).

The shift in policy and management of institutions of higher learning runs parallel to Rawls' and Miller's envisioned societies, addressing the disorder in the previous education system. In appreciating the current order, people should also be critical of the current disorders that might be camouflaged in the reform agenda. For instance, it is being noted that the redress policies are not addressing themselves fully to gender inequities.

The fourth bulletin on the areas that have been acknowledged by Jansen (2003) as having registered considerable shifts deals with diversity and inclusion in the students' demographics. This has been attributed to opening up of access to boost the presence of

black students in the formerly white institutions. This has been one way of opening up the institutional spaces to reflect the greater societal shift. Despite this realization, opening up and freeing physical spaces to accommodate black male and female students without changing the underlying ideologies and cultures that reproduce marginalization may not necessarily boost social justice principles. I note that if racism, sexism, patronage, unfriendly institutional cultures and uneven power relations are left unchecked the *status quo* will continue to exist side-by-side in democratic institutions.

Despite the realized shift having so far been achieved by reform messages of non-discrimination, non-sexism and fostering democratic principles and values that are enshrined in the policy frameworks, I note that opportunities have been levelled completely (Corkery et al., 1995). The last sub-section of this chapter has provided insights into the current challenges with which higher education is still grappling, that is, recurrent racial, gender and class factors (Badat, 2009). Principally, the Green Paper (2012) concurs with Rawls (1971), Nussbaum (1999) and Miller (1999) in arguing that whilst an education system that caters for the needs of all South Africans is desirable the daily realities (poverty and other forms of marginalization) of a majority of poor and marginalized South Africans should be given priority, lest institutions of higher learning remain places for a few privileged, as during the apartheid era.

8.2.2. Policy Framework for Education and Training (PFET) 1994

The Policy Framework for Education and Training (PFET) (ANC, 1994) set in motion the ANC policy proposals on education and training, based on earlier observations that the education system being envisioned should resolve the impasse of meagre human resourcing. It would also play a crucial role in unlocking the potential of a majority of underprivileged South Africans. Interestingly, the vision of the PFET (1994) agrees with Sen's (1980) thinking around the importance of education, juxtaposing economic development with the developed capabilities and functioning. Thus, through education, the youth will be able to function adequately in their workplace as skilled workers, their freedoms will be boosted, their wellbeing and that of the society promoted, and they will be able to make informed choices from the available alternatives (Sen, 1980; Robeyns & Conradie, 2013; Nussbaum, 1997, 1999).

The vision of the ANC has also capitalized on this view as it puts education at the centre of human resource development and the unlocking of human potential: “The challenge that we face at the dawning of a democratic society is to create an education and training system that will ensure that the human resources and potential in our society are developed to the full” (ANC, 1994, p.2). Contemporary statistics reveal that the vision has been met partially because access has been made “generally available” to the formerly marginalized students. The presence of students from black communities and women has improved the demographics of higher education institutions, a situation that has earned higher education much acclaim (CHE, 2009). However, whether the objectives and vision of developing a robust human resource pool and harnessing and developing human potential to the fullest through education have been fulfilled is a subject of discussion. The problem with making higher education generally available does not guarantee that all black and female students will remain at university, because there are underlying factors such as socio-economic status that might keep them away from institutions of higher learning.

Scott (2004) claims that one of the challenges facing higher education can be narrowed down to a majority of the students entering universities lacking adequate preparedness, an articulation gap that requires much academic support to close. Cliff et al. (2003) concur with Scot in noting that students who struggle in higher education face problems with the language of instruction. They also suffer because of the backgrounds of their schools and the racial and socio-economic factors. These can be included in the context of social justice interventions (Rawls, 19971; Mackinnon, 1993; Fraser, 2008). Largely, the incongruities between basic education and higher education have impacted on access and performance of students from poor backgrounds who make the transition to institutions of higher learning when ill-prepared in terms of content and cultural capital.

Challenges facing South African higher education go beyond equity and aggregations to include the provision of quality education. There will be long-lasting ramifications of under-developed capabilities and skills as the economic development of a society that depends heavily on higher education for talent and provision of human resources will also suffer. Given the positioning of higher education in the South African economy, a re-conceptualization of the policies that have been enacted has been suggested so as to

have the required impact (Jaffer et al., 2007). In order to provide quality education at all levels, adequate resources have to be available, skilled labour has to be readily available in institutions of higher learning, and enabling policies and structures and decisive leadership have to be in place to oversee transformation process.

8.2.3. National Education Policy Act (1996) and the Higher Education Act (1997)

The period 1994 to 1998 is renowned for the development and adaption of many policies. As far as higher education is concerned, the intention was to deal with the mammoth task of transforming and restructuring it. Many of the issues that were deliberated upon and concretized prior to the enactment of higher education policies included the kinds of transformation frameworks that could be adapted; definition of goals and policies; policy formulation and implementation; financing and funding higher education; structure and size of higher education; access and success; and learning, teaching and governance (Badat, 2009). Rawls (2009) argues that social institutions define men's/women's rights and duties, and determine their life chances and what they expect to be and to do. In this case, the men and women who currently access higher education are expected to have a different experience from those who operated with the restrictive apartheid era.

The National Education Policy Act of 1996 was a policy instrument used to deracialize higher education, with requirements of transforming and mainstreaming the fractured, unequal, discriminative and under-skilled system (Jansen, 2003). As discussed in chapter 7, the internationalization and globalization caveat in policies (Taylor & Henry, 2000; Blackmore 1999; Odora-Hoppers, 2009) was an indication of the desire to raise South African higher education to international and global standards. It is partially succeeding because a majority of the institutions are admitting students from the African continent. However, there is still need to define clearly what 'internationalization' means in the South African context, regionally and continentally. The reality faced by many institutions of higher learning due to constrictions arising from a lack of adequate funding cannot be underestimated. This scenario has also impacted negatively on research outputs, hindering the competitiveness of institutions internationally (Draft Green Paper, 2012). The aforementioned constrictions can impact the implementation of policies (Ball, 1994).

In addressing matters related to social justice, human development and international competitiveness (Rawls, 1971; Sen, 1980; Taylor & Henry, 2000; Blackmore,1999), the preamble of the National Education Policy Act emphasizes positions from other policy frameworks on the need to create a single coordinated higher education system, and to restructure and reform systems so that they can respond to the human resource needs of the growing economy through the production of highly skilled individuals, research and innovation. It was also stated that the new structure would assist in creating a more just society by redressing the inequalities of the past, providing opportunities for all. Maintaining institutional autonomy was also envisioned, to guard against political interference in the running of institutions of higher learning, as was the case during the apartheid era. However, Ramphele (2001) has noted that the higher education space is not as free as expected, with instances of political interference and comradeship that are slowly encroaching on leadership and management. These practices have to be shunned if political highhandedness is to be kept at bay.

The National Education Act (1996) also placed emphasis on respecting the democratic principles set in the Constitution, so as to guard against any forms of discrimination that would reverse the gains of 1994 and plunge higher education into anarchy. It outlined the need to have a competitive higher education within national and international standards (Higher Education Act, 1997; Odhav, 2009; Badat, 2010; Badat, 2004; Carrim & Wangenge-Ouma, 2012). Current higher education is replete with examples of fulfilled promises from the National Education Act and other policy frameworks. For example, instead of the fragmented and uncoordinated higher education landscape of the apartheid era, a single, synchronized system is in operation (Jansen, 2003).

The inception of the Higher Education Act (1997) was further testimony to the commitment of transformation in South Africa, enacted as a response to the changing terrain (Ball, 1994), but due to the susceptibility to change of policies and regulatory frameworks (Ball, 2006) it has undergone several amendments, the latest being in 2010 (Act 26 of 2010). Importantly, it played a fundamental role in annulling and legitimizing the status of apartheid era legislation that had racially divided and constituted higher education as a provincial competency to the current national competency (Extension of Universities Act, 1959; Ball, 1994; Jansen, 2003; Codd, 2006). Treating higher education

as a national competency has brought about normalcy and equality in terms of budgetary allocation and freedom of choice for students in terms of accessing public institutions

Through the Act, the following functions regarding higher education have been enabled and executed:

- *Regulation of higher education*
- *Provision of the establishment, composition and functions of a Council on Higher Education*
- *Provision of the establishment, governance and funding of public higher education institutions*
- *Provision of the appointment and functions of an independent assessor*
- *Provision of the registration of private higher education institutions*
- *Provision of quality assurance and quality promotion in higher education*
- *Provision of transitional arrangements and the repeal of certain laws*
- *Provision of matters connected therewith* (Higher Education Act, 1997:1)

The Act also facilitated the establishment of the National Council for Higher Education (NCHE) as an independent statutory body through Act, no. 101 of 1997. The Council for Higher Education advises the Minister of Education and Training (now the Minster for Higher Education and Training - DHET) on all higher education related issues. Moreover, the NCHE is responsible for overseeing quality assurance across all higher education institutions and its promotion through the Higher Education Quality Committee. This is in tandem with the proposed by NEPI (1993) goal of observing 'the three Es' (Equity, Effectiveness and Efficiency), to make sure that courses and qualifications are synchronized so as not to malign students on the basis of the institutions from which they are accessing higher education. Concomitantly, the Minister and stakeholders with relevant powers in higher education evoke the Act while referencing institutional establishments, closures, mergers, funding, convening of university councils, language policy and setting up of public and private universities (Higher Education Act 1997; CHE, 2004).

The reform trajectory was also boosted through the formation of NCHE (1996), which was to reform further transform a divided, non-efficient and unequal higher education. In addition, NCHE was also tasked with looking into the link between higher education and reconstruction and development, the structure of governance, finances and students'

access. NCHE has been responsible for aligning all institutions of higher learning under one national system so as to echo the principles of equity, in which gender equity is implied, democracy and transformation (Du Toit in Ndebele et al., 2010; Jansen, 2003; Cloete, 2002; NEPI, 1993; Constitution of the Republic of South Africa, 1996).

Values have been said to be moral statements of how things are supposed to be and not neutral, as they are embedded in dominant ideologies (Bell & Stevenson, 2006; Koga, 1985). As with the NEPI, the intermittent themes within NCHE are aligned to the democratic and values reminiscent of the transformation agenda that began in 1994. The principles of non-racism, non-sexism, democracy, redress and a unitary system of higher education are foregrounded in higher education policies. The NCHE is credited with agitating for an expanded higher education that would combat an elitist system that excluded a majority of black South Africans (NEPI, 1993: NCHE, 1996). Effectively, it delivered on what had been envisaged by NEPI and the National Education Act (1996). An abridged version of the NCHE's (1996) Report identified the several goals that would assist in transforming higher education.

Although all the enlisted goals are crucial in reforming higher education, of significance to this study are those that are linked to social justice and redress in the terms stated by Rawls (1971) and Miller (1999). The goals 1, 2 and 3 below recognize the historical injustice and remedy for the injustices as contemplated in terms of equitable allocation of resources and opportunities which can be linked to Rawls' (1971) second principle. Sen's (1980) development of capabilities, functioning and freedoms are reflected in high standards, academic freedom, increased efficiency and high productivity. However, these are complex states that can be taken lightly and so have to be evaluated and ascertained:

1. *Equity in the allocation of resources and opportunities*
2. *Redress of historical inequities*
3. *Democratic, representative and participatory governance*
4. *Balanced development of material and human resources*
5. *High standards of quality*
6. *Academic freedom*
7. *Institutional autonomy*
8. *Increased efficiency and productivity*

The first policy pronouncement by NCHE (1996) was the proposal to massify higher education so as to deal with the equity-development tension within institutions of higher learning. The policy responded to the exclusions in higher education during a previous dispensation that was lopsided and determined by colour, race, sex and gender (Martineau, 1998; Molteno, 1984; Meinjties, 1996). Through massification, many black men and women are gaining access to institutions of higher learning (Badat, 2009; CHE, 2009; Draft Green Paper, 2012), with focus on achieving equity and broadening access to the previously disadvantaged. Higher education has continued to grapple with the so-called "twin challenges of access and quality", and as Akoojee and Nkomo (2007, p.385) state, if the redress agenda and goals of higher education have to be achieved, institutions of higher learning ought to revisit and refashion the current framing of access. For instance, massification is used to generalize people, closely linked to utilitarianism whereby the general good is taken to be the norm, superseding and occluding the individual circumstances. This approach to social justice has been criticised by Rawls (1971), Sen (1980) and Nussbaum (1999). As for the case of the formerly marginalized, providing access without dealing with the previous and current causes of marginalization may not necessarily guarantee success. Thus, the policies could be enabling but with high levels of poverty and disabling environments access may serve only a few privileged students.

According to Akoojee and Nkomo (2007), currently, the framing of access is largely viewed in terms of access of participation and not "access with success".[24] Their description of the current framing of access points to the view that equality of participation is the overarching theme in most government reports. I speculate that the problem with concentrating on numbers (participation) and not access with success is that the true value of equity in access is lost. This is because access with success problematizes and goes beyond the numerical representation of bodies in institutions of higher learning. It interrogates throughput rates, areas of study, the quality of the graduate who is leaving the education centre and the job opportunities at their disposal.

[24] According to Akoojee and Nkomo (2007), access without success is attributed to high dropout rates, repetition and accessing low-key courses that do not guarantee what is perceived as key jobs in the economy.

The true test of equity and transformation in higher education can be judged on this basis (Sen, 1980, 1990; Nussbaum, 1999; Robeyns, 2013; Fukuda, 2003).

The proposed reconceptualization of access to higher education cannot therefore begin from a position of disadvantage. It will be the responsibility of scholars and innovators to devise a pragmatic and critical theorization of access that will not be limited to widening the doors of access. It should be brave enough to tackle enigmatic issues that impede access. Akoojee and Nkomo (2007) contend that in order for access to be a reality for a majority of the students it has to be conceptualized and located within an appropriate definition of quality upon which transformational objectives can be benchmarked and analysed. Rather than using a reductionist approach that relies on aggregates and numerical data alone, a wider tool that encompasses all areas of study would be desirable. Unterhalter (2007), Nussbaum (1999, Sen (1980) and Rawls (2009) argue against utilitarianism and egalitarianism approaches to social justice, and they are in favour of an expanded definition of gender (social construction of gender) in redress mechanisms in order not to misalign people's contexts and the goals of the policies or mechanisms.

Akoojee and Nkomo (2007) conclude that a comprehensive quality assurance framework that is imbued with commitment to access is most likely to respond to the developmental goals of higher education. A project of access with success has to be constructed for individual requirements so as to overcome the ideals of homogenization (Young, 1990; Satz, 2007). Alternatively, creating a balance between maintaining institutional autonomy and meeting national policy requirements might be a fair consideration of diffusing the current tension between conflicting factions in higher education (Akoojee & Nkomo, 2007; Badat, 2009).

In conclusion, access with success should concern institutions of higher learning and those accessing higher education. In particular, higher education has been hailed for the important role it plays in ensuring provision of human resources, guaranteeing human liberties and freedoms and ensuring the wellbeing of individuals and societies (Sen, 1982).

8.2.4. The National Qualifications Framework

Transformation in higher education could not have been complete without the harmonisation of qualifications. Contrary to the unequal and unstructured state of the apartheid era higher education, harmonization of qualifications was to entrench equality in all aspects of learning. The evaluations would make sure that no individual was disenfranchised or assessed unjustly on grounds of race, gender, social class or sex (Rawls, 1971, 2009; Nussbaum, 1998, 1999). However, I argue that harmonizing qualifications with various epistemological and industry-related divergences is problematic as the goals may favour some and disenfranchise others.

Nussbaum asserts the value of observing human dignity, in that social institutions and laws should not be applied selectively to individuals because of their race, class, sex, gender or geographical positioning. This should also apply to people's qualifications:

> *Human beings have a dignity that deserves respect from laws and social institutions. This idea has many origins in many traditions; by now it is at the core of modern democratic thought and practice all over the world. The idea of human dignity is usually taken to involve an idea of equal worth: rich and poor, rural and urban, female and male, all are equally deserving of respect, just in virtue of being human, and this respect should not be abridged on account of a characteristic that is distributed by the whims of fortune.* (Nussbaum 1999, p.227)

Thus, as a response to the need to have a coordinated and structured higher education system, a more inclusive, integrated and synchronized qualifications framework was created by NCHE. Section 4 of the NQF Act, 2008 (Act No 67 of 2008) articulates the functions of the National Qualifications Framework (NQF) as "classification, registration, publication and articulation of quality assured national qualifications". Similarly, the importance of skills development for the wellbeing of the nation and individual citizens (Sen, 1980) is an area that is taken seriously by the NQF. Therefore it seeks to identify more pathways of career development within the ambit of training and education (DHET, 2013; Carrim & Wangenge-Ouma, 2012). The developments and constant reviews of policies and regulations is an indication of the seriousness with which the Department of Higher Education treats the reform agenda. Malcolm (in Cross et al., 2002) may argue that although what is on paper may look good the implementation is less clear cut.

Below are the objectives of the NQF, as outlined in Section 5 of the NQF Act:

- *Creation of a single integrated national framework for learning achievements;*

- *Facilitation of access to, and mobility and progression within, education and training career paths;*
- *Enhancing the quality of education and training;*
- *Acceleration of redress of past unfair discrimination in education, training and employment opportunities* (NQF, Act 67 of 2009:1)

The last of these objectives show that the setting of NQF was also targeted at seeking social justice for the formally marginalized.

The NQF does not work independently, rather it is also overseen by a quality assurance framework, the South African Qualification Authority (SAQA), which harmonizes rates and appraises qualifications. SAQA is also seen as a vehicle for addressing issues related to equity and redress. Given the complexities that could arise from the uneven past in which accreditation took place, the harmonization of qualifications and recognition of prior learning in order not to unfairly discriminate against a section of the population on the basis of their qualifications could have been a difficult task. However, both Acts served as further legitimization of the envisaged transformation and restructuring of higher education. In the spirit of transformation, subsequent amendments have been made to SAQA Act and NQF Act separating the functioning of Department of Basic Education (DBE) from that of Department of Higher Education and Training (DHET) (Carrim & Wangenge-Ouma, 2012).

Emanating from Section 7 of the NQF Act, 2008 (Act No 67 of 2008) are three coordinated qualifications sub-frameworks for:

> *General and Further Education and Training, contemplated in the General and Further Education and Training Quality Assurance Act, 2001 (Act 58 of 2001) overseen by Umalusi.*
>
> *Higher Education, contemplated in the Higher Education Act, 1997 (Act 101 of 1997) overseen by the Council on Higher Education.*
>
> *Trades and Occupations, contemplated in the Skills Development Act, 1998 (Act 97 of1998) overseen by the Quality Council for Trades and Occupations.*

Moreover, amendments to policies and regulatory frameworks have been seen as a continuous process that is meant to refine and include new information to the existing policies (Bell & Stevenson, 2006; Bowe & Ball, 1992). Therefore, amendments have also been made to NQF Act (2008, Act No 67) that have led to the adoption of Higher Education laws Amendment Act (Act No. 26 of 20I0), and allowed for transitioning from the previous requirements as per the Higher Education Act (1997), NQF (2008) and Skills

Development Act (2008). A new higher education qualifications framework titled the *General and Further Education and Training Qualifications Sub Framework and* HEQSF was gazetted on 2 August 2013 (Republic of South Africa, Gazette No. 36721, 2013; CHE, 2013).

Regardless of the achievements of NQF it has been criticised for implausibility in certain aspects. For instance, initially, a two-pronged approach was used in creating it to make South African higher education competitive internationally, then to democratize an elitist, fractured and discriminative system. However, recent literature argues that the complexity of trying to achieve the two goals concurrently within an ambiance that is pursuing a neo-liberal economic agenda is unscrupulous (Matseleng-Allais, 2003; Badat, 2009). Trying to meet South Africa's international obligations is a mammoth task and SAQA and NQF are areas of frustration for international students, with dissimilarities in evaluation with the country of origin. Ensor (2003) argues that having common membership within a single qualifications framework for non-compulsory, pre-tertiary industrial training and formal education that rests on specific and contradictory epistemologies and specific knowledge production is contentious. The exclusivity and elitism of the academic strand on the one hand and vocational nature of the other are not achieving the goal of egalitarianism for which the NQF was aiming.

Muller explains that:

> *…the NQF rests upon a twin-pronged argument, with an egalitarian strand and an epistemological strand. The egalitarian argument takes issue with the high exclusivity and selectivity of the present qualifications system which restricts both access and progress. ...The epistemological argument takes issue with the academic/vocational tracks of traditional education which is premised on a strong divide between mental and manual labour.* (Muller 1997a, p.5)

Table 5: Structure of qualifications as stipulated by SAQA (2008)

1995 Framework			**2008 Framework**		
NQF level	**Band**	**Qualification Type**	**NQF level**	**Band**	**Qualification Type**
8 7 6 5	Higher Education and Training	Doctorates / D-Tech degree Master's degrees / M-Tech degree Professional qualifications Honours degrees B-Tech degree National first degrees Higher diplomas National Certificates	10 9 8 7 6 5	Higher Education and Training	Post-doctoral research degrees Doctorates Masters degrees Professional Bachelor's degree Postgraduate Diploma Honour's degree Bachelor's degree Advanced Diploma Advanced Certificate Diploma Higher Certificate
4 3 2	Further Education and Training	National N Certificate National N Diploma	4 3 2	Further Education and Training	(Grade 10 - 12) National N Certificates
1	General Education and Training	Grade 9 / ABET 4 National Certificates	1	General Education and Training	Grade 1 to 9

(Adapted and modified from SAQA Website at: www. SAQA.co.za

8.2.5. In defence of gender equity: Missing links in White Paper (1997) and Higher Education Act (1997)

Young (1990) postulates that, in order for social justice cannot be a reality; people's circumstances ought to be recognized explicitly.

> *I argue that where social group differences exist and some groups are more privileged while other are oppressed, social justice requires explicitly acknowledging and attending to those group differences in order to undermine oppression. (Young, 1990, p.3)*

The contents of the excerpt resonate with the aim of this sub-section as a defence of the recognition of the differences between people that form the baseline of oppression within social institutions.

In following in the footsteps of NCHE (1996) and the National Policy Act (1996), White Paper (1997*)* gives primacy to the promotion of "equity of access and fair chances of success to all who are seeking to realise their potential through higher education, while eradicating all forms of unfair discrimination and advancing redress for past inequalities" (White Paper, 1997:1.14). I argue that "*equity of access and fair chances of success"* can only be realized through special arrangements that are founded on the contexts of the policy or contexts of social justice (Rawls, 1971; Mackinnon, 1993; Young, 1990; Bowe & Ball, 1992).

According to Rawls (1991) and Nussbaum (1999), humans have a shared humanity but because of the unequal structuring of the social institutions in which they are situated the starting points of some are favoured. Thus, social institutions are imbued with insidious and deep inequalities that cannot be justified and which affect people's chances in life. Rawls (2009,p.14) writes: "Once we look for a conception of social justice that prevents the use of accidents of natural endowments and the contingencies of social of circumstances as counters to political and economic advantage, we are led to these principles".

White Paper (1997:1.18) entrenches equity as a mechanism for redressing historical injustice that originates from race, gender and disability (also see Taylor et al., 1997, justification of the policy). Importantly, White Paper (1997) envisages an intractable relationship between equity and success, thus, those who benefit from equity arrangements should also be enabled to succeed in the programmes for which they are registered. Although the policy clearly stipulates that those who benefit from equity should be enabled to succeed, the implementation process has not successfully come up with strategies to oversee this aspect of the policy. This has been demonstrated by subsequent sections of this chapter in which students from poor black backgrounds are still facing financial exclusion in institutions of higher learning. This state of affairs resonates with the view that no matter how grand policies may be their success is not guaranteed if the 'devil in the detail' is not dealt with (Malcolm, in Cross et al., 2002).

> *The principle of equity requires fair opportunities both to enter higher education programmes and to succeed in them. Applying the principle of equity implies, on the one hand, a critical identification of existing inequalities which are the product of policies, structures and practices based on racial, gender, disability and other forms of discrimination or disadvantage, and on the other a programme of transformation with a view to redress. Such transformation involves not only abolishing all existing forms of unjust differentiation, but also measures of empowerment, including financial support to bring about equal opportunity for individuals and institutions.* (White Paper: 1.18)

Nussbaum (1999) argues that equal worth, freedom and opportunities are interconnected, which promotes their ability to live the lives they wish. In this case, if women in higher education are valued equally on scales of justice their freedoms to choose and decide what is good for them will be achieved. I doubt this is the case for a majority of the formerly disadvantaged women because of the many restrictions on their choices and freedoms (i.e., course selection, residence, dress cord, space, movement, interaction, and raising families).

> *Often, too, this idea of equal worth is connected to ideas of freedom and opportunity: to respect the equal worth of persons is, among other things, to promote their ability to fashion a life in accordance with their own view of what is deepest and most important* (Nussbaum, 1999, p.227)

In terms of policy, the equity that was envisioned in White Paper (1997) is aligned with the discussion that was undertaken in chapter two on social justice. Accordingly, Rawls (1971), Nussbaum (1998), Mackinnon (1993) and Young (1990) argued that social justice should address historical injustice through a compensatory scheme that can be linked to social economic disadvantages or any other forms of marginalization. Centrally placed in White Paper (1997) is *"Increased and broadened participation",* which is similar to the massification (NCHE, 1996) aimed at increasing participation in order to overcome historical burdens of (racism, sexism and classism) of the apartheid era. It would also increase access for blacks, women, people with disabilities and mature students.

However, massification is a subject of contention, given that numbers on their own do not guarantee equity. The root causes of the inequities are often understated and overtaken by the promise in the aggregates. As indicated above, this view juxtaposes social justice with utilitarianism, which negates the core ideals of a substantive equality. Young (1990) argues that justice has to move beyond liberalism that guarantees political rights and freedoms and communitarianism that homogenizes people in nations, and conceptualize equal life to flourish socially. Coincidentally, after realizing equality for all,

the next step requires people to be distinguished from others (equity) in order for the circumstances that might hinder equality to be addressed (Unterhalter, 2007; Nussbaum, 1999; Fukuda, 2003; Sen, 1980; Rawls, 2009). However, emphasis is often put on the attainment of equality over equity, which means less attention is paid to previous areas of marginalization, a situation that has a high probability of exacerbating inequalities.

Section 2.24 of White Paper (1997) indicated that gender and race equity would be achieved through massification. Expansion of access would improve representation of blacks, and women in particular, in all higher education programmes form which they had been previously excluded, including SET and postgraduate studies. The Paper supports claims by Sen (1980), Robeyns and Conradie (2013) and Alkire (2002) regarding the role of education in human development and fostering the wellbeing of an individual and the nation at large through developed capabilities and functioning. Therefore, postgraduate qualifications, especially at master's and doctoral levels have been linked to high level skills that are required for the social economic development of the country. On paper, this is a clear contrast with the apartheid era policies that were aimed at keeping blacks away from certain institutions of higher learning and exposing them to inferior education (Molteno, 1984). According to Rawls (2009), such skewing cannot be justifiable under merit. As noted previously, in as much as overt discrimination is being experienced in higher education it does not mean that all groups are being excluded. It has been argued that the insidious nature of power and power relations does accelerate the nature of injustices that occur in private spaces (Unterhalter, 2007; Foucault, 1984). Those in power craft discrete means and ways that are exclusionary. This could be in relation to body language, language usage in general and human actions that despise those with whom they do not share values and history. This is the most prevalent and yet most underestimated form of exclusion in most institutions.

> *A major focus of any expansion and equity strategy must be on increasing the participation and success rates of black students in general, and of African, Coloured and women students in particular, especially in programmes and levels in which they are underrepresented.*
>
> *Expanding enrolments in postgraduate programmes at the masters and doctoral levels, to address the high-level skills necessary for social and economic development and to provide for the needs of the academic Labour market* (White Paper, 1997:16)

Section 1.13 of White Paper (1997) states the following:

> *Successful policy must overcome a historically determined pattern of fragmentation, inequality and inefficiency. It must increase access for black, women, disabled and mature students" and "equity of access and fair chances of success to all... while eradicating all forms of unfair discrimination and advancing redress for past inequalities* (White Paper, 1997: 7-8)

Sections 1.13 of White Paper (1997) provide the context of redress and social justice in higher education, identifying the categories of equity as black, female, disabled and mature students. Although the list has tended to regard women as homogenous it is fair as it is seen to represent the contexts of social justice and redress (Mackinnon, 1993; Fraser, 2005; Omora, 2003; Rawls, 1971; Taylor, 1994; Bowe & Ball, 1992). On the contrary, theories of gender construction (chapter 4) and social justice have argued that gender identity is dynamic, multifaceted and fluid, therefore the social justice theorists and social constructionists could find fault in the manner in which gender has been framed. Providing a category labelled 'women' does not necessarily encompass the specific circumstances of society, and theorists argue that initiatives geared towards redressing gender-related inequalities have to take into cognizance a myriad of factors (social, economic, hierarchical power relations, biological, cultural, systemic and historical) that propel gender injustices (Butler, 1990; Boydston, 2008; Wodak, 1997; Young, 1990, 1991, 2000).

The issue of opening up higher education to women, blacks in general and those who were previously disadvantaged does not end with access to instructions of learning. To date, the theme of equitable access with a fair chance of success is a dominant feature in higher education policies. It is important for the two goals to run concurrently because they provide a vantage point to evaluate how individuals are faring in higher education. The questions that arise include: are they succeeding? To what extent? Who is succeeding more than others, and why? To keep black women from poor neighborhoods attending institutions of higher learning institutions with historical burdens requires interventions that go beyond the provision of formal equality that opens the gates of access to all. Opportunities should be made available for these women to go through the gates of access and succeed. The implication of this is that institutions of higher learning and the stakeholders in higher education should go beyond the promise of equity and effect mechanisms that will ensure the success of the policy.

Ball (1994), Birkland (2011), Hodgson and Spours (2006), Bell and Stevenson, (2006) conjectured that policies have goals and values that communicate the message underlying the reform agenda. Bearing in mind the claims made by Rawls (1971, 2009) regarding the role of social institutions in the allocation of advantages and disadvantages, the outlined goals are holistic as they target the basic structure in which reform is taking place, reconfiguring areas of study, increasing diversity in the student body, and tackling the social economic unfreedoms that obstruct the academic trajectory of the previously marginalized students (Rawls, 2009; Sen, 1980).

White Paper (1997) outlines the following additional goals and values;

- *Creating initiatives that would transform higher education under a single coordinated education system;*
- *Reconceptualising higher education to meet the scientific technological needs of the current economy*
- *Promoting and supporting of democratic, principles, values and ethos of tolerance, critical thinking, non-racism and non-sexism,*
- *Promotion of diversity in the spirit of reconciliation, promotion of quality teaching and research productivity so as to contribute to national, regional and international grid, production of knowledge,*
- *Creating funding models that will ensure sustainability of those accessing HED*
- *Ensuring academic freedom and finally efficiency and effectiveness for maintenance of standards and excellence in H.E* (DoE, 1997; CHE, 2004; Motara and Pampallis, 2001; Badat, 2010)

The equity clause, which is central to this study, has its foundation within the Higher Education Act (1997). According to Rawls (1971) and Nussbaum (1999), the equality principle guarantees basic liberties and duties. Concomitantly, it compensates the social economic inequalities for the less disadvantaged members of society (Rawls (2009). The equity clause in terms of South African higher education has made it possible for certain targets or quota systems to be effected as a mechanism of redress. This is in the spirit of the broader *Affirmative Action*[25] policy (Economic Empowerment), which recognizes former marginalization within specific groups (race, gender and disability) and awards them preferential treatment as compensation for the exclusion and marginalization

[25] Affirmative Action falls under the Economic Empowerment Policy that was instituted through the Department of Labour in 1998 to facilitate the upliftment of the previously marginalized communities in South Africa. Amongst the beneficiaries of this group are women and men who are classified as “Black”.

experienced previously. As hypothesized by Rawls (1971), through the equity clause higher education has legitimized and provided a conduit through which special mechanisms can be instituted in order to address the plight of the formerly marginalized students (women and black students in general). Rawls (2009) notes that embedding redress in legal and constitutional parameters leads to justice and equality before the law, but this aspect of justice has to be transcended while thinking about the different contexts of social justice.

Due to institutional autonomy stipulated in the Higher Education Act (1997), White Paper states that appropriate special arrangements ought to be instituted individually by institutions of higher learning. As noted above, the vision to have expanded higher education has been met through massification to the extent that more black and female students are now accessing it (Badat, 2009; CHE, 2013). Whereas the provision of the use of separate quotas as a mean of redress has been legitimized I contend that implementing and bringing to life this provision has been problematic. At the least, equity has been conflated with equality and, secondly, measuring equity through aggregated data has failed to provide a true picture of inequities that are part of higher education (Codd, 1988; Foucault, 1984). It is not clear whether the aggregates are taken at the entry into the degree programme or at the end of the programme. If the former is the case, then they may occlude and not report fairly on issues of throughput, repetition or non-completion of degrees (Unterhalter, 2007). For Rawls (2009, p.13), the principles of social justice "do not justify institutions on the ground that hardships of others are offset by the greater good in the aggregate"

I also argue that factors that could be occluding the achievement of the goals in White Paper (1997), such as high dropout rates and attrition, may be misrepresented or understated, notably socio-economic difficulties, racism, unfriendly environments, exclusion in certain courses and sexism (Unterhalter, 2005, 2007). To this end, Rawls (1971, 2000, 2009), Sen (1980, 1995) and Nussbaum (1999) are critical of egalitarianism and utilitarian approaches to social justice because they homogenize people and tend to favour the general good of the majority instead of focusing on individual circumstances and maximizing on them (Miller, 1999, 2003).

Unterhalter (in Chisholm & September, 2005) recommends that, instead of becoming too comfortable with the good news that is revealed from statistical data, people take the less travelled route and look at the capability metric. By doing so, they can speak with certainty and authenticity about the realization of gender equality and equity in education. According to Unterhalter (2005, p.89), "the gender equality metric is based on the valued beings and doings of each individual and the freedoms to engage in these (capabilities)". The valued beings and doings that Unterhalter is putting forward are in relation to Sen's (1971) and Nussbaum's (1997) development of capability's approach to education and development (chapter 3).

In thinking about South African higher education within the precincts of White Paper (1997), an analysis of what women are studying and how they use the skills acquired for their own benefit and that of the society at large will give a good indication of where South African women have been and where they are headed. It will also give an indication of the gaps that need to be closed so that those who have not reached their optimum potential can be helped to get to where they are supposed to be.

Nussbaum (1999) concretizes her position on the role of women in education by questioning what they become after accessing educational opportunities, regarding happiness, satisfaction, resources, capabilities, and ability to enjoy basic freedoms:

> *The central question asked by the capabilities approach is not, "How satisfied is this woman?" or even "How much in the way of resources is she able to command?" It is, instead, "What is she actually able to do and to be?"…. They ask not only about the person's satisfaction with what she does, but about what she does, and what she is in a position to do (what her opportunities and liberties are). They ask not just about the resources that are present, but about how those do or do not go to work, enabling the woman to function. (Nussbaum, 1999, p.234)*

Section 2.28 of White Paper (1997) recognizes institutional autonomy and confers the mandate of devising appropriate race and gender equity mechanisms to individual institutions of higher learning. Respecting the autonomy of institutions is important and is guaranteed by Higher Education Act (1997), however, how these institutions' histories impact and influence the new polices is questionable, as is how they help the new students' make the transition into their spaces and whether they have changed substantially from being sexist and racist. In reflecting on discussions in (chapter 7) I found that institutional contexts might impact positively or negatively on how gender

equity is conceptualized and implemented because of ideological and hegemonic positions with which institutions are aligned (Butler, 1988; Boydston, 2006; Hirdman, 1987). In the case of South African higher education, one may need to be constantly aware of the underlying discourses and ideologies that entrench and sustain marginalization (sexism, racism and classism) and devise mechanisms to deal with them at an institutional level. According to Bell and Stevenson (2006) and Bowe and Ball (1994), policies are not free-flowing but enter into pre-existing and predetermined contexts and spaces. The contexts are contested terrains that are imbued with histories and traditions, powerful structural, cultural, economic hegemonies and structures of human agency. Ultimately, the powerful and dominant discourses in such institutions are authenticated whereas the weaker ones are relegated to the periphery. While thinking about eradicating sexism in institutions of higher learning the question arises as to whether they have institutionalized provisions in the curriculum, pedagogy or otherwise that systematically educate students and staff on vice. It would be beneficial if institutions of higher learning would take the lead in giving voice in countering sexist practices that keep women and gender-related issues on the periphery of society. This should also be reflected in institutional practices that should not be biased against women.

Young (1990) argues that in order for justice to thrive, social and institutional conditions have to be amiable for non-domination and non-oppression to be achieved. Notwithstanding the aforementioned, I iterate that higher education institutions are also embedded in histories that promote particular ideologies and discourses. Robus and Macleod (2006) support this view and state that centres of excellence in South African higher education still reproduce and put a stamp of approval on the discourse of *'white excellence and black failure'.* If the claim has some truth then attaining gender equity may face implicit contestation by those who do not wish to keep institutional privilege and gendered spaces.

Robus and Macleod further note that deep-rooted racism still dictates what counts as knowledge, who determines it and who is competent enough to articulate it. Knowledge production and the claim to knowledge and knowing are still laced with power and hierarchical power relations (Foucault, 1984). It has been noted that white male

dominance and supremacy is still being experienced in South African higher education, and black women occupy a minor place in research and publication. Ironically, knowledge production and consumption as the privileged positions are preserved for white, male and middle class (CHE, 2007; Foucault, 1984). The few black women who have the skills and knowledge in these areas are still marginalized and yet equality of access and opportunity is guaranteed in the new dispensation. Such incidences point to cases of racism and sexism being rife in institutions of higher learning since 1994. Robus and Macleod's (2006) claim distorts the vision of White Paper (1997) of "*equity of access and fair chances of success,* which seems distant for black people in general in black women in particular. However, Young (2011) argues that in conceptualizing social justice, distribution should not be the main objective but rather it should be based on domination and oppression. For example, domination in research and knowledge production by white males cannot disappear by equalizing people through distributive mechanisms. Opportunities for black women have to be made available by removing conditions and restrictions that make it impossible for them to publish (i.e., finances and perceptions of inability). Mentorship from established authors could also be helpful in the initial stages.

Since policies have a life outside the policy texts that are received in different institutional spaces, they assume new life in the institutions that might vary substantially from what was intended by the innovators. Although institutions of higher learning have been charged with the custodial role of overseeing transformation they have strong traditions and rigid structures that may thwart reform (Jansen 2003; Badat, 2009). Their neutrality when fully implementing a gender equity policy or particular clauses of broader policies that target gender equity can unsettle power relations. One ought therefore to be sceptical about the extent and level of neutrality expected from such institutions. How should they receive and implement such a policy without compromising it? According to Young (1990), humans can flourish if and only if social and institutional conditions are made conducive (socially, culturally, economically and politically).

Ball (1994, 2006 and 2012) argues that policies enter into established power arrangements that might change them fundamentally (re-arranged, re-defined, distributed or redistributed). Alternative approbations state that institutions of higher

education are not neutral places because they are part of the macro society. They legitimate social reproduction by aligning and realigning themselves to the dominant ideologies, cultures and hegemony for their own survival. It is because of this that many are still in doubt as to the ability of institutions of higher learning to address social justice adequately when they have not changed substantially (Jansen, 2003; Bowles & Gintis, 1976). Therefore, if the vehicle of transporting transformation is flawed (racist and sexist) the process and the outcomes thereafter may not necessarily be favourable to the previously marginalized groups (Ramagoshi in Chisholm & September, 2005).

The excerpt below represents the one of the goals of White Paper (1997) which I find to be vague, contradictory and problematic, especially the wording "*indicative tar*gets" and *"distributing publicly subsidized places rather than firm quotas".* The wording suggests a utilitarian approach to social justice rather than a substantive approach which would have been based on firm quotas and moved away from just providing indicative targets to how the targets are being met in concrete terms (Unterhalter, 2007; Nussbaum, 1998; Sen, 1980; Rawls, 1971; 2009): "The Ministry will require institutions to develop their own race and gender equity goals and plans for achieving them, using indicative targets for distributing publicly subsidised places rather than firm quotas" (White Paper,1997). This is the 'devil in the detail' that Malcolm (in Cross et al., 2002) argued for and institutions and the leadership team(s) can be held accountable is they do not perform or deliver on the promises made and simply provide vague plans of action.

Section 37 of the 1997 Higher Education Act states that: "In their admissions policies, all South African universities are required to comply with appropriate measures for the redress of past inequalities, but they may not unfairly discriminate in any way".[26] In considering the contents in the above quote, I state that the Act affords institutions of higher learning the flexibility to devise mechanisms to address inequalities of the past. The equity clause gives institutions of higher learning the onus to execute their mandate so long as they do not exhibit unfair discrimination. The provision to check unfair discrimination is a constitutional imperative and has been enlisted in international,

[26] Although institutions of higher learning are expected to observe prescribed quotas, institutional autonomy is upheld. For example, University of Cape Town admission policy is based on Affirmative Action and hence it observes strict gender and racial quotas whereas the University of the Witwatersrand's admission policy is based on equity targets and it is gender-blind.

regional and local gender laws and frameworks (CEDAW, 1981: The African Union Protocol, 2003; CGE, 2000); however, two areas of contention arise from the requirements of the Act. Firstly, as Rawls (2009) argues, discrimination is insidious, pervasive, and complex and manifests itself in various forms. Monitoring and reporting discriminatory acts is equally complex, taking an holistic approach that requires corporation from victims, enabling policies to address the issue through governing structures and leadership that are committed to change and practitioners and stakeholders who can be part of the solution and not add to the existing problem. Rawls (2009) contends that if institutions are well regulated and based on the principles of justice, incidents of discrimination can be addressed with the institutionalized rules and regulations.

The second contention is linked to upholding the principle of non-discrimination (equality) while entrenching equity at the same time. Bearing this tension in mind, the quota system for redress has come under scrutiny from a section of the South African population that feels that using race as a currency for redress is tantamount to reverse discrimination. For instance, in support of the said view, recently, the *Turks Afrikaanse Studente* (a national Afrikaans students' interest organization) and *Afri-forum* youth instituted a petition against the republic of South Africa citing racial discrimination in education. A contestation was based on the nexus that is related to those born after 1994 and whether they have experienced discrimination directly. According to *Afri-forum*, this cohort of students should be exonerated because they do not qualify to benefit from affirmative action (February in Ndebele et al., 2010; Magome, 2012).

Thus, discrimination has been cited in rewarding a generation for the pains of their forefathers and punishing another generation for crimes they did not commit directly. In view of the above argument, it is assumed that 'all *the born frees'* (born after 1994) are born "equal" and are entitled to equal liberties and treatment (Constitution, 1996; UNDHR, 1948). However, I argue that equality is not as simple as it is being projected. Being born after 1994 does not wipe away the history and oppression that was suffered by a section of the population. Nor does it neutralize other subject positions and identities through which injustices are channelled, lived and reproduced (race, social class, sex) (Butler, 1988; Young, 1990b; De Beauvoir, 1989; Wodak, 1997). Likewise, Rawls

(2009) maintains that merit or desert cannot be tolerated or used to the advantage of a section of the polity against the other. Therefore, I note that, although the argument being advanced by members of *Afri-forum* is *well intentioned* it is premature and reductionist. It is too early to assume that a uniform solution will apply to all the born frees in a current dispensation that is riddled with socio-economic and gendered inequalities.

Having stated the above, instituting such a case (*Afri-forum*) is also testimony to some of the internal incoherencies, conflicts, contradictions, historical antecedents of policy structure, culture and content alluded to by Ozga (1990,p.361). Incoherencies, I argue, ought to be dealt with by policymakers, stakeholders and implementers so as not to stall the reform trajectory. Discussions on policy in chapter 7 revealed that it is not 'cast in stone', but is susceptible to amendments, as has been the case with some of the preceding discussions (Ball, 1994, 2006). Unsettling as the *Afri-forum* case may sound it reveals a moment of tension that highlights a crucial aspect of redress policies. Finding a balance between redress and observing the constitutional requirements of equality and non-discrimination are issues with which institutions of higher learning will have to grapple for some time.

Allusions have also been made regarding institutions of higher learning having to respond to the provisions in the Higher Education Act (1997) variedly. Appropriate measures and individualized admission policies have been put in place in which equity conditions are being implemented. For instance, the University of Cape Town (UCT) admissions policy is deemed to be friendlier towards black students in general and women in particular. Some scholars disagree with this position because of allegations of wide discrimination that have been associated with the institution in recent times (Buhlungu, 2015). In its preamble, the UCT Admission Policy (2010) states that the institution's commitment is nested in Constitutional values and the requirements of the Higher Education Act (1996), Section 37 of which, as amended (1997), requires that the admissions policy: "must provide appropriate measures for the redress of past inequalities and may not unfairly discriminate in any way". Further, the policy has adapted the requirements stipulated in White Paper (1997) and based its equity interventions on race, to advance equity and redress for students from formerly marginalized population groups.

The policy acknowledges that the use of race as a mechanism of redress is not an open-ended project and hence it is proposed that alternative mechanisms be devised for the purpose of continuity in future admissions (University of Cape Town, 2010). Although Education Act (1996) and White Paper (1997) provide several equity categories, the UCT admissions policy has given primacy to race equity in which gender as a category is relegated in importance. In this case, the policy fails to isolate and address black women's issues directly and separately, which amounts to misrecognition of their particular circumstances and experiences (Mackinnon, 1993; Taylor, 1994; Young, 1990; Martineau, 1998; Robus & Macleod, 2006).

Whereas UCT's admissions policy is viewed as being responsive and transformative, the systemic and historical inequalities are still a reality to most of the black male and female students in this institution. It may seem as though the "friendlier" admissions policy has not "necessarily guaranteed" access to the black population cohort sufficiently. Explicit gaps can be seen in the racial skewing in the students' composition. Of the total student population at UCT, 45% are white whereas the black population stands at 25% of the 20,500 South African students at the university. The remaining 30% are Coloured, Indian and foreign students who are mainly black and from the African continent. The population distribution in South Africa, as has been shown through four population census results, indicates that over 75% of the total population of South Africa comprise black Africans and 9% whites (Statistics South Africa, 2011). With this statistical evidence, I conclude that the black population (males and females) is still underrepresented at UCT. This serves as evidence to show that race is still a factor in the institution and that transformation is not as rapid as expected. Ball (1994) describes this as a disjuncture between policy as text and the ground level realities of historical legacies of racial supremacy. Racism and the economic and academic privileges that are attached to it seem to have prevailed in institutions of higher learning after 1994.

According to Ball (1993, 2006) and Codd (1988), policies are read variedly and through several interpretations and re-interpretations readers arrive at meanings that suit them. A plurality of reading produces a plurality of meanings. Despite UCT having been lauded for having "the most progressive equity policies", the experiences and contexts of black students in general seems to have been occluded by race (Martineau, 1998; Robus &

Macleod, 2006). According to Walker (2005) and Martineau (1996), the antitheses of most of the post-apartheid policies are derived from a primacy that has been given to race equity while ignoring other areas of injustices. Recent incidents of violence at UCT, demolishing of colonial statues and symbols that are reminiscent of apartheid era marginalization and exclusion has highlighted the complexity of transformation in institutions of higher learning. The protestations portray anger directed at institutions which still struggle to embrace transformation fully. Students in such institutions struggle with environments that have not changed substantially (Ramagoshi, in Chisholm & September, 2005). Black students feel unwelcome and excluded in such institutions although the gates of access have been opened to them. This realization paints a bleak picture of transformation with students agitating for more concrete steps to be taken to end racism, sexism and financial exclusion.

The University of Witwatersrand, on the other hand, purports to favour a student body that is diverse and heterogeneous (Sen, 1980). The policy states the following:

> *The University of the Witwatersrand actively advocates the principle of diversity in its student body. It believes that the student body should reflect diversity of race, gender, socio-economic background, urban and rural geographic origin, culture, ethnicity, disability, religion, sexual orientation, national origin*

Regarding equity, the policy acknowledges past inequalities and endeavours to promote redress through strategic interventions:

> *Equity is valued and requires strategic interventions to promote redress. Equity is particularly sought in the race and gender composition of the student body and in the success of students. To this end, the University recognises that a process of fair discrimination in admissions policy will be required for at least the next decade. It therefore commits itself to the development of access principles that do not rely entirely on success in school- leaving examinations (as reflected in matriculation points rating), for identifying potential candidates from scholastically disadvantaged groups and socio-economically deprived backgrounds.*

Although it has clearly stipulated the equity paradigms as per the requirements of White Paper (1997) and the Higher Education Act (1997), flaws in the admissions policy are somewhat similar to those of UCT. Women have been treated as one seamless group that shares similar experiences, and the approach to equity and social justice do not address the specific or particular circumstances and experiences of various groups of women participating in higher education. Hassim and Walker (1993), Walker (2005), CGE (2000) and the African Development Bank Report (2009) contest this outlook on women because

it has been illustrated that South African women experienced oppression differently. Therefore, it would be unfair to use one group's experiences to generalize to all women.

Against this backdrop, I therefore argue in hindsight that White Paper (1997) might have been too presumptuous and ambitious in expecting that equity in terms of race and gender could be easily achievable without tackling the ideologies and hegemonies that propel these inequities and inequalities. I contend that although some changes have been realized, institutions of higher learning are still grappling with a plethora of impediments. In principle, the former overt discrimination and racism may have been eradicated but the same vices are manifesting in other forms. Sexism, racism and class bias still bedevil institutions of higher learning, and the reality of high dropout rates, low throughput and under-representation of African students in total enrolments is a worrying trend of the unmet goals of transformation. Accordingly, the extreme inequalities within the students' body contribute to the now skewed higher education landscape (CHE, 2010:6; Walker, 2005; Badat, 2009).

Currently, fewer black students (male or female) complete their degrees in record time and with good grades, contrary to what was contemplated in White Paper (1997), *providing equity of access and fair chances of success*. Reasons such as racism, language barriers, epistemological inaccessibility, articulation gap and socio-economic predispositions have largely been blamed for the stalemate. Badat (2009) suggests that the historical burdens that were inherited from the apartheid era higher education have to be confronted proactively by creating opportunities, conditions and providing resources especially to the historically disadvantaged individuals in order for capacities and capabilities to be developed (equity with success) in the manner envisaged by Rawls (1971).

Similarly, CHE (2010) links the current challenges to readiness/preparedness or lack thereof of students from high school, scarce resources, unrelenting lecturers' pedagogical approaches and institutional environments that have not fully embraced change. CHE suggests an investigation of the singled out areas in order to ascertain the extent to which they contribute to the skewed higher education narrative and how the appropriate measures be taken to mediate the situation. As a riposte, I note that the current

conundrums in higher education are directly linked to the contexts of social justice that have been outlined in policy frameworks.

While echoing similar sentiments, Bell and Stevenson (2006), Aisse-Lumumba (2006) and Badat (20007) argue that unresolved historical burdens (colonialism and racism), socio-economic disadvantages and cultural factors can stifle the achievements of well-intentioned policy goals. McLaughlin (2000) and Corkery et al. (1995) also observe that the institutional environment and contexts within which policy is being received and implemented play a crucial role in the way the policy issues are packaged and expressed. It can be concluded that in the case of South African institutional environment higher education policies have mainly addressed the issue of class, gender and epistemological access alongside race hegemony (Morrow, 1993; National Plan, 2001). Due to the seriousness of the challenges that have emanated from the areas not having received as much attention as race equity, higher education has to design appropriate strategies that will target social economic challenges and persistent gender inequalities.

Professor Habib, Vice Chancellor and Principal University of the Witwatersrand, was recently quoted as saying that University of Witwatersrand ought to rethink its admission policies in MBBCh (medicine degrees). This assertion was based on the imbalances that still exist in the singled out faculty, a cue to redesigning the current equity mechanisms that have not addressed the unrelenting historical burdens succinctly: “We need to rethink admissions - we cannot wish our history away and we cannot assume we have an equal playing ground” (*Wits Leader*, 2014,p.2). The comments confirm the views that have been put forward in preceding paragraphs about the position in higher education as a result of the legacies and historical burdens of the apartheid era. The burdens and advantages are not distributed evenly, with blacks still carrying a disproportionate share of the former and the whites the latter (Miller, 1999).

Despite embracing the equity thrust, critics of the systems present views that contrast this approach to social justice. For example, Morrow (1994) has argued that there seems to be confusion between formal access to universities and what he calls epistemic access, or learning how to become a participant in an academic practice. Morrow argues that epistemological access cannot be `automatically’ transmitted to those who pay fees, or collect hand-outs and attend classes regularly. Epistemological access is earned, and

stems from academic rigour and practice. Young (1991) concurs with this view and states that material and institutional access gained from distributive justice may fail to yield meaningful results if it does not include empowerment and participation by the formerly marginalized (see also Akoojee & Nkomo, 2007). Although I agree with Young and Morrow, I argue that epistemological access, participation and empowerment cannot be possible is the impediments that have been discussed are still a recurrent feature in higher education. According to Loury (2005) finding a balance between the core businesses of higher learning institutions on the one hand; and the prerequisites of the equity clause on the other is paramount. In order for institutions of higher learning to survive and remain relevant in business, talent and merit have to be harnessed by students.

Another caveat in the redress policy has been noted by Pojman (1998), who argues that it is unfair to use people as tools of a social policy to arrive at certain ends while ignoring human dignity that dictates they be recognized on the basis of their merits. Awarding people in such a way is flawed because one has no way of knowing if the same people would have reached the same potential if their situations were different. He argues for merit to be acknowledged and rewarded as opposed to a blanket form of equity that does not give the most qualified the right to own their successes.

The contestations being raised are valid to a large extent, but, in as much as merit and talent ought to undergird admissions to higher education, as is the case in many institutions of the world, South Africa is uniquely positioned in this discourse because it is still recovering from apartheid. The problems that beset South African higher education have been widely acknowledged and form the context of the redress policies. This does not mean that mediocrity should be tolerated but rather a steady development of students who come from disadvantaged backgrounds should be encompassed until such time that the opportunities have been equalised. This has happened in other countries, such as the USA, India, Malaysia and Kenya (Dale, 2010; Lindsay, 1997; Aikman & Unterhalter, 2005).

If stringent measures are put in place early in the reform process some of the students who secure access through equity arrangements may not enrol for certain courses or even set foot in universities. This is why the admission policy of the University of

Witwatersrand stipulates that *scholarly disadvantage* should be a factor in admitting students to institutions and not past records of national or school leaving examinations. Such a position, I argue, can have serious implications if appropriate measures are not put in place to compensate for the scholarly disadvantage.

Section 2.30 of White Paper (1997) puts into perspective the historical challenges of Bantu education, underfunding and effects of repression and resistance on the culture of learning, that make it difficult for both black male and female school-leavers to cope with the demands of tertiary education. In order for the articulation gap to be dealt with, the policy suggested that universities devise bridging and academic development programmes that can help them prepare for the rigor of university education. These programmes were to be continuous because of widespread marginalization. However, the reality of under-resourcing in terms of human and monetary capital has impacted negatively on the programmes:

> *This highlights the need to attend to the articulation gap between the demands of higher education programmes and the preparedness of school leavers for academic study. The effects of Bantu education, the chronic underfunding of black education during the apartheid era, and the effects of repression and resistance on the culture of learning and teaching, have seriously undermined the preparedness of talented black students for higher education.* (White Paper, 1997:17)

Morrow's assertion on non-transference of epistemic access to those who pay fees or otherwise who enter institutions of higher learning is significant as the issue of unpreparedness and the inability to participate in higher education meaningfully is a reality that many black male and female students grapple with (equity without success). In view of the struggles of black and female students in higher education, Sen (1980, 1995) and Nussbaum (1998, 1999) argue that educational achievement and human development should be assessed through an individual's developed freedoms, wellbeing, developed capabilities and functioning. In this case, I argue that high dropout rates, low throughput rates and other impediments (unfreedoms) do not portray a strong picture of the envisaged human development in White Paper (1997).

Finally, I support any mechanisms that are aimed at narrowing the socio-economic gap between the advantaged and the disadvantaged, resolving the enigmatic historical burdens (colonialism) and cultural factors that impede the implementation of policies (Assie- Lumumba, 2006; Badat, 2007). Also referred to as vertical and horizontal factors

by De Clerq (1997), they must be addressed in their entirety by policy initiative (i.e., poverty, racism, and sexism). The realization of equity and access depends on the nature of social and class distinctions as was intimated by CHE (2000). If the social and class stratifications are wider and persistent, privileges and opulence on the one hand and disadvantage and lack on the other, in the terms of Mills (1999), will persist amongst certain communities (uneven distribution of advantages and burdens):

> *The extent to which equity and access are actively promoted or frustrated will determine the nature and extent of social and class stratification and have a direct bearing on the nature of South Africa's democracy, labour market and social stability.* (CHE, 2000: 27).

CHAPTER NINE

9.1. THEORIZING GENDER EQUITY AND RECURRENT CHALLENGES IN THE NATIONAL PLAN FOR HIGHER EDUCATION (2001)

This chapter is a continuation of the deliberations in chapter 8 on post-1994 higher education policies. In particular, it is based on the National Plan (2001) and the Draft Green Paper (2012), espousing some of the challenging areas that have not been resolved through the policies enacted to date. Although gender equity has been provided for, institutions of higher learning have not given it life by coming up with requisite strategies, and whilst social justice demands that addressing the material conditions of the previously marginalized communities should be undertaken through the equity principle, institutions of higher learning have struggled to meet this condition. As a result, black students are still limited in accessing and enjoying equitable access to opportunities in higher education. According to Fraser (1996, p.5), social justice should be instituted and informed by the redistribution and recognition paradigms, and it is my general thesis that justice today requires both redistribution and recognition, as neither alone is sufficient.

The claims resonate with the views of substantive equality theorists who argue for the particular and specific conditions of social justice to form the basis of redress mechanisms (Young, 1990; Taylor, 1994). Thinking and conceptualizing justice requires an approach that is grounded on redistribution and recognition, because, as currently constituted, social institutions are skewed to ideologies of dominance and subjugation. According to Fraser, the redistribution of resources should mitigate social and economic marginalization, and the recognition of the contexts of social justice should deal with the specific problems that arise in these contexts. This chapter supports Fraser's claim by arguing that the two-pronged approach suggested by Fraser (1996) suffices to deal with some of the salient challenges that have not been addressed by policies discussed in the previous chapter.

The period between the years 1999 and 2004 is characterized by strong steering and implementation of key policies. It has been apparent that synopses of the real impact and progress on the goals set in policies were inevitable. Emanating from them were nuanced discordances that pointed to the policies having come up with salient intended and

unintended problems. According to Trawler (2003), one way of solving problems that arise from unmet policy goals is by revising the existing ones. In view of this, the National Plan (2001) admits that the implementation of policies has not been timely or possible. This has been attributed to a lack of necessary capacity at institutional or national level, a constriction anticipated by Mapesela and Hay (2009) and Corkery et al. (1995) when they pointed out that inadequate resources, poor planning, patronage by stakeholders and lack of synergy between policymakers and implementers can derail the process.

The National Plan (2001) intended higher education to address the noted challenges in prior policies identified in White Paper (1997) in order not to stifle the development of a single coordinated system. Other areas of concern included equity and redress, institutional competition, incongruence in 'size' and 'shape' of higher education, and a lack of synergy between higher education and the needs of the economy (Mapesela & Hay 2009; Corkery et al., 1995). This has partly been attributed to inadequate steering by the state and a lack of common understanding and synergy amongst key players in higher education on the goals and implementation strategies proposed in the policies (Badat, 2009; Singh, 2001; Mapesela & Hay, 2009; Corkery et al., 1995). The noted gaps are a drawback to the reform trajectory because any transformation agenda is driven by the ideologies and machinery of an incumbent government. Why would there be inadequate steering by the State? Why would there not be a common understanding and alignment between the stakeholders, goals of higher education and implementation strategies? Ball (1994), Corkery et al. (1995) and Ham and Hill (1984) argued that public policy provides political legitimacy to those in power. The goals and values underlying the policies reflect the wishes of the stakeholders who occupy the dominant position in the reform agenda. With such an understanding, the confusion or lack of synergy should not be anticipated, unless other clandestine factors are at play. Nevertheless, the National Plan asserts:

> *It is arguable whether a more robust and timely implementation of key policy instruments would have been possible, given the capacity constraints at both the national and institutional levels. However, it is clear that the implementation vacuum has given rise to a number of significant developments, including unintended and unanticipated consequences, which, if left unchecked, threaten the development of a single, national, co-ordinated, but diverse higher education system. (National Plan for Higher Education, 2000:6)*

A National Plan for higher education was therefore adapted in 2001 with the aim of resolving some of the problems that had arisen from the reviews and evaluation of higher education since the inception of the new policy frameworks. Bell and Stevenson, (2006) argue that values and ideologies are intricately connected in policies, carrying and transmitting messages of the dominant ideology and hegemony. Therefore, undergirding the National Plan was a reassertion of values and principles stipulated in previous policies- (equity, redress, non-racism, non-sexism) and the creation of a single coordinated higher education and quality general education (White Paper, 1997). The National Plan was to provide a framework that would ensure higher education was responsive to the developmental needs of South Africa in the 21st century, that is, it would be centrally placed to develop a human resource cohort to meet the developmental needs of the country and be sufficiently competitive on international platforms (Sen, 1980; Nussbaum, 1998). Although well intentioned, the human resources and skilled labour being coveted should not be thought of simplistically, but should be based on equitability in terms of opportunity and access with gender, race and social class being the main guiding principles.

Other key areas that required urgent attention were provision of regulatory instruments, parity in seizure of opportunities amongst all institutions of higher learning, funding of higher education, resulting from a realization of disparities in enrolment of women and black students in Historically Black Institutions (HBIs) (decrease) and Historically Advantaged Institutions (HAI) (increase). The issues of equity in terms of race and gender were firmly in the goals of National Plan (2001). Regarding parity in seizure of opportunities amongst all institutions of higher learning, the possibility of seizing the opportunities depends on the context of the institution. In terms of Rawls (2009), as currently constituted, institutions of higher learning have different histories that advantage some and put others at a disadvantage, hence achieving the envisioned parity requires recognition of the past and current inequalities, and devising strategies to bridge the gap and create a more just higher education system.

Policy goals and strategic objectives by their nature contextualize transformation by identifying and stating the expected outcomes of the policy in question (Walker 1981, p.225; Taylor et al., 1997). The National Plan identified and reaffirmed several objectives

which are similar to those in earlier policies as they were seen as important drivers of further transformation in higher education.

The goals were as follows:

> *To provide access to higher education to all irrespective of race, gender, age, creed, class or disability and to produce graduates with the skills and competencies necessary to meet the human resource needs of the country*
>
> *To promote equity of access and to redress past inequalities through ensuring that the staff and student profiles in higher education progressively reflect the demographic realities of South African society*
>
> *To ensure diversity in the organisational form and institutional landscape of the higher education system through mission and programme differentiation, thus enabling the addressing of regional and national needs in social and economic development*
>
> *To build high-level research capacity to address the research and knowledge need of South Africa*
>
> *To build new institutional and organisational forms and new institutional identities through regional collaboration between institutions* (*National Plan, 2001:6)*

The identified objectives are largely informed by the discourse of social justice through the equity provisions and development of capabilities to address the skills gap in the economy (Rawls, 1971; Miller, 1999; Nussbaum, 1997; Sen, 1980). Goal 1 states the categories of equity and affirms the importance of higher education in developing skills and competencies that propel the economy. Goal 2 targets the staff and student body composition. I note that, although evaluating equity in terms of demographic representation is desirable, on its own it does not provide clarity on the real value of transformation. For instance, having many blacks or women in an institution of higher learning carries value, but greater value would be derived from what they do in those institutions. Furthermore, having thousands of women enrolled in higher education can only be celebrated if there is equitable enrolment in programmes on offer regardless of gender, race or social class. If women are concentrated in courses that are less valued and only serve the purpose of entrenching the cultures and traditions that see femininity and masculinity as factors that determine and allocate societal roles, this is not worth celebrating.

A reversal in enrolments that seemed to point an accusing finger at the minimum transformation in HBIs in which the numbers of black and female students would have increased suggests that previous marginalization was still a major factor. According to the

National Plan (2001:8), between 1993 and 1999 African student enrolment decreased from 49% to 33% in the HBIs and increased from 13% to 39% in the HWIs (excluding UNISA and Technikon SA). Apart from managerial and governance issues the decline in black and female enrolment was caused by burgeoning student debt. The financial inability of a majority of the students in HBIs to pay for their own education is directly linked to their poor socio-economic status. This is the cohort that the equity strategies were meant to cushion, yet they are still carrying the burden of society.

It is of concern that the disparities in enrolment between the HBIs and HWIs have also been linked to the retention of inherited privileges and institutional positioning in terms of offering attractive courses that are market-related, admitting paying students and extensive marketing, of which abundance of resources is required. More revealing is that social and educational goals have been seen as less important in institutions that can afford to attract more paying students. The government must be wary about what goes on in such institutions if quality education is not being offered. Thus, the kinds of skills the graduates take to the labour market and positioning the competitiveness of higher education to local and international standards is important. Some of these factors have been identified as exacerbating injustices and hence requiring decisive and concrete solutions from all the stakeholders (De Clerq, 1997; Mapesela & Hay, 2009; Corkery et al., 1995; Assie- Lumumba, 2006; Badat, 2007).

> *Lack of institutional focus and mission incoherence, rampant and even destructive competition in which historically advantaged institutions could reinforce their inherited privileges; unwarranted duplication of activities and programmes; exclusive focus on 'only' paying programmes; excessive marketisation and commodification with little attention to social and educational goals; and insufficient attention to quality (CHE 2000: 17-18).*

I also argue that such factors promote institutional exclusivity that could work to the detriment of achieving equity in terms of race and gender. The exclusivity is also deepened through the tensions that emerge from institutional contexts and policy goals and values (Taylor et al., 1997; Bell & Stevenson, 2006; Kogan, in McNay & Ozga, 1985). Hence, an institution that is not keen to admit more blacks, or black women, will prevent access.

While acknowledging the complexity of the generic nature of policies (Ball, 1994), as in the case of White Paper (1997), the National Plan has merely provided a gender equity

category that is not definitive but general. As presented in the excerpt above it does not explicitly distinguish between black males and females, and the provided gender category is taken to mean female (girl/woman), hence female students are treated as a seamless group that is unified in most ways which is not the case. Their conditions are universalized regardless of their social, economic and individual life realities. This, I note is a major flaw in the current reform policies (Unterhalter, 2007; Butler, 1988; Lorber, 1994; Collins, 2000; Nussbaum, 1999), and it goes against the argument presented by the CGE (2000) that although women in South Africa have faced some form of marginalization, no group can purport to represent the experiences of the other because marginalization was experienced differently, variedly and individually. Therefore, in the absence of any other gender equity or equality policy in higher education, how can the varied experiences be explored and addressed?

Butler (1993) posits that women are not a coherent and concrete group and therefore cannot be studied or understood as such. Likewise, Weedon (1997) and Collins (2000) make note of the varied discourses and ideologies that converge to produce different gender subjectivities. Taylor (1994) argues that different politics of redistribution can reinforce injustices by universalizing the norms and values of the dominant group through assimilation and misrecognition. This is why it is important to identify the discourses and ideologies that propel oppression in order to fathom how they impact on the implementation of gender equity policies and initiatives. In this case, ideologies that are propelled through race, racism, sexism and social class have adversely impacted gender and gendering in South African higher education.

Another dilemma in the gender equity discourse is in relation to the observation made by Buhlungu (2015), that institutions of higher learning are involved in malpractices and dishonesty in reporting equity achievements. Not only does the issue touch on the moral and ethical standing of institutions of higher education but it also puts into perspective the financial and international obligations that such institutions address. The crux of the matter lies in whether such institutions should deny or limit the admissions of foreign, black female students so as not to upset the equity quota, or admit such students until such a time that a balance has been struck locally. Firstly, I contend that rather than denying deserving black female foreign students a chance to further their education,

institutions of higher learning that have financial obligations should admit them (Loury, 2003). Secondly, South Africa has committed to regional integration and therefore denying such students opportunities to study in this country will be reneging on this undertaking and obligation (National Plan, 2001; White Paper, 1997).

The other goal of the National Plan was seen in more restructuring of higher education, institutional mergers and consolidation. This was undertaken between 2004 and 2008 in the spirit of transformation and reforming a higher education system that was still skewed along racial lines. Working closely with the requirements of White Paper (1997), it reaffirmed the need to create a single coordinated system and relook at the shape and size of higher education. The two issues that necessitated the thinking around institutional mergers are the inability of the massification policy to accelerate the enrolment of black and female students in higher education and the creation of a coherent single system. As previously noted, the serious decline in enrolments in HBIs in comparison to HWIs has been of grave concern to the government (Jansen, 2003; Fiske & Ladd, 2004; Bunting, 2006).

At this juncture, the observed trend was worrying because the decline in enrolments in the HBIs means that the vulnerability of the previously disadvantaged students was more exposed. On a different note, the decline could be interpreted as meaning that the policy provisions and interventions failed to meet the objectives of redress, equal access to educational opportunities and equity of success. Therefore, it is probable that underlying factors within the contexts of social justice (looping effects) may have been overlooked or understated. This scenario borders on the redistribution and recognition of Fraser's conceptualization (Young, 1990, 1991; Mackinnon, 1993; Fraser, 1996). Some of the burdens the black students still carry include economic problems, leading them to drop out or take too long to graduate. Opening up of HWIs to black students was a positive move, but the problem is in keeping them in those institutions if the culture, history and underlying ideologies that informed their formation have not changed substantially.

In retrospect, the policy on the creation of a single coherent system was also part of the thinking around merger and consolidating institutions. The fragmentation that existed between the HBIs and HWIs had to be resolved otherwise the *status quo* in higher education would remain, A report of the National Working Group appointed by the

Minister of Education released in December 2001 recommended that the 36 institutions of higher learning be reduced to 21. To legitimize the process, the Higher Education Act (2003) listed institutions that had been affected by the said mergers (Jansen, 2003; 2004, Badat, 2009; National Plan, 2001). However, Jansen (2003) states that as much as merging institutions was laudable, the impact has had far reaching implications on integration of students and staff members, resources, institutional histories and leadership styles (Corkery et al., 1995; Ball, 1994; Ramphele, 2001). Bringing more blacks into Historically Advantaged Institutions (HAIs) and taking away a few whites in the name of diversity is not a reflection of true transformation. Rather, institutions of higher learning should "accommodate" and fully accept the "other" in the spaces that were and are still exclusive. I believe that race should not be used as a factor to exclude or include students in certain institutions, especially with the transformation that begun in 1994. Secondly, if mergers are treated superficially and the underlying ideologies that informed the creation of HWIs and HBIs are not addressed, the project of transformation will fail dismally because it will be tantamount to covering a wound with a plaster without treating it. The wound will become septic and spread to other parts of the body.

From the outside one might be deceived into thinking that new institutions are all inclusive and that more blacks are accessing higher education, but one needs to be alert to the population census data that shows racial dynamics in which they are in the majority (Statistics South Africa, 2011). Secondly, 'more' does not mean equality or equity (Rawls, 1971; Sen, 1980; Nussbaum, 1998; Unterhalter, 2007). More would be useful if it were evinced that there is equity of access with actual equal chances of success, as was argued by Akoojee and Nkomo (2007) and White Paper (1997). In addition, the litmus test would lie in dealing with deep-rooted issues of racial and gender bias and institutional histories that are embroiled in favouritism (Collins, 2000; Ball, 1994, 2012; Clark, 1993; Taylor et al., 1997).

Badat (2009) indicates that the triad approach that has been adapted by the government, pursuing social equity, economic development and expanding democracy simultaneously has proved challenging. In spite of the considerable achievements so far, South African society is still disparate in terms of wealth, income, opportunities and living conditions. These factors are potential threats to the reform agenda and so the stakeholders in

higher education have to constantly and fully engage with them if they are to avoid a repeat of the apartheid era mistakes (Badat, 2009). The exegesis in Badat's presentation implies that the government might have been over-ambitious at the onset of transformation. Thus, Badat's allegations provide a critique for the goals that were set for post-apartheid higher education. It would seem that under the circumstances, the goals were too ambitious, presumptuous and broad. Ball (2006) posited that policy goals have two functions: to have a material effect and to garner support for the attainment of the material effect. Juxtaposing the two competing goals has caused problems of implementation. Likewise the broad nature of policies has posed serious problems for implementers who are unable to prioritize either of the goals. In summary, implementing competing and broad policies simultaneously has been burdensome to higher education (Badat, 2009) and the government.

The National Plan (2001) also reiterated previous sentiments in relation to a majority of black students, with females as an assumed component, struggling to achieve equity with success because of financial burdens and academic inability (Badat, 2009; Akoojee & Nkomo, 2007), but of concern are those in good academic standing and economic capability who are leaving public higher education for private higher education. This needs to be investigated critically as higher education has not been attracting many black students, male or female, to postgraduate studies. In addition, there are "High drop-out rates, due to financial and/or academic exclusions and students in good academic and financial standing not remaining in the public higher education system" (National Plan, 2001:17). Likewise, few of the students in the same cohort proceed to postgraduate studies: "Fewer than normal numbers of students entering postgraduate studies immediately after completing their first qualifications" (National Plan, 2001:17).

The areas of constant marginalization that have been isolated by the National Plan are recurrent and problematic. Their unrelenting nature brings into question the strategies that are being used to address the problem. Despite the National Plan being of the view that many women were accessing higher education, and a marginal improvement being registered in tecknikons, equity in terms of areas of study is lacking. Many of the female students enrolled on courses are clustered in the humanities, with few in science, engineering and technology, business, commerce and postgraduate studies. A similar

trend was observed during the apartheid era higher education (Molteno, 1984; Fiske & Ladd, 2004). This trend has been linked to socialization into gendered roles in which the domesticated position of women in society is cemented (Murdock, 1937, 1947; Parsons, 1954; Mutekwe et al., 2011). I have argued elsewhere in the thesis that there is no problem if women use their agency and freedoms to choose the courses which they are interested in studying, but many continue to miss out on certain programmes due to factors that are beyond personal choice. This is an injustice because if a female student from a poor background did not have access to a science lab to study chemistry or physics, which would have enabled her to take engineering or medicine, who should take responsible for the gap? Evidently, the burdens from the lower tiers of education manifest in higher education and therefore transformation ought to be experienced throughout the education cycle. The two tiers of education rely on each other and one cannot be complete without the other.

Section 3.1.3 of the National Plan (2001) stipulates that gender equity has been neglected in higher education policies, and so is enigmatic in South Africa. Effectively, institutions of higher learning have placed emphasis on race equity rather than gender equity in their planning strategies. The National Plan admits that few if any strategies have been put in place to address gender equity by institutions of higher learning (Hassim & Walker, 1993; Martineau, 1997). Similarly, in some cases policies have failed to distinguish between black males and females. A generalized state of 'blackness' is used which makes it impossible to separate issues and gauge how well black females are doing in comparison to black males (Nussbaum, 1999; Omora, 2003; Fraser, 2005; Taylor, 1994; National Plan, 2001). Similarly experiences and realities of black men and black women are different, and they cannot be interchanged. The overlapping of constructs and ambiguity in meaning was alluded to by True (2003), Walby (2003) and Unterhalter (2007), with a disjuncture in the manner in which constructs such as gender, equity equality and gender mainstreaming have been misunderstood. The discord in policy circles has been attributed to the divergent and contrasting ways in which the constructs have either been interpreted, reinterpreted or misinterpreted. In most cases the meaning is lost or distorted in the reinterpretation of misinterpretation (lack of clarity around gender and gender equity and equality).

The National Plan (2001) states:

> *It is worth noting that institutional plans place far less emphasis on gender equity than on race equity. This is evident from the fact that, while attempts are being made to develop strategies and interventions to address issues of race equity, there are few, if any, strategies or interventions in place to address issues of gender equity. (National Plan 2001:34)*

Despite the successes that have been associated with the National Plan for Higher Education (2001), discontentment and implausibility have also arisen, both in the unresolved disequilibrium between equity of throughput and outcomes, which is related to systems and efficiency on one hand, and equity of access through expansion of higher education on the other. This was attributed to how efficiency has been singled out for primacy over the 'three E's' of equity, efficiency and effectiveness (NEPI, 1993). Equity of throughput and outcomes is directly related to equity with success. However, do the students who have opportunities to access higher education succeed in the institutions? Akoojee and Nkomo (2007), Badat (2009) and CHE (2010) have argued that this is not the case. The "perceived" interference and high handedness by the government in the running of universities has also been seen as abhorrent and likened to the apartheid era governance structure which had a strong grip on management of institutions of higher learning. A good example of what has been perceived as interference is the use of ministerial regulations instead of institutions volunteerism, policies of which had failed. Ramphele (2001) explicates that the current leadership wrangles in higher education are a result of people being give positions because of the relationships they formed during the struggle. Using comradeship to reward cadres without the requisite skills and training is detrimental and destructive, a practice that heightens mediocrity and results in poor leadership in institutions of higher learning (Ramphele, 2001).

Institutions of higher learning have been criticized for not meeting the provisions of a gender equity paradigm and not having changed substantially to include women in the echelons of power (Machika cited in *Mail and Guardian*, 12 August 2014; CGE, 2013). Unfortunately, few women have been appointed to vice chancellor positions, with currently only two of 23 being women. This portrays universities in a negative light, as sexist and masculine institutions that do not value women. It also shows that those who have been traditionally in power are not willing to let go of their privileged positions easily. The ripple effects of such scenarios have long-term implications for women in

academia that may not look forward to occupying high offices or enrol as postgraduates. Whereas participation and enrolment in traditionally male disciplines has been an area of concern, especially because fewer blacks (women in particular) are represented in this field, the National Plan did not provide an explicit position or way forward on this issue. It passes as a general concern:

> *In the case of science, engineering and technology, the Ministry is particularly keen to increase enrolments in the broad field of information and communications technology, which has been identified by Cabinet as a key focus for skills development. The shift in the balance of enrolments in general and the specific focus on information and communications technology will be achieved through the steering of funded student places and through identifying the institutions that have the capacity and/or potential to respond to the government's Human Resource Development-HRD strategy. (National Plan, 2001:26)*

The minimal participation of women in these areas has been a recurrent problem since apartheid (Molteno, 1984). Thus, women continue to miss out on opportunities in an area that is construed to be predominantly male points to the prevalence of selection and allocation as criteria or practices that systematically exclude them. This could be a precursor to arguments in chapter 6, noting that to a large extent social institutions are still undergirded by patriarchal and cultural hegemonies that sustain male dominance (Pateman, 1988; Butler, 1990; Farganis, 1994; Henry, 1994; Hill & St Rose, 2010).

In part, by the National Plan stating that through identifying the institutions that have the capacity and/or potential to respond to the government's Human Resource Development-HRD strategy, the exegesis from this is that information, communication and technology is not accessible to all institutions of higher education. Those that have "capacity and potential" are identified and are used by government to further human resource development in this area, with capacities and potential mainly found in privileged groups and institutions.

In view of the challenges that have been espoused by the National Plan, I concur with Fraser (1995, p.82) that affirmation does not correct the underling discourses and frameworks that construct and reproduce inequalities. Mainly, the policies and strategies that have been discussed have merely recognized and affirmed the minority positions but they have not upset the underlying discourses. Racism and sexism are still prevalent and hovering over higher education. On the contrary, Fraser (1995, p.82) advocates

transformative remedies that are three-pronged (correct imbalances, tackle ideologies and processes) and provide recourse aimed at correcting the imbalances that are exacerbated through social arrangements. Underlying ideologies that perpetuate oppression together with the corresponding frameworks and processes have to be tackled concurrently:

> *Let me begin by briefly distinguishing affirmation and transformation. By affirmative remedies for injustice I mean remedies aimed at correcting inequitable outcomes of social arrangements without disturbing the underlying framework that generates them. By transformative remedies, in contrast, I mean remedies aimed at correcting inequitable outcomes precisely by restructuring the underlying generative framework. The nub of the contrast is end-state outcomes versus the processes that produce them. It is not gradual versus apocalyptic change. (Fraser, 1995, p.82)*

9.2. Draft Green Paper (2012): Current Challenges and Implications

> *Gender, in sum, is a bivalent mode of collectivity. It contains a political- economic face that brings it within the ambit of redistribution. Yet it also contains a cultural valuational face that brings it simultaneously within the ambit of recognition. Of course, the two faces are not neatly separated from one another. Rather, they intertwine to reinforce one another dialectically, as sexist and androcentric cultural norms are institutionalized in the state and the economy, while women's economic disadvantage restricts women's 'voice', impeding equal participation in the making of culture, in public spheres, and in everyday life. The result is a vicious circle of cultural and economic subordination. Redressing gender injustice, therefore, requires changing both political economy and culture. (Fraser, 1995, p.79)*

Fraser (1995) shows that gender injustices are consolidated and manifested through several faces, the cultural, political and economic, addressing which requires a change in the political and social economy. Likewise, marginalization of women who are currently in higher education centres can be linked to similar faces, as was demonstrated in discussions in chapter 5. Due to this nexus, I reassert the view that if the policies that have been enacted to address gender and other forms of inequalities in higher education are not widely conceptualized, higher education will continue to experience a myriad of challenges, some of which will be highlighted in this section.

The analysis in this section serves to show that whereas South Africa higher education has benefitted from the reform agenda begun in 1994, the antithesis in the policies is the legacy of the previous regime that has not been dealt with adequately. A case of black students (males and females) having limited access to higher education due to their current social economic statuses is an area that poses many challenges to students and stakeholders (Ball, 1994, 2006; Corkery et al., 1995). The unrelenting cases of

marginalization and exclusion are clear testimony that stakeholders in higher education did not have a full grasp or understanding of the complexities within the student body composition with which they are dealing. The post-1994 higher education policies have also failed to articulate some of the complexities (i.e., gender identity, classism and racism) in a manner that can be helpful to institutions of higher learning 20 years into democracy.

These challenges are what Sen (1980) would term 'unfreedoms' that curtail the development of capabilities, functioning and enjoyment of basic liberties and freedom. They also prevent students from accessing and making use of the opportunities that have been made generally available to them through the redress frameworks. Young has also indicated that if the looping effects of social justice are not taken into account the past inequalities might be relived in the current arrangements (Sen, 1980; Robeyns, 2003; 1990, 1991 2000). This seems to be the case with recurrent problems (socio-economic, racism, sexism) affecting formally marginalized learners in higher education. Besides inequalities in development of capabilities, Robeyns (2003) also argues that gender inequalities are exacerbated by the unequal distribution of resources. In assessing and identifying the kinds of policies that can be used to resolve inequalities that are propelled through unequal distribution of resources the impasse in the distribution of capabilities can be dealt with simultaneously. Robeyns' claim points to the existence of a symbiotic relationship between resources (means) and capabilities. Similarly with unequal distribution of resources in the current higher education landscape, the development of capabilities and wellbeing may not be developed to the optimum:

> *A complete analysis of gender inequality should not only map the gender inequalities in functionings and capabilities, but also analyze which inequalities in resources cause gender inequalities in capabilities and functionings. This is especially important for assessing which policies can reduce gender inequalities, because intervening in the distribution of resources will be a crucial (although not the only) way of affecting the distribution of capability well-being. (Robeyns, 2003, p.64)*

In supporting some of the claims that have been presented in perennial areas of marginalization, Higher Education and Training is in the process of enacting a new policy to deal with unresolved issues that have arisen from previous policies. This is a process that is construed as being 'normal' (Ball, 1994).

The latest attempt at improving higher education has been expressed by the DHET through a Draft Green Paper for Post School Education and Training (2012), in circulation seeking comments on the subject of Post-Secondary Education and Training. As was the case with the goals of White Paper (1997) and NCHE (1996), it aims to provide a vision for a single, coherent, differentiated and highly articulated system. In essence, it covers fundamental areas of recurrent incident of unachieved goals, equity and redress, underdeveloped skills and capabilities through course selection in science and innovation, and postgraduate studies.

Considering the interest of quality and productivity, the Draft Green Paper has prioritized excellence and innovation as areas of great interest to higher education. If achieved, South Africa will be positioned as decisive locally and as meeting its international obligations (Odora- Hoppers, 2009). Innovation is an area that has registered the lowest numbers of black women, so in view of this persistent marginality, I argue that although the goal of achieving excellence and innovation in the Draft Green Paper may not necessarily be spread evenly along the gender and racial divide, the same strategies deployed since 1994 are still in place. The question arises as to what new strategies are being put forward.

In my assessment, the problem with policies that have been in place since democracy lies elsewhere. Clearly the policies have been categorical about elevating black women in SET, but 20 years on the wheels are still turning slowly. Apart from personal choices and preference I believe that the problem with SET in general in South Africa is well documented. It is a systemic problem that requires a wholesale approach that will heal the education system from within. In addition, women who have succeeded in SET ought to play an active role of mentoring young black women so as to boost the numbers and to dispel the myth that SET is a male domain. I also believe that SET environments should be emasculated and be made gender-friendly. For instance, the equipment and work environments were traditionally designed to accommodate and cater for male workers and male students. This has to change in order to make female students comfortable and wanted in those spaces. Gender stereotypes and biases that tend to second guess the abilities of women who are pursuing SET should also be dealt with within structures of higher learning and existing university laws, with constitutional provisions.

The Draft Green Paper also outlines the vision of the expansion of higher education that is expected to culminate in enrolments of 23% in institutions of higher education (150,000) in 2030 as opposed to 16% in 2011. The envisaged expansion is a step in the right direction but if it is evaluated using universal aggregates that are pegged to certain international standards without rationalizing the contexts then the real values of higher education will have been lost. The expansion should be viewed in terms of numbers but more importantly it should be informed by the wellbeing of the individuals exiting higher education. Their capabilities, functioning and the general wellbeing should have improved with a higher education qualification. They should have become better people, able to create better communities for themselves and the rest of society. Higher education has generally been associated with human resource development but this role is being subsumed by aggregates such that society is in danger of facing underdevelopment in the economic, social and political sectors (Nussbaum, 1999; Fukuda, 2003; Sen, 1980). The same is true for black women.

Rawls (1971, 2009), Young (1990) and Fraser (2008) theorized that unless redress measures meet the material socio-economic effects of their beneficiaries, injustices will persist. Whereas higher education has tried to address this aspect of transformation it is still challenged in providing fair opportunities. The gap between the 'haves' and 'have nots' is wide, and to date the interventions that have been undertaken have not been able to close the loopholes. A majority of black students, male and female, are still faced with abject poverty, most unable to pay for tuition or accommodation fees or afford a decent meal every day. Tales of hungry students on campuses have emerged and homelessness is a common feature. These are the same students who face exclusion from the university due to failure and burgeoning debt. A majority drop out in search of jobs as they can support themselves or their families, instead accumulating debt or repeat fees because they miss valuable teaching time while engaging in other activities to earn money. This affects throughput rates amongst the black cohort of students. Generally, the cost of higher education is expensive for the ordinary black South African who is grappling with unemployment.

It is evident the government, through the Department of Higher Education, has tried to provide financial aid but the needs are insurmountable and therefore whatever resources

are being provided is inadequate. It is time for other players, such as potential employers and private companies, to join with government to help alleviate the suffering of needy students in higher education; otherwise higher education will remain a privilege for a minority who have the economic power to afford it.

The Draft Green Paper (2012) also brings to the fore the unsettling reality that higher education is still grappling with challenges such as historical burdens, inequality and discrimination, lack of quality, quantity and diversity of provision, complexity from regulatory systems, incongruences between qualification frameworks and quality assurance directives, inadequacy in innovation, quality of research output and an incoherent and inarticulate post-secondary system. As noted previously, a myriad of challenges arise from the unresolved material aspect of the students and the institutional contexts of influence, policy and practitioner (Ball, 1994; Hodges& Spours, 2006) that should have been addressed through policy provisions. It is also apparent that unchanging historical cultures and traditions continue to stifle transformation and exacerbate racial and gender discrimination. This is against the values of the Constitution so appropriate measures ought to be taken against such institutions. For instance, a continuous audit process should assess how well institutions of higher learning are doing in the promotion and upholding of constitutional requirements on issues such as non-racism, non-sexism, equality and non-discrimination. I am aware that power is treacherous and that it may not be easy to account for each occurrence that happens in private spaces, but with stringent measures and democratic structures being put in place discrimination can be dealt with decisively.

According to Sen (1980), Robeyns (2003), Fraser (1996), Badat (2009), Buhlungu (2015), CHE (2013), Singh, (2001) and Soudien (2010), macro- and micro-factors are responsible for the current stalemate in institutions of higher learning and their having failed to meet the goals of equity of access and opportunity. Entrenched historical legacies of economic, academic and social class deprivations that were propagated by the apartheid era government were expected to be corrected through the redress mechanisms that are still causing marginalization in higher education today (Badat, 2009; Rawls, 1971).

Due to recurrence of similar and known areas of marginalization I state that the strategies that that are deployed to address the problematic areas are not doing so

sufficiently. This brings to the fore an irony in the South African higher education, that on one hand democratic values and principles have been embedded in redress policies, but on the other hand higher education is accused of exhibiting active racism and sexism through white male privilege domination and black male and female disadvantage (Robus & Macleod, 2006; Ramagoshi, in Chisholm &September, 2005; Hodgson & Spours, 2006). This revelation critiques the very basis upon which injustices have been built. I believe that the modest enrolment in postgraduate studies by younger blacks highlights the complexity of this issue substantially. On the one hand, it could be a case of being excluded on merit or a case of exclusion that is orchestrated by the system to depict black and female inability and white male superiority. In such a case, the *status quo* does not change substantially. On the other hand, the historical and familial burdens that black males and females carry necessitate them joining the labour market prematurely in order to cater for their families.

The Draft Green Paper has also reiterated that students' registration and access to higher education is skewed towards undergraduate studies, a situation likely to lead to a shortage of skilled personnel or a skills gap with people with PhDs who are sought by industry and international organizations. Currently, of the total students in universities across the country, 15.8% are pursuing masters' and doctoral qualifications. This revelation is a form of "*uncomfortable truth"* to the envisaged goals in previous policies that foregrounded research and innovation as one of the key deliverables of higher education.

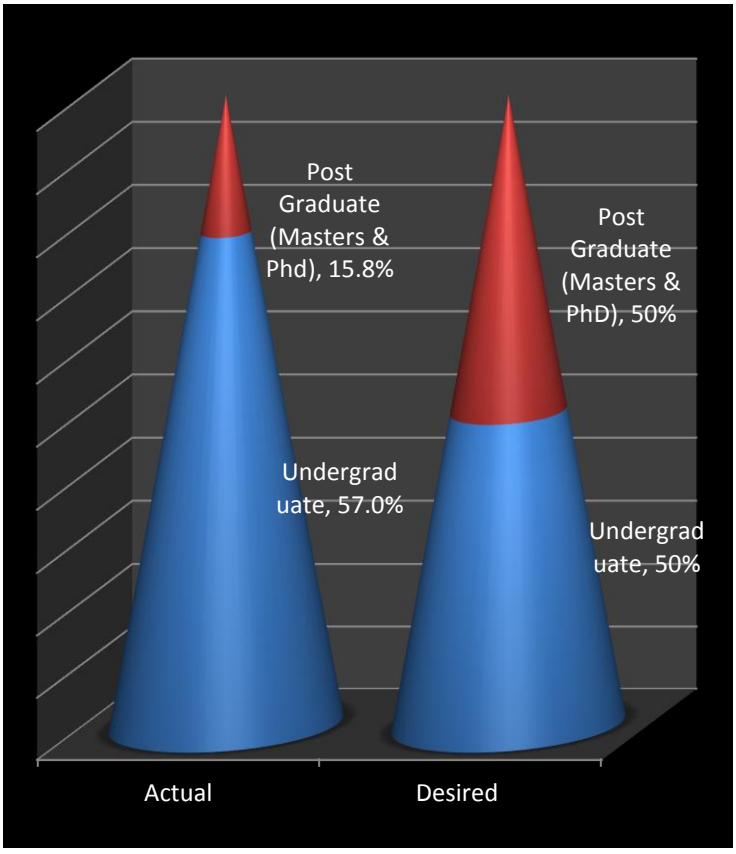
As an appendage, what should be done about increasing enrolments in postgraduate studies in general and boosting women's participation in particular is a question with which institutions of higher education are grappling. I argue that lack of interest in postgraduate studies by younger blacks should be understood within the broader reform structure and context (Ball, 1994; Hodgson & Spours, 2006). The social and economic pressure that some of the students face may prevent them from continuing with their studies; given that they have families to take care of. Decoupling as this may sound; if this dilemma is not resolved higher education will not meet one of its crucial goals of releasing men and women with high skills and expertise into the economy (Sen 1980; Nussbaum, 1998, 1999). At this time, the question to which higher education and

stakeholders should be seeking answers is how to navigate between the social economic needs of students, vis-à-vis meeting the goal of producing more black men and women with postgraduate qualifications.

Even as answers are being sought for the racial, economic and cultural masks that propagate gender injustices in higher education, I argue that it should be about not only boosting numbers but also the real value that education affords women in terms of wellbeing (Sen, 1980; Nussbaum, 1999). On a practical level, higher education should offer financial incentives to motivate adult students to join postgraduate programmes. Students on the other hand should be prepared adequately for the rigor and academic engagement that is expected at this level, otherwise cases of high dropout rates and low throughput (as is the case with undergraduate education) will abound and discourage many potential students from thinking about joining postgraduate studies.

The figure below has been formulated from DHET (2013) data.

FIGURE 6: ENROLMENTS IN UNDERGRADUATE AND POSTGRADUATE STUDIES IN SOUTH AFRICA



	Actual	Desired
Undergraduate	57.0%	50%

Postgraduate -Masters & PhD	15.8%	50%

> *The average age of academics at South African universities is about 55 years, which means if we don't do something drastic the implications are that we will run short of academics. In some respects we are experiencing that already (Mail and Guardian, 15 October, 2014)*

The disequilibrium between undergraduate and postgraduate enrolments has caught the attention of the Minister of DHET, thus Nzimande (Minister for higher education and training) cited this area as a future possible threat to the transmission of quality education in higher education (*Mail and Guardian,* 15 October, 2014). The issue being raised by the Minister is crucial for the future survival of South African higher education. If many young people fail to enrol in postgraduate studies the universities will suffer a shortage of skilled human resources. On a different level, aging academics may not be able to deliver adequately due to age and the burden of overworking. It is therefore important that many young black and female South Africans be encouraged to enrol in postgraduate studies.

A possible explanation for the minimal enrolment can be linked to the gap in progression rates in undergraduate and postgraduate studies, which if not narrowed may leave higher education in a relatively poor position. Most institutions are attempting to attract more students into postgraduate studies with the sensitivity of gender balancing through scholarship incentives, but this alone cannot keep the students on course. In assessing the current scenario in higher education, I note that in most cases the funds provided by government are insufficient to cover tuition and other living expenses. In addition, attrition occurs due to the academic rigor that is required at this level. Exceptional students who have had a good academic record and grounding are selected for these programmes. A majority of these students are white and male and have privileged backgrounds, from the statistics available. The historical burdens of black and female students work against them and they have to navigate many hurdles before they are able to compete favourably with their white and male counterparts.

The goals of Draft Green Paper (2012) are reminiscent of those in NEPI, White Paper (1996), White Paper (1997), Higher Education Act (1996), National qualifications Act (1994), SAQA (1996), NCHE (1996), National Qualifications Framework (2008) and National Plan (2001). Most were envisaged in earlier policy documents have not yet been

achieved fully and hence they are a recurrent feature on new policies. Finding a solution to the endemic issues in higher education has been at the centre stage of government and DHET, but difficulties that many students (male and female) still face in institutions of higher learning suggest that more still needs to be done to guarantee fairness in accessing education opportunities (Akoojee & Nkomo, 2007).

The implications of unfulfilled promises have led to many black students (male and female) dropping out of institutions of higher learning, with repetition and attrition levels remaining high (CHE, 2007, 2009; Badat, 2009). This has not reflected well on the vision of attaining equity of access to educational opportunities or equity with success (White Paper, 1997; Akoojee & Nkomo, 2007), hence the overwhelming social economic burdens on a majority of the formally marginalized students (Miller, 1999), some of whom have taken to unorthodox methods to express their frustration and anger in strikes that have led to the temporal suspension of classes, destruction of property and imminent closures. Institutions that have been hard hit are those that have a majority of students who require financial support from National Students Financial Aid Scheme (NASFAS), which has not been able to meet the overwhelming needs of a majority of those currently accessing higher education (*Mail and Guardian*, 15 October, 2014).

Largely, as I have stated in the thesis the demands of the students are linked to socio-economic deprivation that should have been covered succinctly in the redress mechanism through the equity paradigm (Rawls, 197; Corkery et al., 1995; Ball, 2006). Reports state that students (mainly black) are hungry, have no place to reside and lose valuable time in imploring institutions of higher learning to avail more financial aid and bursaries (*Mail and Guardian*, 15 October, 2014). The paying students on the other hand are unaffected, and continue with their programmes to finish their degrees in record time. The few cases that have been cited indicate that higher education is riddled with social injustices and that the burdens of society are still being carried by a majority whilst a few enjoy the privilege of accessing higher education in comfort and with minimal disruptions (Miller, 1999; Rawls, 1970; Mills, 2003; Sen, 1980). It is therefore apparent that, apart from gender and race, social class positioning plays an important role in how students experience access in higher education today. This annotation shows the complex and multifaceted nature of identities and injustices with which higher education is currently

dealing. Higher education cannot purport to deal with one form of equity (race equity) and expect to achieve transformation and justice. Gender and social class equities are equally important.

As in the apartheid days, when black students demonstrated and rioted against inferior education and a myriad of other injustices (Christie, 2008; Sehoole, 2013), affected students have expressed their anger and despondency in ways that have captured by the imagination of many observers. For instance, the media has run pictures of messages inscribed on placards that show students' economic situation as under severe strain and requiring urgent attention. Such messages communicate much about the experiences of black students in higher education:

> "*Say no to economic exclusion";*
>
> *"A promise cannot be true without people who bring it to life".*

The president of SASCO (Ntuthuko Makhombothi) was quoted as saying:

> *"No registration at the universities until all students are given equal opportunities".*

(*Mail and Guardian,* 15 October, 2014)

According to Ntuthuko Makhombothi, the institutions that are facing financial difficulties are the previously black institutions in which a majority of the children of the workers and poor study. For the affected students the basic conditions (unfreedoms) for redress have either been ignored or misrecognized (Fraser, 2008; Young, 1990, Taylor, 1994; Mackinnon, 1993; Sen, 1981). Such messages cement claims that transformation is still incomplete and the quest for equal opportunities is not close to those who need it the most. Higher education as constituted seems to reproduce the privileged and marginalized states in society.

Disparaging media reports require a new discourse that can work alongside existing ones to further invigorate debates on the meaning of access, interpretation, measurement of access and success, who should gain access, and what widened access means for all. I have argued that social justice should be juxtaposed with the particular and specific realities (material circumstances) that women bring to institutions of higher learning. Largely, the wholesale approach glorifies the tales of a few men and women but

submerges the voices and experiences of the majority who need the intervention more (Taylor, 1994; Mackinnon, 1993; Omora, 2003; Nussbaum, 1998).

Finally, critical is the problematic reporting on how well institutions of higher learning have performed in meeting their equity targets. As previously stated, Buhlungu (in *Mail and Guardian*, 2015) alleges that institutions of higher learning have been dishonest in reporting equity achievements. They are misrepresenting the real numbers of black South Africans in their institutions, and if this has statistical backing then the current data that is being used to gauge and report on the achievement of equity is skewed and implausible. This means that new studies have to be conducted in order to provide data that is credible, and more investigations have to be carried out to ascertain why higher education is implicated in dishonesty. In addition, since this allegation goes to the core of transformation, the conceptualization of equity in admission policies and employment quotas has to be revisited and reformulated or appraised.

Clarity has to be sought to the following issues:

1. *Who qualifies, why does he/she qualify?*
2. *Who determines the beneficiaries of equity?*
3. *Why are institutions of higher learning not reporting truthfully?*
4. *Why are institutions of higher learning looking elsewhere for students and staff to fill the equity quotas?*
5. *To what extent should internationalization be part of the social reform in higher education?*

9.3. CONCLUDING REMARKS

Chapters 8 and 9 have discussed and analysed higher education within two historical periods. The first was the apartheid era that was mainly characterized by racial segregation and was limiting for the black and female students in general. Race was the overarching ideology used to exclude a majority of black South Africans from accessing higher education. Policies and regulations such as the Bantu Education Act (1953) made sure that black and female representation and participation in education was minimal. The Extension of Universities' Education Act (1959) entrenched further segregation in universities. Moreover, the few black female students who had access to higher education were concentrated in courses that instilled the traditional gender roles based on femininity and masculinity (Molteno, 1984). Most notable during this time is that

although sexism was large big part of the triple marginalization that black women underwent, much attention was paid to racism after 1994.

The second and most important policy era that has been discussed in these chapters is the post-apartheid era (post-1994), marked by a remarkable transition in the history of South Africa and higher education. Most of the policies operating in higher education currently have been based on human rights and democratic principles (non-racism, non-sexism, non-discrimination) drawn from the Constitution (1996). It has been argued that although the policies are aimed at redress and social justice, a majority have given primacy to race equity and not gender equity (National Plan, 2000; Martineau, 1997). Bearing in mind the many changes and promises of having an equal and equitable society, gender inequity is still enigmatic in post-1994 South Africa (National Plan 2001; Draft Green Paper, 2012). Twenty years later, sexism, exclusion, skewed enrolments and access without success are realities with which black South African women have to deal.

The equity clause has facilitated the increments in the enrolments for black and women students in institutions of higher learning. However, it has also been argued that it is becoming increasingly complex for the government to mediate through competing goals of achieving equity, access and quality that undergird transformation in higher education. Thus, in as much as the government and universities are pursuing social equity, redress and quality education simultaneously, limitations such as financial difficulties and academic incapability of a majority of the students continue to incapacitate the black/rural/working class students (Badat, 2010; Macleod, 2006; CHE, 2010).

The chapters have also illustrated that marginalization in higher education originates in two strong narratives, that of ideology and hegemony, propelled through racism and patriarchy, and that of marginalization, overtly manifested through the social class disadvantages. Robus and Macleod (2006) argue that South African higher education is still haunted by tenets of racism deeply entrenched in institutional structures and practices. The inability of the current policies to achieve their objectives can be attributed to policies and legislation as instruments of redress being based on the macro-aspects of the problem. The particular micro-aspects of social justice have not been given much attention (Young, 1990, Fraser, 2008; Rawls, 1971). Robus and Macleod (2006, p.478) note that “these macro processes are intricately imbricated in people's everyday talk and

practices, which maintain, reproduce, or undermine institutional racism in complex ways".

Finally, the chapters have demonstrated that the transformation trajectory is complex, notably the historical burdens, institutional histories and traditions that are averse to change and the high financial demands on students and institutions of higher learning. As a result, black and female students are still challenged on many fronts, economic, social, racial, gender-based and sexist. These challenges cannot be tackled with a uniform which would be tantamount *to* homogenising human conditions (black women experience). I have argued throughout the thesis that women are a diverse group and that their needs cannot be narrowed down to a unitary approach and solution. I have indicated that although policies as texts do not give too much leeway in stating optional ways of dealing with gender inequities, institutions of higher learning that are tasked with implementation should come up with mechanisms for dealing with prevailing injustices in the areas of socio-economic, racial and sex and gender discrimination. Meeting the goals that have been set in policy documents that have been analysed in these chapters requires that a holistic approach be taken to deal with areas of marginalization identified instead of concentrating on one category of equity, namely race equity.

CHAPTER TEN

PROGNOSIS, CONCLUSIONS AND RECOMMENDATIONS

10.1. INTRODUCTION

This chapter provides a summary of the key issues that have arisen from the analysis and critique of post-apartheid gender equity policy in South African higher education. In brief, the aim of the thesis was to demonstrate that state policies are limited in the way they portray gender and gender equity. This has been justified by the specific and particular experiences and lived realities of women and black students in general not having been taken into consideration fully. Furthermore, the thesis has argued that homogenizing people defeats the purpose of seeking social justice.

The thesis targeted areas of tension within higher education policies to further demonstrate the claim. In view of the discussions and analysis undertaken throughout the thesis, I endeavoured to answer the following questions:

1. Where are we in terms of gender equity/equality in higher education in a democratic South Africa?

2. How can we get to where we should be in terms of gender equity?

In answering the first question, I argued that whereas aggregated data has shown that South African higher education has fared well in terms of gender equality, gender equity is far from being achieved. Emerging literature and recent scenes of students' unrest demonstrate that black male and female students still grapple with exclusion that emanate from socio-economic factors. In addition, women in higher education have been homogenized. Gender equity has not been given the necessary attention in equity strategies in institutions of higher learning; no single policy has been enacted to deal with gender issues in higher education; and women are still marginalized in some courses and programmes.

I attributed the conundrums stated above to the flaw with the current higher education policy context that has failed to come up with a single gender equity or equality policy. Due to this lacuna gender-related injustices and marginalization cannot be well articulated in broader policies. I have therefore argued that the absence of a gender equity policy in higher education has contributed to the enigmatic gender inequities.

Gender equity has not been given the necessary attention because it has been subsumed by race and class equity (Martineau, 1998; Robus & Macleod, 2006; National Plan, 2001). I believe that the existence of a gender equity or equality policy would have helped to deal with areas such as sexual harassment, bias in courses, course design, stereotyping and objectification of women, sexism, racism and the creation of a gender-friendly environment in which both men and women can flourish academically, socially and racially. It has been noted that although several attempts have been made at coming up with a gender equity or equality policy, the have failed to progress beyond the draft stage (CGE, Policy Briefs, 2013). This is a serious observation because it demonstrates that gender equity is not being taken seriously. This is a trend that has been observed since the initial stages of policy discussions (NEPI) that heralded the reform agenda in higher education.

The first area of tension identified by the thesis is in relation to the meaning allocated to gender in policies. Through the scrutiny provided throughout the literature and policy analysis, the thesis has arrived at a conclusion that the meaning of gender in redress policies has been drawn from innatists' construction of gender. It is based on a reductionist approach to gender which is drawn from the male/female binary (Unterhalter, 2007). How does this conceptualization affect gender and gendering in higher education? As it is, this kind of conceptualizing gender denotes neutrality. It is unproblematized and implicit in tackling gender injustices, and narrow in the sense that it does not deal with the entrenched ideologies or hegemonies that exacerbate marginalization. For example, areas that camouflage sexism and gender biasness are left unaltered. Most of higher education structures are still largely masculine, having white males in echelons of power as well as in the field of knowledge production and consumption, which is why higher education has few female vice chancellors. Largely, the narrow meaning of gender that has been adapted in higher education policies has submerged the presence of a multitude of factors that converge and influence women's experiences, whether social, economic, familial, cultural or historical. The diverse factors responsible for gender and gendering affect the way it is lived and experienced in social institutions.

Contrary to the above, arguments advanced by social construction theories indicate that gender is complex, multidimensional, flexible and malleable, not fixed, homogenous or universal (Butler, 1988, 1990; Oakley, 1986; CGE, 2000; De Beauvoir, 1989; Lorber, 1994). Although these ideologies are highlighted extensively in gender literature, translating the various factors into concrete policy goals and intervention strategies has been a challenge because of the generic nature of policies. However, if there was a gender equity policy in place, issues such as variation in financial needs, undermining of the equality clause, sexual harassment and abuse and sexism would have been channelled through it.

Secondly, the thesis has postulated that the trajectory of the great suffering and oppression of South African women in general and black women in particular has been annexed to institutionalized ideologies and hegemonies that were propelled through racism, patriarchy, sexism and classism (Hassim, 1991; Molteno, 1984; CGE, 2000; De la Rey, 1997; Women's Charter, 1954). Of profound significance is that the oppression was experienced differently (GCE, 2000; Meinjties, 1996). By way of assertion, the WNC argues that although South African women experienced marginalization in one way or the other; their experiences were different because of their race and material conditions. This is still the case even now. Thus, middle class women and working class women, black and white, Christian, Hindu, Islamic women saw and experienced life differently (Meinjties, 1996:59). By implication, the assertion requires that any attempt at dealing with gender inequalities and inequalities be tackled in the same manner. Thus, women would be viewed as a heterogeneous group and the injustices they faced and still face would be drawn and addressed using differentiated strategies. For example, some women may require financial aid so a policy and strategies that differentiate the needs within the diverse group of women would go beyond the mere equalization of opportunities.

In addition to the above, contextualizing gender inequalities in the South African context (chapter 5) has provided a focused discussion on the analysis of the experiences of South African women in pre-colonial and post-colonial eras. It argued that black South African women were subjugated politically, socially, economically and culturally through stringent patriarchal order, racism and social economic arrangements (Hassim, 1991; Camaroff, 2013). It was also noted that although white women experienced some form of

marginalization their experiences cannot be compared or equated to those of black women (Msimang, 2010). The trend of marginalization was also overt in higher education during the apartheid era.

The policies and ideologies that undergirded them inhibited black people in general and black women in particular from accessing and participation meaningfully in higher education (Fiske & Ladd, 2004; Bantu Education Act, 1953; Extension of Universities Education Act, 1959). Those who managed to have access were exposed to inferior education that did not give them access to the lucrative positions in the economy preserved for whites. The cycle of oppression continued because racism and sexism determined the kind of access and participation that was considered 'good for them' (Martineau, 1998; Molteno, 1984; Camaroff, 2013; Labode, 1993; Gaitskell, 1988). Likewise patriarchy, racism and sexism played key roles in the courses for which women were enrolled. Generally, women were prepared for their domesticated roles, to be good, obedient Christian wives, mothers and home managers, as reflected in the courses to which they were allowed access. They were mainly enrolled in programmes that were associated with nurturing and caring, such as hospitality, nursing and teaching (Martineau, 1998; Molteno, 1984).

The gender inequality evident in higher education during the apartheid era was reminiscent of the way women were positioned in social institutions. According to gender construction theories discussed in chapter 4, male privilege and female inferiority have been linked to predestined biological factors. Innatists have argued that biological factors (physiological and hormonal) have predisposed women to familial roles (caring, nurturing) whereas men have been allocated the "tougher" roles that keep them away from home for long hours (Murdock, 1949; Parsons, 1954; Tiger & Fox, 1974). However, this position has been criticized by social constructionists who have argued that gender is socially constructed; therefore gender inequalities cannot be determined by a single factor (Butler, 1988; De Beauvoir, 1989; Lorber, 1994; Collins, 2000; Mead, 1935). As stated above, tendencies of sexism drawn from innatism are common in institutions of higher learning. Women are objectified, harassed and abused sexually and are relegated to private spaces that are less powerful.

In view of the above, the thesis has argued against homogenizing women's experiences in post-apartheid higher education policies. It has been shown that social justice departs from providing equal liberties and freedoms to every citizen through the equality principle. But this on its own cannot guarantee that injustices will be addressed succinctly. I have therefore argued that when women are treated in a similar or equal manner, and yet their circumstances are different and unequal, the results of the social interventions are likely to be flawed, negative and minimal. For example, chapters 8 and 9 have examined the current challenges with which students are grappling in higher education. The issue of social economic disadvantages feature prominently on this list, affecting both male and black female students who are supposed to be benefitting from equity largely premised on race and class differences. I contend that the greater dilemma is how to circumvent the needs of these students against an economic environment that is struggling and trying to meet its obligations in other sectors. I have recommended that other stakeholders from the private sector, business communities and potential employers join government and universities to help deal with the current economic problems affecting the needy students.

Thirdly, pursuant to the divided state of higher education during the apartheid era, it was expected that post-apartheid higher education policies would be premised on the equity principle as suggested by Rawls (1971) and Nussbaum (1999). However, equity was not the only principle that Rawls had in mind, having also theorized the equality principle on which basic liberties, human rights and freedoms are guaranteed. This affords people equality in the literal sense and rejects any of discrimination. The South African Constitution and the Bill of Rights (1996) and other regulatory frameworks (CGE, 2000; OSW, 2000) delegitimize discrimination through the equality clause. The post-1994 higher education policies (chapters 8 and 9) uphold the two principles in their texts (White Paper, 1997; National Plan, 2001; Higher Education Act, 1997). On the contrary, it has been noted that for the case of South African higher education, although gender equity has been provided for, policies and institutional interventions have dwelt on race equity at the expense of gender equity (Martineau, 1998; Robus & Macleod, 2006; National Plan, 2001). As discussed in chapter 9, the National Plan (2001:34) stated: "…while attempts are being made to develop strategies and interventions to address issues of

race equity, there are few, if any, strategies or interventions in place to address issues of gender equity". Given the magnitude of the gender-related inequities still prevalent in higher education, I iterate that interventions and strategies that are geared towards alleviating gender inequities and inequalities be sensitive to black women's disadvantages instead of concentrating on race and social class. This will be in appreciation of the multiplicity and complexity of gender identity.

Through the broad explorations of international, regional and local gender laws and regulations in chapter 6, the thesis has also concluded that gender inequalities are dynamic and fluid. The initiatives that have been proposed to deal with gender marginalization through the gender laws and regulations have also acknowledged the equity and equality principles (CEDAW, 1981; Beijing Platform, 1995; African Protocol, 2000; Women's Charter for Effective Equality, 1994; GETT, 1997; CGE, 2000). On the other hand, these initiatives have been criticized for paying less attention to the particular circumstances of gender inequalities. The international, regional and local regulations and gender frameworks have been inclined to achieve gender equality rather than gender equity.

Furthermore, pertinent literature and theories discussed in various chapters have shown that gender identity is complex, multiple, flexible and fractured. I note that such fragmentation presents itself to approaches, whilst reform strategies ought to be broad enough to encapsulate a variety of factors that reflect the fragmentation in womanhood injustices to which they have been subjected. This led Rawls (1971), Sen (1980) and Nussbaum (1995, 1999) to argue that utilitarianism and egalitarianism are not viable vehicles to transport and assess gender equity. As I have stated above, the equality principle is crucial and has its place in redress but, in order for contexts of social justice to be addressed thoroughly this has to be transcended to culminate in interventions that are based on an equity paradigm.

Fourthly, an intricate link has been established between social justices and development of capabilities. Injustices in higher education have a ripple effect on human resources and skills development, therefore higher education has been singled out as playing a crucial role in the lives of individuals and society at large. Sen (1980) and Nussbaum (1999) have demonstrated that education develops human capabilities that in turn enhance human

functioning, wellbeing, decision-making, choices, freedoms and the general wellness of societies. It is because of the value that is derived from education, in skills development, that gender inequalities and inequities have received attention from higher education policies and other gender initiatives (White Paper, 1997; CEDAW, 1981; UNDHR, 1948). According to Sen, the unrelenting 'unfreedoms' in institutional environments can constrict access to education. The constrictions that are mainly linked to the social and economic arrangements and any other forms of marginalization call for the specific and particular circumstances of social justice to be addressed succinctly. In turn, instead of black and female students dropping out or taking long to graduate they will be assured of their places in the academy and will benefit from a university education which affords them many opportunities for personal development and transfer of skills which are paramount to societal development.

Considering this gap in higher education policies, black women have continued to experience marginalization, although statistical data has indicated an improved trajectory. Thus, despite statistical data having indicated that 57% of total enrolment in higher education is composed of women (CHE, 2010; Draft Green Paper, 2012), I have argued in this thesis that statistical data is part of homogenizing and generalizing people (Unterhalter, 2007; Fukuda, 2003). It was assumed initially that the shift in gender representation had met the equity parameters but, on the contrary, black women's positioning in post-1994 higher education has not changed substantially. The claim has been supported to the extent that women's participation in SET is marginal. Secondly, many of the black students, male and female, are struggling to complete their courses in record time, with high dropout rates and attrition recorded within the same cohort. Thirdly, participation of black female students in postgraduate studies is also minimal (CHE, 2010; Draft Green Paper, 2012).

I contend that instead of over-glorifying aggregates it would be helpful for the DHET and the other players in higher education break down the statistical data in order to concentrate on those who are being lost from the system. This will help in dealing with the problem rather than covering it up through positive data and statistics that serve to cement the legitimacy of the political class. I also agree with Ramagoshi (in Chisholm & September, 2005) that in order for transformation to be realized in higher education fully,

forces and vehicles that are being used to transport it should be unmasked culturally. As I noted in previous chapters, hierarchical power relations between men and women and race groups have been exacerbated through patriarchal systems that produce, reproduce and sustain gender inequalities. Higher education has to overcome these ideologies by devising mechanisms that are driven by fair and just systems that do not tolerate discrimination. This may be helped by punishing offenders using institutional values, criterion and standards. Public and civic education should be extended to institutions of higher learning to educate people against engaging in practices that are harmful and denigrating to fellow human beings.

Molteno (1984), Mutekwe et al. (2011) and Hill and St Rose (2009) have demonstrated the complexity of seeing women in (SET) fields when their environments offer little or no motivation to pursue such courses. In recognition of the role environments and contexts play in developing girls' interest in SET, Hill & St Rose (2009) argued that the process begins early in life. The lower tiers of education that start the process of nurturing would be engineers, but ultimately these are made in universities so if they are not enrolled in such fields the universities will have no engineers to make. In view of the above, Muller (1997) argued that there should be no reason for women to be denied opportunities to be part of the *intellectual formation*[27] in the science-related courses. In agreeing with Muller, I argue that the narrative and paradigm should shift from looking at women through a traditional and cultural lens that domesticates and relegates them to subservient positions. Rather, society should be thinking of ways of elevating women to public positions such as good female engineers, exemplary women scientists, and intelligent female innovators. The process should begin at home, in communities and in schools. The university will be the last place in which the academic journey for women scientists, engineers and doctors would be accomplished.

Nevertheless, I agree with Muller's (1997) conclusion that indeed if any cases of exclusions are identified they should be tackled in order to allow interested female students to realize their optimum potential in SET. This area needs serious attention from all so as to break the proverbial 'glass ceilings' that make it difficult for women to further

[27] Muller (1997) conceives intellectual formation as a group of people who share commonalities and have a similar conscience in epistemic, political and pragmatic interests.

their studies after the first degree. I conclude that the problem lies in the challenges alluded to, notably high dropout rates, articulation gap, attrition, structures that have not responded to transformation and social economic difficulties. If the system is fixed from the bottom moving upwards (bottom-up) there will be a larger pool of black female students available for selection to continue with their postgraduate studies and to be enrolled in SET programmes.

Having established that gender inequities and inequalities are still a significant part of South African higher education I now turn to the second question: *how do we then move from where higher education is currently to where it ought to be?* I have argued and suggested that equity policies and initiatives have to move from linear abstractions and embrace and reflect the complexities within gender identity and the underlying ideologies that give rise to gender injustices. It is fair to note that higher education policies and gender laws recognize that race, class, sex and gender have contributed to the gender injustice (White Paper, 2007; Fiske & Ladd, 2004; CGE, 2000; OSW, 2000). Despite the acknowledgement and provision of these as categories of equity I have also noted that the acknowledgement is broadly stated as is the norm with policy texts. For instance, White Paper (1997) identifies clusters of equity on the basis of race, gender, disability and any other areas of denigration. Areas of silence have been noted in such theorization to the extent that black women are treated as a homogenous group. Usually, the term 'black students' has been used indiscriminately. To be able to deal with the lacunae in the theorization of gender in policies, I propose that parallel strategies that evolve from policies at the implementation stage be used to fill the gaps that arise from policy texts. For instance, factors could be made more explicit in dealing with poverty that black disabled female students from poor communities face as opposed to incidents of poverty that confront black able-bodied female students who reside in affluent neighbourhoods. Such an approach would give clarity to what ought to be done for each group within its contextual realities.

The argument presented by the social constructionists is crucial in cementing the choices of policy and framing that can deal with gender inequalities, in which case the thesis has been premised on the particular and specific contexts of redress or social justice. The thesis has provided a vehement defence for redress policies to take cognizant of

contextual factors in addressing gender inequalities. Theories inclined to a substantive approach to justice have argued for this position and demonstrated that women should not be treated in a unilateral manner or universalized (Rawls, 1971; Mackinnon, 1993; Nussbaum, 1997, 1998; Taylor, 1994; Satz, 2007; Fraser, 1995, 1996, 2008). In particular, Rawls, (1971) has provided a conception of equity in the idea of the equity principle through which the particular contexts of social justice can be addressed (social economic under-privileging or any other areas of inequality). Chapter 7, in which the discourse of policy was explored extensively also maintained that policy contexts have to be properly accountable for in policy processes (Ball, 1994, 1996; Hodgson & Spours, 2006).

Young (2011) argues in favour of acknowledging social contexts in conceptualizing for social justices. A theory of justice is sound if and only if it can transcend the abstract nature of universalizing conditions of justice. It does not suffice in assessing and evaluating institutions and their practices. I argue that institutions of higher learning are embedded in a web of contexts of the students, institutions and locales. These contexts have to be constantly consulted throughout the reform process. According to Young (2011, p.4):

> *In order to be a useful measure of actual justice and injustice, it must contain substantive premises about social life which are usually derived, explicitly or implicitly, from the actual, from which the theorizing takes place .The attempt to develop a theory of justice that both stands independent of a given social context and yet measures its justice, however, fails in one of two ways. If the theory is truly universal and independent, presupposing no particular social situations, or practices, then it is simply too abstract in evaluating institutions and practices. In order to be a useful measure of actual justice and injustice, it must contain substantive premises about social life which are usually derived, explicitly or implicitly from the actual, from which the theorizing takes place. (Young (2011, p.4)*

Finally, in pursuit of imploring for a gender equity policy to be considered so as to address the particular and specific conditions that women bring to institutions of higher learning, I support Fraser's (1996) abstraction that suggests a paradigm shift from the theorization of justice that uses a monolith approach to one that is based on a dual approach. Fraser states that a theory of justice should be able to defend social equality and the recognition of difference (Rawls, 1971), (principles of equality and equity). This also links with affirmation and transformation approaches that have been alluded to in the thesis. Based on people's intractable rights and liberties, affirmation provides redress without attacking the underlying ideologies that exacerbate injustices. According to Fraser, the

transformative paradigm provides recourse while at the same time tackling the underlying ideologies that reproduce marginalization. In the case of gender inequities the transformative approach will deal with dominant ideologies and hegemonies that are imbued in cultures of racism, ethnicity, sexism and classism. Moreover, Fraser (1996) writes:

> *Theoretically, the task is to devise a "bivalent" conception of justice that can accommodate both defensible claims for social equality and defensible claims for the recognition of difference. Practically, the task is to devise a programmatic political orientation that integrates the best of the politics of redistribution with the best of the politics of recognition.* (*Fraser, 1996, p.5)*

While concluding, I note that the benefits of basing a gender equity policy on Fraser's (1996) theorization and the substantive equality prototype are profound. I note that although equality has been guaranteed legally through the Constitution, and there are positive moves towards the politics of recognition, cases of gender discrimination are still being expressed throughout social structures and formations. The gatekeepers have to be alert in this regard so as to eradicate unfair and unjust practices that might disenfranchise and compromise the positioning of women in higher education.

The remaining challenge is to have a gender equity policy in place that will articulate and address the particular and specific conditions of women in higher education. The policy should also be transformative in nature so as to take care of the ideologies (sexism, racism and classism) that reproduce gender marginalization. This will inform what mechanisms and strategies can be put in place to directly address the identified issues (Rawls, 1971, 2009; Taylor, 1994; Mackinnon, 1993; Sen 1980; Nussbaum, 1999).

In summary, the policy being advocated should be based on democratic practices that uphold constitutional provisions of equality. It should recognize the contexts of social justice and should tackle the underlying ideologies that reproduce and maintain the cycle of gender marginalization.

In consideration of the identified tensions and complexities in higher education policies, this thesis makes the following recommendations:

- *Rearticulating of the current equity and equality policies so as to offer further clarity in order to avoid ambiguity and incoherencies on issues regarding gender, equity, access and achievement.*

- *Reconfiguring and giving visibility to gender equity similar to race and social class.*
- *Reimagining new ways of tackling the socio-economic impediments that make it difficult for poor students to access higher education (looking for solutions that are outside the policy provisions in order to address social, economic and cultural challenges and securing bank loans that have been advanced to previous students or involving other stakeholders from the employment market).*
- *Re-assessing academic inaccessibility and incapability and devising ways that will ensure access with success for the formally disadvantaged students (i.e., offering bridging courses).*
- *The stakeholders and practitioners in higher education structures consciously operating within constitutional values of equality, non-discrimination, non-racism and non-sexism.*
- *Emasculating structures: re-envisioning and re-embarking on a new trajectory of inclusivity in which gender will not be used to deter women from access to opportunities and positions of power.*
- *Having a gender equity policy in place.*
- *Having preliminary and compulsory courses taught in SET during induction so as to boost women's participation in SET (suggested by Hill and St. Rose, 2009).*

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