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Challenges and Prospects of the South African Women Empowerment and Gender Equality Bill

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RESEARCH REPORT IN THE MASTERS OF MANAGEMENT IN PUBLIC POLICY

September, 2015

Plagiarism Declaration

I Nonhlanhla Sibanda Student number: 729091 hereby confirm that this research report is my own unaided work. I have followed the required conventions in referencing the thoughts and ideas of others.

Signed: N. Sibanda

……..

Date: 25/09/15

(assumed to be signed if submitted electronically)

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And most of all…to God, from who I draw my strength and purpose, I remain eternally grateful…

DEDICATION

This thesis is dedicated to my martenal grandmother Ms Emmah Dube - Sibanda, the first feminist I ever knew (at least in my own terms). In all my years you've been a great source of strength and wisdom, making me believe nothing can stop me from achieving all that I dream of. It is indeed through your lived experiences that I have come to believe that women are, a true force!

This is for you, always, my feminist grandmother…

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ACRONYMS

Acronym	Description
BBBEE	Broad –Based Black Economic Empowerment
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
CGE	Commission on Gender Equality
DPSA	Department of Public Service and Administration
DWCPD	Department of Women, Children and People with Disabilities
ECOSOC	Economic and Social Council
EEA	Employment Equity Act
GAD	Gender and Development
GDP	Gross Domestic Product
GMS	Gender Management System
GMS Handbook	Gender Management System Handbook
JMC	Joint Monitoring Committee on the improvement of the quality of life and status of women
KPMG	Klynveld Peat Marwick Goerdeler (accounting firm)
MPs	Members of Parliament
NGM	National Gender Machinery
OSW	Office on the Status of Women
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act
POWA	People Opposing Women Abuse
RDP	Reconstruction and Development Programme
SA	South Africa
SADC	Southern African Development Community
UNDP	United Nations Development Programme
UNIFEM	United Nations Development Fund For Women
WEGE Bill	Women Empowerment and Gender Equality Bill
WID	Women In Development
UN	United Nations

ABSTRACT

This research assesses the challenges and prospects of the South African 'Women Empowerment and Gender Equality (WEGE) Bill'. The bill, passed by the National Council of Provinces in March, 2014 seeks to reinforce rights and opportunities in advancing gender equality and women empowerment in the country. The scope of this study is national and uses scenario planning to explore the future of the WEGE Bill through reviewing fifteen written parliamentary submissions and eighteen questionnaires. Questionnaires were distributed to representatives from government, civil society organisations and the private sector. The findings of the study revealed that while South Africa has made great legal and policy strides in advancing gender equality, a lot still needs to be done to realise that end. The promulgation of the new WEGE Bill has also not provided sufficient justification or prospects for any greater impact in addressing gender inequalities more than any other existing laws or policies would. Greater political will and more robust processes of consultation and stakeholder engagement are essential to making decisions on future gender equality policy making.

Key words: Gender, Gender Equality, Gender Mainstreaming, WEGE Bill, South Africa

CHAPTER ONE

1. INTRODUCTION

"Gender equality is at the heart of development. It's the right development objective, and it's smart economic policy."

Robert B. Zoellick, President, The World Bank Group (World Bank, 2012, p. 3)

"Gender equality is also smart peace building"

Speech by UN Women Executive Director Phumzile Mlambo-Ngcuka during the Peacebuilding Commission High-Level Ministerial Event, September, 2013

The urgency of gender equality in development and peacebuilding initiatives cannot be overstated. Indeed, gender equality is not only a critical element for economic growth and development but also serves as a means to ensure effective peace building (EU, 2005). Globally, the promotion of gender equality is now seen as a prerequisite for the achievement of sustainable development, key to improving the standards of living of women and men in all spheres (United Nations, 1995). South Africa, like many other countries worldwide, has heeded to the various calls championed by international agencies such as the United Nations to advance gender equality and to address gender based violence. To this end, the country has acceded to a number of international and regional human rights instruments that advance gender equality and promote the rights of women. These include the Convention on the Elimination of all Forms of Discrimination and Violence against Women (CEDAW), the Beijing Platform for Action, the Protocol to the African Charter on the Rights of Women in Africa, the SADC Protocol on Gender and Development, among others.

At national level, the South African government has made laudable strides towards putting in place formal measures to promote gender equality. These include an enabling policy and legislative framework, founded on a Constitution and a Bill of Rights that espouses human rights principles and gender equality. Additionally, the National Gender Machinery, which includes the Commission on Gender Equality, the Joint Committee on the Quality of Life and

Status of Women, civil society organisations among others was also established. The main function of this machinery is to ensure gender mainstreaming in all legislation, public policy and planning.

Arguably, a number of progressive achievements have been made, albeit without its own limitations. According to the World Economic Forum Competitive Index, South Africa is ranked 17th out of 136 countries in terms of gender equality in the world (Social Institutions and Gender Index, 2012). Notably, prior to 1994, the representation of women in parliament was recorded at 2.7 percent. After the 1994 elections, this accelerated to 27 percent and by 2004 the figure had increased to a 33 percent representation (ANC, 2014). In 2014, women in parliament constitute 44 percent, in cabinet, the figure stands at 42 percent. Within the national executive 13 women were appointed as cabinet ministers, while 16 women are deputy ministers. Further, of the 9 premiers, 5 of them are women. Markedly, since 2009, almost 50% of South Africa's parliamentary seats have been occupied by women (ANC, 2014).

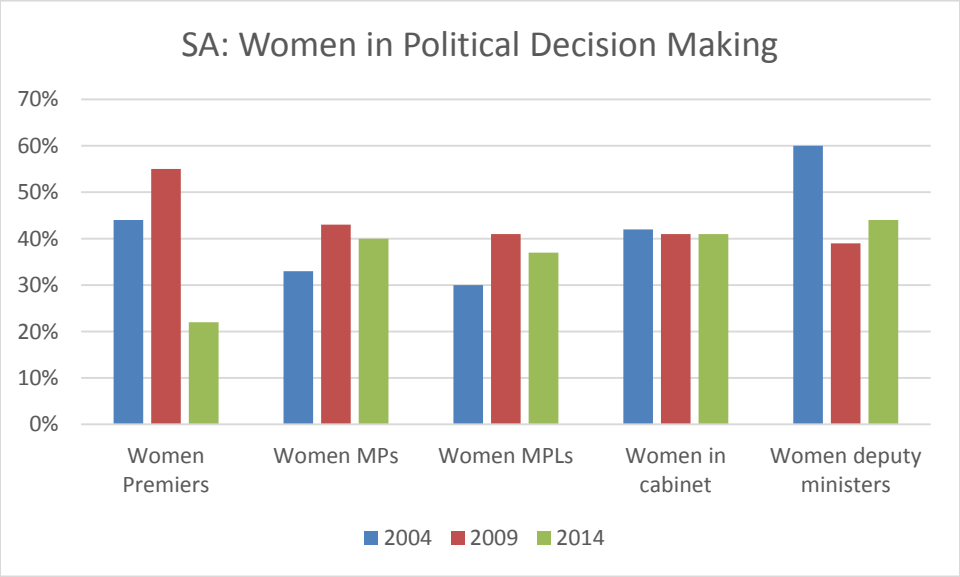
Furthermore, the appointment of Dr. Phumzile Mlambo-Ngcuka as the Executive Director of the United Nations Women and Dr. Nkosazana Dlamini Zuma's election as the first woman to chair the African Union Commission in July 2012 attest to the evidence of South African women's increased participation in global decision making structures. Moreover, the positioning of other South African women in key regional decision making structures is a further indication of the increased participation and confidence in South African women's leadership and political participation. These include the following appointments: the special gender envoy to the African Development Bank, Ms. Geraldine Frazer-Moleketi, the special rapporteur on violence against women, its causes and consequences, Ms Rashida Manjoo and the high commissioner for human rights and former judge in the International Criminal Court (ICC), Judge Navi Pillay.

In 2014, as South Africa celebrates its twenty years of democracy, a new legislation to accelerate gender equality is in the pipeline: the WEGE Bill. But where does the country stand in terms of achieving the goal towards gender equality? What are the challenges and prospects for achieving gender equality in South Africa? Indeed, despite the laudable progressive

measures above, gender inequalities still persist in the country. For example, women's leadership in the private sector and civil society continues to lag behind. According to the Businesswomen's Association of South Africa's 2012 Women in Leadership Census, despite the fact that women make up 52 percent of the population they only accounted for 5.5 percent of chairpersons, 17.1 percent of directors and 21.4 percent of executive management positions (Women in Leadership Census Report, 2012).

Figure 1 below also presents inconsistencies in women's participation in national political decision making since 2004. In particular, the sharp decrease in numbers of women premiers and women deputy ministers is a cause for concern. This demonstrates a step backwards and hampers women's progress and development.

Figure 1 - South Africa: Women in Political Decision Making



Source: Gender Links (2014)

Despite increases in the numbers of women in political decision making in 2009 (except for the slight decrease in numbers of women in cabinet), 2014 presented sharp decreases in women premiers and decreases in women members of parliament (MPs) and women MPLs. Notably,

they were slight increases in the numbers of women deputy minsters in 2014. Such gains needs to be safeguarded in they are to be meaningful.

Accordingly, the South African government has proactively taken measures to address this slow pace of gender transformation, with the Women Empowerment and Gender Equality (WEGE) Bill being one of the latest developments. This bill was adopted by the National Assembly in March, 2014. Pursuant to Section 9 of the Constitution which provides for the promotion and the achievement of equality through legislative and other measures designed to protect and promote the rights of unfairly discriminated or disadvantaged groups in society, the bill seeks to introduce measures to level up the field between women and men (WEGE Bill, 2013). It provides for universal gender mainstreaming across all public and private sector divides, calling that at least 50% of decision-making posts in the country be filled by women. It also seeks to improve women's access to training and education (WEGE Bill, 2013).

This study, therefore, attempts to assess the challenges and prospects of the WEGE Bill. Using the text and language of the bill in its current form, the study will assess the bill as a possible mechanism for regulating the implementation of gender mainstreaming in South Africa.

1.1. Key Terms and Definitions

The following key concepts will be defined and clarified: gender, gender equality, gender equity and gender mainstreaming.

Gender

"Gender is a concept that refers to the social differences, as opposed to the biological ones, between men and women, which have been learned, are changeable over time and have wide variations both within and between cultures" (EU, 2005, p. 9).

Gender equality

"Gender equality means that all human beings are free to develop their personal abilities, and make choices without the limitations set by strict gender roles; that the different behaviours, aspirations and needs of men and women are considered, valued and favoured equally. Gender equality does not mean that women and men should be the same, or that there must be equal numbers of men and women, girls and boys in all activities" (EU, 2005, p. 10).

Gender equity

"Gender equity refers to the fairness and justice in the distribution of benefits and responsibilities between women and men. The concept recognizes that women and men have different needs and power, and that these differences should be identified and addressed in a manner that rectifies the imbalance between the sexes" (EU, 2005, p. 12).

Gender mainstreaming

Hafner Burton and Pollack (2002) trace the origins of gender mainstreaming to the 1985 Third World Conference on Women held in Nairobi. The concept was subsequently adopted by the international community as an approach to gender equality during the Fourth World Conference on Women in Beijing in 1995 (Moser & Moser, 2005, p. 12). One of the commonly accepted definitions for gender mainstreaming is that stated in the ECOSOC agreed conclusions (1997, p. 2):

> *"…the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality."(1997, p. 2)*

In light of the above, gender mainstreaming involves taking into account women and men's experiences, their knowledge, perceptions and interest in order to inform policy and decision making at all levels. While this definition is useful and comprehensive in that it seeks to cover all spheres within an organization/institution, it is also problematic in that it presupposes that the starting point for women and men is at an equal level, which is often not the case.

The United Nations Development Fund (UNDP) defines gender mainstreaming as:

> *"taking account of gender equality concerns in all policy, programme, administrative and financial activities, and in organisational procedures, thereby contributing to a profound organisational transformation. Specifically, gender mainstreaming means ensuring that staff fully understand the relevant policy and its context, and have the capacity to implement it, in order that they can bring the outcomes of gender sensitive policy analysis, including socio-economic analysis, into the core decision-making processes of the organisation."* (UNDP in Moser & Moser, 2005, p. 11)

Oxfam's definition of gender mainstreaming is:

> ***"****A process of ensuring that all its work, and the way it is done, contributes to gender equality by transforming the balance of power between women and men." (Dawson, 2005, p. 83)*

The main shortcoming with both definitions above is that they fail to detail on who the responsibility to mainstream gender lies.

Gender equality in South Africa is mandated through a national legislative framework which comprises of the Constitution, the Commission of Gender Equality Act and the South African National Policy Framework for Women's Empowerment and Gender Equality (National Gender Policy). Accordingly, the National Gender Policy defines gender mainstreaming as:

> *"…a process that is goal orientated. It recognises that most institutions consciously and unconsciously serve the interests of men and encourages institutions to adopt a gender perspective in transforming themselves. It promotes the full participation of women in decision-making so that women's needs move from the margins to the centre of development planning and resource allocation (*South Africa National Gender Policy Framework, 2001, p. *xviii).*

This study uses this definition for gender mainstreaming. This is because it is more comprehensive and noticeably different from the ones discussed above. It recognizes that the starting points for women and men are not equal and therefore unreservedly places women at the centre of gender mainstreaming.

The link between gender mainstreaming and gender equality

Important to understand is the connection between gender mainstreaming and gender equality. Gender equality ought to be understood as the goal, while gender mainstreaming is one of the strategies or approaches towards achieving gender equality. The assumption, therefore, is that when gender mainstreaming is done well, it will lead to gender equality. Gender mainstreaming is not the ultimate end in itself, but a means towards achieving the goal of equality. The final goal is the achievement of gender equality through transforming what is often considered to the mainstream (United Nations, 1997).

1.2. Background

Gender Equality Policy Commitments

South Africa has committed itself to achieving gender equality and women's empowerment of women through accession and ratification of frameworks that recognise women's human rights. At the level of the United Nations, South Africa has acceded to numerous international human rights institutions, treaties and special procedures. These include the following:

i) *The Beijing Declaration and Platform of Action* provides guidelines and the institutional framework to achieve gender mainstreaming. (United Nations, Beijing Declaration and Platform of Action**,** 1995).

ii) *The Convention on the Elimination of All Forms of Discrimination and Violence Against Women – CEDAW* states that state parties shall take all measures necessary for the elimination of discrimination of women in public and private spheres of government, in a bid to ensure that women are on an equal footing with men and have the right to hold public office and perform all public functions at all levels of government and in the workplace (CEDAW, 1995)

iii) Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa adopted in Maputo in July 2003 where African Governments committed themselves to combating all forms of discrimination against women through enacting appropriate legislative and institutional measures as well as the elimination of harmful cultural and traditional practices through transforming the social and cultural patterns of men and women. (Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa, 2003).

iv) *SADC Protocol on Gender and Development:* at the sub-regional level, the Southern African Development Community elevated the SADC Declaration on Gender and Development (1997) into a Protocol as envisioned through the Addendum to the Declaration on the Prevention and Eradication of Violence against Women and Children (SADC Protocol on Gender and Development, 1998).

At the national level, the constitution of the country through the Bill of Rights provides a foundation to strengthen frameworks for gender equality. Section 9 of the constitution emphasizes the full and equal enjoyment of rights by all persons. It further states that no one should be discriminated on the basis of their gender, class, race, class or sexual orientation (Constitution of the Republic of South Africa, 1996). In order to give effect to Section 9 of the

Constitution on the right to equality, the government enacted the following two main statutes: the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA) and the Employment Equity Act, No. 55 of 1998 (EEA). While the EEA applies to all employees and employers (with a few exceptions), PEPUDA binds the state and all persons to whom the EEA does not apply.

Other laws and policies that seek to advance gender equality and women's rights in South Africa include: the Equality Act of 1998, the Domestic Violence Act of 1998, the Maintenance Act of 1998 and the Termination of Pregnancy Act of 1998.

Added to these, in 2000 government put in place the South African National Gender Policy Framework for Women's Empowerment and Gender Equality. This framework articulates the South African government's vision for gender equality and provides a guide for gender mainstreaming in the country. However, the main weakness of this framework is that, though adopted by cabinet, it remains an informal document with no enforcement mechanism. Hence, the move towards a gender equality bill.

The Case for a Gender Equality Bill

As outlined above, since 1994 South Africa has made significant strides in putting in place legislative and policy measures to advance gender equality and women's rights. This has resulted in comprehensive and multi-dimensional laws and policies set to protect the rights of women and girls. However, according to a government report on reviewing the implementation of the Beijing Plus 15 Plan of Action, while the country's progressive laws and institutional framework have been hailed as best practice internationally, implementation of these remains a problem in South Africa (South Africa Progress Report on Implementation of the Beijing Platform for Action +15, 2009). One of the main challenges in this regard, has been inadequate resourcing, both financial and human resources. This, therefore contextualises the need for enhanced coordination and integration of gender equality interventions.

Furthermore, the expedience of the WEGE Bill was a result of a direct call from the CEDAW Committee in 2011 who in their concluding observations to South Africa, raise the concern that national legislation does not embody the principle of substantive equality between men and women. Hence, the Committee called upon government to accelerate the drafting of a Gender Equality Bill and to submit it to Parliament as soon as possible. This would be in accordance with Article 2(a) of CEDAW which espouses the principle of equality between women and men. The WEGE Bill is therefore a direct response to this specific recommendation. In due course, it is anticipated that the bill will be elevated into an Act that defines South Africa's institutional mechanism for gender transformation.

According to the former Department of Women, Children and People with Disabilities, the failure of the current legislative framework to promote women's economic empowerment, has subsequently led to women's call for a law that will facilitate the effective implementation of existing legislation in order to meet their needs (Xingwana, 2012). It is also envisaged that the WEGE Bill will ensure that there is no duplication of previously undertaken initiatives and processes. This study therefore focuses on a critical review of the bill through exploring its challenges and prospects.

WEGE Bill Overview

The WEGE Bill is based on the values and principles of the South African Constitution and various national and international laws and policies establishing a framework for the achievement of gender equality. The WEGE Bill seeks to reinforce the rights and opportunities in terms of the promotion of gender equality and women's empowerment (Women Empowerment and Gender Equality Bill, B50, 2013).

In summary, the bill seeks to:

- Reinforce section 9 of the constitution of the country with specific regard to women's empowerment and gender equality;
- Establish a legal framework for women's empowerment in the country;

- Align laws relating to women's empowerment and gender equality;
- Regulate how gender mainstreaming is implemented by both public and private bodies (Women Empowerment and Gender Equality Bill, B50, 2013).

Furthermore, the WEGE Bill seeks to address issues of equal representation through pushing for a minimum 50% representation. The bill proposes a progressive realization of this target in both public and private decision-making structures (Chapter 3).

In addition, the bill applies to designated bodies from both the public and private sectors. According to S (2) (4) of the bill designated public and private bodies are those who employ one hundred and fifty (150) or more employees. Consequently, both public and private bodies are expected to submit plans on how to implement the bill within one year of the Act coming into effect. Both must develop and implement plans and special measures to promote and advance women as a category which has been marginalized through unfair discrimination. They must also develop and implement plans and strategies to ensure alignment with relevant laws and policies within two years of the Act. Furthermore, designated public bodies must within, three years from commencement of the Act, appoint a gender focal person and other suitable personnel as prescribed and resource them appropriately. This is, however not necessarily expected from those in the private sectors.

Given the above, the study explores the extent to which these enforcement measures could be relevant and practical in regulating compliance to gender mainstreaming as set out in the bill.

1.3. Problem Statement

Despite progressive legislation and policies, South Africa continues to face persistent challenges of gender inequalities. The unequal political representation of women and limited economic participation are some of the examples to ilustrate this. Hence, the promulgation of new legislation in this regard, raises varied opinions, speculations and uncertainties. Could this new legislation be what the country needs to bring about the much needed transformation, or is it a

mere duplication of what already exists? Since the announcement of the WEGE Bill and its subsequent consultative processes, there have been varied conflicting views around it, both from government and non-governmental entities. While on the one hand government departments and particularly the former Department of Women, Children and People with Disabilities have hailed the bill as a progressive and a landmark piece of legislation, most submissions made by Non-governmental organisations and the private sector seem to hold a contrary view. Most view the bill as a weak and watered down duplication of already existing legislation with nothing new to offer. This raises speculative questions on its potential challenges and prospects should it subsequently be signed into law.

It should be noted that, while the WEGE Bill applies to both the public and private sectors, this study is more biased towards gender mainstreaming as it relates to the public sector.

1.4. Purpose Statement

The objectives and ideological orientations of a policy or piece of legislation are key to determining its successful implementation. The study assesses the challenges and prospects of the Women Empowerment and Gender Equality (WEGE) Bill in promoting gender mainstreaming in South Africa. It investigates the measures, structures and enforcement mechanisms proposed by the bill in the quest towards gender equality. Ultimately, the study proposes recommendations for future gender policy improvements.

1.5. Research Questions

The **primary question** is:

> What are the challenges and prospects of the National WEGE Bill in the next five years – 2019 horizon?

Secondary questions:

1. What are the potential challenges of the WEGE Bill?
2. What are the prospects of the WEGE Bill in the next five years?

1.6. Significance of Study

The value of this study is twofold:

i. Firstly, the study uses gender analysis to explore the prospects and challenges of the WEGE Bill in promoting gender mainstreaming in South Africa. The importance of gender and social location as analytical lenses for policy is undeniable. Neglecting this critical component essentially means that half of the affected population is at risk of underrepresentation (Mosse, 1993). Gender mainstreaming has received renewed interest and affirmation through various international and regional instruments on gender equality and women's rights including the Beijing Declaration and Platform for Action, the Millennium Development Goals (MDGs) and the African Women's Rights protocol (Mukhopadhyay, 2004). These mechanisms reinforce the value of investing in gender mainstreaming as an approach to achieving gender equality. South Africa, like many other countries has put up various measures, policies and laws to promote gender mainstreaming. However, despite government's expressed commitment to this approach, the country has struggled to effectively implement this strategy. The WEGE Bill is one of the most recent measures the government seeks to put in place.

ii. Secondly, the use of scenario planning to explore the gender mainstreaming approach as explicated in the South African WEGE Bill is valuable. According to Linz (2012) scenario planning is a well-established methodology in decision making and long-term planning. This is especially true in contexts where future conditions are highly uncertain. It is hoped that the study will provide policy makers with valuable information that will allow them to break from dominant thinking and to see the future from different perspectives (Waylen et al, 2014). Further, given that the WEGE Bill is still relatively new, no other known study specifically using scenario planning as a method of inquiry has been conducted before. Hence, it is hoped that the study will contribute to knowledge and policy planning in this field.

CHAPTER TWO

2. LITERATURE REVIEW

This section places the proposed study within a broader body of existing knowledge. According to Berg & Lune (2004) it is important for any study to begin by seeking to explore what others have already said about an issue before attempting to address it. This section provides a review of broad areas of literature on existing approaches to promoting gender equality, the history of gender mainstreaming, the practice of gender mainstreaming in South Africa and challenges and gaps in trying to put gender mainstreaming policy into practice. The large amount of literature focusing on this era serves to further emphasize the importance of this research study.

Historical Evolution of Gender Equality Approaches

According to Mosse (1993), the concept of development began in the late 1950s. At the time, it was a largely masculine field, operating from the premise that men and women were at the same level. However, this did not last forever as was witnessed through the evolution of a number of development paradigms seeking to integrate women or gender analysis in approach. Women's issues and concerns have in the past been subsumed under what was broadly referred to as people's development. It was not until Esther Boserup's book (1975), "*Women's Role in Economic Development"* that the willingness to consider women's distinct needs and concerns as a group started to evolve, albeit in a slow and reluctant manner.

Women in Development (WID) emerged as one of the first approaches to emerge in the late 1970s. It challenged the unequal participation of women in development and called for greater responsiveness women's needs and concerns (Reeves and Baden 2000). Essentially, this strategy sought to increase women's participation in development through 'adding women' to development efforts (Jahan, 1995). In most instances it merely involved adding women specific projects to existing development projects. Hence, Stuart's (2003) assertion that the WID approach was largely 'tokenist' in nature. Examples are given of how in some instances this

meant literally taking a desk and a chair into a room and placing a woman to focus on women's issues in development.

In the 1980s, the move from a women only focus to gender saw the culmination of the Gender and Development approach (GAD). This was seen as a progressive step beyond the linear WID approach. This approach pushes for the integration of women into male dominated and often male defined development structures. It seeks to challenge existing socially constructed gender responsibilities and relations (Reeves and Baden, 2000). The focus of the GAD approach therefore is the need for both women and men to work together to address the gendered discrimination and marginalization of women within the development context. In this approach men are considered to be part of the solution, while male power and privilege are challenged (Elson, 1991). Thus, GAD "uses 'gender relations' rather than 'women' as a category of analysis" (Visvanathan, 1997, p. 55). Women's subordination is explained through an examination of political, economic and ideological forces, including the sexual division of labor. GAD, therefore calls for a re-examination of existing social structures and institutions and pushes focus to women's practical needs (Rathgeber, 1989).

According to the GAD analytical framework female subordination is a social construct and is deeply entrenched in all social structures and processes (Ramazanoglu & Holland, 2002). Consciousness raising among women and men is therefore critical. Coupled to this, is the need for the interrogation and transformation of structures of gender oppression, including the state, culture, tradition and religion (Ramazanoglu & Holland, 2002). GAD, therefore is not only a framework for analysis, but also advocates for policy action. The framework pushes for fundamental and strategic approaches to social change, rather than the limited ádd women and stir' orientation of the WID approaches (Waal, 2006, p. 211).

This field has continued to expand and to develop new ways of thinking, strategizing and implementation of projects. From the Women in Development (WID) approach to Gender and Development (GAD) in the late 1980s, and to the notion of Empowerment in the 1990s

(Tshatsinde, 1993). Various other approaches have continued to evolve over the last decades, yet there remains no consensus on the relative effectiveness of these approaches (Bryan and Varat, 2009).

Evolution of Gender Mainstreaming

Arguably, gender mainstreaming emerged in part, because of the discontent with feminist struggles that purported to be promoting gender equality, while holding in place existing gendered structures. Tied to this was the realisation that the 'patriarchal state' was not willing to give audience to feminist critique (Progl, 2009). Thus the main purpose of gender mainstreaming is to bring about transformation. It seeks to transform structures by integrating gender considerations into all policy and programmatic planning. (Progl, 2009). As theory, gender mainstreaming is the process through which key concepts are revised in order to better understand the gendered nature of the world, rather than to establish a separationist gender theory (Walby, 2005). As a practise gender mainstreaming seeks to improve the effectiveness of mainline policies through bringing to the fore the gendered aspects of processes and outcomes.

Barbara UnmuBig defines gender mainstreaming as "a radical socio-political concept for achieving gender equality and equal opportunity" (UnmuBig, 2009, p. 2). It seeks to do away with the myth of gender neutrality and obligates governments and other institutions to introduce gender focused perspectives in every political and economic decision. Hence, mainstreaming is about "integration into prevailing structures" (Waylen et al, p. 7). It is about recognising the fact that gender inequalities are not only the concern of women but men too and society as a whole.

Additionally, Heather McRobie in her article, *"Gender Mainstreaming: the future of feminism? Or feminism's disappearing act?*" provides the case for gender mainstreaming as an important tool for incorporating feminist principles into the mainstream. She also cautions against the risk of gender mainstreaming posing the risk of subordinating the goals of feminism to other agendas. This remains a contradiction that she never resolves entirely (Walby, 2005).

Progressively, the mid-1990s culminated into the adoption of gender mainstreaming as the new approach to integrating gender into development. This approach came with the promise of integrating gender issues into organizations, practices and attitudes in societies. Further, in 1995, one of the key outcomes of the United Nations (UN) Fourth World Conference on Women in Beijing in 1995 was the adoption of gender mainstreaming as the new strategy towards the achievement of gender equality in development (De Waal, 2006; Hafner-Burton & Pollack, 2002). Many governments, development organisations and most non-governmental organisations (NGOs) have joined this 'new trend' and have strongly advocated for gender mainstreaming. While this is in itself a 'laudable' and optimistic goal, Alston (2006) argues that it is one easier to proclaim than to actually achieve.

Today, gender mainstreaming, has become one of the mainstays of the discourse of development and practice. This is a positive and welcome development, especially given the historical weaknesses of gender analysis and inquiry in the development discourse (Ostergaard, 1992).

2.2. Why Gender Mainstreaming Matters

Gender mainstreaming is important for different reasons. Firstly, Miller (2008) argues that there are systematic inequalities and differences between the roles of women and men, thus necessitating different approaches. Secondly, there are persistent patterns of women's limited access to resources and opportunities. In many instances, women are under-represented in decision-making processes that relate to society and their own lives. These stark inequalities hinder the progress of any society as they limit the opportunities and the realization of the full potential of at least 50% of the world's population (Miller, 2008).

According to Loko and Diouf (2009), while women account for over half of the world's population, their contribution to political decision making and measured economic growth remains far below what it could potentially be if fully acknowledged or recognised. This has

adverse macroeconomic consequences. Evidence has shown that women's increased participation in the formal economy, has direct positive results on macroeconomic gains. Cuberes and Teignier (2012) also note that GDP per capita losses have been estimated at almost 27 percent in some regions as a result of gender gaps in the labor market.

Equally important is women's participation in political decision making. A striking example of this in Africa is Rwanda, which has been referred to as a "model for equality" (Powley, 2005, p. 156). Rwanda made history in 2008 when it became the first county in the world to have more than 50% female majority in parliament. Added to this, Powley (2005) advances that the Rwandan government has demonstrated a strong commitment to gender equality through the regulation of gender equality in the constitution. The constitution states that at least 30% of positions in leadership and decision making must go to women. Consequently, these moves have led to some positive gains such as the attainment of equal literacy rates for boys and girls.

While noting that Rwanda still faces many barriers to the full achievement of gender equality, there are already indications that the women-led legislature is making positive impact. According to Powley (2005) the women's parliamentary caucus has been instrumental in leading a successful effort to pass cutting-edge legislation on gender-based violence.

2.3. Economics of Gender Inequalities

One of the limitations in measuring the economic costs of gender inequalities is that these costs are often hidden and suffered in silence by individuals. Often, they remain invisible until the future. Even so, those potentially quantifiable are often not measured for three main reasons. Firstly, because policy makers often do not recognize the value of gender-disaggregated information. Secondly, because extensive personal data is expensive and difficult to obtain and thirdly because some topics are considered too sensitive to be included in surveys (Cuberes and Teignier, 2012). Thus, the lack of quantifiable data to measure the economic costs of gender inequalities has been one of the limitations to this study.

However, evidence from a September 2015 study by the Mckinsey Global Institute, which mapped 15 gender equality indicators for 95 countries concluded that advancing women's equality could potentially add $12 Trillion to global growth. Further, if every country progressed towards gender equality at the rate of its fastest improving neighbor, could increase by up to $12 Trillion in 2025 (McKinsey Global Institute, 2015). Further, evidence from countries around the world has demonstrated that societies with wide, persistent gender inequalities face greater levels of poverty, malnutrition, and illnesses (Loko and Diouf, 2009). Economic research has proven that gender inequalities have a negative impact on economic growth and development. According to Navi Pillay, UN High Commissioner for Human Rights;

> *"women work two-thirds of the world's working hours and produce half of the world's food, yet earn only 10 percent of the world's income and own less than one percent of the world's* property" (Ferguson, 2010, p. 6).

From an economic viewpoint, this has counterproductive effects as it prevents countries from reaching their maximum productivity potential. According to World Bank (2012) many countries experience loss of productivity estimated at rates of up to 25% due to these limitations. One study conducted on Japan concluded that the country's GDP has the potential to gain by 15% if gender discrimination in employment and education is adjusted (World Bank, 2012).

Furthermore, according to the World Bank (2012), the realisation of gender equality is key to economic growth and development. The realization of this goal leads to improved prospects for future generations and strengthens economic, political and social systems. Stotsky (2006b) corroborates this view by arguing that women's limited access to opportunities inhibits economic growth, while on the other hand, economic growth leads to significant changes in women's disadvantaged circumstances. This is largely because women are said to be more likely to put their investments in the education of their children as compared to men. Miller (2008) corroborates this view by adding that this potentially triggers a cycle where greater

earnings by women subsequently lead to increased expenditure on school enrolment of girl children, who when they grow up become educated female role models themselves.

Further, Lawson (2008) adds that although women comprise more than 40 percent of the world's labor force, the unfortunate reality is that they still remain behind men in terms of total earnings and productivity. This is despite the fact that gender equality is, a human right, which entitles women to lives of dignity, freedom and devoid of any form of discrimination. Gender mainstreaming and women's empowerment are therefore critical to advancing development and to realising the maximum potential of different societies. It remains to be seen if the South African WEGE Bill if subsequently passed into law will rise above these obstacles and provide much needed change towards gender equality.

Klasen and Lamanna (2009) also discuss the implications of gender gaps in employment on economic growth using a cross country analysis encompassing the time period 1960-2000. The study revealed that the gender gap in employment was one of the major determining factors of differential growth patterns across countries. For example, low female participation in some regions, such as North Africa and the Middle East largely accounts for these regions' low economic growthin these regions. This is in stark contrast to East Asia, whose high economic growth rate is largely attributed to the comparatively higher female labour force participation (Klasen and Lamanna, 2009).

According to a study by ActionAid (2014), gender inequality in work costs women in poor countries an average of US$9 trillion each year, more than the combined GDPs of Britain, France and Germany. This huge inequality exists because of the gender pay gap between women and men. In South Africa, a study conducted by KPMG (2014) on the economic impact of gender-based violence (which is in itself a consequence of gender inequality) estimated GBV costs at between R28.4 billion and R42.4 billion per year, or between 0.9% and 1.3% of GDP annually. The greatest proportion of these costs is mainly borne by individuals and families. A key recommendation from the study was the need for government to fully estimate the resources required to implement existing GBV legislation.

In light of the above literature, the case for the need to advance gender equality has been set. One could therefore argue that while the vision behind the South African WEGE Bill seems to be grounded in what could be interpreted as 'noble' ideals and principles (as it seeks to coordinate and promote national efforts towards gender equality) it remains to be established if the subsequent content and text of the rest of the bill may reflect different prospects and challenges for the advancement of gender equality in the country. This shall be further expounded on in the findings section of this study.

2.4. Putting Gender Mainstreaming Policy into Practice

Different scholars have written about the active resistance to or rejection of effective implementation of gender equality and women's rights policies and laws (Rao & Kelleher, 2005). Consequently, this has led to slow implementation of gender mainstreaming policy. Following the review of gender mainstreaming progress in 14 international development institutions and organisations, Caroline and Annalise Moser's (2005), concluded that 'cultural' resistance as a result of imbedded patriarchal systems was one of the main reasons for limited implementation of gender mainstreaming policy. Tiessen (2007) in her review of the implementation of gender mainstreaming in various organisations in Malawi, corroborates this view by arguing that the prevalent social resistance to gender equality is largely understood "as something that is countercultural" (p. 40). Further, 'gender' is largely perceived as a foreign concept imposed on Malawians by donors and non-governmental organisations.

Mannell (2010) points to three main explanations why gender policy does not always translate to organisational practice. The first reason, she argues, stems from the failure by organisations or institutions to recognize harmful gender norms existent within their practices and structures. The second explanation is the challenge of 'prescriptive' institutional processes of international development that tend to depoliticize technical practices suitable for interventions. Thirdly, the broader cultural environment is seen as the root cause for perpetuating harmful masculinist cultures within organizations, thus hindering the process of gendee mainstreaming.

Wendoh & Wallace (2005) provide a different explanation why gender mainstreaming may fail within organisations. They express the concerns raised by African Non-Governmental Organisations that international development donors often fail to understand how gender equality is conceptualised in local contexts. Consequently, assumptions by donor agencies that they have the same understanding and interpretation of gender at a local community or organisation is problematic because:

> *'donor-led insistence on including a gender element, without due regard for local perspectives, skills or analysis, results in NGOs masquerading as gender-sensitive at best, and becoming resistant, mistrustful, and sceptical at worst'* (2005, p. 74).

Anthropological literature provides an empirical example to illustrate the above point. Woodford-Berger (2004) details on the disjuncture between Swedish development policy and gender identity in Ghana. The Swedish model of gender mainstreaming is described as inappropriate and irrelevant to addressing the multiple conceptualisations of gender within Ghanaian society. Thus, the inability of Swedish frameworks to capture the varied cultural nuances of gender identity within the Ghanaian context suggests that a universal approach to gender mainstreaming may not work. Given the above, this study seeks to assess the appropriateness of the South African WEGE Bill in advancing gender equality in the country.

2.6. Gender Mainstreaming in South Africa

In South Africa, the struggle for gender equality has been largely imbedded within the country's historical democratic struggle for democracy. As such, the discourse of gender mainstreaming became almost an inevitable development in the country (Gouws, 2005a). Increasingly, gender mainstreaming has come to be regarded as the best approach towards achieving gender equality in the country. This is enshrined in the country's constitution. According to Gouws (2005a) the country's National Gender Machinery (NGM) is the machinery responsible for

driving gender mainstreaming within government (Gouws, 2005a). The NGM comprises of the Ministry of Women, the Parliamentary Women's Caucus, the gender focal points representative of all government departments, the Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women (JMC) in parliament and civil society organisations.

Accordingly, the South African National Policy Framework for Women's Empowerment and Gender Equality (the National Gender Policy Framework) is the framework that provides guidance on gender mainstreaming in the country. Launched in August 2001, the framework seeks:

> *"To achieve gender equality, government must embark on a rigorous gender mainstreaming strategy. To this end, much of the responsibility for planning and implementing effective and innovative strategies for the promotion of women's empowerment and gender equality will rest equally with key structures of the National Machinery and with individual government departments at the national, provincial and local levels"* (South Africa National Gender Policy Framework, 2001, p. 40).

In light of the above, the National Gender Policy Framework is what frames and guides the country's approach to gender mainstreaming. The framework comprises guidelines to be used by government, the private sector and civil society in advancing gender equality. Given the historical legacy of the country, gender equality is considered a core part of the broader transformation process and is therefore imbedded within all policies, institutions and practices of government and its agencies including civil society and the private sector. According to the National Gender Policy framework, gender mainstreaming ought to take place in three critical areas, namely, in internal employment policies and practices, service provision and public awareness raising within private and community spheres (National Policy Framework for Women's Empowerment and Gender Equality, 2002).

Key to this is the monitoring and evaluation of gender mainstreaming in the country. At national level, indicators are derived from the national legislative and policy framework, while at the international level the UNDP has developed the Gender Development Index. Added to this, the South African government has committed to a number of international human rights instruments that advance gender equality and women's empowerment. Some of these have already been discussed above.

Public Policy and Gender Mainstreaming Strategy

Various factors account for the failure of gender mainstreaming in public policy. According to Hafner and Pullock (2002), gender mainstreaming is an extra ordinarily demanding strategy, with a number of technical difficulties in its implementation. The strategy requires the inclusion of a gender perspective by all central actors in the policy process, yet many of them have the least interest in gender issues. In order for the strategy to work, it is important that the following prerequisites are met: a strong political will from leadership, the availability of equal opportunity legislation, awareness-raising about gender equality, a culture of gender equality, reliable gender disaggregated statistics and adequate funds to sustain long term commitment to gender equality, among other factors (Council of Europe (2004). Often when ambitious public policies on gender mainstreaming are adopted, these pre-conditions are neither considered nor met hence targets set are rarely achieved. Consequently, institutional machineries that are set up for the purpose of executing this strategy, end up merely serving as signals to the acknowledgement of the importance of gender equality and nothing more. Women or gender ministries are often weak, under resourced, and vulnerable to shifting political party circumstances (March et al., 1999).

Another challenge to gender mainstreaming has been the lack of ownership of this process (Verloo, 2001). This is in spite of its reference as a people-oriented approach which tries to incorporate and elicit the needs, preferences and support of all people in society. According to Sen (1999), patriarchal resistance to the questioning of the subordination of women remains a stark reality in most developing world countries, where gender mainstreaming is seen an

unwelcome directive from donor agencies who seek to further their own agendas. Similarly, Inglehart (2010) suggests that if strategies towards gender equality are to be effective, it is important that the socio-cultural problems of women are addressed before legal transformations are made.

Another critical limitation of GM is the approach often used for its realisation. Gender mainstreaming and the formulation of equal rights policies both involve feminist movements and the state. Both are premised from the belief that the state possesses authority to change society through the development and implementation of policies (Progl, 2009). Thus, gender mainstreaming is a new form of engagement with the state that of entrusting the state with the cause of gender equality. This approach has its own limitations.

Some feminists have questioned the risk of leaving this responsibility to the state which may lead to unintended consequences due to the bureaucratic rationale to realise political ends (Hafner and Pullock, 2002). Another limitation of gender mainstreaming is that 'mainstreaming' is reduced to simply mean integration or incorporation into other existing agendas (Walby, 2005). Arguably, by virtue of moving from the margin to the centre, gender mainstreaming has lost its critical voice in the process.

Further, gender mainstreaming is often criticised for its one-sided focus on institutions (UnmuBig, 2009). While the role of key decision makers in government ministries and in institutions such as the World Bank are important in promoting gender mainstreaming, this approach is seldom supported by broader social transformation initiatives which are key to the success of gender mainstreaming. One of the pre-requisites of gender mainstreaming is the top-down approach which has its own limitations. This is because institutions are not neutral in their decisions and actions. They are often driven by their self-interests and domination. Thus for example private commercial enterprises are more likely to support gender mainstreaming as an economic factor and be less interested in gender hierarchies of gender roles (Hafner and Pullock, 2002).

Added to this, is the 'hard hitting' reality that the very institutions we seek to tell what to do are a direct reflection of the negative constructions of power and domination present in broader society and in many ways perpetuate the common perceptions of gender roles (UnmuBig, 2009). Consequently, institutions and bureaucracies are not necessarily sensitive to gender considerations nor are they agents of social change and political transformation (Bryan and Varat, 2009). Often, decision making structures are hierarchal in structure and their "cultures are still characterised by old boys networks" (UnmuBig, 2009, p. 8). It is therefore not surprising that many gender mainstreaming efforts have not been successful.

Similarly, Aruna Rao also noted during a gender expert panel discussion convened by the Woodrow Wilson Center in April 2007 that, gender mainstreaming has been associated with more failures than successes (Bryan and Varat, 2009). She argued that in order to advance gender equality agenda forward, there is need to examine the policy environment and challenges related to the implementation of the gender mainstreaming approach. These factors include inadequate resources allocated to the implementation of gender mainstreaming, ineffective strategies and institutional arrangements related to the approach. Tightened macroeconomic policies, privatisation of basic services and reduced government spending on social sectors, are some of the aspects of the policy environment identified as having harmful effects on gender mainstreaming. She further elaborates on how in many instances mainstreaming involves adopting a gender policy or establishing a gender unit or desk, gender training and increasing the numbers of female staff in an entity. Or worse still, gender mainstreaming has sometimes been used to reduce or stop funding for work related to women's empowerment. As a result, the transformational change hoped for through implementing gender mainstreaming has not yielded the expected outcomes.

An added challenge to gender mainstreaming is the failure to measure progress. Reeves and Baden (2000) argue that tracking progress in the implementation of gender mainstreaming is complex. It requires social impact analysis right from the design phase of the project, gender disaggregated data at all stages of implementation and good tracking mechanisms. It is therefore crucial for governments to strengthen their capacities in delivering their own

operational mandates and alliances with civil society organizations who carry relevant technical expertise in order to better implement gender mainstreaming in light of the constrained institutional environment.

While taking the above limitations into consideration, this study does not posit the view that the gender mainstreaming approach is not working. What remains clear is that institutions can and should promote learning processes. Hence, in order for gender mainstreaming to succeed there needs to be institutions that willingly and effectively implement transformatory ideas. UnmuBig (2009) further suggests that in order for institutions to transform there is need for broader societal movement driven from grass root level that pushes political pressure from below. She argues that political decisions are likely to change when this need for change comes from society itself. It therefore follows that gender equality policies that have their sole focus gender mainstreaming through institutions have realised limited success. This is especially true in the absence of active and vibrant gender or women's rights organisations that have power to influence political decision making.

In conclusion, in spite of its inherent challenges, Woodward (2008) posits the view that a major advantage of the gender mainstreaming approach is its originality, that is, its genesis from a public policy and an international governance source. However, more than twenty years after its origin, its novelty has worn off and support for the strategy is waning. So, does this mean that South Africa's use of the approach through the promulgation of the WEGE Bill is no longer a valid or relevant approach in today's world? To answer this question fairly, this study uses scenario planning to speculate on the possible challenges and prospects of the WEGE Bill. The next section considers the advantages and achievements of gender mainstreaming in developing countries.

Future Prospects of the Gender Mainstreaming Approach

While the above discussion has pointed out to the many practical problems associated with the gender mainstreaming approach, the concept arguably still offers many advantages over other approaches for gender equality. According to Verlo (2001) this approach has to a certain extent

led to the institutionalisation of gender issues. Due to reporting requirements from parliament and international frameworks such as CEDAW and the Beijing Platform for Action, governments have increasingly found themselves under pressure to take initiatives to advance women's rights and empowerment. This has also created space for civil society and women's rights groups to monitor and highlight gender injustices and to push for relevant reforms (March et al., 1999). Similarly, Woodward (2008), explains how despite initial resistance, national institutions and mechanisms in many countries have now been put in place to implement gender reforms.

Gender mainstreaming has also been applauded for its inclusion of men in debates and solutions towards gender equality (Inglehart (2010). While this may not seem much Woodward (2008) argues that, this ought to be viewed from the realisation that other public policy approaches for advancing gender equality prior to gender mainstreaming were not able to attain this level of success. Thus, gender mainstreaming must be applauded for its reconciliatory approach which considers both women and men in a relational context and not opposing forces. It is an umbrella approach which complements the equal treatment of both genders.

Another positive outcome of gender mainstreaming is that it has the potential to develop synergy between the various entities within an institution (Council of Europe, 2004). This is because the approach entails the reorientation of processes and procedures in all aspects of an institution towards gender equality. For example, a gender audit conducted by the planning department of an organisation can monitor the progress of gender related interventions, which requires that participants receive gender sensitive training, which will result in the gender sensitisation of participants. Another example is that of gender responsive budgeting through the finance department, resulting in resources being made available for work in the technical departments (Woodward, 2008). Thus coordinating gender mainstreaming exercises may have the effect of reducing costs and improving outcomes.

In conclusion, while the concept of gender mainstreaming may still be feasible in the current times, the effectiveness and future of this strategy rests on how tactfully it is implemented. As the approach focuses on institutional procedures, policies and operational guidelines, it is arguably the most ideal strategy for advancing institutional reform within the public sector. If it is to be successful, gender mainstreaming must begin with an in-depth analysis of the situation of the public and private sector context where the strategy is to be implemented, so as to best identify and prioritise areas of action (Inglehart (2010). Arguably, this approach is still valid and can be used to deal with the gender reforms as articulated in the Beijing Platform for Action.

2.7. Gender Equality Laws and Policies: Country Experiences

Gender equality policies gained momentum and popularity around the world in the 1990s, as a direct key demand of women's movements (UnmuBig, 2009). The Beijing Declaration and Platform for Action gave further impetus for this through calling on governments to allocate necessary institutions, financial and human resources for implementation of gender mainstreaming. United Nations Conventions such as CEDAW further created good foundations for gender equitable policies. However, despite advances nationally and globally, gender inequalities still persist. Violence and discrimination still exist and this is confirmed in global women conferences (Woodward, 2008) For example women are continually excluded from political decision making and economic differences still persist.

UnmuBig (2009) argues that where political will exists, gender mainstreaming can achieve many positive effects. It can contribute to whether political decisions made take into account gender dimensions or not. The introduction of new instruments and tools such as gender budgeting and gender analysis has contributed to the new socio-political insights on the consequences of policies and in the process created new standards (Inglehart, 2010). There are numerous examples of the positive effects of gender mainstreaming, including in developing countries.

Persadie (2012) argues that while laws and policies are often perceived as instruments for social change, they are not adequate on their own. There is need to complement these with the

necessary financial and human resources to make the laws and policies effective. The achievement of legal advances for gender equality and women's rights among developing countries, such as Tobago and Trinidad for example, does not necessarily translate to gains for women and men especially where practical measures are not put in place or implemented. This, she attributes to a lack of political will which often leads to the ineffective enforcement of gender equality laws. She further argues that gender equality and justice can best be achieved where multi-sectoral approaches from both above and below exists with women raising their potential to effect real institutional, legal and policy changes at national and international levels (Persadie, 2012).

Payne's (2014) article reviews gender equality policies in the health sector in England. She argues that the failures of gender equality policies are largely as a result of lack of gender-disaggregated data, lack of appropriate gender training, skills and resources (Payne, 2014). The article adopts a critical discourse approach to analyzing gender equality policies and suggests that some of the texts used in these frameworks serves to construct women and men as fundamentally different, thus further *"reinforcing specific forms of masculinity and male performance and notions of male disadvantage in health systems*" (Payne, 2014, p. 1). Other problems identified include the shift from *"participatory approaches to technocratic solutions"* (Payne, 2014, p. 3), which fail to interrogate underlying gendered power relations. In light of this, there is a possibility that some gender equality policies may also contribute to the reinforcement of gender inequalities.

Gideon's (2012) paper draws on the Chilean case to examine the prospects and challenges of the country's health policy to produce positive gender outcomes. The paper argues that within the decade under review (2000 – 2010) very little progress was made in mainstreaming gender within the country's health sector. This is despite the various entry points expounded through the health policy. This, in part had been a result of the persistent dominance of economists who took the lead in the process of health sector reform. For example, in instances where gender has been given attention within the health sector, the predominant focus has been on 'equity'

rather than 'equality', which essentially narrows the focus. Added to this, only a few women's organisations were working on these issues, hence much of the work tended to fall on a few individuals (Gideon, 2012).

In conclusion, a number of institutions have conveniently used gender mainstreaming to counter the need for the financing of women's specific initiatives using the excuse of *"we're now taking care of gender issues via gender mainstreaming"* (UnmuBig, 2009, p. 9). This is problematic since both approaches are important and one cannot be dropped in favor of the other.

2.8. Challenges and Prospects of the WEGE Bill

This research study seeks to ascertain the challenges and prospects of the WEGE Bill should it be passed in its current form. Hence, the study will explore the weaknesses, strengths and potential future of the bill in the next five years.

Literature provides mixed views between government and civil society in this regard. On the one hand government perceives the bill as an important step to advance gender equality through providing for effective institutional arrangements to hold both public and private institutions directly accountable for gender mainstreaming. On the other hand, most Civil Society have raised a number of concerns around the potential ability of the bill to advance gender equality in the country. Some of these will be discussed below.

Bill provides little to meet its purported purpose

Firstly, the bill as it currently stands is said to be insufficient to serve its purported purpose to advance gender equality and women's empowerment in South Africa. Arguably, in order for the bill to meet its intended objectives, it must seek to effectively address patriarchy and structural unfair gender discrimination that serve to perpetuate gender inequality in the country (POWA, 2013).

The ambiguity of the bill

Secondly, the bill is said to be too vague, and lacks specific details and guidance on how it will realise its gender equality ambitions (Vetten, 2012). For example, each of the sections follows a similar pattern where designated public and private bodies are required to submit plans on how they will realise the goals of the bill, followed by further implementation plans upon request by the Minister. However, the bill does not provide further guidance on the form that such plans and measures should take (POWA, 2012). Despite the above broad criticisms, the bill was approved by the National Council of Provinces in March this year and now awaits final signing into law (Agenda, 2012). Further, the bill has been criticised for its huge overlap with existing legislation. For instance some provisions of the WEGE Bill are an exact duplication of Chapter 5 of the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 (Vetten, 2012).

Limited enforcement mechanisms

Thirdly, limited enforcement mechanisms within the WEGE Bill has also been one of the major criticisms to this proposed legislation (POWA, 2012). According to the Section 12 of the bill, the Minister of Women, Children and People Living with Disabilities acting in the interests of women may institute dispute resolution mechanisms, including parliamentary procedures and court processes to address gender discrimination, non-compliance, contravention, or breach of any provisions of this Act. Non-compliance creates an offence for both the public and private sectors. For designated private bodies, if found guilty they could be fined up to 10% of their annual turnover. Directors of designated private bodies could also face imprisonment of up to 5 years.

Conflicting roles between CGE and Women's Ministry

Added to this, the failure of the bill to recognise the constitutional mandate of the Commission for Gender Equality (CGE) as an independent institution supporting constitutional democracy in terms of Chapter 9 of the Constitution is perhaps one of its greatest flaws. Arguably, this potentially weakens the position of the CGE as an independent institution set to strengthen constitutional democracy and advance gender equality in the country (Vetten, 2012).

Using the Long View in Public Policy

In light of the complexities and unpredictability of public policy, this study proposes (and makes use of) the use of the Long View approach to explore the challenges and prospects of the South African WEGE Bill.

The art of the Long View, is an approach originated by Peter Schwartz (born in 1946), a futurist, author and co-founder of the Global Business Network. According to Schwartz (1996), the Long View is about recognizing and embracing a new understanding of freedom which is unconstrained by the unpredictability of events. It is about taking into account social and technical upheavals that appear suddenly and surprisingly. This enables one to plan for the future with a more nuanced understanding of what the future might bring, thus making choices based on a deep and realistic sense of confidence. Recognizing the unpredictability of the future, Peter Schwartz defines freedom as the ability to act with confidence, with the full knowledge of uncertainty. This, he argues, can be achieved through looking ahead and considering the possible uncertainties. For example; "what challenges did the world present me? How might others respond to my actions" (Schwartz, 1991, p. 3).

In Peter's analysis there is no one official future. So, it is important that one is aware of what is going on in the world around them in order to be better equipped to make good choices for tomorrow. Central to the Long View theory is the understanding that, thinking strategically is about being better prepared for the future, not predicting it. The Long View allows us to explore deeply into the crucial shifts taking place today. By tracking trends, and stimulating dialogue, one can explore how change is unfolding in order to make considered choices today, for better outcomes tomorrow (Godet, 2000). According to the theory, it is important to take note of, and to understand the 'critical uncertainties', so that if they do happen, one is prepared to alter the course of their strategy.

Scenario planning is one of the tools which can help us to take a Long View in a world of great uncertainty. This multidisciplinary approach theorizes that only by stretching your mind and

seeing the world through the eyes and minds of those who do not think the way that you do, can one truly think strategically (Schwartz, 2011, p. 2).

Scenario Planning

This study used scenario planning to analyse the challenges and future prospects of the WEGE Bill. The choice of this method of inquiry is best for this study because the achievement of gender equality is in itself a long term goal which requires long term future planning. Gender inequalities between women and men have persisted for centuries long and how this is likely to be addressed in the future remains a complex challenge. Hence , in order to better understand the possibilities relating to the achievement of this goal in the future, a Long View inquiry using scenario planning is considered the best method in this regard. The innovative use of scenario planning in this study, allowed us to prospect the future of the WEGE Bill using an analysis of perceived driving forces likely to affect its future. Scenario planning is one of the most persuasive methods used to take a long view in a world full of great uncertainties.

According to Linz (2012) scenario planning is a well-established methodology in decision making and long-term planning. This is especially true in contexts where future conditions are highly uncertain. This study makes use of scenario planning as an approach to studying and planning for the future. Scenario planning originated as a technique used in military strategy studies. It was later transformed into a business tool for Royal Dutch Shell by Pierre Wack in the 1970s. Since then scenario planning has been used as a strategic tool to better prepare for the uncertainties of the future (Clawson & Grayson, 2008). The name 'scenarios' was derived from the theatrical term 'scenario', the script for a play or film. These scenarios are essentially stories about the way the world might turn out tomorrow, which help us to recognise and adapt to changes in our present environment (Schwartz, 1991). Thus, scenario planning is a tool for expressing the different pathways that might exist tomorrow and using these to plan appropriate responses in advance, should any of these pathways or potential futures play out Freeman (2009). The end result, therefore, is not an accurate picture or prediction of the future, but better and more informed decisions about the future.

It is important to understand that scenarios are not predictions of the future, rather they are about thinking and perceiving about the future in the present (Mietzner & Reger, 2004). Thus, the purpose of scenario planning is to create different alternative futures by taking note of the uncertainties inherent in any situation. According to Berkhout & Hertin, (2002) scenario planning is important in public policy as it allows policy makers to plan for the future taking into the changing internal and external environment, technologies and public attitudes.

Scenario Planning and Public Policy

There are various reasons why scenario planning is important in public policy making. Arguably, the use of scenarios can serve to help policy makers to make more informed strategic decisions (Waylen et al, 2014). This methodology is often employed to examine probable, divergent futures based on uncertainty about drivers of change. This allows policy makers to break from their dominant thinking and to see the future from different perspectives. Added to this, while scenarios are not predictions, but plausible and realistic pictures of the future, they can provide useful input for strategic debate concerning new policy or legislation, often challenging taken-for-granted assumptions when planning for the future. According to Freeman (2009), the key strength of scenario planning lies in the discovery of potential/possible futures, and how decisions made today could play out in years ahead. The ultimate goal of scenario planning, therefore, is to build flexibility into decision making, a critical factor in public policy.

In conclusion, the specific case of the literature reviewed above provides a number of insights from scholars about how gender mainstreaming policy is being practiced. It details on how ignoring the gendered nature of organisations and the presence of 'masculinist' tendencies can be stumbling obstacles to the implementation of gender mainstreaming policy. The literature further elaborates on how the conceptualisations of gender within different geographical contexts needs to be critically interrogated before being imposed on local communities. However, beyond this, the literature provided very little on what strategies governments or organizations are most effective in efforts towards turning gender mainstreaming policy into

practice. In spite of this, the literature reviewed above will provide a useful base to build on in exploring the challenges and prospects of the South African WEGE Bill.

CHAPTER THREE

3. RESEARCH METHODOLOGY

The scope of this research study is national, covering the period 1994 - 2014. The study uses a qualitative, exploratory approach. According to Hartley (2004) exploratory studies help us to understand what is happening around us as well as to explore new insights into the world. Further, the inductive approach was used in this study. To this end, qualitative data was collected and analysed in order to gain a better understanding of the research questions. This approach proved to be most ideal to this research study as it offered more flexibility and for alternative explanations to different phenomena. Hartley (2004) also supports this view by arguing that the inductive approach is more appropriate in instances where the research focus is more towards understanding why a particular thing or situation is happening or why it may happen. Since the focus of this study was on prospects and challenges, this approach proved to be most ideal.

Notably, the study makes use of scenario planning in order to explore the challenges and prospects of the South African WEGE Bill. This is important as it allows us to explore the prospective futures of the bill and their implications for policy making.

3.1. Significance of Research Design

This is a qualitative study. Qualitative research is important in that it is not only about gathering and reporting on non-quantitative data, but rather it emphasises on the careful and detailed description of social practice (Jackson, 1995). It also seeks to understand how research participants understand and experience their world. Miller (1997) posits that qualitative studies are important when trying to understand how institutions work including conducting a gendered analysis of how they function. This is important for this research as this study seeks to

assess the challenges and prospects of the South African WEGE Bill to advance gender equality in the country.

The use of scenario planning in the study is also valuable. Scenario planning is a useful planning tool that allows public policy makers to develop strategies for the future. For example, governments will often develop and implement well-intentioned policies and laws that are eventually tested by forces outside of government's control, such as environmental factors, technological innovation and shifts in society's values. When this happens, the policy or law may no longer be effective in the new environment. The scenario planning process therefore allows policy makers to consider these unknown and uncontrollable forces before moving forward with a law or policy. The important point here, being to develop a set of scenarios, which represent plausible futures. With these in hand, government authorities are better prepared for the future, no matter how it unfolds. Ultimately, this enables, policy makers to create policy which is robust and yet flexible.

The combined use of scenario planning and the feminist epistemological approach is also important. Feminist epistemological analyses challenges the notion that the study of knowledge is gender neutral. Arguably, when used as an analytical technique in scenario planning, feminist epistemology helps us to explore the role of gender in shaping our perspectives. Scenario planning has been criticized for its 'elitist' and 'sexist' (own emphasis) approach to knowledge development (Linz, 2012). Feminist epistemology on the other hand allows us to question and challenge tradionally held notions of men as the 'knowers' or what sorts of experience can count as justification of knowledge claims. Hence, the combined used of the feminist epistemology and scenario planning allows the study to make use of and to value both women and men as 'knowledge producers'. In this regard, the study endevoured to ensure a gender balance of the interview participants.

3.2. Research Design Limitations

This study uses the feminist epistemological approach which asserts that concoepts of knowledge are sociologically and historically variable. This is a limitation to be noted for both the study and the researcher who self identifies as a feminist. The folly here is in claiming that there is a distinct women's perspective that has exclusive insight into the nature of reality. This position risks the danger of wrongfully assuming the existence of uniform and universal experience by women and assumes that all women in all social or historical conditions share similar experiences of reality which is not true (Ramazanoglu & Holland, 2002).

Further, this study uses a case study design approach, with a specific focus on the South African WEGE Bill. Merriam (1998, p. 12) argues that the choice of a case study design is important where one seeks to gain understanding of a situation and *"where the process of inquiry rather than outcome of the research are of interest to the investigator*". Here, the 'case' is defined as a unit or entity which sets the boundaries in terms of how far the research will go. The scope of this study is national, using data derived from the period between 1994 – 2014. One of the main criticisms of the case study research design is that the findings of the research study cannot be generalised across a broader context and often only apply to the unit under study (Ellinger, Watkins and Marsick, 2009). This therefore, means that data collected and findings from this study may not be particularly useful or relevant beyond the context of the case study.

3.3. Research Assumptions

This study attempts to analyse a bill that has not yet been passed into law. Hence, the assumption is that in the interim, the substantive wording of the bill, as of the time of its passing by the National Council of Provinces will remain the same. Or at least any amendments made to the bill will not be significant enough to necessarily change the analysis of this study.

Another assumption of this study is that both government and civil society representatives would be willing to participate in the study and to make time for the interviews. Taking note of this, the researcher made use of already existing contacts and networks in the field. Having participated in the consultative processes of the bill, good contacts and networks were useful for purposes of this research study.

3.4. Theoretical Framework

This section establishes the theoretical framework, essential for analysing the South African WEGE Bill. This study locates itself within a feminist epistemological framework. According to Tickner (2001), feminist methodology is aimed at producing authentic knowledge on gender relations, with the hope of ending women's unequal position in society. The researcher also self- identifies and positions herself as an African feminist who believes in and advocates for gender equality. Acknowledging this right from the start will help keep the researcher constantly aware of and reminded to attempt to avoid any negative positional biases.

Ramazanoglu and Holland (2002) argue that the value of taking a feminist standpoint is in that, one is then able to analyse the connections between power and knowledge and to bring out the hidden power relations of knowledge production. The feminist perspective therefore places gender at core of the research inquiry. Since its emergence, feminist scholarship has sought to challenge patriarchal systems through adding feminist perspectives to what has traditionally been male biased research (Ramazanoglu & Holland, 2002). While they have been many versions and 'waves' of feminist scholarships, what is common among all these is that feminist theory, seeks to unpack the questions of what and why there are persistent societal inequalities along gender lines (Schneir, 1994). An important aspect of feminist methodology is that it builds into research the logic and need for change, a value which is central to gender mainstreaming. Tickner (2005, p. 3) argues that feminist research is "a distinctive methodological perspective" because it moves away from the predominant male biases in governance. It is however, important to ensure that these deliberate moves do not subsequently lead to unfair 'female biases'.

It is important to note, however, that feminism is not homogenous and that there is no such thing as a feminist theory, but feminist theories (Ramazanoglu & Holland, 2002). These theories sometimes have conflicting analyses and emphasis (Schneir, 1994), thereby necessitating an integrated approach in order to derive an in-depth understanding and analysis of the WEGE Bill. In light of this, this study will make use of gender mainstreaming as an apt concept for examining the South African WEGE Bill as the bill itself is said to use the same framework, as a conceptual basis and theoretical point of departure. Thus, in this theoretical framework, feminist development theories along with the scenario planning approach are used as a basis for analyzing the WEGE Bill.

Scenario Planning

This study makes use of scenario planning as an approach to studying and planning for the future. Scenario planning originated as a technique used in military strategy studies. It was later transformed into a business tool for Royal Dutch Shell by Pierre Wack in the 1970s. Since then scenario planning has been used as a strategic tool to better prepare for the uncertainties of the future (Clawson & Grayson, 2008). It is important to understand that scenarios are not predictions of the future, rather they are about thinking and perceiving about the future in the present (Mietzner & Reger, 2004). Thus, the purpose of scenario planning is to create different alternative futures by taking note of the uncertainties inherent in any situation. According to Berkhout & Hertin, (2002) scenario planning is important in public policy as it allows policy makers to plan for the future taking into the changing internal and external environment, technologies and public attitudes.

Application of the scenario planning framework

As Godet (2000) highlights, there is more than one approach to the scenario planning methodology. While this may be considered a weakness, the flexibility of scenario planning allows it to be applied to different disciplines. In exploring the future of the WEGE Bill, this study followed the process as described below:

Step 1: Identification of central question or issue

The central question was developed as follows:

"What are the challenges and prospects of the National WEGE Bill in the next five years: (in 2019?"

Step 2: Identification of uncertainties and key driving forces in the local environment

This process was undertaken through a document review of 15 Parliamentary submissions on the WEGE bill and analysis of 18 questionnaires from representatives from government, civil society and the private sector. The aim of this stage was to identify and explore how drivers of future change may influence the current socio-ecological system in which the WEGE bill will operate.

Step 3: Ranking of key factors and driving forces by importance and uncertainty

The ranking of key factors was done based on two criteria: the degree of importance for the success of the central issue identified in Step 1, and the degree of uncertainty surrounding those factors or trends.

Step 4: Selecting scenario logics and fleshing out the scenarios

Based on the results of the ranking exercise, the axes along which the eventual scenarios would differ were developed. This step also included a written description of the future scenarios, narrating how the driving forces and the different variables connect.

Step 5: Providing implications based on the central question

Once the scenarios were developed, the researcher reverted back to the central question to explore the implications of each of the identified scenarios.

The two-by-two matrix

This is the most commonly used framework in the dimensions of uncertainty approach to scenario planning. In this technique, scenarios are developed based on the narrowing down of two uncertainties from a wide range of key variables or environmental elements to the central question. Scenarios are then developed in each of the quadrants, representing two high end

impact and highly uncertain factors in the four different ways they could play out in the future (Ramirez and Wilkinson, 2013). The main reason for choosing the two-by-two matrix was out of the realisation that many other techniques for developing scenarios came from military or business settings, and thus might be difficult to use with government and civil society stakeholders

Why scenario-planning

Allows for participation of different stakeholders

Scenario planning is thought to be useful in this study for several reasons. The process allows the researcher to bring together and reconcile different knowledges, and to discuss aspirations of government, civil society and private sector stakeholders over the perceived futures of the WEGE bill. It is also hoped that the resulting scenarios from this scenario planning process, can help to stimulate discussions among the different stakeholders on how they may respond to future challenges. This will also allow them to negotiate conflicts and identify common goals and interests.

Flexibility in its implementation

Additionally, the scenario planning methodology is best suited for this study as it leaves much scope for flexibility in its implementation. This methodology was developed to encourage stakeholder participation in thinking about the future of an important bill in South Africa. However, not every aspect of the methodology was carried out will the full participation of the identified stakeholders due to practical constraints on the amount of time and resources available to conduct the study. There was also a need to avoid stakeholder fatigue.

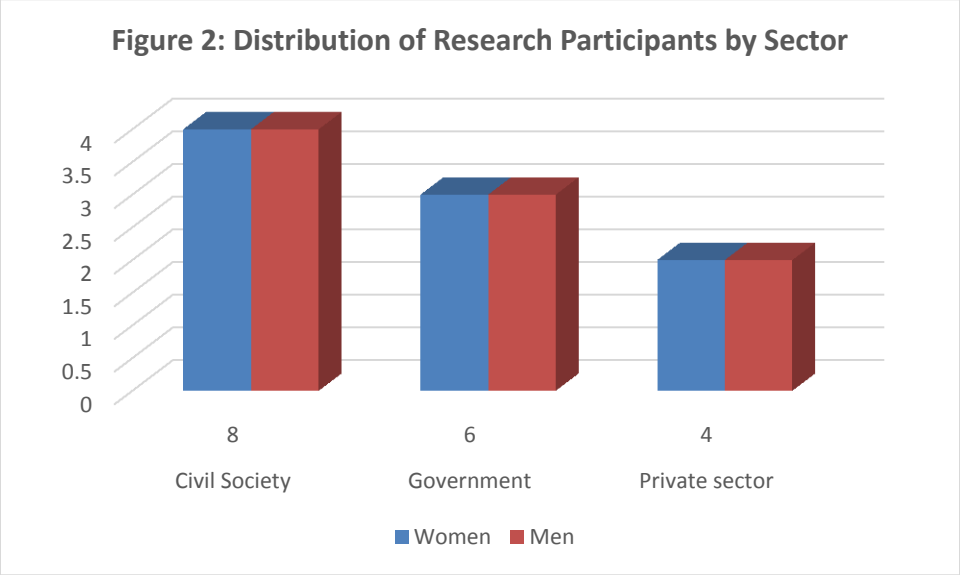
3.5. Data Collection

Two distinct techniques were used for data collection in this study namely document review and interviews. While these data collection techniques are described as separate, it is important to note that in practice they are likely to overlap and be mutually supportive of one another.

Questionnaires

Twenty questionnaires were distributed, and out of these, eighteen were received back with completed answers, while the other two were received back incomplete (these were still used in the study). These were either self-administered by participants or completed by the researcher through an interview processes. Out of the twenty questionnaires, (ten) 10 were women and ten (10) were men. It was important to ensure equal numbers of male and female participants so as to ensure equitable representation and voices to inform the study. Since the context of the study was national, all participants were drawn from South Africa.

The distribution of the research participants by sector is illustrated in Figure 2 below;



Source (own)

Respondents were selected using purposive and convenience sampling on the basis of accessibility, local networks and availability. Government representatives were selected on the basis of their knowledge and direct involvement in the drafting and consultative processes of the bill. Civil society representatives were mainly those from organisations who made submissions to Parliament on the bill. The key purpose of the questionnaires was to identify

and explore their views on what they perceived to be the challenges and prospects of the WEGE Bill.

Document Review

The documentary analysis involved reviewing fifteen written submissions presented to the then Portfolio Committee on Women Children and People with Disabilities. In December, 2013 the Portfolio Committee invited interested individuals and organisations to submit written comments to them on the WEGE Bill. In keeping with the Committee's mandate, public hearings were subsequently held with the intention of providing a platform for the public to present their views, concerns and recommendations about the bill. This analysis made use of the following written submissions from 15 institutions namely; the Commission for Gender Equality, Centre for Constitutional Rights, Sonke Gender Justice Network, Centre for Law Society, Sex Workers Education Advocacy Taskforce/ Sisonke, Community Law Centre, Centre for Applied Studies and The Centre for the Study of Violence and Reconciliation, Business Unity of South Africa, Justice Alliance of South Africa, Freedom of Religion in South Africa, Tshwaranang Legal Advocacy Centre, Foundation, Women's Legal Centre, Business Women's Association of South Africa and Wits Institute for Social Economic Research. According to Kronsell (2006) narratives found in documents and reports are a good source for unpacking gender dynamics within structures and institutions. Hence, this data collected from the submissions was used to supplement interview data.

3.6. Data Analysis

Various approaches and methodologies have been developed and used to facilitate and analyse gender mainstreaming. These approaches range from individual initiatives, to detailed holistic approaches. This study makes use of discursive analysis and morphological analysis as approach es to analyze data collected.

Documentary Analysis

Documentary analysis using discursive analysis of texts and interviews was used as the main tool of analysis for this study. According to Kronsell (2006), narratives derived from documents

and reports are a good alternative to deconstruct gender dynamics within institutions, and provide the opportunity to unpack masculinist tendencies which often silence discussions of gender within institutions and structures. Thus, a discursive analysis of the WEGE Bill and submissions thereof was useful in problematising masculinities within the bill and also assist in finding solutions for challenges faced in mainstreaming gender in South Africa. Added to this, discourse analysis allows for the interrogation of who dominates, and how power and control are expressed and regulated through language (Wodak and Meyer, 2001). Hence, the text and language used in the bill was analysed to explore the power dynamics thereof.

Morphological Analysis

To stimulate a thorough consideration of how each identified driving force could potentially affect the future of the WEGE bill, the variables and factors previously identified by the different stakeholders, a technique called "morphological analysis" was used to systematically consider how stakeholders think these variables may be affected by each driver (Godet, 1994). This is one of the techniques proposed by Michel Godet. Morphological analysis refers to the process of systematically considering what will happen to each variable, if a driver takes a particular state (for example, "What will happen to the WEGE bill, if there are changes in the current political administration, "What will happen if there are further budget cuts in gender and women rights work?"). Once the combination of variables and 'states' to fit into the archetypes has been selected, scenario narratives are then created.

3.7. Ethical Considerations

The researcher has been working as a gender practitioner, particularly in the field of gender advocacy within the South African context since 2008 and was extensively involved in the consultative process of the WEGE Bill. This involved participation in both government and civil society-led forums on the bill. It was therefore a given that some of the participants in the study would be well known and familiar to the researcher. This raises an obvious ethical issue around how to ensure informed voluntary consent by participants. By virtue of being known to

the researcher, there was the likelihood of additional perceived pressure on participants to participate in the study as they may feel awkward in declining a request to help with the study. It was therefore important for the researcher to make it clear to all potential participants that there was no pressure to participate. Additionally, emphasis was made to the effect that those who did agree to participate were free to change their minds at any point without having to give a reason even after they have participated in the research activities. Participants were also informed that they could choose to withdraw from the study at any time.

Another ethical issue arose from the fact that some participants expressed discomfort in being interviewed on behalf of their organisations. This could have been either as a result of the possibility of changes in organizational positions or being unsure about having the names of their organisations associated with the views they express in the research study. In this regard, participants were given the option to choose whether they want to be interviewed as representatives on any specific organization or in their individual capacities.

CHAPTER FOUR

4. RESEARCH FINDINGS

This study seeks to explore the prospects and challenges of the WEGE Bill. It is therefore important to begin the findings section with a synopsis of the provisions of the bill. A more detailed description of the bill is provided in Annex 1.

WEGE Bill: Overview

The WEGE Bill affirms the country's commitments to promote human rights including gender equality and prohibition of discrimination on the basis of gender. The bill applies to all designated bodies and persons from both public and private sectors and all state organs and persons.

The objectives of the bill are to:

- Give effect to the values of non-racialism, non-sexism and equality as contemplated in the Constitution.
- Facilitate the participation and equal representation of women in decision making positions and structures
- Prohibit a practice that unfairly discriminated on grounds of gender as contemplated in section 8 of the Promotion of Equality and Prevention of Unfair Discrimination Act,200 (Act No.4 of 200) and
- Facilitate compliance with the country's commitment to international treaties (p.12)

The bill provides measures to empower women and to eliminate discrimination. Of particular note in this regard are provisions such as clause 5 which provides measures on how to implement gender mainstreaming and gender budgeting, clause 6 on economic empowerment and clause 7 which covers Equal representation and participation. The bill also outlaws and

makes punishable any practice that unfairly discriminates on the grounds of gender as outlined in section 8 of the PEPUDA (Act No, 4 of 2000)

Further, the bill details the role of the minister to coordinate and promote the achievement of substantive gender equality in the country. Under the bill the minister may issue a directive to an organ of state to take action if the minister if the minister believes that the organ of state is not complying with the provision of the bill.

Clause 14 provides that the minister may publish a code of good conduct on women empowerment and gender mainstreaming through a notice in the government gazette. Clause 15 provides that the minister may publish norms and standards on women empowerment and gender mainstreaming through a notice in the government gazette.

Regulations are covered in clause 16 which provides that the minister may make regulations on women empowerment and gender mainstreaming through a notice in a government gazette.

4.1. Challenges and Opportunities of the WEGE Bill

These findings were derived from a combination of scenario planning and the feminist epistemological framework. Responses were analysed from the parliamentary submissions and those given by the participants on what they considered to be key factors and presenting as challenges and opportunities that are likely to influence the future of the South African WEGE Bill.

Bill displays good intent and purposes

Over 70% of respondents and submissions acknowledged and supported the purpose and intent of the bill in so far as it sought to support and give effect to Section 9 of the Constitution which pushes for the promotion of women's empowerment and the achievement of gender equality. While South Africa already has laws and policies that seek to address gender inequalities and promote women's empowerment, the bill was seen as providing an opportunity to legislate on areas or gaps not adequately covered by the other pieces of

legislation. Some of these areas include: women's political representation, women's economic empowerment and women and health. South Africa currently does not have a women's health policy and some respondents argued that this could have been a good opportunity to address this.

Another positive opportunity identified was the fact that the bill zoomed into a specific target group: women; a measure that was seen as positive step in dealing with the unfair discrimination and stark inequalities between men and women. If the bill maintained this specificity, it could potentially become an instrument of transformation, advancing the realisation of the rights of women as entrenched in the country's constitutional values of equality, non-sexism and human dignity, equality and human freedoms.

Legal contradictions

At least 80% of the responses presented the view that the WEGE Bill was riddled with a number of legislative contradictions. Arguably, some of the objectives of the bill had the potential of controverting some provisions of the Constitution. For example, some representatives from the religious sector were of the view that the objective on the need for meaningful participation of women in decision making structures and the progressive realisation of 50% representation of women if applied to religious and cultural bodies, would infringe on the rights to freedoms associated with religion and cultural practices. Women, would for instance be expected to take up leadership positions, which in some circles is interpreted as being contrary to religious doctrines.

A dublication of already existing legislation?

Another legislative concern that was raised was the duplication and conflict with other laws potentially presented by the bill should it be passed into law. All responses (except for two) and written submissions pointed out to the challenge that the bill was duplicating already existing laws and policies. These included the Employment Equity Act and the BBBEE Act and the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) which participants argued were already struggling with implementation. Some of the duplications were with respect to gender mainstreaming and strategies identified for women's empowerment, the powers of the minister of labour in terms of the Employment Equity Act and the powers of the

Minister of Justice in PEPUDA. It was therefore recommended that the first step should have been to review the existing legislative framework on the promotion of gender equality and women's rights. This process would have been important to inform whether there was need for a new piece of legislation or not. About 60% of respondents and submissions were of the view that the bill was not a necessary addition to the country's legislative framework;

> *"I don't think this bill was necessary, it is essentially a reiteration of what already exists in other laws. What they merely did was to bring an Act that' replicates other pieces of legislation which really doesn't make any sense".* (Interview, 20 November 2014)

Arguably, what could have worked best would have been a transformation of already existing legislation to ensure that critical areas towards achieving gender equality are covered.

Conflicting roles between CGE and women's ministry?

Another legal shortcoming of the WEGE Bill identified by at least 90% of the respondents and submissions was the potential conflict between the powers of the Commission on Gender Equality (CGE) and those prescribed for the designated Minister of Women. The general view expressed was that the bill created much uncertainty with regards to the powers between the two as in some instances the bill tended to duplicate the mandate of the CGE as provided for in the CGE Act. For example, while the CGE is currently mandated with constitutional oversight powers on government entities, this function seems to have been conflicted by the bill in its designation of similar powers to the Ministry of Women. One respondent has even argued that; "90% of the powers allocated and afforded to the Minister in terms of the bill belonged to the CGE" (Interview, 16 October 2014).

However, the then Department of Women, Children and People with Disabilities (DWCPD) objected this view, arguing that there was no duplication as different roles and responsibilities apply to the CGE and to the ministry. The ministry's mandate was defined as that of women's empowerment, which is a means to gender equality. This role included the development of guidelines, research, monitoring and evaluation to develop policy as well as to set the gender equality and women's empowerment agenda in cabinet. The CGE, on the other hand was

considered an independent body tasked with the responsibility of monitoring and evaluating the practices of organs of the state. These were seen as distinct and separate roles and responsibilities.

Given the above, there still needs to be further engagement in better clarifying the constitutional implications of the DWCPD's authority over the CGE and how these interact. Added to this, it is imperative that the constitutional mandate of the CGE is respected and supported by the bill in order to avoid the existence of parallel mechanisms and a possible erosion of the functionality of the CGE.

Failure to adhere to regional and international law

Varied views were expressed as to how the bill made use of regional and international commitments made by the country in advancing women's rights and gender equality. While some respondents acknowledged and supported the references that the bill made to regional and international women rights law South Africa has committed to, some saw this reference as not necessarily advancing anything new. One respondent noted that the bill failed to closely align to the articles set out in the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) which seek to address the systematic discriminations against women through the provision of comprehensive guidelines for women's empowerment and gender equality, including the need to effectively deal with patriarchy. More so, the Maputo Protocol also specifically addresses the issues of patriarchy, traditional and cultural practices that hinder women's empowerment. However, contrary to the provisions of both CEDAW and the Maputo Protocol, the bill only acknowledged patriarchy as a hindrance to the realisation of gender equality, but did not adequately set out strategies on how to deal with this.

Furthermore, in light of Article 2 of the SADC Gender and Development Protocol which requires state parties to harmonise national legislation with relevant regional and international instruments relating to women's empowerment, the WEGE Bill did not live up to this requirement. This is further compounded by earlier discussions on the bill's failure to harmonise with existing domestic legislation.

Bill fails to address negative socio-cultural norms

Drawing on discussions above, patriarchy has been identified as one of the major obstacles to achieving the goal of gender equality in society. As previously mentioned, while the bill does make reference to patriarchy as a hindrance to achieving gender equality, limited resolve is provided to deal with this. Despite the title of Clause 9 "Measures to empower women and eliminate discrimination", the bill contains no substantive provision to challenge or address patriarchy. Further, not much attention is given towards addressing socio-cultural norms and behaviours that perpetuate and enable gender inequalities to persist in society. One respondent noted that there were concerns with the levels of understanding of what patriarchy really is and how it ought to be responded to in the country:

> *"I don't think there is any clear understanding of what patriarchy really is and how the country should deal with it. It is disheartening to see top politicians publicly expressing very stereotypical and gender insensitive statements and nothing is done about it. We expect the Ministry of Women to act and to take a stand against these but we are seeing no such…and we are beginning to ask ourselves if they themselves understand what patriarchy is and how serves as a structural barrier to (the achievement of) gender equality"* (Interview, 27 November 14)

This view is further corroborated by Caroline and Annalise Moser's (2005), who concluded that 'cultural' resistance as a result of imbedded patriarchal systems was one of the main reasons for limited implementation of gender mainstreaming policy.

The bill has also been criticized for assuming full responsibility on women in dealing with this social dilemma, a move that is interpreted as limited in trying to realise true social transformation. This is contrary to what previous literature has celebrated as one of the successes of gender mainstreaming, that is, the inclusion of men in debates and solutions towards gender equality (Inglehart (2010). Undeniably, men have an equal responsibility to play in addressing patriarchy and to work towards more inclusive social solutions and collective social responsibility.

Furthermore, 54% of respondents and submissions criticised the bill for its failure to recognise and acknowledge women's diversities, with varying identities and experiences. Instead, the bill deals with women as a homogenous group, and responses were not tailored towards addressing the particular marginalisation of different groups such as sex workers, rural women, lesbians, migrant women etc. This narrow focus was also critisised by (UnmuBig (2009) who suggested that broader social transformation initiatives that take into cognizance women's diversities are key to the success of gender mainstreaming. It was thus suggested that the bill deal with this linear approach and adopt an intersectional approach to discrimination so as to cater for the differential needs of all women.

No social transformation initiatives to support GM

Further, gender mainstreaming is often criticised for its one-sided focus on institutions. While the role of key decision makers in government ministries and in private institutions are important in promoting gender mainstreaming, this approach is not supported by broader social transformation initiatives which are key to the success of gender mainstreaming. This is a view also shared by UnmuBig (2009).

Over emphasis on empowerment through the formal economy

The WEGE Bill has also been criticised for its over emphasis on women's economic empowerment through the formal economy. While Clauses 7 and 9 of the bill include measures which are focused on the lives of women in senior positions in formal employment (which is important) however, little is included to address the empowerment of women who are either working in the informal sector or unemployed. This is limiting. While about half of the respondents were of the view that an emphasis on the economy based on gender equity was laudable, the other half of respondents were of the view that an over emphasis could potentially lead to limited attention and focus on other areas critical to the advancement of gender equality. Moreover, emphasis on women's increased participation in the formal economy as compared to women engagement in other informal economic activities is limiting. The bill did not adequately take into account and support women's roles within their families, communities and as entrepreneurs. Thus, a recommendation was made that economic

empowerment ought to facilitate women's increased participation both in formal employment and access to markets.

No costing of the bill

Another weaknesses of the WEGE Bill is that it has not been costed or budgeted for. According to Razavi (1997) securing adequate resources and budgets is central to the successful implementation of laws and policies. Added to this, the DWCPD, the then ministry mandated with oversight of this bill has in the past expressed challenges of being under-resourced. Thus, if the ministry is already facing budgetary challenges, there is very little reason to believe that it will have adequate resources to ensure the effective implementation of the WEGE Bill. This is of great concern, especially in light of Persadie (2012) argument that while laws and policies are often perceived as instruments for social change, they are not adequate on their own. There is need to complement these with the necessary financial and human resources to make the laws and policies effective.

Furthermore, the Portfolio's assumption that the bill would not have significant direct financial implications due to existing structures that are already being funded as stipulated in Section 6 (3) is problematic. Government DPSA audits have shown that every department does not currently have a gender focal point. More so, the requirement made by the WEGE Bill to elevate existing gender focal points to senior management positions would cost additional resources, hence costing of the bill needs to be reworked if implementation is to be effective.

As previously noted, Aruna Rao in Bryan and Varat (2009) also argue that the mere adoption of a gender policy or establishment of a gender unit or desk in an institution in the name of gender mainstreaming is problematic. This, he argues has sometimes been used to reduce or stop funding for work related to women's empowerment. As a result, the transformational change hoped for through implementing gender mainstreaming has not yielded the expected outcomes. Thus, if this strategy is to garner any measure of success through the WEGE Bill, it is important to ensure that adequate financial and human resources are allocated to this end.

Limited public consultations on the bill

Previous literature points to the critical need for effective public consultations and engagements during public policy making processes relating to gender mainstreaming (Progl, 2009). Of particular note is how this has played out in the South African context in relation to the processes of the WEGE bill. All the civil society respondents raised concerns around limited public consultations on the bill. Most respondents noted that they only came to know about the bill only a few days before the deadline for parliamentary submissions. This did not allow them adequate engagement with the substance of the bill. This concern was also mentioned by more than 50% of the parliamentary submissions.

Bill serving individual and political interests?

Political party affiliations or the individual interests of public authorities may have a direct impact in public policy making processes. This seems to have been the case with the WEGE Bill. It has been argued that the creation of a women empowerment and gender equality bill was a largely politically calculated move by the then Minister of Women, Children and People with Disabilities, Ms Lulu Xingwana. As one respondent explains:

> *"…the pushing of the WEGE Bill was a direct move for political survival by minister Lulu Xingwana. I believe it was a self-serving move to create a legacy for herself, or perhaps to secure political space in the 2014 Zuma Cabinet, even though this eventually did not work for her"* (Interview, 19 November 2014)

In light of this, some respondents argue that the hasty decision by the then minister to rush this bill was an uncalculated move, leading to weak conceptualisation and many compromises made in the process.

UnmuBig (2009) argues that the top down approach often used in gender mainstreaming has the limitation of being manipulated for selfish reasons and domination. Progl (2009) also raises the risk of leaving letting the state drive the process of gender mainstreaming which may inadvertently lead to pushing of political party interests due to the bureaucratic rationale.Following the May 2014 elections in South Africa, some ministerial shifts were made leading to two major changes that would have an impact on the future of the Bill. Firstly, the

then Department of Women, Children and People with Disabilities was dissolved and a new ministry of women was established under the presidency. Secondly, Ms. Susan Shabangu was appointed to head the new Ministry. Not much information or updates have been given regarding the status of the bill since then. Of note, were the words of the new minister during a Consultative meeting on the 16 Days of No Violence Against Women, in November, 2014, where she expressed the mandate and focus of her ministry as being to provide guidance in the advancement of gender equality and women's empowerment (through already existing frameworks) and not to create new legislation. Whether this was in any way directly linked to the future of the WEGE Bill remains to be seen.

Most respondents also alluded to the view that the future of the WEGE Bill is largely dependent on the political context and landscape:

> *"It's hard to tell what will happen to the bill, it really depends on the new Minister, and what her priories are and whether she sees this as important. Already the fact that she has not yet said anything about the bill to date says a lot…the bill seems to be dying a slow death"* (Interview, 11 November 14).

> "The *change of administration comes with different priorities and seems to think that there is adequate legislation promoting gender equality and women empowerment."* (Interview, 19 November 2014)

> *"My sense is that the Women's Minister will subject this bill to extensive internal scrutiny and review before bringing this back to cabinet and thereafter tabling this anew to Parliament. It will probably take a full year before we see this bill back…"* (Interview, 21 November 14)

The views above point to varying opinions on the perceived political impacts on the WEGE Bill. While acknowledging the fundamental impact of these political factors, it is also important to consider the role of civil society and other interest groups in influencing the future of this bill.

According to Jahan (1995), Civil society organisations are a key player in providing knowledge and appropriate language on gender issues. They may also undertake advocacy initiatives that seek to hold governments accountable for the commitments and standards that they set. In light of this, one could argue that the extent to which civil society organisations will consider the future of this bill a priority in relation to their other areas of work will determine the amount of effort they will put in pushing for it, including how they want to see the process unfold.

4.2. Prospects of the WEGE Bill

The process of scenario planning starts with looking for driving forces or trends that influence the research question. Once the combination of variables and 'states' to fit into the archetypes has been selected, scenario narratives are then created. In this case, the driving forces or trends were derived from factors identified as challenges and opportunities of the bill discussed above. A two by two scenario matrix was then used based on two critical uncertainties to come up with four distinct futures or prospects for the WEGE Bill.

Identifying the Drivers of Change

In following with the scenario planning method, the next step after analyzing the various challenges and opportunities (as identified through the questionnaires and parliamentary submissions) of the WEGE bill was to use these to explore the driving forces that could potentially affect the future of the WEGE bill. This process involved a systematic consideration of what could possibly happen with each variable, should a driver take a particular state.

Following a preliminary analysis of the challenges and opportunities of the WEGE Bill, study participants were asked a follow up question to explore how the different variables and drivers could potentially affect the future of the WEGE Bill. In doing this, previous literature suggests that it is important to consider what is termed the 'STEEP' categories namely: Social,

Technological, Economics, Environmental and Political. This ensures that the scenario planning process is not biased towards one type of driver (Freeman, 2009). From this process, a combination of variables and 'states' to fit into archetypes from which the scenario narratives was created. The results of this assessment are presented in Table 1 overleaf.

Figure 3: Driving Forces of the WEGE Bill

Driver	**Detail of driver and the different states it could take**
A change in political administration	This could be either through the complete ousting of the ANC during the 2018 elections and the emergence of a new ruling party or the ANC still wins the elections but shifts are made in cabinet posts **Implications:** (state i) Renewed political will in promoting the bill (state ii) status qou is maintained (state iii) Little or no political will in pushing the bill
Legislative changes	Audit of existing legislation undertaken in order to ascertain need for new legislation (WEGE Bill) **Implications:** (state i) Need for WEGE Bill is ascertained and bill is passed into law (state ii) Gaps in current existing legislation are identified and addressed through amendments (state iii) Dublications between WEGE Bill and current existing legislation ignored
A change in amount of resources allocated towards gender equality	Budgetary changes allocated towards gender equality measures could affect the quality of gender equality measures Implications (state i) WEGE Bill is passed or other commitments towards gender equality are made and adequate financial resources are allocated towards implementation (state ii) Reduction of budget allocated towards gender equality and WEGE Bill process abandoned altogether
External pressure to change	The WEGE bill came about as a direct result of international pressure from the CEDAW Committee. This pressure could potentially increase through the same or other international human rights mechanisms and CSOs **Implications**: (state i) civil society increases pressure on government to meet its gender equality commitments (state ii) Piecemeal commitments towards gender equality are made with no follow through or adequate resources allocated towards implementation

(Source: own)

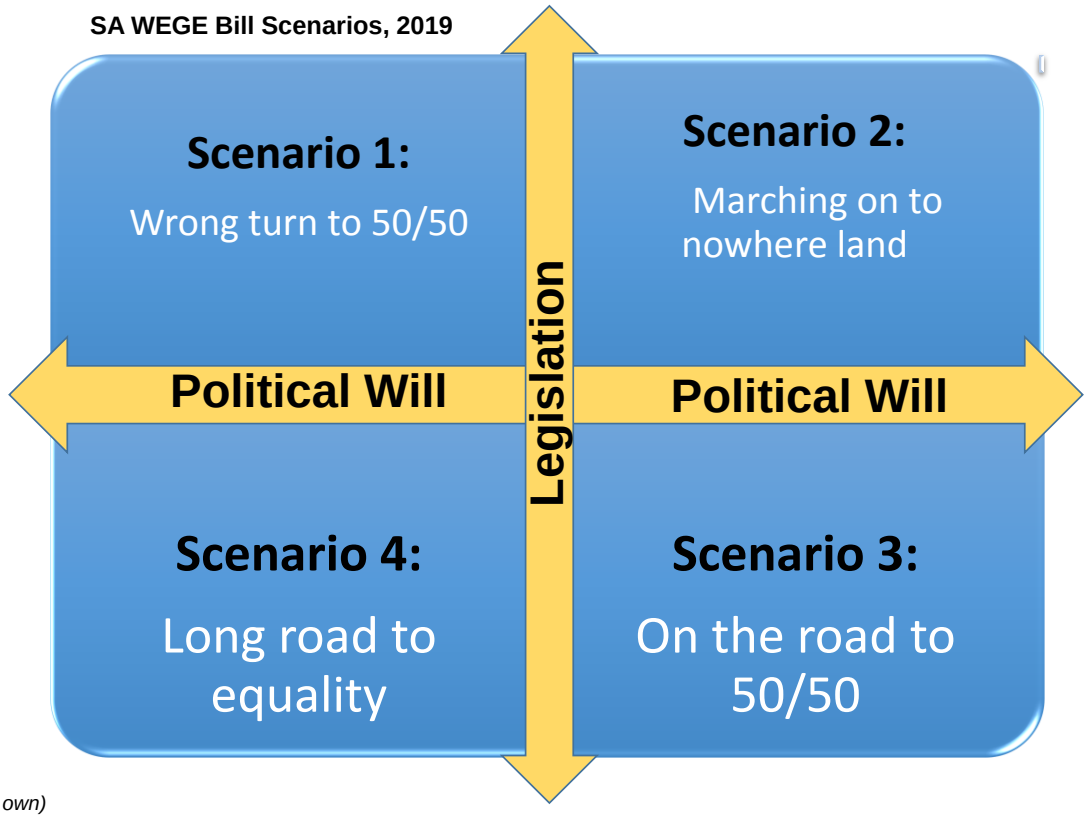
Based on the results of the assessment above, two main driving forces namely; 'political will' and 'legislative changes'. The ranking of driving forces was done based on two criteria: the degree of importance for the success of the central question, and the degree of uncertainty surrounding those forces or trends. Morphological analysis was then used to systematically consider what could possibly happen to the variables, if each of the two main drivers took a particular state. Specifically, in light of the following possibilities:

I. What will happen to the WEGE bill, if there are changes/shifts (or not) in the current political administration? Or if the system remained the same?
II. What will happen if legislative changes were made based on identified gaps between current legislation and WEGE Bill?

Once the combination of variables and 'states' to fit into the archetypes had been selected, scenario narratives were then created using a two by two matrix and are represented in figure 4 overleaf.

Figure 4:

SA WEGE Bill Scenarios, 2019



(Source: own)

Scenario Narratives

I. ***Wrong turn to 50/50*** describes a situation where, no further engagement with the Bill takes place, due to lack of interest and political will from both government and civil society. The Ministry of Women concentrates on other areas of interest and prioritises these. There is also no public pressure around the Bill and therefore the Bill dies a natural death. During the build up to the 2019 elections, some of the opposition political parties use the demise of the bill to campaign against the limited prioritisation of gender equality by the ruling party. The ANC is taken aback by this turn of events, and even though they do win the elections, a new minister is once again appointed to head the Ministry of Women with the hope that he/she will cover up what will now be perceived to have been the 'failures' of the previous minister.

Policy implications: Because the ruling party is more concerned about its increasing lose of power and it tries every effort possible to regain this. This leads to piecemeal commitments towards the advancement of gender equality, with no real sense of political commitment or social transformation.

II. In ***marching on to nowhere land,*** the new Ministry of Women is pressurized to continue with the processes of the WEGE Bill due to increased pressure and as a directive from the current ruling party. No further engagements are taken and the Bill is passed in its current form. Duplication of existing laws remains and the country is stuck with new legislation that does not necessarily bring anything new to the table. Confusions between the role of the Commission on Gender Equality and the Ministry of Women start to show, with the functionality of the CGE increasingly threatened. Gender inequalities persist, with little or no changes to the status quo.

Policy implications: Because the continuation of the process of the bill are as a result of adhering to political party interests, the institutions that are set to drive this process have little or no commitment to ensuring the success of the WEGE Bill. Little effort is put towards social transformation or adequate resources for the implementation of gender mainstreaming, hence no real changes in society.

III. ***The Long road to equality*** is a story that plays out where civil society organisations and other interest groups see the creation of the new ministry as an opportunity push for the reintroduction of the processes of the bill in order to ensure that their interests are taken into account this time around. As a result, political pressure on government and particularly the new ministry mounts and forces them to take action. A review of current legislation is conducted and consultations are done with key interest groups to determine the feasibility of continuing with the Bill. A decision is taken that current legislation is strengthened and transformed rather than the promulgation of new legislation.

Policy Implications: Due to limited political will, there is no costing or adequate allocation of resources to ensure the effective implementation of legislative amendments made. This leads to poor implementation of laws and policies and continued civil society pressure around this. As a result, government may be pushed to do another ministerial shift in the women's ministry before the next elections leading to the appointment of a new minister.

IV. ***On the road to 50/50*** depicts a scenario where the current government displays renewed political will and commitment towards the advancement of gender equality and women's empowerment. Hence, the WEGE Bill is picked up again but this time due processes are followed in a democratic and engaging manner. The bill is brought back for public consultation where all views are engaged with and taken into consideration. A review of existing legislation and policies is undertaken in order to identify gaps and the new Bill is used to address these without any risk of duplication or over lapse of roles. The Bill is costed and adequate resources are allocated towards its implementation. South Africa seems set and on the road towards achieving gender equality and women's empowerment.

However, this state of affairs may be threatened by the elections in 2019, which though highly unlikely may see the rise of an opposition party into power who due to increased international pressure and in the quest towards sustaining the female votership will continue or even introduce an even more aggressive approach towards gender equality.

Policy Implications: Government pro-actively takes a stand to ensure that all the necessary pre-requisites for the success of gender mainstreaming are in place. These include a demonstration of strong political will from leadership, the promotion of a culture of gender equality, strengthened collaboration and engagement with civil society and the private sector and the availability of adequate funds to sustain long term commitment to gender equality, among other factors. South Africa is set towards becoming a flagship example of successful gender mainstreaming.

Scenario Analysis

Evidently, the prospects of the WEGE Bill are varied. The above scenarios tell us of four possible futures for the bill in the next five years. According to Linz (2012) scenarios are not about predicting the future. Rather, they are views on what different driving forces and chains of events may affect the future. Scenario planning also helps policy makers to anticipate covert weaknesses and uncertainties that may have an effect on public policy development and implementation (Volkery & Ribeiro, 2009). Without necessarily predicting which of the above scenarios is likely to take place or the most preferred prospect, it hoped that the use of these scenarios will assist policy makers in South Africa. Essentially, through helping them to anticipate weaknesses and gaps, identifying signposts and act quickly to reduce their impacts more effectively than if they had to deal with these unexpectedly or in an emergency.

From a policy perspective, the most preferred scenario for South Africa is scenario 4: *On the road to 50/50*. This is mainly because this scenario allows for the opportunity to re-assess what has been working and what has not been working as well as come up with relevant and appropriate policies and laws to address systematic gender inequalities. In the long term, this scenario is also the most cost effective as it directly addresses issues of duplication of existing legislation as and conflicting roles and responsibilities. What will make it possible for this scenario to play out will be a strong political will from both government and civil society groups to collectively work together towards the common goal of advancing gender equality.

Based on these and other findings of the study, the next chapter details on some conclusions and recommendations for future policy making on gender equality and women's empowerment in South Africa.

CHAPTER FIVE

5. Conclusion and Recommendations

The efforts made by the South African government over the past twenty years to address gender inequalities and the disempowerment of women in the country are notable. A number of legislative reforms have been made including the creation of an enabling institutional framework to facilitate the progressive realisation of gender equality and women's empowerment. However, despite these changes and reforms, there has been little changes in the lives of women across the country. This creates the need for more efforts to be made, but whether the WEGE Bill could be the panacea that South Africa needs to address these impeding challenges has been the focus of this study. Some of the learnings and conclusions of the study are further discussed below.

The use of scenario planning in public policy making

The findings of this study have shown us the value of using the Long View theory in public policy making. The Long View approach is important in public policy as it allows policy makers to plan for the future with a more nuanced understanding of what the future might bring, thus making choices based on a deep and realistic sense of confidence (Schwartz, 1991: p3). The challenge with the WEGE Bill as it currently stands is its short sighted focus. Thus, the use of a policy instrument such as scenario planning, used in this study, was important in helping us scrutinize the future prospects of the WEGE Bill. Arguably, if policy makers take note of and understand the different scenarios of the bill (and the implications there of) they will be better prepared to make strategic decisions about the future.

This study used scenario planning as a method of inquiry to examine the future of the WEGE Bill. One of the challenges in policy making and more so, with this bill is its short sighted view. Previous literature has pointed out the value of using the Long View in public policy making as it allows us to see the future from different perspectives. Once policy makers can anticipate and understand the future, they are better prepared and are bound to make more informed

decisions about the future. A Long View approach is important in processes such as the WEGE Bill which seek to promote gender equality. The achievement of gender equality is a long term process and therefore requires a long term approach into the future. According to the World Bank (2012), the realization of this goal leads to improved prospects for future generations and strengthens economic, political and social systems. Hence, while scenario planning (which is the Long View instrument used in this study will not give us a prediction of the future of the South African WEGE Bill, but it is hoped that it will provide us with useful input to help prepare and make strategic decisions moving forward.

Need for broader consultations on the WEGE Bill

The South African WEGE Bill proposes the use of the gender mainstreaming approach in advancing gender equality in the country. Both the literature and findings of this study have proven that gender mainstreaming is not a simple and straight forward task. It requires a multi-sectoral approach from both above and below. Given this, it is therefore critical that any decision as to whether the promulgation of the WEGE Bill is the best approach towards realizing this end is taken with the full consultation and engagement of the broader society. If done, effectively the consultation process can assist in deterring political dominance and the pushing of individual self-interests. According to UnmuBig (2009) in order for institutions to transform there is need for broader societal movement driven from grass root level that pushes political pressure from below. In this way political decisions are likely to change when this need for change comes from society itself.

According to Persadie (2012) public consultation is a critical component of the policy making process. Effective consultation processes are essential for better quality policy decisions and contribute to enhanced accountability. Furthermore, according to the Gender Management System Handbook, one key pre-requisite to effective gender mainstreaming is the need for a broad-based partnership between government and other key stakeholders, including the private sector and civil society (Gender Management System Handbook, 1999). Civil society's level of engagement with the gender machinery is key to ensuring effective consultation and input from a wide range of sources. The private sector also has an important role as the link

between government and the business sector. It is therefore important for the South African government to undertake a broader process of consultation with women and men across the country. These consultations need to be facilitated in an inclusive and accessible manner. Persadie (2012) also supports this view by suggesting that gender equality and justice can best be achieved where multi-sectoral approaches from both above and below exists with women raising their potential to effect real institutional, legal and policy changes at national and international levels. Bryan and Varat (2009) also posit the view that in light of the constrained institutional environment it is crucial for governments to build alliances with civil society organisations who often carry relevant technical expertise to better implement gender mainstreaming.

Taking the gender mainstreaming route

Important to note is the realization that if the gender mainstreaming strategy is to be successful within the South African context (whether as part of the WEGE bill process or otherwise) then its limitations must be understood and local solutions be developed to overcome them. For example, if any public or private sector initiatives under the gender mainstreaming strategy are to work, government needs to ensure the development of effective accounting mechanisms. While noting that strict adherence to rules is a hallmark of the public sector, bureaucratic delays can undermine the very objective of undertaking certain processes (Persadie, 2012). Therefore, it is important that clear goals and time limits for completion of tasks are set and upheld. These critical conclusions and policy recommendations are further discussed below.

Need for strong political will from leadership

As previously noted in literature, if the gender mainstreaming strategy is to work, one of the most important prerequisites is a strong political will from leadership, among other factors. This will ensure a more sustained long term commitment to gender equality (Council of Europe (2004). Regardless of which political administration takes over in 2019, this strong political will must be owned and sustained. Political leadership must play a lead role in driving social change and political transformation. This will mean that political parties and individuals within the

same organisations need to guard against putting self-interests and domination above public interest. UnmuBig (2009) corroborates this view by arguing that where political will exists, gender mainstreaming can achieve many positive effects. Hence, if South Africa is to make substantive strides in advancing gender equality, it is important that there is strong political will to see that happen. More so, this political will must not only come from the Women's Ministry alone but from the presidency and government as a whole.

Allocate adequate resources for gender mainstreaming

Another important prerequisite for gender mainstreaming to work is that of ensuring that adequate resources are allocated towards its implementation. While the WEGE Bill contains broad plans and strategies advancing gender mainstreaming, it makes no reference to strategies to ensure necessary resources are allocated towards the achievement of these. This refers not only to resources required by the Ministry of Women, but also to those required by the wide range of designated public and private bodies contemplated in the bill. In order to ensure effective implementation and greater accountability, it is therefore important to ensure that adequate resources are allocated at all levels. This view is supported by Bryan and Varat ((2009) who suggest that in order to advance the gender equality agenda forward, there is need to ensure that adequate resources are allocated to the implementation of gender. A further recommendation is that gender budgeting is made mandatory across governments departments and that a framework to guide this is legislated.

Address gaps in current existing legislation

Although there is general acceptance that the intent and purposes of the WEGE Bill are noble, it seems that the bill remains generally weak and lacks a clear focus. It fails to address gaps currently not addressed by existing laws and wide criticism has been raised regarding the limited scope of the bill as well as the fact that many of the provisions in the bill duplicate already existing laws and policies. Thus, the restating of goals and provisions in a new piece of legislation alone is not convincing to ensure the shifts in implementation that are needed.

Arguably, solutions lie beyond the promulgation of new laws and policies. What seems to be more convincing, is the need for a systematic review and transformation of the existing

legislative and policy framework in order to gain a better understanding of what government priorities should be at this stage. A key recommendation therefore, is that a comprehensive audit is undertaken to evaluate the gaps in current legislation, including the identification and separation of failures as a result of poor implementation as opposed to the legal framework. Such a process is likely to yield more effective results as opposed to simply putting in place another law or policy. Added to the above, Persadie (2012) also suggests that while laws and policies are often perceived as instruments for social change, they are not adequate on their own. There is need to complement these with the necessary institutional framework and enabling social conditions in order to make the laws and policies effective.

Address women's socio-cultural conditions

In line with Persadie's recommendation above, addressing women's socio-economic conditions is key to ensuring the success of gender mainstreaming in South Africa. As earlier highlighted by Sen (1999), patriarchal resistance to the questioning of the subordination of women remains a stark reality in most developing world countries (South Africa included). However, if strategies towards gender equality are to be effective, it is important that women's socio-cultural problems are addressed before legal transformations are made (Inglehart, 2010). South Africa remains a deeply patriarchal society, and none of the efforts and interventions to date have effectively addressed this nor to arrest the persistent gender inequalities and prejudices that perpetuate the inferior status of women in society. Policy and legislation on women's rights and gender equality, including the WEGE Bill have failed to address the manifestations of patriarchy and with its value system, thus different strategies and approaches need to explored. According to Nkonya (2006), the law alone is not enough to transform patriarchal norms and values embedded in society.

If anything, addressing patriarchy requires long term holistic interventions that challenge the relative power imbalances between women and men in all settings, including homes, schools, community structures, healthcare systems and the justice system among others. It is also important that the bill or other strategies strongly articulate patriarchy as a key driver of gender inequalities and also acknowledge the negative impact it has had in the implementation of

existing laws, policies and programmes. In all likelihood, such a process will lead to the identification of measures and strategies that go beyond the creation of new legislation.

In conclusion, while the intention and purpose of the WEGE Bill is acknowledged, a review of the challenges and prospects of the bill have not provided a convincing justification as to why and how this bill will have any greater impact in advancing gender equality in any better way than any already existing laws or policies would. Whether, the WEGE Bill will eventually take "*On the road to 50/50'*, or will '*march(ing) on to nowhere land'*, or *take the 'long road to equality*', or a '*wrong turn to 50/50'* is not known. However, the extent to which the relevant policy makers will be prepared in dealing with the implications of each of the scenarios above will be best determine the future direction of the WEGE Bill or even so, the broad gender mainstreaming agenda in the country. Arguably, a more robust process of consultations with women and men across the country, government departments, the private sector and civil society is essential to determine what other measures outside of, or in addition to the creation of new legislation can affect real shifts in the quest towards gender equality in South Africa.

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Annex 1

Clause	Overview
Preamble:	Affirms the country's commitments to promote human rights including gender equality and prohibition of discrimination on the basis of gender
Clause 2:	**Application of the bill**: provides that the bill applies to all designated bodies and persons from both the public and private sectors and all state organs and persons.
Clause 3:	**Objectives of the bill:** as follows: ▪ *"Give effect to the values of non-racialism, non-sexism and equality as contemplated in the Constitution;* ▪ *Facilitate the participation and equal representation of women in decision making positions and structures;* ▪ *Prohibit a practice that unfairly discriminates on ground of gender as contemplated in section 8 of the Promotion of Equality and Prevention of Unfair Discrimination Act,2000 (Act No.4 of 2000); and* ▪ *Facilitate compliance with the country's commitment to international treaties." (p. 12)*
Clause 4:	**Measures to empower women and to eliminate discrimination:** Recognises women as a category which has been disadvantaged through unfair discrimination and provides for special measures to eliminate the discrimination of women and advance their empowerment. The Minister may also require a designated state or private body to submit a plan or progress report outlining the special measures they are implementing to advance women's empowerment.
Clause 5:	**Gender Mainstreaming:** provides measures on how to implement gender mainstreaming and gender budgeting by all designated bodies and employees within the public and private sectors.
Clause 6:	**Economic Empowerment:** provides that all designated bodies and designated employers must, in planning and implementing their activities:

	▪ Advance the promotion of women's access to educational, training and economic and opportunities; ▪ Where applicable increase women's access to entrepreneurial skills, land rights, capacity building of women and work towards increasing the allocation of their funding to women to 50%.
Clause 7:	**Equal representation and participation:** provides that state organs must develop measures towards the realisation of at least 50 percent representation and (meaningful) participation of women in decision making structures.
Clause 8:	**Powers of the Minister:** expounds on the role of the Minister to coordinate and promote the achievement of substantive gender equality in the country
Clause 9:	**Directives by the Minister:** provides that the Minister may issue a directive to an organ of state to take remedial action if the Minster believes that the organ of state is not complying with the provisions of the bill.
Clause 10:	**Compliance notices by Minister:** provides that the Minster may issue compliances in writing, to a designated employer or organ of state who fails to comply with clause 9
Clause 11:	**Gender units and accountability:** provides that gender units must be established at a senior management level and resourced appropriately by all organs of state
Clause 12:	**Enforcement:** provides that the Minister, acting in the interests of women as a group, may make use of any dispute resolution mechanisms to address non-compliance with the provisions of the bill.
Clause 13:	**Prohibited practices:** Outlaws and makes punishable any practice that unfairly discriminates on the grounds of gender outlined in Section 8 of the PEPUDA (Act No. 4 of 2000).
Clause 14:	**Code f good conduct:** provides that the Minister may publish a code of good conduct on women empowerment and gender mainstreaming through a notice in a Government Gazette
Clause 15:	**Norms and standards:** provides that the Minister may publish norms and

	standards on women empowerment and gender mainstreaming through a notice in a Government Gazette
Clause 16:	**Regulations:** provides that the Minister may make regulations on women empowerment and gender mainstreaming through a notice in a Government Gazette

QUESTIONNAIRE

Research Title:

Challenges and Prospects of the South African Gender Equality and Women's Empowerment Bill

QUESTIONNAIRE

Dear Madam/Sir

Thank you for agreeing to complete this questionnaire which is part of my research for academic purposes. The research focuses on the challenges and prospects of the South African Women Empowerment and Gender Equality Bill (WEGE Bill).

SECTION A.

Demographic Data

Please mark with an X in the appropriate space.

1. **Gender.**

Male	
Female	

2. **Job Category**

Government	
Private Sector	
Civil Society	

SECTION B: QUESTIONS

A. WEGE BILL

1. Are you knowledgeable about the WEGE Bill?

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2. If yes to question 1, what do you consider to be the importance of this Bill?

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B. CHALLENGES

1. Does this Bill duplicate already existing legislation and policies towards gender equality?

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2. If yes to question 1, please explain

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3. What are the key limitations of the Bill in regulating gender mainstreaming in South Africa?

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C. PROSPECTS

1. Do you think the process of finalizing and adopting this Bill has taken long?

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2. If yes to question 1, what do you think are some of the reasons for this?

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3. Where do you see this Bill in the next five years?

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Please share any other thoughts or comments on the Bill

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Thank you for your contribution in completing this questionnaire