

Evaluating women empowerment through an examination of the Gender Equality Bill

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Abstract

The research study seeks to evaluate the women empowerment through an examination of the Gender Equality Bill and to ascertain whether it would enhance, complement and complete existing legislation relating to gender equality. It seeks to contribute to the policy making process from a feminist perspective since the fundamental models for policy analysis remain gender neutral. Feminist viewpoints generally suggest numerous methods of strategizing for changing the position of women in society. Feminist have often argued that mainstream policy making does not recognize gender bias in substantive policy because the models and processes advanced to describe and analyse are often gendered. The Gender Equality Bill entails a range of themes that are located in feminist theories. The purpose of the study is to examine these theories and benchmark policy processes that could be aspired to in achieving gender equality. A qualitative approach structural gaps in existing legislation and determine whether there was a need for new legislation. The Bill is assessed against five policy elements which include clarity of objectives, those who benefits are intended for; what eligibility rules are in place; financing methods and interaction with the policy elements. The study argues that the Gender Equality Bill fails to identify weaknesses in the existing legislative framework and provide a best solution for the policy problem relating to cost, equity and feasibility in employing strategies that challenge experiences relating achieving gender equality. The Bill would, therefore would not have the ability to enhance, complement and complete the existing legislation.

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Chapter 1: Introduction, Background and research questions

1.1. Introduction

This study evaluates women empowerment through an examination of the Gender Equality Bill to ascertain whether it would enhance, complement and complete existing legislation relating to gender equality.

Since 1994, South Africa has created legislative provisions to address inequality and discrimination. The legal provisions which include international obligations, constitutional provisions and domestic legislation provides for a vigorous commitment to the rights of women and realizing gender equality. In South Africa, gender equality and empowerment are primary values of the Constitution of South Africa (Republic of South Africa, 1996). This means that the state has to be accountable in relation to the rights of women and attaining gender equality. Although political will to women's empowerment and gender equality is embedded in the South African Constitution, national legislation was further developed and promulgated to give effect to the commitment for gender equality through the enactment of the Promotion of Equality and the Prevention of Unfair Discrimination Act of 2000, the Employment Equity Act of 1998 and the Broad-based Black Economic Empowerment Act of 2003. The Women Empowerment and Gender Equality bill, also known as the Gender Equality Bill was gazetted in 2012. For the purpose of this research the bill is referred to as the Gender Equality Bill.

These legal provisions are intended to redress the marginalized and subordinate social role that has been traditionally bestowed on women, which is typically associated with disempowerment and disadvantage in comparison to their male counterparts. It is generally agreed by scholars that the nature of powerlessness is caused by social and economic empowerment that emanates from political inequality (Syed, 2010).

Although gender activists were quite optimistic about the equality clause in the Constitution, they continued to be concerned about disparity in constitutional commitments and the policy affirmations to gender equality on the one hand and women's struggle with their role in society. The gap between policy and how it is

practiced in institutions remains well-known and contentious and this disjuncture is disheartening to women (Walker, 2013).

1.2. Background to the study

1.2.1. Historical background on the empowerment of women in the development process

Traditionally western feminists who first advocated against the powerlessness of women in developing societies, argued the needs of women in developing countries not only reflected those in western society, but also presented a unique set of circumstances created by developing economies and burgeoning democracies (Singh, 2007). The notion of gender and development surfaced early in the 1970s to address the perceived marginalisation of women in the formulation of development economies and as a result, feminist critics and women from non-governmental organizations created awareness on how women were affected differently by the development process and the impact of modernisation in society, laying the foundation for a specific school of feminism (Baylis and Smith, 2001). According to Singh (2007), societies are dynamic in nature and change processes are often complex. This could result in outcomes that are in conflict with development which have led to four phases in the gender and development paradigm, namely, women in development; women and development; gender and development and women, culture and development (Singh, 2007).

Each of the above phases has addressed social realities within societies in the developing world. Women in development as well as women and development were obsessed with the idea that women as a coherent category were externally exploited by either a social patriarchal or capitalist system which then created the notion that women's interests were essentially different to that of men (Tripathy, 2010).

Gender and development on the other hand originated in the 1990s, and focused on the concept of gender and gender relations and how these reshaped power relations. This approach which draws on feminist views sees women as agents of change (Momsen, 2004). The gender and development approach predominantly focused on culture and its context as defined by patriarchy as well as inequality. Little consideration was given to

the relations in production and the economy. This phase particularly advocates for economic reliance as one of the ways in which women can step out of these relations (Singh, 2007).

These approaches have assisted in shaping international commitments to women's empowerment and gender equality.

1.2.2. International commitments to women empowerment and gender equality

International and frameworks with special focus on gender equality and empowerment have been debated and legitimised by the United Nations, and South Africa is one of the many countries that have adopted these treaties. A short synopsis of the conventions and declarations that are relevant to gender equality and empowerment are discussed below.

In 1979, the Convention on the Elimination of All Forms of Discrimination Against Women was adopted by United Nations member states (United Nations, 1979), and South Africa became a signatory to it in 1993, and ratified it in 1995. This convention provides the basis for the realisation of equality between men and women through ensuring women's equal access to opportunities in both the political and public spheres as well as the elimination of discrimination in political, social, economic and cultural fields. The Convention further emphasizes the total removal of discrimination to ensure that both men and women enjoy their fundamental human rights and freedoms through ensuring that the principle of equality is embodied in appropriate legislation as well as establishing the legal protection of rights for women and men against discrimination. The Convention furthermore necessitates that states should ensure that gender equality is incorporated into their respective constitutions and national legislation (United Nations, 1979).

Although the Convention leads to the advancement of women, progress was perceived to be uneven and inequalities remained a persistent and major obstacle to the international community and the countries that were signatory to the Convention. In order to address the barriers to the advancement of women, the Fourth Conference of

Women was held in Beijing in 1995. The outcome of the conference resulted in the Beijing Declaration and Platform for Action (United Nations, 1995).

The Beijing Declaration and Platform for Action is an agenda for women's empowerment and aims to accelerate women's advancement. It propagates for the principle of shared power and responsibility between men and women in all spheres of life. The Platform for Action prioritizes empowerment of women as a mechanism for achieving gender equality through twelve critical areas. These are women and poverty; women and education; women and health, violence against women; women and the economy; institutional mechanism for the advancement of women; women and the environment; women in power and decision-making; women and the media; human rights of women; and women in armed conflict and the girl-child. The Declaration reaffirms equal rights, the inherent dignity of women, empowerment and the advancement of women (United Nations, 1995). Through the Declaration, South Africa has committed to implement the agenda which provides a broad, yet comprehensive framework for the promotion of gender equality and women's empowerment as well the protection of the rights of women.

A review of the Beijing Declaration was held in June 2000 to discuss further actions to accelerate the implementation of the Platform for Action and to ensure the commitment to gender equality, development and peace. In September, 2000 a Millennium Summit was held which built on the outcomes of a number of related summits and conferences, central to which was the Beijing Conference. The Millennium Declaration was born out of the conference, which committed to promote gender equality and the empowerment of women in order to combat persistent inequalities. The declaration took the shape of eight Millennium Development Goals which provides a framework for gender equality and development (United Nations, 2000)

Eight goals of the Millennium Declaration (United Nations, 2000) were designed to advance progress on the twelve critical areas identified by the Beijing Declaration and Platform for Action (United Nations, 1995). Goal three in the Millennium Declaration calls for the promotion of gender equality and the empowerment of women to reduce and combat inequalities (United, Nations, 2000)

Since the international obligations provides for a serious commitment to gender equality and the empowerment of women, South Africa enacted its Constitution in 1996 which encompasses equality and the protection of fundamental human rights of people.

1.2.3. South African commitment to gender equality

The struggle for gender equality has been a historic episode in South Africa. Despite the shift apartheid to democracy, progress made in relation to gender equality did not necessarily translate into significant gains for women. This is particularly evident in areas of economic policy and land reform where male privilege continues to be clearly threatened by the inclusion of women. Patriarchal frameworks that are in charge of cultural practices remain strong and women generally have very little power despite legislative support for their empowerment and economic growth (Groenmeyer, 2011).

South Africa has one of the most progressive constitutions in the world. The Constitution of the Republic of South Africa compels the state to protect the right to equality. Chapter two, section nine of the Constitution outlines the right to equality and non-discrimination. It further promotes the creation of legislation to protect unfair discrimination on the grounds of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age disability, region, conscience, belief, culture, language and birth (Republic of South Africa, 1996).

The Constitution has been interpreted and applied creatively to reinforce the right to equality, which to a large extent meets the definition of discrimination in terms of article one of the Convention on the Elimination of Discrimination Against Women (United Nations, 1979). For example, Section 39 (3) states that the Bill of Rights does not deny the existence of any other rights or freedoms recognised in law or conferred by customary law, as long as they are consistent with the Bill of Rights. The Bill of rights ensures for the protection of the rights for all and stresses the democratic values of human dignity, equality and freedom. Section nine unequivocally commits to transforming the manner in which people were treated with inequality in the past and is also a resolve for the removal of all inequalities as well as those that are systemic in nature (Republic of South Africa, 1996).

As a commitment to address inequalities, the Constitution has given effect to national legislation that seeks to eliminate discrimination such as the Commission for Gender Equality Act of 1996, Promotion of Equality and Protection of Unfair Discrimination Act of 2000, the Employment Equity Act of 1998, the Domestic Violence Act of 1998, the Criminal Law (Sexual Offences and Related Matters) of 2007 as well as other related legislation. Each of the pieces of legislation listed above are summarised below.

The Commission for Gender Equality Act, was enacted to promote and protect gender equality as well as ensuring the attainment of gender equality through monitoring and evaluating legislation and policies and practices of both the private and public sphere. It further has a responsibility to advise parliament or legislatures on any laws or proposed legislation which affects gender equality and the status of women (Republic of South Africa, 1996).

The purpose of **Promotion of Equality and Prevention of Unfair Discrimination Act** also known as the 'Equality Act' is designed to facilitate the full and equal enjoyment of all rights and freedoms; the promotion of equality; the prevention and prohibition of unfair discrimination, hate speech and the prevention of harassment. The act further allows for the stipulation of remedies for victims of unfair discrimination, hate speech and whose rights to equality have been infringed upon (Republic of South Africa, 2000).

The **Employment Equity Act** was enacted to address discriminatory laws and practices in the formal work environment. Disparities in employment within the workplace created disadvantage for certain categories of people and these could not be redressed by repealing previous discriminatory laws. The act therefore aimed to promote the constitutional right to equality and eliminate unfair discrimination in the workplace. The act further provides for remedies for non-compliance with the act (Republic of South Africa, 1998).

The aim of the **Domestic Violence Act** is to provide victims of domestic violence with maximum protection from abuse and to ensure that measures are put in place that obligates state organs to give effect to this act. This act gives effect to sections of the constitution which relates to equality, freedom and security. The act further outlines the

measures that need to be implemented to ensure the domestic violence is eliminated (Republic of South Africa, 1998).

The Broad-Based Black Economic Empowerment Act was enacted address the structures in the economy in order to transform it. This would then enable significant participation of the majority of people in the country. It also intends to create capacity within economic environment at all levels through the development of skills, employment equity, socio-economic development, preferential procurement, enterprise development particularly focusing especially with respect to small and medium enterprises by promoting the entry of black entrepreneurs into the mainstream of economic activity (Republic of South Africa, 2003).

In addition to national legislation, a **National Gender Policy Framework for Women Empowerment and Gender Equality** was developed in the year 2000 which outlines South Africa's vision for gender equality. It also provides guidelines and mechanisms for realising it. Principles underlying the policy include, equality for all persons; tradition and cultures in institutions which impede gender equality; enacting laws that take into account the needs and aspirations of women; developing clear objectives for implementation of laws and policies; adopt effective management information systems to ensure policy implementation receive adequate and appropriate training and development; developing clear performance indicators to ensure effective monitoring and evaluation and allocating sufficient resources that would benefit women in both rural and urban areas (Office of the Status of Women, 2000).

The legislation outlined above forms the framework for addressing issues of gender equality through mechanisms such as gender mainstreaming and empowerment. Although the existing legislative framework, which addresses gender equality and the empowerment in the country exist, the **Gender Equality Bill** was drafted and adopted by parliament (Department of Women, Children and Persons with Disabilities, 2012).

The **Gender Equality Bill** envisions establishing a legislative framework for empowerment of women. This is perceived to give effect to Section 9 of the Constitution by ensuring that women participate equally in social, political and economic structures.

This would in turn ensure that women empowerment and gender mainstreaming is implemented throughout both the private and public sector. The bill further wishes to give effect to the Constitution in relation to non-racialism and non-sexism by aiming to removing detrimental discriminatory practices against women.

In addition, the Bill includes provisions regarding issues pertaining to encouraging the recognition of economic value of the roles of women in various sectors of life and the achievement of 50/50 representation, gender-based violence and participation of women in decision-making structures in the public and private spheres. The Bill further purports to address the gaps found in existing legislation as well as providing an opportunity for South Africa to further comply with its international obligations with respect to gender equality. The bill further purports to exert punitive measures by imposing obligations to entities through strategies such as policies, programmes, budgets, representation and participation in ensuring that empowerment is measured. Lastly, the bill does not have an intention to replace or alter legislation that addresses gender equality (Department of Women, Children and People with Disabilities, 2012).

1.3. Research problem, purpose and research question

1.3.1. Problem Statement

South Africa has gazetted the Gender Equality Bill despite an existing and robust legislative framework relating to gender discrimination and gender equality, which is perceived to be ineffective in addressing gender equality. Structural gaps and under-resourcing in implementing the currently existing legislative framework has created barriers in achieving positive outcomes for gender equality since its inception. It is unknown as to whether the Gender Equality Bill will have the ability to address the existing structural gaps and systemic barriers to achieving gender equality and women empowerment.

The South African government has made commitments to international treaties and declarations such as the Convention on the Elimination of All forms of Discrimination Against Women, the Beijing Declaration and Platform for Action and the Millennium Declaration. To give effect to these commitments, the South African Constitution has

protected gender equality, and has further ensured the promulgation of the Commission of Gender Equality Act, the Promotion of Equality and Prevention of Unfair Discrimination Act, and the Employment Equity Act as well as a number of related pieces of legislation. In order to be effective, the new legislation will have to close the gaps in the existing legislation, and address the resourcing and structural issues that have hampered the existing framework.

The Gender Equality Bill covers a range of themes such as gender mainstreaming, women's economic power, violence against women, equal representation, discrimination, gender equality and sexual orientation. These themes have their roots in feminist theories that have the potential to influence and guide public policy on issues relating to discrimination, employment equity, power relations and gender equality.

Public policy can be defined as a statement of intent with an envisioned solution to a policy problem (Cloete and de Coning, 2011). Policy design represents the process of creating, developing and standardizing an actionable framework, which needs to be sensitive to the context of the problem and thus adding value to improving a policy problem (Rixecker, 1994). Public policies have the ability to shape the lives of women worldwide and in some instances joint efforts on public policies with feminists have taken place with the rationale of assessing the impact of a government's decisions on inequalities that are gendered in nature. These gender inequalities buttresses on gender identities and gender relations in society (Klodawsky and Preston, 2006). However, this is not a common practice.

The disposition and gravity of gender inequalities have been widely documented by feminist research and in some instances has highlighted their association with public policies. Several studies have indicated the connections between public policy and women's lived experienced and how they impact on the quality of life of women. These connections have raised questions relating to gender, location and policy and the dynamics within the gender and development paradigm (Klodawsky and Preston, 2006). In general little attention or focus has been provided to developing a feminist theoretical framework for policy development. Research conducted by scholars in the field of public policy generally focus on issues relating to women such as the glass ceiling, pay equity,

employment of women and seldom on women's lived experiences and their quality of life (Hutchinson and Mann, 2004).

Despite the contributions made thus far, the policy making process does not consider a feminist frame or a feminist standpoint perspective as fundamental to its models for implementation and analysis in addressing issues of gender equality and women's empowerment. Public policy models are generally neutral in nature. A feminist standpoint or viewpoint could be used as a strategy for flexibility in policy analysis that addresses the theoretical and practical aspects of policy design and process.

A feminist viewpoint raises a wide range of questions about policy processes where the concern for the position of women becomes critical. A feminist standpoint asserts that the goals underlying the policy process should include identifying assumptions about stereotypes of women that are embedded in policy processes, which result in the traditional patriarchal oppression of women (McPhail, 2003). It should also be noted that feminist theories and processes are generally wide-ranging in their explanation of gender inequality, suggesting different methods of strategizing for change. A feminist viewpoint informed by liberal feminist thought is characterized by giving women the same legal, political and social rights men enjoy while radical feminist thought believes that gender equality can only be achieved with a complete transformation with the intention to overthrow the patriarchy (Hutchinson and Mann, 2004). Feminist scholars have argued that mainstream policy studies fail to recognize gender prejudice in broad social policy because the analytical models and implementation processes are masculine in nature (Hawkesworth, 1994). The Gender Equality Bill raises issues such as gender equality and women's empowerment which implies that a gap in literature exists which necessitates an opportunity new research.

The Gender Equality Bill focuses on a range of themes often located in the feminist agenda purporting to have influenced policy making processes by proposing the removal of discriminatory practices, maternity, employment, decision-making to mention a few. The rationale for engaging feminist theories therefore is purely to understand the gender issues within the Gender Equality Bill which will be examined. It should however

be noted that a feminist standpoint will only will however serve as mechanism which could be aspired to obtain policy outcomes.

The Gender Equality Bill will therefore be examined through general policy process models and a policy analysis framework which will be benchmarked against a feminist standpoint which presupposes the ideal method of analysis.

1.3.2. Purpose statement

The purpose of the study is to analyse the Gender Equality Bill and examine whether it will enhance, complement and complete existing legislative framework that relates to gender equality and women empowerment.

1.3.3. Research questions

- What structural gaps and systemic barriers were identified that necessitated the drafting of this bill?
- Were valid considerations made in relation to the implementation of existing legislation while consulting in the drafting of the bill?
- How will the bill enhance, complement and complete existing legislation relating to gender equality and women's empowerment?

1.4. Outline of the research report

Chapter two of the report focuses on the literature review. A brief history of the women and development process is provided which then contextualises the influence of feminist theories within the gender and the development process which have given rise to equality policies which favour women. The chapter explores feminist theories and policy formulation and provides for an ideal to which the general policy process can be benchmarked to assess whether policies could bring about change in the lives of women. Literature on the policy process and the policy analysis frameworks are provided against which the Gender equality Bill is assessed to determine whether it would enhance, complement and complete the existing legislative framework relating to women empowerment and gender equality.

Chapter three looks at the research method employed in the research report and it also looks at the purpose, research questions and sampling which include the selection of participants, data collection and analysis.

Chapter four presents the results of from the data collected as well as well as an interpretation of the data. The chapter is broken down into two sections, namely, presentation of the interviews conducted and a presentation of four pieces of legislation measured against dimensions of analysing public policies.

In *Chapter five* the data presented in chapter four is analysed using the analysis framework according to Chambers and Wedel (2005). Five elements are specifically looked at, namely assessing whether the objectives of the policy problem were clearly defined; who the benefits were intended for, what eligibility rules are in place, whether the administrative model would effective for service delivery, whether financing is available and whether there were interaction between the policy elements. An interpretation of the data is also provided to assess whether the Gender Equality Bill would enhance, complement and complete the legislative framework relating to women empowerment and gender equality.

Chapter 2: Literature review

2.1. Introduction

The position of women in society is typically associated with disempowerment and disadvantage in comparison to their male counterparts. It is generally agreed by scholars that the nature of powerlessness is caused by social and economic empowerment that emanates from political inequality (Syed, 2010). In South Africa, gender equality and empowerment are primary values of the constitution, this means that the state has be accountable in implementing women's rights. These legal provisions are intended to redress the marginalised and subordinate role that has been traditionally bestowed on women.

This chapter reviews literature relating to feminist theories that influence the policy making processes. These ideologies or theories play a significant role in determining values for the policy process. Secondly, literature on public policy, the policy making process was reviewed.

The review encompassed discussions on concepts, themes, theories and process that were engaged during the analysis of the policy making process. The literature that has been considered ranges from current to the last ten years with the exception of authors which influenced literature on feminist theories and standpoints, human rights and policy studies dating back to the 1980s and 1990s.

The literature search was limited to the University of Witwatersrand databases and books which have focus on feminist theories, human rights, women rights and public policy. Search strings were used to extract articles that dealt with 'inequality', 'gender equality', 'women empowerment', 'feminism,' 'gender discrimination', 'gender mainstreaming', 'women's multiple identities', 'women's rights' and 'human rights'.

Since the Gender Equality Bill will be evaluated through women empowerment it is therefore important to provide a historical overview of women empowerment in a global context.

2.2. Women and the development process

Western feminist raised awareness on the vulnerable situation of women in society and ensured that the needs of women be acknowledged in the development process. The advancement of women can be traced through the women in development phase; the women and development phase; the gender and development phase and lastly through the women, culture and development phase (Singh, 2007).

The **women in development** or welfare approach dating from the 1950s to the early 1970s targeted the role of women in the family, as they were seen as passive, and projects generally addressed needs such as food security and health (Willis, 2005). According to Momsen (2004), it was assumed that macro-economic strategies for growth would ultimately benefit the poor and women would benefit from as the economic status of their husband's improved lives. As the oldest and the most dominant perspective, this approach has manifestly influenced the course of the field. This approach conforms to the assumptions of the modernization theory and programmes here generally stress western values. It targets individuals as catalysts for social change. Modernisation depicts a traditional society as authoritarian and male dominated and a modern society as democratic and egalitarian seems to be sensitive to the subordination and oppressions faced by women (Visvanathan, Duggan, Nisonoff and Wiegersma, 1997).

The women in development approach aimed to assimilate women into economy and development by focusing on the projects that generate income (Momsen, 2004). This stage is also known as the anti-poverty stage, which focused on position of women in society and interpreting it as being caused by income poverty. Income-generating opportunities for women were important and no consideration was given to patriarchal structures which resulted in the oppression of women (Willis, 2005). Liberal feminists have accepted and endorsed this approach though it is not without criticism. Progressive feminist critique of the modernisation theory finds it unreservedly gendered and its characterization of third world women distorted and detrimental (Visvanathan *et al*, 1997).

This stage was not without its challenges because it was believed that women of developing countries had sufficient time available to undertake projects and thus left out women from the mainstream development (Momsen, 2004).

Despite the challenges, the period between 1975 and 1985 known as the **women and development approach** or the equity stage promoted the United Nations Decade for Women and aimed to address the strategic needs of women by eradicating obstacles to the advancement of women in the public sphere (Willis, 2005). Although this approach shares a similar foundation to the previous approach, it differs by investing in action of women rather than the influence of institutions on them. It also focused on the economic activities of women (Singh, 2007). In examining structural perspectives on women and development, it was found that Marxism had given insignificant attention to the sphere of reproduction and household levels in relation between men and women. The pre-occupation with structures of production for exchanges had downplayed men's role in the oppression of women. Feminists who subscribe to Marxism often view inequalities between men and women as part of a larger picture in the world economy and see sexual inequality as just another aspect of the inequality created by capitalist accumulation (Visvanathan *et al.* 1997).

An enormous amount of material on women's lives and the discrimination faced by them was documented. In this period documentation on the gendered differences of development was produced which then provided a base for the themes of peace, justice and the development process. In this stage feminists seek empowerment of women which includes them in participating in development decisions that affect their lives and choices (Baylis and Smith, 2001).

Every approach builds on the other by addressing the changes in the realities within development. It should be noted that women in development and women and development saw women as a coherent category which was either exploited as a social patriarchal order or by a capitalist system (Tripathy, 2010).

The **gender and development** approach also known as the empowerment stage originated in the 1990s. This approach originated in academic criticism of the previous

approaches dating back to the 1970s. Based on the concept of gender relations, proponents of this approach analysed how development reshapes power relations. Drawing on feminist political activism, gender analysts saw women as agents of change (Momsen, 2004).

Gender and development had its roots in feminist anthropology, which was mostly concerned with cross-cultural and inter-cultural differences and in social feminism where class and gender interactions were widely debated (Jackson and Pearson, 1998). They criticized the previous approaches for treating women as a homogeneous group and emphasis was placed on the influence of differences of class, age, marital status, religion and race on development outcomes. Supporters of this stage distinguished between gender needs which would improve the lives of women within existing roles and strategic gender needs which would increase the ability of women to take on new roles and to empower them (Momsen, 2004).

The **women, culture and development approach** focuses on patriarchal inequalities present in societies as well as the social differences between women including issues relating to ethnicity, age groups, economic status, sexual orientation and location. It offers an opportunity for developing a theoretical framework that can explore and critique gendered nature of production and reproduction with a specific view on improving the lives of women within a Marxist theoretical framework, ensuring the lived experiences of women are not homogenized (Chua, Bhavnani and Foran, 2000). This means social related issues would therefore aspects of women's lived experiences.

Women, culture and development is a lens through which the relationship among the historic, cultural and geographical aspects of women's lives can be seen to be mutually dependent. This approach therefore allows for an emphasis on the tensions and continuities in lives and experiences of women in developing countries. This approach also ensures that the question of culture in relation to production, reproduction and agency are fore-grounded along the economic aspects of gendered ways of life of people (Chua, Bhavnani and Foran, 2000).

Feminist studies have suggested that policies and analytical work are impoverished if inadequate attention is paid to women and therefore the next section looks at how feminist thought has influenced the development process.

2.3. Influence of feminist thought in the development process

The influence of feminist thought is reflected in the characterization of patriarchy represented in each phase of the development of women paradigm. The development paradigm was created as a response to patriarchy that was rooted within the family and manifests in the public sphere, through discriminatory practices, for example the gendered access to financial structures, emphasising the vulnerability of women. In this view, patriarchy is not seen as a homogenous construct, but rather a product of specific culture in a specific society (Singh, 2007).

Women in development adopted a liberal feminist viewpoint focusing on equality of opportunity for women, which means this approach shares the goals of economic growth. It challenges traditional values in relation to the socio-economic roles of women. This view is rooted in Marxist feminism which showed a discontent towards capitalism, and traditional economic structures slanted toward masculinity. It also embraces culture as a uniting building block against capitalism and stresses women's potential role as self-sufficient production (Singh, 2007).

Gender and development on the other hand transformed the concept of gender relations by focusing on the cultural context as defined by patriarchy instead of focusing on the economy. This approach also supports self reliance in the economy as one of the ways in which women can change these gender relations (Singh, 2007)

In providing a brief summary it could be said that liberal feminism influenced women in development focusing on integrating of women into the economy while Marxist feminism influenced the women and development phase towards a class-based understanding of discrimination and the marginalization of women. Radical and socialist feminism on the other hand moved influenced gender and development which focused on the power relations. Postmodern feminism questioned the women, culture and development (Singh, 2007).

The feminist theories mentioned in the previous paragraph will be discussed in more detail in the section that follows. These theories will be discussed to indicate their influence in the policy making process.

2.4. Feminist theories and policy formulation

Feminist thinking and theory has influenced women and their role in the development agenda for decades. This influence has resulted in policy formulation as a social change and action agenda with the aim of liberating women from subordination and oppression.

The origins of feminist research was women's liberation and this has been interpreted as widely, ranging from radical transformation of patriarchy and corresponding empowerment of women to a more liberal assertion that specifically pays attention to policy implications for women (Cook and Fonow, 2005).

Feminists continue with the concern of these issues in the light of ever changing political action, and the ongoing need to effect real change and liberation despite the plethora of policy making in the area that has taken place.

Feminist scholars who have argued in the context of national laws, claim that the rights of women are vague and therefore easily manipulated in a technical sense. Feminism and feminist theories should not be viewed as separate and apart from public policy, but should be perceived to be a value-add to the public policy discipline itself (Hutchinson and Mann, 2004). Since the Gender Equality Bill addresses women empowerment and gender equality and feminist theories have a direct influence on policy formulation, it was therefore imperative to discuss each of the feminists theories that have influenced public policies to ascertain whether the state institutionalizes the rights of women with its own interpretation and may easily become implicated in their violations.

The next section provides explanations of the characteristics of feminist theory.

2.5. Feminist theories in policy formulation and analysis

This paper will engage in five feminist theories that may serve to re-characterise the human rights of women in order to make them universally applicable in accommodating women's persistent experience of injustice and inequalities. Cook (1994) indicates that

feminist scholars have argued that the social power lies in the state and not in the people. They have further argued that while the formulation of equal rights might be useful in the beginning to improve women's position, a continual focus on the acquisition of these rights might not be beneficial. It should be noted that experiences and concerns of women cannot be easily translated into policy or law. Verma (2004) indicates that feminist theories have grappled with specifically liberal and Marxist theories to influence public policy with notions of equity and empowerment.

Hawkesworth (1994) indicates that feminists have engaged substantively on policies relating gender equality especially on issues such as marriage, property, education, employment opportunities and maternal health. Figart (2005) further purports that feminist theory is concerned with not only changing consciousness but also moving to a feminist praxis. Generally feminist approaches have a great potential for public policy relating to issues of discrimination, employment, equity, power relations and gender equality. The role of policy makers is to conceive appropriate measures to facilitate fair procedures that would result in fair outcome (Crespi, 2009).

For the purpose of this study focus will be placed on liberal, radical, Marxist feminist, social and postmodern feminism

2.5.1. Liberal feminist theory

Liberal feminism is based on the idea of equality and liberation. Liberalism was based on the belief that all men have the potential to be rational and that any inequality must be justified rationally (Parpart, Connelly and Barriteau, 2000). This meant that people were governed only with their consent and only within the limits defined in terms of public and private spheres. As liberal feminism evolved, it drew a distinction between sex and gender differences between men and women. They viewed women's subordination as a result of gendered norms, rather than biological sex and aimed to change these norms. They argued that inequality of women and men cannot be justified on rational terms and trust that rational men can be convinced of the foolishness of perpetuating that inequality. Farganis (1994) supports this notion of enlightenment. Cook (1994) however explains that this feminist theory does not take into consideration the structural imbalance of power between the sexes and the systemic nature of

discrimination and this notion is also supported by Masooda (2009). Hawkesworth (1994) alludes to the idea that only the liberal feminism has a feasible contribution to make in policy formulation. The policies and laws that emanate from adopting this approach therefore often result in the establishment of women's departments such as women's ministries and gender machineries which promote women's interests. Proposed policies and laws generally relate to the removal of discriminatory practices and less concerned with issues of empowerment and changing the position of women. This means that emphasis is placed on the idea that processes will lead to broader outcomes, which reflect releasing full potential and equal status of women. This will obviously take into consideration the social, economic, cultural and political context of the country (Smyth, 2007). While this approach recognises the contributions by liberal feminists in setting the agenda in policy making and implementation, no connection can be made as to how it links to the contributions made by radical and social feminists (Hawkesworth, 1994).

2.5.2. Radical feminism

Radical feminists argue that patriarchy is deeply embedded in individual psyches and social practices. They further argue that the social norms that devalue female biology and women's subordination are ingrained in the male control over women's fertility and sexuality. In the radical feminist view procreation and sexuality are deemed political issues (Parpart et al. 2000). This then means that these practises are relegated to the private and women's struggles to change them would be delegitimized. In this theory the focus on women's rights to make choices about motherhood, conception, abortion and sexual orientation are pursued and ultimately the transformation of society and the removal of patriarchy. Radical feminism examined how influential patriarchy was in society. They also assessed power relations and its impact on violence against women and issues of sexuality in aspects of women's lives (Andersen, 2005). The end product would be to would be to achieve equality. Cook (1994), Crespi (2009) and Farganis (1994) support this notion because it is perceived to include of the voices of women. Hutchinson and Mann (2004) also reaffirm the sentiments of the previous authors on radical feminism. Radical feminists believe that gender equality can only be achieved through the eradication of patriarchy. Radical feminists have managed to incite

passionate debate giving women a peculiar home in what is normally perceived a straight society (Hutchinson and Mann, 2004). Policy changes pursued by radical feminist include choices about motherhood, conception, abortion and sexual orientation (Parpart *et al*, 2000).

2.5.3. Marxist feminism

Classical Marxism argues that throughout history people have produced their material life and in producing their material life, people worked together and entered into social relations with one another (Parpart *et al*, 2000). The means and social relations are engendered and amounts to modes of production. Marxism argues that human nature is the result of specific modes of production and the relationship between capital and labour is central to Marxism (Willis, 2005; Parpart *et al*, 2000). People are shaped by society, which relates to the modes of production and by each person's specific place or class in that specific society which encompasses relations of production. The correlation between labour force and women is embedded in Marxist feminism (Verma, 2004). Feminists influenced by Marxist theory emphasise the sociality of being human. They further stress that knowledge itself is socially constructed and arises from the individual and communal praxis (Farganis, 1994). This then implies that human activity is intertwined with human needs, which have been given form by the power groupings of a given society. They further argue that people are capable of radically transforming themselves and society and therefore eventually changing their own natures. Contemporary Marxist feminists continue this line of argument by asserting that capitalism propagates the subordination of women and their economic dependence on men (Parpart *et al*, 2000). Marxist feminists are concerned with policies that deal with issues of occupational segregation, low pay, poverty and discrimination and that a socialist system would remove the class structure and then gender equality can be established.

2.5.4. Social feminism

Social feminists were not happy with Marxist feminism which saw women's subordination as secondary to class subordination and radical feminism which ignored class and saw patriarchy as the primary form of subordination. This theory emerged in

the 1970s as an alternative to the latter. Social feminists argued that class and patriarchy were of equal importance and had to be challenged simultaneously. An analysis of gender construction and women's subordination was proposed for inclusion and should also account for issues of difference, race, ethnicity, religion and sexual preference (Parpart *et al*, 2000). While socialist feminists are less than radical they often focus attention on the oppressiveness of liberal freedoms that do not move beyond the guise of being gender neutral. Women occupy a position similar to the proletariat. The social feminist philosophy is rooted in oppression at the hands of masculine ideas that protect the empowered ruling class (Farganis, 1994). Social feminism serves as a reminder that men need to be considered as part of the feminist agenda, sharing of the burden of domesticity and power (Hutchinson and Mann, 2004). The promotion of policies to eliminate gender segregation in employment, conditions of service and the values of equality are strongly considered.

2.5.5. Postmodern feminism

Postmodern feminists focus on the value of difference and argue that one common feminist standpoint is not only pointless, but that is just another example of how male language and culture attempts to expunge the valuable differences that exist among women as well as women and men. It further values the concept of difference as a tool that allows women to criticize the conditions of and consequences of patriarchy which then permits the embracing of differences and therefore superlatively creates an open flow of ideas with diversity and acceptance (Hutchinson and Mann, 2004). Postmodern thought therefore undercuts the notion of feminist knowledge as grounded in the experience of women. It challenges the authority of feminist knowledge of or for women and has been particularly influential in exploring diverse, variable and unstable identities. The idea that people are socially located by class, gender, sexual orientation and race has tremendous effects on people's lives and their lived experiences and this enables feminist to look at the power of language and representation (Ramazanoglu and Holland, 2002).

Fundamentally western feminism is concerned with fostering equality among genders. However, the developing world faces inherent challenges in developing this principle

primarily because for many women, the family is the source of social and economic support, while at the same time it is the seat of patriarchy. For women who have had the opportunity to seek higher education, develop some sort of economic independence, this may be less so. However, for many women in the developing world, adopting western feminism wholesale means abandoning an important family structure (Singh, 2007).

In South Africa, gender inequalities have generally been understood as being created and maintained through apartheid. The impact of western feminism therefore had little or no effect because many of the social tensions that initially triggered a feminist consciousness in women were missing. The outcome of feminism was initially perceived as divisive, reactionary or inappropriate. In 1994 this changed with democracy which aimed to transform all social relations of subordination (Singh, 2007).

For the purpose of this research emphasis will be given to liberal, radical and socialist feminist theories. These theories are the rooted in the women's struggles across the continents and have indirectly influenced the women's movement in South Africa post 1994.

Liberal feminism has resulted in robust debates around women's issues and has ensured women's integration into public institutions as well as guaranteeing them the same legal, political and social rights as their male counterparts. The main aim of liberal feminism is to level the playing field for women and men. It should also be noted that radical feminism is not viewed as important in field of public policy and administration as it seen to lead to separatism. It was also imperative to engage in literature relating to Marxism feminism and socialists in order to provide a broad overview of theories that would assist in identifying the most appropriate theories to utilise in the analysis of women empowerment and gender equality.

2.6. Legal Reform

Legal reform is often a tedious process and does not immediately transform social relations. Feminist often have to work effectively within a broader sphere of activity to

assist and ensure that disempowered women gain some economic and social influence within specific locations (Cornwall and Molyneux, 2006).

Achieving gender equality requires changes at all levels, which includes changing attitudes, relationships, institutions, legal frameworks, economic institutions and political decision-making structures (Crespi, 2009). It should be noted that achieving gender equality has been accepted in theory by the South African government which acceded to international commitments like the Convention on Elimination of Discrimination Against Women (United Nations, 1979), Beijing Declaration and Platform for Action (United Nations, 1995) and the Millennium Declaration (United Nations, 2000).

In the South African context, women's movements have been effective in securing an impressive range of rights for women in relation to the workplace, gender discrimination and reproductive health matters. The South African government has promulgated proactive measures to protect women's constitutional rights. Although such gains must be celebrated, questions might arise about the extent to which they can lead to meaningful change without serious efforts to address the incessant problems of poverty and inequality (Hames, 2006). The South African Constitution (Republic of South Africa, 1996) protects the right to equality and further promotes the creation of legislation to protect unfair discrimination. The constitutional mechanisms are complemented in enacted legislation such as the Commission for Gender Equality Act (Republic of South Africa, 1996) which as a mandate of promotion, protection attainment of gender equality; the Promotion of Equality and the Prevention of Unfair Discrimination Act (Republic of South Africa, 2000) which gives effect to the prohibition of unfair discrimination and harassment and the promotion of equality; the Domestic Violence Act (Republic of South Africa, 1998) which provide victims of domestic violence with maximum protection from domestic abuse; the Employment Equity Act (Republic of South Africa, 1998) which includes women as a special category for affirmative action employment and the Civil Union Act (Republic of South Africa, 2006) which gives effect to same-sex marriages.

Women's movements have been influenced and directed by feminist theories worldwide and these theories have therefore had direct influence on policy formulation that deals

with gender discrimination, empowerment and equality, both formal and substantive. Feminists who have worked for the advancement of women's rights through state institutions and agencies are often confronted with difficult choices where a pervasive state institutionalises women rights with its own interpretations and may easily become implicated in their violation. These conditions are quite apparent where statutory institutions meets with resurgence of religious and judicial institutions in a milieu of a legal framework (Cornwall and Molyneux, 2006).

South Africa's robust legislation which encompasses and protects women's rights have been implemented in a disconnected way and have been implemented in contrast to legislation that protects cultural and religious practices.

Gender specific legislation such as affirmative action policies have the capacity to alter power differences and structures between men and women, but these may not always result in just outcomes for women and men (Saxonberg, 2009).

In ascertaining how these policies influence the public policy making process it then becomes crucial to unpack and understand the term public policy and the policy making process.

2.7. Policy studies within a feminist frame

A number of scholars have argued that mainstream policy analysis falls short of identifying to recognize gender bias in substantive policy as the modes of analysis used to critique. Policy processes are inherently gendered. For example, the distinctive masculinity of public policy is systemic maintains existing power structures and it contributes to and is also sustained by power relations generally distribute resources on the basis of gender. This in turn affects the opportunities available for citizens as well as individual's self perception and self-worth (Hawkesworth, 1994).

A feminist policy analysis raises a wide range of questions about policies which start with the concern for the position of women. These questions are important for the commitment to equal opportunity. A feminist approach to policy analysis should be about more than simply including women into the plan. It requires a review, reconceptualising and contextualizing of policies as part of decision-making in a larger

social system. Policy analysis within a feminist frame means striking out against the policy models that call for pure objectivity and value neutrality in the pursuit of knowledge (Kanenberg, 2013).

Dunn (1994) asserts the aim of policy analysis is to facilitate improved policies by creating new policies, critically assessing existing policies and effectively communicating policies to action and stakeholders. This allows for promoting individual and collective learning through policy discourse and debate. However, serious concerns for feminists are that not sufficient attention is given for a feminist approach to be incorporated into policy formulation (Kanenberg, 2013).

McPhail (2003) argues that policy analysis models approach a policy in a gender neutral framework and stresses that the goals underlying a feminist framework should include identifying assumptions about the generalisations of women that are entrenched in policy and in so doing move towards ending traditional patriarchal oppression of women. This promotes discourse and debate over policy issues and in doing so also provides the opportunity for individual and collective learning as facets of the policy are ventilated. An analysis framework that advances feminism in policy making includes addressing power disparities between men and women with the idea of bringing a balance of power and control to women. A proposed policy analysis framework therefore includes (i) feminists values that underpin the policy; (ii) state- market control that considers women's unpaid labour, care work and the social control of women; (iii) consideration to the multiple identities and multiple oppressions of women; (iv) achievement equality for women; (v) special treatment and protection of women which ensures that there are no unintended consequences or women; (vi) the gender bias in policy and ensures that it is not hidden; (vii) impact of patriarchy in women's lives and their lived experience; (viii) consideration to the biasness of language within the policy; (ix) balance of responsibilities and (x) gendered meaning and impact of the policy.

In evaluating women empowerment through the Gender Equality Bill, the policy analysis process will be benchmarked against the perceived ideal feminist analysis framework to ascertain whether the Bill would bring about a change in women's positioning in society.

2.8. Understanding Public Policy

Understanding public policy requires a definition of the concept 'public policy'. Dye (1998) defines public policy as whatever government chooses to do or not to do. This Parsons (1995), looks at the idea of public spheres and how metamorphic conceptualisation of private and public has assisted in shaping public policy into spheres which are designated to the public and not private. This implies that public policy presumes a sphere of life that is not individualistic and requires government or social regulation or intervention to a common action. Fox, Bayat & Ferreira (2006) indicate that policy needs to be purposive or goal-oriented and should be viewed as an outcome, a programme or process. This means that public policy relates to government's action or non-action.

Dunn (1981) defines policy as a series of more or less related choices including the decision not to act. It is imperative to distinguish between what government intends to do and what it actually does and further underscores other composite ideas to conceptualise public policy. Public policy involves all spheres of government and is not only restricted to formal actors but also informal actors. This notion is supported by Fox *et al*, (2006).

This is apparent within the South African context where three spheres of government exist, namely national, provincial and local. The roles and responsibilities of these spheres of government are clearly outlined in the constitution. Administrative action must be guided by specific goals and objectives, guided by needs of society. Normally government would become aware of such deficiencies and would then indicate what is intended and how the goals and objectives would be obtained. Public policy is encompasses legislating, executing and regulating. It is an ongoing process that involves implementation, monitoring and evaluation. Hogwood and Gunn (1984) concluded that several meanings have been ascribed to conceptualise policy and discuss the concept in the context of policy as a consideration for economic, social or political activity. This then necessitates unpacking theories in public policy to gain a better understanding of the concept.

2.9. Theories in public policy

Political scientists have developed numerous theories and models to assist scholars to understand political life, noting that political propositions influence the policy making process. Cloete and de Coning (2011), Fox *et al* (2006) argue that policy and policy making have been closely linked to political ideologies which play an important role in how policy formulation and implementation unfold. Ideologies which influence policy approaches and theories in public policy includes the liberal democratic approach, also known as the liberal “*laissez faire*” approach which resolves that the state should be concerned with upholding law and order, and the protection and promotion of free enterprise and limited involvement. The socialist or collective approach follows the ideology that the state controls the economy through state institutions and the welfare state approach claims that the promotion of the highest degree of material and spiritual well being of individuals is the responsibility of the state (Cloete and De Coning, 2011). Authors have designed various theories to explain policy making and these are explained below. According to Cloete and de Coning (2011), and Dye (1995) these theories include:

Classical theory alternatively known as institutional theory emphasises the point that different interests and concerns raised by government should be given preference. This theory encompasses the principle of separation of powers into legislative, executive and judicial functions.

Liberal democratic theory emphasises that the political party presupposes that political party is fundamentally the power in policy making and the political party represents the individual voter and interest groups.

Elite theory presupposes that people are indifferent and ill-informed about public policy and that an elite group shapes mass opinion and policies are generally the preferences of the elite. The demands of the people are not reflected.

Systems theory depicts public policy as being generated by a political system. A political system is represented by a group of interrelated structures and processes that

functions an authority that assigns values to a society. Here the system would preserve itself by producing reasonably satisfying outcomes or outputs.

Rationalism proposes that policies chosen government result in maximum societal gains. Rationality is obtained when the difference between the value it achieves and the value it sacrifices is positive and greater than the policy alternative. This model often presents challenges to rational decision-making in government.

It should be noted that authors differ in the approaches that would be adopted for policy implementation. John (1998) and Ham and Hill (1993) argue that **rational choice theory**, which differs from rationalism assumes that individual action is essential for political action and inaction. This theory scrutinizes what individuals do when they are faced with choices made by political actors, and why they choose to cooperate or not in the context of a number of the policy options which are available.

These theories have lead to the development of analytical models for public policy making and analysis which are discussed in the next section.

2.10. Public Policy models

Policy models are defined as uncomplicated representations of selected facets of a problem situation that has been constructed for a particular purpose (Dunn, 1994). Although doubt can be placed on the simplification of models it should be noted that for the purposes of public policy making these assist with description, explanation, understanding and planning of potential or prospective policy initiatives. Models utilised in policy analysis can either be descriptive or prescriptive in nature. Descriptive models are used for the policy making process and prescriptive models are used for analysing content, results, impact and consequences (De Coning, 1995)

2.10.1. Descriptive policy models

Descriptive policy as the functional process model is used for the process of policy. These models have been developed with an improved understanding of the political administrative processes in the public policy space (De Coning, 1995). Hogwood and Gunn (1984), claim that descriptive models are derived from complex social phenomena and material objects. This implies that policies should vary from country to country. For

the purpose of the research emphasis will be place on functional process model, the institutional model and the elite model.

The **functional process model** focuses on the functional activities involved in the policy making process. It also emphasizes how alternative courses of action are formulated and communicated and who is responsible for formulating and executing policy measures and who decides that a policy action is in contradiction with legislation, who demands for enforcement and how the success of the policy would be measured as well as how the legal aspects would be enabled. This model lends itself to a comparative study of policy making (de Coning, 1995). This model has severe limitations because it only allows for the processes by which policy is developed, implemented and changed to be analysed and no focus is given to policy content (Dye, 1995).

The **institutional model** asserts that public policy is legitimised by government and its policies apply to all members of society. Proponents of this model argue that only government policies apply to all citizens in a society (Cloete and de Coning, 2011). This then means that government structures may have an influence on policy outcomes and may bring dramatic changes to policy. Consideration for the relationship between policy and the structure should be taken into account (Cloete and De Coning 2011).

This model is not without its limitations. Institutional theory is historically focused on the structure of government and it could be used for the policy analysis process to analyse the behaviour patterns of different public institutions (de Coning, 1995). Institutionalism developed much slower than other approaches, but it should be noted that it has employed new approaches to the policy process in recent years (Fox *et al*, 2006).

The **elite model** is renowned in policy analysis literature. Earlier authors include Anderson (1979: 19-20); Dye (1978:25-28) and Henry (1975: 231) in Cloete and de Coning (2011). It is based on the postulation that a small elite group, usually government, is responsible for policy decisions that flow down to the population and are executed by the bureaucracy. This model is based on the notion that the elite are firmly in power and they would make the best decision for the benefit of all. The public

servants can therefore be perceived as bureaucrats and not as serving the public (de Coning, 1995). This model has severe limitations in that it sees society as those who have power and those who do not have. The elite often share common values that distinguish them from the masses and reflect the values of the elite and preferably protecting the status quo (Cloete and de Coning 2011).

2.10.2. Prescriptive models

Prescriptive models are utilised for analysing policy content and is used to determine policy options. All value preferences of a particular society need to be known and considered when analysing for possible policy alternatives (De Coning, 1995). A prescriptive approach exemplifies two distinct views namely, a liberal democratic approach and rational approach (Ham and Hill, 1993). Prescriptive models as based on a social efficiency method. Application is usually in a time context and the most prevalent models are the rational comprehensive, incremental and mixed-scanning models (de Coning, 1995).

The **rational comprehensive model** is rooted in the rational comprehensive decision-making. A full range of policy options is available to choose from and all value preferences of a particular society and their relevant importance as well as identity needs to be considered for possible policy alternatives. The consequence of each alternative is explored and a selection of options is provided (Cloete and De Coning, 2011). The rational decision making models emphasises criteria for rational action and the level of analysis in and organisation. This model aims to explain how the executive makes a public decision and it should be noted that the rational choice theory does not predict the same processes and outcomes as the rational comprehensive model in policy making (John, 1998).

The **incremental model** presents a claim that only a few number of policy alternatives are available in a supplementary manner. It further regards existing government activity as a continuation with only little growth or changes. Advocates for this model argue that incremental change speedily than comprehensive change and that the conflict potential is generally lower than with radical change. It further suggests that this model contributes to redefining policy on a continuous basis (Cloete and De Coning, 2011).

Although this model has elements of decision making at small intervals, it is silent on why policies are adopted at a particular time and place (John, 1998).

The **mixed-scanning model** was developed as an alternative to the two models previously discussed. This model encompasses characteristics of the rational comprehensive model with those of the incremental model by reviewing the overall policy and then by concentrating on the specific need, policy result and policy impact (Hogwood and Gunn, 1984) and (Cloete and de Coning 2011). This model is suggested a good description of how decisions are made in a number of fields and as a strategy which can guide decision-making. It is presumed to rest on the distinction between fundamental decisions and incremental or bits of decisions. It is regarded as an appropriate model because it allows for a range of alternatives that can be explored (Ham and Hill, 1993).

For the purpose of this research emphasis will be placed on the both the institutional and the elite models because the Gender Equality Bill will be legitimized and executed by government and would apply to all sectors private and public spheres.

The aim of this research paper is to examine the Gender Equality Bill by adopting by applying it to the scrutiny of the policy implementation process.

2.11. The Policy implementation process

Policy implementation refers to process as an inclusive action by individuals or groups belonging to the public or private sphere that are directed at achieving objectives proposed in prior policy decisions (Brynard 2000 in Cloete and Wissink 2000). When looking at the Gender Equality Bill it would be important to note that this bill was envisioned by the African National Congress's Elective conference, which was held in 2009. Moore (1995) in Cloete and De Coning (2011) proposes a comprehensive strategy for implementation of public policy which would ensure public value and should be inclusive of substantive value, legitimacy, political sustainability and operational and administrative feasibility. This is vital stage because it lies between the establishment of the policy phase and the consequences for who it affects, in the case of this research the emphasis is on women. The policy implementation process should not be seen an

emotionless process where politicians make policy and officials implement. It should be viewed as a continuous and interactive process that requires cooperation between stakeholders involved in the policy implementation process. Policy implementation should always be linked to the realities of a specific and changing environment. Two policy implementation approaches are normally adopted by policy implementers, namely, the top down approach; and the bottom up approach (Cloete and De Coning, 2011).

2.11.1. The Top-down approach

The top-down approach means that policy is enforced from the executive arm of government (Cloete and de Coning, 2011; Fischer, Miller and Sidney, 2007). It should be noted that the top-down approach is much more complex when it is required to be translated into action (Ham and Hill, 1993). This approach places emphasis on the ability of the decision-makers to produce clearly defined policy objectives. A prescriptive approach is followed that interprets policy as an input and implementation as an outcome. Fischer *et al* (2007) identify six criteria for successful implementation, namely, policy objectives should be clear and concise; the theory should be based on causal theory; the implementation process should be clearly structured; implementers should be committed; interest groups and legislators should be supportive and there should be no damaging changes in the socio-economic framework.

2.11.2. The Bottom-up approach

The bottom-up approach rejects the idea that policies are defined at a central level and that implementation stick to objectives as closely as possible (Fischer *et al* 2007). The bottom up approach scholars are concerned with the entire policy cycle which includes how the policy was defined, shaped, implemented and possibly re-defined. The complexity of the bottom-up approach of policy implementation and in the way it was designed suggests that the implementation of policy in itself could be ambiguous (Ham and Hill, 1993).

Although a description of the bottom-up approach is provided, for the purpose of this research, focus will be on the top-down-up approach.

It therefore becomes important to look the policy analysis process to ascertain the theoretical aspect as well as the policy process that was followed in drafting the Gender Equality Bill.

2.12. Policy analysis process

Policy analysis is not a new phenomenon, and although a single definition will not entirely define its full meaning and scope of theory and practice, it can be defined as a social science which uses multiple methods of inquiry and argument to produce and resolve policy issues (Dunn, 1994). It could also be defined as an attempt to measure the implication of costs and the efficacy of benefits of the policy outcomes (Hanekom, 1987). Taking into consideration the brief definitions provided, it could be said that policy analysis could be regarded as a social science which then presumes that numerous techniques are employed which could meaningfully resolve policy problems.

Policy analysis incorporates five general procedures that are common to problem solving, namely, **problem definition** which yields information about the condition which gives rise to the issue, **forecasting** which provides information about future consequences of acting on policy alternatives, **recommendations** which provides information about the relative value of the potential consequences and effects when addressing a specific issue, **monitoring** which describes current and past consequences of policy alternatives and **evaluation** which estimates the value of the consequences when solving the problem. These five steps serve as a basis for organizing particular methods and techniques of policy analysis (Dunn, 1994)

Generally, policy analysis frameworks identify key policy elements vital to understanding and/or judging a policy. The specific elements and the approach taken in evaluating the elements differ depending on the model. The four frameworks presented here are discussed in terms of policy analysis; however, they are also applicable to program analysis.

Public policy that addresses a social problem within a specific framework for action acts as both a product and a process because it must follow a series of actions to produce a specific outcome. This is based on the assumption of a well outlined policy that will be

inherent while considering the potential changes in value structure and conditions of the affected group (Gil, 1973).

Since policy analysis is an examination of the components of a decision in order to enable to act according to a set of principles in a given policy, in this case relating to the Gender Equality Bill, a basic policy analysis process will be used. Generally, policy analysis frameworks identify key policy elements vital to understanding and/or judging a policy. The specific elements and the approach taken in evaluating the elements differ depending on the model. The four frameworks presented here are discussed in terms of policy analysis; however, they are also applicable to program analysis.

Gil (1973) formulated a policy framework based on the following,

- Nature, scope and distribution of issues
- Policy objectives both overt and covert
- Value premises and ideological orientations underlying the policy
- Target segment of society
- Short and long term effects
- Development of alternative policies or comparison and evaluation of existing policies

The most commonly used method of analysis according to Walker (1993) includes the following:

- Identifying the problem
- Specifying the objectives
- Deciding on the criteria
- Selecting alternatives
- Analysing the alternatives
- Comparing the alternatives
- Implementing the alternatives
- and monitoring and evaluating the results

This notion is supported by Patton and Sawicki (1993) who outlines six steps for policy analysis which include **verifying, defining and detailing the policy** problem in this case the government policy; **establishing evaluation criteria** by describing the economic, social and governmental policy it is designed to solve; **identifying alternative policies** by describing the environment in which the policy arose and which existing policies were developed to solve the problem; **evaluating the alternative policies** that can be adopted and monitoring the implemented policy by providing a **summary comparison** of all policies examined. This notion is also supported by Garrison and Scott (2006).

According Chambers and Wedel (2005), a central aspect of a social problem is that although the event that defines the problem may be the same, the way in which those events are interpreted may vary considerably. They are generally highly variable and depend on the viewer. The analysis of a social problem does not begin by judging whether something is right or wrong, but it should anticipate a clear understanding of the problem. Four dimensions need to be considered when analyzing a policy, namely,

- Identify the way the problem is identified
- Identify the cause to which the problem is attributed and its most serious consequences
- Identify the ideology and values that makes the issue a policy problem and
- Identify who benefits and who suffers from the existence of the policy

These four dimensions can be translated into six fundamental policy elements in the policy analysis process, namely,

- Clarifying the objectives of the policy issue
- Identifying and assessing rules for eligibility
- Assessing the policy issue for the administrative or organizational structure which will be used for service delivery
- Identifying and assessing the method used for financing
- Assessing how the policy elements interact with each other

The four frameworks discussed above are a fraction of the available policy analysis frameworks available in the literature. These frameworks as well as others have great variability in terms of their focus and intent. Some frameworks are short and contain only a very limited number of key elements compared to other frameworks that focus on certain policy elements as well as the broader context within which the policy is being formulated or implemented. Some frameworks place a greater emphasis on understanding the problem so effective policies can be formulated. Frameworks vary greatly in their emphasis on strengths and with a general understanding of their strengths and perspective, should make it possible to use these models and the strengths perspective when analyzing a policy. The policy process involves a number of power and policy actors and it therefore becomes imperative to briefly identify these actors in the South African context. The Chambers and Wedel (2005) policy analysis framework will be selected to analyse the Gender Equality Bill.

2.13. Policy actors in South Africa

The policy process and coordination post 1994 forms the drive of policy action that is anchored in the policy cluster system which South Africa has adopted. These clusters include the presidency, cabinet, government bureaucrats, the constitutional courts including other courts, the National Economic Development and Labour Council, the National Executive committee of the African National Congress and portfolio committees in parliament. These are assumed to be the primary clusters in the policy-making process. A secondary cluster also influences the policy process and key actors in this cluster include alliance partners such as the South African Communist Party and the unions such as the Congress of South African Trade Unions (Booyesen, 2001). It should be further noted that business also plays a critical role in the policy process. Influence is achieved through engagements in forums and institutions.

2.14. Conclusion

The purpose of this literature review was to discuss, concepts, theories, themes and models in the policy making process. In South Africa, women's rights are enshrined in the constitution. These rights have been influenced by women's movements nationally

and internationally. These women's movements have their roots in feminist approaches and theories.

A large number of the population is unaware of these rights. In ascertaining how these policies influence the public policy making process it then becomes crucial to unpack and understand public policy and the policy making process and how the assessment of policy implementation process will create a positive outcome or a lack thereof.

Chapter 3: Methodology

3.1. Research philosophy/paradigm

In order to locate the research paradigm it becomes important to provide a brief description of what a paradigm is. A research paradigm refers to the approach the researcher takes in social research (Babbie and Mouton, 2012). A research paradigm consists of a number of components of interrelated ontological, epistemological and methodological assumption (Terre Blanche *et al*, 2006). The qualitative paradigm appears to be epistemologically founded in interpretivist and constructivist approaches. Ontology is concerned with the assumptions about a variety of phenomena in the world. It therefore referred to the theory of the nature of reality (Neuman, 2011). This research was conducted from a qualitative paradigm which allows for interpretation through shaping the research problem, choosing a sample, collecting data and analyzing the data and lastly writing up the findings.

Qualitative research encompasses several philosophical or theoretical orientations and the most common being, interpretative, critical and postmodern. For the purpose of this study, focus was placed on the interpretative approach. In an interpretive approach, the researcher is required to grasp the subjective meaning of social research (Bryman, 2012). The goal is to develop an understanding of social life and discovering how people construct meaning in natural settings (Neuman, 2011). Adopting an interpretive approach means believing that reality is constructed by social actors and people's perceptions of it (Bryman, 2012). This means that one has to understand the meaning that people have constructed about their world as well as their experiences. In attempting to understand the social life of the participants, the researcher chose participants who worked on issues concerning women empowerment and gender equality and was already familiar with the environment.

This then means that the researcher then becomes the primary instrument in data collection and analysis (Bryman, 2012). Qualitative researchers often rely on an interpretivist approach which allows for the contextualization of the research. Emphasises is placed on conducting detailed examination of cases that are in the natural flow of social life and a presentation of authentic interpretation that is sensitive to

a specific social-historical context. For an interpretivist researcher, the goal of social research is to develop an understanding of social life and discover how to construct meaning to the natural setting. The researcher has to know a particular setting and see it from the point of view of those that are in it (Neuman, 2011). In this study an interpretative approach was utilized to observe the feelings and meanings which contextualizes the views of the participants in relation to women empowerment and gender equality and that then contextualizes the research in order to come up with findings.

The study also adopted an inductive approach which assisted in gathering data to build concepts and theories (Merriam, 2002). For the purposes of this research the qualitative method of research was used to explore the structural gaps in the bill and whether the bill was able to enhance, complement and complete the existing legislative framework on women empowerment and gender equality. The policy process which was undertaken in drafting the bill by the Department of Women, Children and Persons with Disabilities was explored to determine whether the approach was top down or bottom up and whether a model of policy formulation process was followed.

As a researcher, one is confronted with ontological considerations which are concerned with the nature of social entities such as objectivism and constructivism and epistemological considerations are concerned with what should be regarded as acceptable knowledge within a particular discipline. Objectivism is an ontological position that emphasizes that social phenomena and their meanings have an existence that is independent of the social actors within the research context, and constructivism on the other hand emphasizes that meanings of social phenomena are continually being achieved by social actors meaning that the interaction is in a constant state of modification (Bryman, 2012). The purpose of research is to ascertain whether it is fair, honest, truthful and unbiased. A qualitative researcher places emphasis on intimate first-hand knowledge of the research settings as well as trustworthiness as parallel idea to objective standards to ensure that the research is dependable and credible (Neuman, 2011). To ensure that the research is dependable and credible, the researcher ensured familiarity with the settings where the research was conducted and further ensured that

a measure of trust was developed by identifying participants who were familiar with the issues of women empowerment and gender equality. The participants were from the gender sector and were familiar with issues of women empowerment and gender equality. The purpose and rationale of the study was also shared with the ten participants through formal letters, which requested them to participate and indicate their willingness through signing a consent letter that is attached as Appendix A. The ten participants were interviewed using a semi-structured interview questionnaire.

3.2. Research strategy/approach

Research design or strategy should be viewed as a plan or blueprint of how the researcher intends to conduct the research (Babbie and Mouton, 2012). It can also be defined as a framework for the collection of data. It further reflects decisions about the priority being given to the array of dimensions of the research process. These include the importance attached to expressing causal connections between variables, generalizations, understanding behaviour and the meaning of that particular behaviour in a context and having an appreciation of social phenomena and their interconnections over a period of time (Bryman, 2012). Research design situates the researcher in the empirical world and connects the research questions to the data. The researcher is confronted with four main ideas, namely research design, development of a conceptual framework and tools and procedures to use when collecting and analysing empirical material (Punch, 2005). The research identified the research problem which relates to assessing women empowerment by evaluating the Gender Equality Bill.

The researcher normally has choice of five prominent research designs, namely experimental and related designs which include the quasi-experiment, cross-sectional designs, the most commonly used in survey research, longitudinal design and its various forms, case study and comparative design which is considered in terms of the criteria for evaluating research findings (Bryman, 2012).

In qualitative research there are several designs that can be employed which includes, interpretive study, phenomenology, grounded theory, to mention a few. It should be noted that all qualitative research designs have one common purpose and that is to search for meaning and understanding and to provide a rich description of the

phenomenon (Merriam, 2002). It should further be noted social research methods do not take place in a vacuum. Issues such as the role of theory in relation to social research need to be considered, the role of values and ethical considerations are of paramount importance (Bryman, 2012).

A number of research strategies can be employed for qualitative research, for instance, a basic interpretative study where the researcher is interested in understanding how participants make meaning of a situation and this meaning is interceded through the researcher as an instrument, the strategy would be inductive and the outcome is descriptive; phenomenology which focuses on the structure of the experience and personal beliefs are set aside and grounded theory which emphasises discovery with description and verification serves a secondary concern. Other strategies that could also be employed include postmodernism, narrative analysis and critical approach which raises race, class and gender intersections and how power relations play out (Merriam, 2002).

For the purpose of this study a basic interpretive and descriptive qualitative study was conducted to understand how participants make meaning of a phenomenon. The researcher serves as an instrument that mediates the meaning of the data collected using an inductive strategy to determine a descriptive outcome. In this research the purposes was to determine whether the bill would enhance, complement and complete existing gender equality legislation. The strategies would further help the researcher understand what motivated the drafting of the women Gender Equality Bill and to ascertain whether the bill advances the interest of one group while suppressing the interests of the other group. This enabled the researcher to identify the structural gaps that exist within the bill. This approach assisted in unpacking the public policy formulation process and assessing the role that stakeholders played in the drafting and tabling the bill before parliament for adoption.

3.3. Type of qualitative research and research methods

A research method is a technique to collect data through an instrument such as a questionnaire, an interview or observation and involves a specific instrument such as a self-completion questionnaire, structured interview or an observation (Bryman, 2012).

Interviews can range from highly structured to semi-structured to unstructured interviews. The semi-structured interview possesses a mix of more or less structured questions. The largest part of the interview is usually guided by a list of questions or issues that need to be explored and neither the exact wording nor the order of the questions are determined ahead of time (Merriam, 2002). For the purpose of this study a semi-structured interview format was utilized to interview the ten respondents who participated in the study. This allowed for participants to express their views honestly and further allowed flexibility in providing detailed responses.

The interviews were conducted in venues which were mutually agreeable by the researcher and the participant. It therefore important to note that qualitative research is always conducted in the natural setting of social actors and the focus is the outcome, rather than the process. The aim was to understand social action in terms of a specific context in this instance the venues agreed to by participants and ensured that events were described as accurately as possible (Babbie and Mouton, 2012).

3.4. Sample

Most sampling in qualitative research involves purposive sampling to a degree and aims to obtain answers to the research questions. Purposive sampling is a non-probability form of sampling and the researcher selects the participants in a strategic way to ensure that those sampled are relevant to the research questions of the study (Bryman 2012). In purposive sampling, the determination of criteria is of utmost importance in guiding the researcher as to who needs to be selected or which sites need to be observed (Merriam, 2002). The sampling method that was employed for the study was purposive sampling. Participants were selected from the gender sector and had an interest in issues of women empowerment and gender equality.

It is imperative to select the sample on the basis of the knowledge on the basis of the population, its elements and the nature of the research purpose (Babbie and Mouton, 2012). The purpose of this study was to evaluate women empowerment through the assessment of the Gender Equality Bill and determine whether the bill would enhance, complement and complete the existing legislative framework that relates to gender equality and women empowerment.

Interviewees were selected on the basis that they possessed a sound understanding of gender inequality, issues of women empowerment and gender equality in South Africa, as well as a sound understanding of gender and development approach. The participants consisted of academics who have written widely on issues of gender, gender experts who have experience in gender and the law and gender practitioners who have a strong interest in advocating for women's issues and gender equality. One participant was also selected from the trade unions with particular focus on their gender desks and having served in National Economic Development and Labour Council where policy issues are discussed and policy decisions are recommended for adoption by parliament. Participants were also selected on the basis that they further had a sound understanding of the public policy-making process.

In addition to the interviews documents were analysed. Document as sources of data may include public records, personal documents relating to legislation on women empowerment and gender equality. These documents would assist in analysing the policy problem that has been presented. The strength of using public document as a data source lies with the fact that they are already in existence and therefore would alter the setting in a way that a researcher might (Merriam, 2002).

3.5. Data collection

In qualitative research, there are three main sources of data collection techniques that can be employed, namely, interviews, observations and data of documents. It is ideal to use more than one sources in data collection, this will assist in enhancing the validity of the findings (Merriam, 2002). For the purpose of this research, emphasis was placed on interviews and data of documents, in this instance gender equality legislation. Data collection through the interview method should be carried out in structured way where the output depends on the availability of the participants (Kothari, 2004), and aims to solicit information.

All ten of the participants that were approached were available and responded by participating in the study. As previously stated, semi-structured interviews were employed to explore whether the Gender Equality Bill would enhance, complement and complete the existing legislative framework. The interview comprised of open ended

questions relating to issues of status, power, attitudes, women's lived experiences, the, historical, cultural political context of women multiple identities and multiple oppressions of women as well as behaviour. Further questions related to the structural gaps in existing legislation, and how it would enhance, complement and complete the existing legislative framework that relates to gender equality and women empowerment in.

For the purposes of this research, the selected acts were used to compare for the dimensions of effectiveness of the policies of legislation which included intended effects, unintended effects and equity as well their implementation which included cost, feasibility and acceptability (Morestin, Gauvin, Hogue & Benoit, 2010).

3.6. Validity, reliability and ethics

The views of validity and reliability are normally addressed from the perspective of the paradigm of the study (Merriam, 1999). This study was conducted from an interpretive approach as indicated earlier. It should be noted that validity and reliability need to be grounded in the worldview of qualitative research which assumes that reality is constructed, multi-dimensional and fluid (Merriam, 1999). Reliability means dependability or consistency and the tools used are interviews to record observations consistently (Neuman, 2011). Validity is constituted of external and internal validity. Validity is concerned with the integrity of the conclusions of a study. Internal validity focuses on causality while external validity is concerned with whether the results of the study can be generalised beyond the research context (Bryman, 2012). There are a number of strategies that can be used to determine internal validity, namely, triangulation, member checks, peer examination, statement of the researchers experiences and submersion (Merraim, 1999). Since there are interpretations of that reality internal validity was utilized in the study.

Trustworthiness is an important factor of qualitative research. In order to assess the trustworthiness of the study, it becomes important to support and ask what kind of questions the research is designed to address. Trustworthiness therefore becomes a criterion for how good the study is by ensuring that is credible, dependable, transferrable and confirmable (Bryman, 2012).

Reliability is mainly concerned with ascertaining whether the results are repeatable (Bryman, 2012). The notion of reliability assumes that the repeated measure with the same results establishes the truth of the results (Merriam, 1999). The notion of reliability is problematic for qualitative research because human behaviour cannot be presumed to be static. The focus should rather be on consistency. Strategies that can be used to ensure consistency include triangulation, peer examination and audit trail. It should be noted that reliability cannot be perceived the same as in quantitative research (Merriam, 1999). Triangulation was used to determine dependability and consistency which further enhanced internal validity.

The researcher needs to be aware that there are ethical obligations towards the participants as well as the colleagues in the scientific community. Participants need to be aware that responding to the interview questions would be voluntary. The study is not intended to bring harm to anyone (Babbie and Mouton, 2012). It was very important to alert the participants of the confidentiality of the information shared and that all participants in the study would remain anonymous. It was also important to communicate the purpose of the study clearly to the participants. The study was communicated to participants through a letter outlining the purpose of the study.

3.8. Data analysis

Data analysis occurs concurrently with data collection in qualitative research and this allows for adjustments to be made as the data is being collected (Merraim, 2002). The main complexity with qualitative research is that it generates large amounts of data because of its reliance on interview transcripts or documents, which must then be coded.

Coding can be defined as reviewing transcripts from interviews and labelling the components that seem to have theoretical significance. Codes are devices to label, separate, compile and organise data. It tends to be in a constant state of modification and flexibility (Bryman, 2012). For the purpose of the study, coding was used. This was done after the transcription of interviews. This allowed the researcher to learn from the data, to allow for revisiting of the data and patterns until explanations were all well understood. Coding the transcripts also served as data records. Themes that were

identified in the data included gender inequality, women empowerment, patriarchy, financial constraints, decision- making and equity.

3.9. Limitations of the study

The sample size selected was relatively small and no representative as only a total of ten participants were interviewed. The study cannot be generalised to the general population. Although participants all work in gender sector, it was found that they were not forthcoming with responses and often provided short or one sentence explanations where they were requested to respond to follow-up questions. This could have an impact on the findings and interpretation of the data.

3.10. Conclusion

The methodology that used for the purposes of the research report included semi-structure interviews and acts of parliament documents to evaluate whether the policy would enhance, complement and complete legislation relating to gender equality.

Chapter 4: Presentation of data

4. 1 Introduction

The purpose of the study is to analyse the Gender Equality Bill and examine whether it will enhance, complement and complete the existing legislative framework that relates to gender equality and women empowerment.

This section presents the participants' understanding of concepts such as women empowerment. The feminist theories discussed in chapter two that impact on public policy strike out against the models used for analysis which often call for objectivity and are value neutral in their pursuit for knowledge. Feminism is often viewed as ideal for understanding the implications of social and public policies for society, as it is able to enlighten on the ramifications and consequences of public policies (Kanenberg, 2013).

Although feminists often question the existing methods of the policy process, the aim is ultimately to extend knowledge to society at large. The aim of the policy analysis process is to create knowledge by investigating the causes, consequences and performance of public policy (Dunn, 1994). The aim of generating knowledge is to assist in formulating and solving problems as experienced by the policy makers as well as the citizens on whom the policies have an impact, which includes those citizens whose rights and opportunities in the political system have not been realized or have been violated.

Most public policies in welfare states are social policies. They serve as a framework for action and are not merely societal responses. They constitute a system of human designed principles which shape the quality of life, power relations and social relations in society (Gil, 1973). In chapter three as part of the analysis process, the existing legislative framework for equality was going to be compared to the new Gender Equality Bill to firstly ascertain whether the policy outcomes envisaged are already covered in one or more of those pieces of legislation or whether a new alternative needs to be explored. The purpose of this research is not to suggest a new policy, but rather to conduct a brief comparison of the existing legislative framework and the Gender

Equality bill to determine the context, processes and outcomes of each and to ascertain which would be best suited for effective implementation.

In first section, the responses received from participants will be presented in a narrative. Participants were guided by research questions which sought to identify structural gaps and systemic barriers which existed in necessitating the drafting of the bill; whether valid considerations were made to existing legislation and whether the current bill will enhance, complement and complete the existing legislative framework.

For the purpose of this research, a total of ten participants from the gender sector which includes civil society organizations and a trade union were interviewed. Where appropriate, verbatim quotations from the interviews have been included to provide the perspectives of the participants, and ensure that the interpretation arose from the participants inputs holistically and was sensitive to text (Neuman, 2011).

In the second section, a table was developed indicating six aspects or dimensions namely (i) intended effects which relate the aim or policy objectives and how these actually occur; (ii) unintended effects or unanticipated effects that might occur during the implementation stage; (iii) equity which should indicate the effects on different groups; (iv) costs which entail examining the overall costs and benefits; (v) feasibility which entails assessing whether the policy is technically feasible and (vi) acceptability which relates to the whether the stakeholders in the policy process views the policy as acceptable (Morestin *et al*, 2010).

There are a number of obstacles that women generally experience in pursuit of gender equality and could be regarded as criteria which could be determined as acceptable to all women. One such criterion is 'women empowerment'.

4.2. Presentation of data from interviews conducted

4. 2.1. Women empowerment

The Gender Equality bill proposes to address issues of women empowerment. The Bill provides a definition for empowerment which entails the advancement of women through integrated strategies, frameworks, programmes, plans, activities and budgets to

ensure the elimination of structural inequalities and thereby improving the quality of life for women in political, social and economic spheres (Department of Women, Children and People with Disabilities, 2012). Participants were therefore engaged on the issue of women's empowerment during the interviews. The issue of empowerment is a crucial topic for the gender sector because it is often associated with equal representation, equal work for equal pay, decision-making in the political and the public sphere and reproductive rights issues. Numerous journal articles have been written on empowerment by authors such as Syed (2010); Masoodo (2009) and the empowerment of women such as Kabeer (2005) and Ndinda (2009). Women's empowerment is generally constrained by the norms, values, and beliefs of a particular society and it often varies culturally and over time (Mosedale, 2005). This therefore implies that it might vary in terms of class, ethnicity and race. It could further be explained as being characterized as a process by which those that have been denied the ability to make choices acquire such ability (Syed, 2010). Empowerment can further be explained as a process in which women redefine their positions and gender roles. It further allows them the ability to overcome restrictions have been placed on what they can do in comparison to men (Mosedale, 2005).

The notion of empowerment is rooted in individual self perception and their self worth (Kabeer, 2005). The position of women in society is normally viewed as one of disempowerment and disadvantage compared to their male counterpart (Syed, 2010). Participant 2 reaffirms this

So this is exactly what we seeing right now, advancement of women. Women go on courses, women are being promoted, women are fitting into society, we see them everywhere... but it doesn't address the issue of women's vulnerability, of women's empowerment or lack thereof, of women access to resources. There is not really changing of women's conditions, of women's situation as we would like to see (Participant 2, Interviewed on 27 November 2013).

Participants 4, 7 and 9 expressed similar views on the issue of women's empowerment. Participants 1, 3, 5 and 10 did not express detailed views on the issue of empowerment, but they recognized the importance of the empowerment of women in ultimately achieving gender equality.

The debates around empowerment are focused around two facets, namely autonomy and authority. Autonomy relates to the freedom to make choices while authority relates to participation in making politically related decisions (Krizan and Lombardo, 2013). Participants did not directly address issues of power and autonomy. Participants associated power and autonomy with the control measures provided in the bill. The control measures outlined the role and responsibility the minister has in ensuring that the bill is implemented.

The feminist understanding of empowerment goes beyond the institutional definitions of power, instead addressing male dominance and the continued subordination of women meaning that a multidimensional approach needs to be adopted. A multidimensional approach to achieving empowerment not only emphasises participation, but stresses transformation to include women (Ndinda, 2009). The empowerment of women does not always translate to greater awareness of their rights and should be explored through agency, resources and achievement.

Although participants did not delve deep into providing definitions of their understanding of 'women empowerment', it could be presumed that they understood the concept and associated it with decision-making powers, equity and the improvement of their lives. Participants spoke about the possibility of lack of change in women's position in society inasmuch as several programmes have been put in place. It then became essential to question the participants on what they viewed as possible barriers or gaps in the current legislative framework that resulted in the perceived lack of change for the position of women in society.

4.2.2. Structural and systemic barriers in the existing legislative framework

Participants raised gender inequality as a key issue in the implementing the existing legislative framework. Gender inequality is built on the socialised divide created when roles assigned according to gender and their differential assessment of these roles. This means that women's authority and their degree of empowerment is determined by ways that gender identities, gender roles and gender relations are conceived at family, household, community and societal levels. The value ascribed to these gendered tasks

influence the social attitudes that lead to differential investment in men and women in relation to education, skills and labour (Gupta and Yesudian, 2006).

Addressing gender inequalities is imperative because, it not only confines what women can do, but also addresses the deprivations in health, education, workforce and participation in the political participation (Koggel, 2013). Participant 1 highlighted that inequalities are rooted in cultural, traditional and religious practices and responded to issues of equality in the following manner,

Inequalities in the sense that, let me give you an example there are some cultural practices that do not promote gender equality... I don't think we are addressing the root causes of inequalities (Participant 1, Interviewed on 27 November 2013)

Participant 7 further emphasised that gender inequality is still persistent irrespective of legislative gains made in South Africa:

A barrier to existing laws is that it marginalizes women outside the formal setup, including the unemployed, informal economy, the majority of who are black and vulnerable who have to face and bear the brunt of poverty. Inequality still persist despite legislative gains (Participant 7, Interviewed on 21 January 2014)

Participants 2, 3, 4, 5, 8, 9 and 10 all mentioned that inequalities were rooted and resulted from cultural and religious practices. Participant 6 highlighted the following,

South Africa is a multicultural nation and in some cultures women continue to be marginalized as well as discriminated against on account of their marriages. These issues of discrimination are rooted in the traditional and cultural practices which of course result in the deep inequalities that continue to plague the country (Participant 6, Interviewed on 21 January 2014)

Participants further also identified patriarchy as a major systemic problem. Traditionally, patriarchy influences the private and public spheres and forms the foundation of inequality between genders (Erturk, 2004). This implies that it has been rooted in the both the private lives as well as the public lives of an individual in society. Cultural beliefs, traditions and religious beliefs therefore perpetuate patriarchal structures. One participant provided an understanding of patriarchy and articulated it as follows:

You know, patriarchy for me deals with issues of culture, tradition and religious practices. You are completely vulnerable to patriarchy that exists around classes and so on (Participant 9, Interviewed on 30 January 2014).

The participants understanding of patriarchy in relation to power was further emphasised by Participant 7 who verbalised power as:

Thinking about the customary marriage, being exploited for the wrong reason, such as the trends of ukuthwala, you know forced marriages, domestic violence and sexual exploitation. All of these are informed by the abuse of power (Participant 7, Interviewed on 21 January 2014)

South Africa's commitment to both international and regional agreements requires the country to address issues of inequality in relation to gender as well as looking at equality in opportunities which includes discrimination that affects the outcome of equality. Customary and traditional practices have an adverse impact on women's enjoyment of rights guaranteed under the Convention on the Elimination of Discrimination Against Women which specifically addresses the patriarchal, traditional and cultural institutional practices that hinder the emancipation of women (United Nations, 1979). The notion of patriarchy resonates with the radical feminist viewpoint that advocates for the removal of patriarchal perceptions from society.

Participants further identified issues of resourcing, simplification of laws and providing budgets for implementation of legislation as part of the barriers or gaps that exist. Participant 1 mentioned,

Simplify it in such a way that people will see how and what they do on a daily basis affect or are affected by the provisions of the law (Participant 1, interviewed on 27 November 2013)

Participant 2 supported the notion provided by participant 1 and further indicated,

I think resourcing the existing legislative framework. If you look at most of our acts, they seldom have a section that outlines implementation. This is critical. An implementation section will force government to resource the acts and will ensure enforcement (Participant 7, Interviewed on 21 January 2014)

Participants 4, 5, 8, 9 also supported the notion presented by participant 2. Participant 7 and 10 felt that the existing legislative framework lacked enforcement and implementation. Participant 3 on the other hand felt that although cultural constraints and economic constraints hamper implementation, education on the laws was critical. Participant 3 verbalised the following in relation to structural and systemic gaps,

I think the lack of education coupled with economic constraints, social constraints and cultural constraints impacts on implementation (Participant 3, Interviewed on 14 January. 2014).

Participants identified several gaps that impact on the effective implementation of gender equality laws such as patriarchy and culture which impacts on implementation. The lack of education of these gender equality laws compromises the enforcement. The

Gender Equality Bill was particularly aimed at empowering women and advancing their status in society but fails to identify gaps in the existing legislative framework. The bill mentions inequalities and provides no background to the root causes of inequality. The bill mentions enforcement measures, but does not institutionalise mechanisms for implementation.

Participants provided various reasons as to what they thought systemic gaps were which included lack of education on existing laws, resourcing of laws, lack of enforcement mechanisms and existing cultural and traditional structures which impact on effective implementation of laws.

The next section looks at the rationale behind the drafting of the bill.

4.2.3. Participants understanding of the rationale behind the bill

Respondents who participated in the research all have a sound background on issues of women empowerment and gender equality. They represent organizations which have a vested interest in ensuring the voices that they represent are heard through policy proposal and change. In determining what the rationale behind the bill was and whether they could associate with the problem statement, participants provided various responses,

I wish I knew. The policy framework for women empowerment and gender equality and I think people were thinking that because it is just a framework, it is something that is just providing guidance. Its intention I suppose is to change the framework into an act (Participant 1, Interviewed on 27 November 2013)

South Africa's National Policy Framework for Women Empowerment and Gender Equality also known as the National Gender Policy framework intended to ensure that goals of attaining gender equality is included in the transformation process throughout all sectors in country. It also aimed to provide guidance to the functioning of the state gender machinery which included the Office of the Status of Women, the Joint Monitoring Committee which was based in parliament, the Commission for Gender Equality and civil society organisations in the realisation of women empowerment and gender equality across all sectors. The National Gender Policy Framework established guidelines for action to remedy the past in relation to women empowerment and gender equality. It included terms of reference necessary for the both public and private

spheres and also proposed and recommended an institutional architecture that facilitates equal access to goods and service for both men and women (Office of the Status of Women, 2000)

Participant 3 and 6 held similar views to that of participant 1. Participant 7 on the other hand, differed from the previous participant,

It emanated from the preparations and engagements at the ANC Policy Conference towards Polokwane elective Conference It emanated from the preparations and engagements at the ANC Policy Conference analyses of progress on gender mainstreaming since 1994. The intention was to establish the institution to review the gender machinery and to ensure the holistic approach to the empowerment of women (Participant 7, Interviewed on 21 January 2014).

The African National Congress Policy conference resolved that a thorough assessment had to be conducted on current instruments and strategies with a particular focus on programmes relating to women as well as the impact of those programmes. The purpose of the proposed assessment was to determine which institutional mechanisms should have been put in place in pursuit of the emancipation of women and at the same time broadly addressing gender matters. These assessments that would have been conducted would have advised on comprehensive recommendations on the form and structure of the institutional mechanism that would have been put in place (African National Congress, 2007). Evidence relating to the assessment was not available and could not be used. The problem statement identified in the Gender Equality Bill relates to gender inequality which is not only confined to the workplace, but is also entrenched in traditional values that create barriers to women entering the workplace. This then give rise to further inequalities and discrimination and dire poverty (Department of women, Children and People with Disabilities, 2012).

Participant 2 felt that enforcement was lacking in other legislation,

We do not have something in this country that can ensure equalizing numbers and there is no enforcement, it remains optional. So, we wanted to move it from optional to obligatory. (Participant 2 Interviewed on 27 November, 2013)

Sentiments expressed by participant 2 were supported by participants 8, 9 and 10. Participant 4 indicated that she did not know while participant 5 felt that the bill was drafted in response to the concluding remarks provided by the CEDAW Committee sitting which took place in 2011. The committee requested that the Green Paper on the

Gender Equality bill had to be expedited and submitted to parliament for adoption in order to achieve *de jure* equality for women (United Nations, 2011).

Participants differed in their respective responses on what the thinking behind drafting the bill was. Since no clear indication was given by the participants, this then casts a measure of uncertainty as to why the bill was drafted and might have an impact on clarity of its intended goals. This then necessitates exploring whether consideration was given to existing gender equality laws.

4.2.4. Consideration to existing legislation on women empowerment and gender equality

Laws that were developed around women empowerment and gender equality include the Promotion of Equality and Prevention of Unfair Discrimination, the Employment Equity Act, the Broad Based Economic Empowerment Act. For the purpose of the research focus was placed on the acts mentioned above. There are a number of other acts that relate to the advancement of women and gender equality as provided in Chapter 1.

The purpose of public policy is to change, regulate, improve and preserve the conditions of society (Cloete and de Coning, 2011). It therefore becomes imperative to review and audit existing legislation in relation to the Gender Equality bill to determine whether a correct and sound decision had been taken. In engaging participants on whether the Gender equality Bill has given sufficient consideration to the existing legislative framework, one participant responded,

No, I don't think so. No audit on the existing legislative framework has been done (Participant 10, Interviewed on 3 February 2014)

Participant 1, 3, 4, 5, 7, 8 and 9 held similar views to that of participant 10. Participants also felt that this resulted in non-alignment of the bill to other pieces of legislation.

Well our concern was that there are various pieces of legislation but the bill does not talk about what its relationship is to other pieces of legislation and how it is aligned and so on (Participant 4 Interviewed on 20 January 2014)

Participant 6 held a different view from the other respondents and mentioned,

Yes. You see, targets were not put into place in PEPUDA and the Electoral Act. So the bill places a positive responsibility on government and political parties to comply to the provisions in the bill (Participant 6, Interviewed on 21 January 2014)

Participant 2 did not respond directly to the question posed, but felt that the existing legislative framework needs strengthening and that enforcement was crucial. On the surface and gauging from responses received, there seems to be insufficient consideration for the existing legislative framework. One participant verbalized the following in relation to the bill,

Because the bill is very weak, the bill is not transformational, the bill is not responding to the key challenges that women face. It's not providing any kind of view of any kind of positive outcome once implemented, it's so vague on who it applies to (Participant 5 Interviewed on 20 January 2014).

Participants felt that gender equality laws were already in existence, although targets within the bills might lack clarity. Before drafting new legislation, an analyses of existing legislation needs to be done to identify weaknesses, possible gaps and areas that need strengthening. This would then necessitate the development of a new policy to address the issues identified. These needed strengthening and enforcement measures need to be clearly outlined. They also felt that there was a lack in alignment in gender equality laws which impacts on the implementation process.

Since participants mentioned that the bill was perceived to be non-transformational, it then become whether the bill took into consideration the historical, cultural and political context of women lived experiences. Participants were expected to share their thoughts on whether they thought the bill took into consideration women's lived experiences.

4.2.5. Historical, cultural, political context of women's lived experience

Listening to the voices of women on the ground means that the complex crises that arise are taken into consideration and acted upon to address the injustices that they may present (Chant and Sweetman, 2012). These voices are grounded in local experiences and are often articulated in local idioms in societies which are hermetically sealed off from the rest of the world (Kabeer, 2012). One participant during the interview said the following when asked to give an indication of whether the voices of women would be heard if the Gender Equality Bill is made into law.

It does not respond to the political challenges around gender equality. If we were to talk about historical context, we should be dealing with the relationship between race gender and class. It also does not respond to historical context and the impact on women (Participant 4, Interviewed on 18 January 2014)

This sentiment was echoed by participant 1, 2, and 3. When discussing voice and choice of women, consideration needs to be given to women's rights, entitlements, responsibilities and obligations because women experiences are different (Cornwall, 2003). Participant 1 was of the view that that bill regarded all women as a homogenous group.

I don't think it has done justice in terms of acknowledging where South African women are coming from. We are different, we have different backgrounds, women have different issues (Participant 1 Interviewed on 27 November 2013).

This notion was supported by participants 4, 7 and 8. Participants 2, 5, 9 and 10 also felt that the bill did not take the historical, political and cultural contexts of women's lived experience into consideration. Participant 6, however held a different view,

I would say that it does take into consideration because it recognizes the fact that women have been marginalized across all sections of society (Participant 6, Interviewed on 21 January 2014).

Participants 6, on the other hand felt that sufficient consideration was given and implied that consultations took place. In probing the participants who thought that the historical, political and cultural contexts of women were not taken into consideration, their responses, were that there was a lack of consultations with women from diverse groups.

The bill must go through a much more consultative process that actually looks at those groups that are marginalised and how it would ensure that it addresses their position in society. My sense is that there wasn't sufficient consultation. I mean, I think you need to be serious about the reality that a significant number of women live in rural areas where there are structural constraints to their empowerment (Participant 9, interviewed on 30 January, 2014).

This notion was supported by participant 8

No consultations were held with women, especially rural women. They are the most marginalized grouping (Participant 8, Interviewed on 22 January 2014).

Participants 1, 2, 3, 4, 5, and 10 indicated that consultations were absent from the process and that these may have a negative effect on the outcome of the Gender Equality Bill. The responses were generally strong on the issue of consultation.

The consultation and participation in policy making enlarges the circle of participation and in so doing government can improve the quality of policies by including new sources of information as well as their chances of successful implementation. When government ensures that all interested parties have a chance to contribute to the policy design, this then legitimizes the decision making process and increases that chances of voluntary compliance. It also opens up the scope of partnerships with citizens and civil society in addressing policy challenges that may arise (Gramberger, 2001)

Public policy seldom affects one stakeholder group. It usually encroaches on several groups with competing interests or resources and is commonly accompanied by historical baggage of polarized viewpoints. When developing public policy, the position of the stakeholder group, the government and public good needs to be considered (Siu, 2014). This then emphasises the importance of the consultation process with a wide range of stakeholders.

Participants also indicated serious concerns on women's voices not been heard in the drafting of the Bill. Participant 6 mentioned,

The Bill hasn't taken into consideration the lived experiences of women and the past prejudices. The past prejudices, oppressions and discriminatory practices have not been sufficiently addressed (Participant 6, Interviewed on 21 January 2014).

This is in contradiction with previous statement made by participant 6 where it was indicated the historical, political and cultural considerations of women's lived experience were taken into consideration. Participant 6 seemed to be confused when probed further on the contradictions made. The participant admitted to difficulties in interpreting sections of the bill that deals with whether sufficient consideration was given to the historical, political and cultural position of women in society.

Participant 1 mentioned in a previous section that women should not be considered as a homogenous group, it was therefore important to explore the multiple identities and oppressions of women and how they shape their experiences.

The junction of the various identities of women result in a unique social context that is often shaped by systems of oppression and power in relation race, class, sex, gender,

culture and sexual orientation. These multiple identities often shape the experiences of women (Chavis and Hill, 2008). Participant 3 mentioned,

I don't think that it takes into consideration the multiple identities of women. I think that women's identities have just become more complex. I think we've worked on the basis of most probably look at the section of race and gender(Participant 3 Interviewed on 15 January 2014).

This implies that intersectionality between race, class, ethnicity and gender is often debated by the gender sector and little consideration is given to the multiple identities of women. The other participants held the same views. Participants also mentioned the social location or the context of women in relation to the Gender Equality bill and how it interfaced with the intersection of race, class, ethnicity and how its results in the oppression of women. Participant 5 mentioned,

So for us the whole intersection of race, class and sexual orientation and disability is not considered. Hate crimes, if we look at the issue of hate crimes in the country, then it's important for us to make that explicit. Africa women are the most marginalised and so on and the bill has to interrogate all of that, but it doesn't do that (Participant 4, Interviewed on 18 January 2014).

All participants of the view that insufficient consideration was given to the multiple identities and oppressions that women face in society. The multiple identities of women impact on the daily lives and this is often traversed with the multiple oppressions women experience. Oppression, generally takes on many forms. It often excludes women from full and equal participation in the public life and imposes burdens and restrictions on growth and development. It is a qualification for stunting numerous possibilities and empowerment (Snow, 2002).

The traditional Western understanding of women's issues and experiences are mostly concerned with maternity leave, sexual harassment, equal division of labour and so on. This context is too narrow in the South African context. Issues that women experience include polygamy, customary practices, unemployment, rights of widows, marriage rights, and unmarried motherhood to mention a few (Cock and Bernstein, 2001). Women in the rural areas are often illiterate or semi-literate, voiceless and powerless and dependent on men.

The concepts identified above can be derived from feminist theories and these general have impact on policy outcomes resulting in engendering of legislation. The role of the

policy maker is to devise effective means for the completion of policy and the feminist approach rests on the belief that fair procedures lead to fair outcomes (Crespi, 2009). Gender legislation has the capacity to affect power differences and structures between genders but, the outcomes of such legislation does not necessarily materialise into just outcomes for women (Saxonberg, 2009).

Since participants indicated that there was a lack of consultation and consultation is crucial in the implementation stage of the policy process, participants were therefore engaged on whether the bill would enhance, complement and complete the existing legislative framework relating to gender equality in the next section.

4.2.6. Does the bill enhance, complement and complete the existing legislative framework

The general character of a public policy is that is a guide to action, a plan or framework designed to deal with a problem. Citizens expect intelligent decision-making from their governments and in addition they expect decisions to flow from some general position or vision (Pal, 2001).

The participants were asked to provide their viewpoints on whether the bill would enhance complement and complete the existing legislative framework. Participant 1 responded by saying,

I don't think so. So for me having to come up with a new law, I find it a bit stressful. It is adding to the loads of information that we have and yet we are not doing enough to address the ones we have. Maybe we should look at improving that exists rather than come up with something new (Participant 1, Interviewed on 27 November 2013).

Participant 3, 4 and 10 held the same viewpoint as participant 1. Participant 7 felt that the bill needs to be redrafted and would neither enhance, complement and complete the existing legislative framework. Participant 5 felt that the bill in its current form would be more harmful than helpful. The participant was asked to provide a reason for the response:

The bill is not transformational, the bill is not responding to the key challenges that women face. It's not providing any kind of view of any kind of positive outcome once implemented, it is so vague on who it applies to. There's no offence, there's no penalties and its completely weak (Participant 5, Interviewed on 20 January, 2014).

Participant 2 on the other hand felt that there was no better option:

I'm a bit hesitant to answer because it comes down to the department that actually owns the act. But this is the best remedy that we have, it's the best situation to our current understanding of the problem (Participant 2, Interviewed on 27 November 2013).

Participants 6 felt that the bill would enhance and complement the existing legislative framework:

It would definitely enhance and complement other pieces of legislation because it speaks to a total representation in all sectors. This can then be interpreted broadly to include traditional structures, the workplace and political parties (Participant 6, Interviewed on 21 January 2014).

Participant 8 on the other hand mentioned that the bill would enhance other pieces of legislation, but felt that the bill would not necessarily complement the existing legislative framework. On probing further, participant 8 mentioned that the bill was work in progress and therefore it could not be determined at this stage as to whether the bill would complement the existing framework relating to gender equality and women empowerment.

When asked whether the bill would complete the existing legislative framework, participant 6 and 8 mentioned that it would not complete the existing legislative framework. Participant 6 felt that this was where the bill had a gap and mentioned,

No it does not. This is where the bill falls short because it has really weak compliance measures (Participant 6, Interviewed on 21 January 2014).

Participant 9 on the other hand felt that the bill had some positive aspects, but did not specify them and neither indicated whether the bill would enhance complement and complete the existing legislative framework. The participant focused on equal pay for equal work and as equal representation as positive aspects of the bill. The participant further indicated that bill needs to be revised to ensure that it serves the purpose it was intended to address which is women empowerment and gender equality. The participant therefore felt it was premature to provide an opinion on whether the bill would enhance, complement and complete the existing legislative framework

The majority of the participants felt that the bill would not enhance, complement and complete the existing legislative framework. Although two participants mentioned that

the bill would enhance the existing legislative framework, they could not provide sufficiently motivate their responses.

In the next section a brief for analysis between the Gender Equality bill and the existing legislative framework for gender equality was done in tabular form to assess if there are similarities, duplication or whether it provides a completely new perspective on dealing with women empowerment and gender equality.

4.3. A presentation of the existing legislative framework and the Gender Equality Bill

Dimensions for presenting four public policies relating to women empowerment and gender equality

Public Policy	Intended effects	Unintended effects	Equity	Cost	Feasibility	Acceptability
Promotion of Equality and Prevention of unfair Discrimination Act (2000)	To remove all forms of discrimination and inequality and improving access to justice. Aligning substantive law with constitutional imperatives. Aims to address all forms of discrimination by any person, structure and the state. Beneficiaries include all citizens of South Africa	All courts are equality courts placing both human resources and financial burden on implementing department. Resistance to adherence to the act resulting in non-compliance.	Budget has been made available to create awareness and addresses issues of discrimination and Inequalities across all sectors. Accessibility to the justice system provides a mechanism for gender discrimination redress to all members of society by making all courts serve as equality courts. It allows education and redress through the South African Human Commission and the Commission	The allocation of financial resources are included in the budget for Department of Justice and Constitutional development.	The act is accompanied by regulations that outline implementation. Accountability for reporting lies with the Department of Justice and Constitutional Development. Implementers to the act involve the courts, the South African Human Rights Commission and the Commission for Gender Equality. Equality Review Committee established according to the act advises the Minister on implementation of the act.	All citizens are affected by the act because it deals with issues of inequality. There was a need to address the injustices of the past which resulted in inequalities of citizens. Addresses patriarchy which stems from cultural and traditional practices that favour men. Although the act has generally been accepted by all citizens, participants felt that more resources need to be allocated to improve efficiency

Public Policy	Intended effects	Unintended effects	Equity	Cost	Feasibility	Acceptability
			for Gender Equality		Regulations, general provisions and accompany the act outlining implementation	in implementation
Employment Equity Act (1998)	To promote equal opportunity and air treatment in the workplace and in so doing eliminate unfair discrimination. Beneficiaries of the act include black South Africans, women and person with disabilities. Apply affirmative action procedures to redress past inequalities. To encourage employers to comply with	Continued marginalisation of women, lack of preferential attention to women. Window-dressing with no real change which results in non-transparency and non-accountability	To remove inequalities in the workplace by enforcing affirmative action regulations. The policy involves the entire workplace and excludes the non-employed. Employment Equity plans and targets for redress have been complied to.	Cost relate to human resource management within the public and private sector. Recruitment, selection and retention are core to the human resource process. 54% male and 46% ¹ female occupy the workforce. And contribute to the economy of the country	Human and technological resources are available for the implementation of the act, and the accountability lies with the department of Labour who carries a total budget of R2.4 billion ² . Inclusion of a Code of good practice and regulations outlines implementation of the act.	All the stakeholders in the workforce are affected by the act. And has received attention since 1998. Stakeholders are still concerned with the slow transformation of the workplace, especially in the private sector

¹ Department of Labour (2014) 14th Commission for Employment Equity Annual Report. Republic of South Africa

² Department of Labour (2014) Annual Report 2013-2014

Public Policy	Intended effects	Unintended effects	Equity	Cost	Feasibility	Acceptability
	employment equity through the submission of regular Employment Equity plans				Compliance with the act through employment equity plans which are required annually. The establishment of the commission of Employment Equity reports of employment equity annually	

Public Policy	Intended effects	Unintended effects	Equity	Cost	Feasibility	Acceptability
Broad- based Black Economic Empowerment Act (2003)	To obtain equality through the promotion of economic transformation to enable meaningful participation of black people in the economy. To achieve substantial change in racial composition of ownership and management structures and to empower rural and local communities by enabling access to economic activities in land, infrastructure, ownership and skills. Beneficiaries include previously disadvantaged person including women	BEE Codes and industry charters do not have sufficient targets for women financial services, outreach and business activity. Fronting may increase and large entities may decide to run separate from government projects	The act targets all citizens interested in economic activity. In doing so, it promotes economic transformation for an interested number of individuals or entities	In the financial year ending 2013 a total amount of R205 million was spent on projects and in the financial year ending 2014 a total of R69 million was spent ³ . Spending focused on SMMEs and cooperative enterprise to ensure economic growth	The human and technological resources are available within the Department of Trade and Industry and they are the custodian of the act. The act deals specifically with economic transformation and not social inequalities. The act is known and public awareness has been created around BEE codes and charters. Transformation charters are developed regularly. These codes and charters are regularly revisited and revised	Stakeholders interested in the economic sector are affected which includes formal and informal traders. . The policy is considered are a social problem and is geared to improve the quality of live for all through the economic process. The policy has been in effect since 2003 and has not received any known resistance. Regular updates are provided and are easily accessible

³ Department of Trade and Industry Annual Report 2013-2014

Public Policy	Intended effects	Unintended effects	Equity	Cost	Feasibility	Acceptability
Gender Equality Bill (2013)	Transformation of gender relations, elimination of all forms of discrimination and to ensure the economic empowerment of women. The act also intends to eliminate detrimental cultural, economic, religious, social and traditional practices against women. No limitation, amendment or replacement of any provision in applicable legislation or any legislation addressing gender equality, empowerment of women or the elimination of unfair discrimination based on gender. Beneficiaries include women.	50/50 principle in all decision making structures could weaken existing laws. Overlaps with provisions in Employment Equity Act and the Broad-Based Black Economic Empowerment Act could lead to confusion. The bill will only address formal equity and not substantive equality	The policy is targeted at women specifically. The policy has not been implemented and therefore it is not clear whether it would correct social inequalities. It seems to be a duplication of already existing legislation in relation to equality and economic empowerment	No financial implications, gains or losses for government have been indicated. The intention of the policy is to tap into budgets of other legislation related to gender, this means that costs are no apparent and no clear indication of where financial responsibility will lie. This would result in further financial burdens being placed on other departments who already lack sufficient resources	The bill does not outline where the human and technological resources would be allocated which makes accountability a difficult issue. There are no regulations and procedures indicating who will be responsible for implementation.	Stakeholders felt that the bill replicates already existing legislation that have the ability to address the issue and have been addressing the issue. Stakeholders also felt that implementing the policy would create an additional burden on both public and private sector with providing institutions mechanisms to support the implementation. The Minister's has enforcement powers, issuing of compliance notices and sanctioning entities ranging from fines to imprisonment were not accepted by participants

The table provides an overview of a few pieces of legislation that impacts on women empowerment and gender equality. Through the use of the six dimensions mentioned in the table, one can determine whether there are overlaps in the objectives of the legislation mentioned. The tabular presentation allows for the assessment of objectives, the intended and unintended effects, equity, cost, feasibility and acceptability. It also highlights similarity or distinction of objectives which would then have the same or different intended effects. From the information presented, there seems to be duplication and an overlap of the objectives of the four pieces of legislation which might arise to the same intended effect. The Human Resources and financial resources are not clearly outlined and could impact on the already constrained existing legislative.

4.4. Conclusion

In this chapter the data which was obtained through interviews was presented and presenting the existing legislative framework in a table format with six dimensions for analyzing public policies. The research questions from chapter 1 of the research were responded to by the participants as well as additional questions posed to them, They provided an understanding to the concept women empowerment, the reason for the drafting of the bill and whether it would enhance, complement and complete existing laws on women empowerment and gender equality. The table looks at documents as sources of data and provided insight into the perceived effectiveness and of the existing legislative framework on women empowerment and gender equality and the Gender Equality Bill.

In the next chapter a discussion was held on the analysis of the data presented in chapter 4.

Chapter 5: Analysis of data

5.1. Introduction

This chapter analyses the presentation of data which was collected on the key research questions and the analysis of four pieces of legislation through the using policy analysis. Policy analysis as a process is where alternate policies are identified and evaluated which are intended to lessen or possibly resolve an economic, social or physical problem. Policy analysis can be done before or after a policy has been implemented (Patton and Sawicki, 1993). In this instance, the policy analysis process has been conducted before implementation has taken place. The reason for this method was to anticipate whether the Gender equality Bill would enhance, complement and complete an existing legislative framework relating to gender equality. The intention is not to create or develop new legislation.

According to Chambers and Wedel (2005), the main aspect of a social problem such as women empowerment and gender equality, is that although the event that defines the problem may be the same, the way in which those events are interpreted may vary considerably. They are generally highly variable and depend on the viewer. The analysis of a social problem does not begin by judging whether something is right or wrong, but it should anticipate a clear understanding of the problem. Six steps are therefore considered when analyzing a policy which includes assessing and clarifying the objectives; assessing the benefits that the policy intends to deliver; assessing the rules which guides the policy; assessing the model which has been identified to fund the implementation of the policy and assessing how the different policy elements interact with each other.

5.2.1 Objectives of the policy problem

It is essential to begin the analysis of a policy problem by determining distinguished observable signs by which the policy is known in this instance the goals or objectives of the bill (Chambers and Kedel, 2005). In so doing the problem would be understood in the context of the influences of various individuals and groups who are concerned with the problem.

In looking at the concept 'women empowerment' and 'gender equality', the participants seem to have attributed different understanding of what these concepts entail. Since interpretations held similar views on 'women empowerment', but did not provide comprehensive understanding of the concept, this might impact on the interpretations of the objectives of the existing legislative framework and the Gender Equality bill. Participants understanding of power and autonomy which is core to 'women empowerment' focused on the powers of the minister in the bill. This understanding is too narrow and might impact on fully understanding the implications the objectives of the bill might have on the implementation of the process. Literature has shown that these concepts are complex and should be explored through agency and resources.

The responses provided by participants on why the bill was drafted varied from not knowing to equalizing of numbers to enforcement to a commitment made to the CEDAW Committee where the country was reporting on progress made in the implementation of CEDAW. This could be as result of the lack of consultations which was also confirmed by the participants. The lack of consultations impacts on clarity of the objectives when developed. The objectives in the bill were perceived to be too broad and lacked clarity and this could result in the interpretation during the implementation stage.

When comparing the four pieces of legislation it was found that that they have similar objectives, that is, to eliminate discrimination and promote equality in society and in the economic sector. Since these objectives aim to achieve the same outcome, it could be said that there seems to be duplication of the objectives. Participants felt that existing legislating relation to women empowerment and gender equality was not taken into consideration which implies that no prior assessment was done. When developing new legislation from a policy problem that has been perceived to have surfaced, an assessment of the existing legislation should have been conducted to ensure that no duplication of objectives occurs.

5.2.2. Forms of benefits or services delivered

Benefits can be defined as non- material things such power over decision-making in organizational structures and positive discrimination to a special group. Positive

discrimination attempts to restore equity and equality where inequality has prevailed over time for example, affirmative action laws (Chambers and Wedel, 2005).

For the purposes of determining benefits in relation to the Gender Equality bill, criteria looked at include equity; cost; feasibility and acceptance. These are central to policy analysis. Most public actions involve costs that do not have a monetary value, but are tangible. These costs are still important nonetheless.

When looking at **equity**, the Employment Equity Act (1998), the Broad-based Black Economic Empowerment Act (2003) and the Gender Equality Bill (2012) target designated groups. These groups are the previously disadvantaged inclusive of women with the aim of eliminating discrimination. The Employment Equity Act (1998) is targeted at redressing workplace whilst ignoring the unemployed or persons in the informal sector, while the Broad-based Black Economic Act (2003) aims to transform inequalities through the formal and informal economic activities by establishing small businesses. The Gender Equality Bill (2012) targets women only. The Promotion of Equality and the Prevention of Unfair Discrimination Act (2000) in the other hand addresses issues of discrimination and inequalities throughout society.

Cost is provided for in the other pieces of legislation, whilst the Gender Equality Bill does not have an allocation for it. The Bill has indicated that there would be no financial implications for the implementing department. Consideration for costing was therefore ignored and this, lack of resourcing which would ultimately impact on delivering on the objectives of the bill as well as service delivery and efficiency.

When discussing **feasibility** one needs to look at where responsibility for implementation lies. The legislative framework provided in the previous section is resourced and operationalised through respective government departments. The Department of Justice and Constitutional Development on the implementation of the Promotion of Equality and Unfair Discrimination Act, the Employment Equity Act is implemented through the Department of Labour whilst the Broad-Based Economic Empowerment Act is implemented through the Department of Trade and Industry. All the acts mentioned are supported by regulations for implementation by key

stakeholders. As these acts stand it is assumed that they are technically feasible to produce positive outcomes as outlined their respective objectives.

Acceptance is a process where role-players decision-makers, officials and civil society adopt the policy for implementation. The interested parties in the bill included civil society organizations, the trade unions and government departments who would be responsible for the implementation of the Bill once it has been legislated into an act. While a policy may be perceived as acceptable to one group, it may possibly be unacceptable and harmful to another. During the interviews conducted, participants strongly felt that the bill included a category of women and not all women and benefits would therefore not be fairly distributed to all categories of women. The bill therefore treated all women as a homogenous group. The bill would therefore not be accepted by the target group whom it was intended for, that is women of all categories. The non-acceptability by stakeholders would impact on implementation which in turn would result in the non-achievement of the objectives of the bill. The absence of an allocated budget for implementation also denotes a lack of political will and impacts on political acceptability.

In looking at the objectives of the bill, there seems to be a duplication of the intended effects of the Promotion of Equality and Prevention of Unfair discrimination Act (2000). There also seems to be a duplication of the intended effects with the Employment Equity Act, particularly, the elimination of discrimination. This implies that the bill would not necessarily enhance, complement or complete the existing legislative framework relation to women empowerment and gender equality.

5.2.3 Entitlements or Eligibility rules

Eligibility rules are imperative for rationing benefits and services. The intention of the rules is to target resourcing for those who need them. Eligibility rules are based may be based on prior contributions, administrative rule, private contracts, professional discretion, administrative discretion, to mention a few (Chambers and Wedel, 2005).

The existing legislation relating to gender equality includes a financing model and human resourcing model to implement its outlined objectives. Resourcing has not been

unpacked in the Gender Equality Bill. The burden financing and resourcing of the Gender Equality Bill is placed on the existing legislative framework. This will comprise accountability and responsibility of the implementation of the bill. This could also lead misdirection of resourcing and would impact on who the benefits are intended for. The Gender Equality Bill targets women, but does specify the categories of women that intends to benefit. It is assumed that women are a homogenous group and all have the same needs. This might impede the operationalisation of the bill because no accountability and resourcing for implementation are planned for.

5.2.4. Administrative or organisational structure of service delivery

The purpose of having an administrative structure for service delivery is to provide a means by which the policy solution can be implemented. This would include a set of clearly defined activities which need to be undertaken to ensure that the beneficiaries are reached. Activities would include geographical location, staff, policy implementation specifics and recipients for whom the policy is intended (Chambers and Wedel, 2005).

The Gender Equality bill does not have an implementation plan that would ensure that the targeted recipients receive the service. The bill indicates that it does not intend to limit, amend, replace existing laws, but intends to access resourcing for implementation from them. This would then result in lack of accountability and responsibility of the presumed actors for ensuring that gender discrimination is eliminated and the ultimate achievement for gender equality. Efficiency and equitable distribution of resources would therefore be comprised.

5.2.5. Financing method

Financing or funding entails responding to three key questions, namely where does the funding come from; what is the amount of funding and what are the approaches used to fund the policy (Chambers and Wedel, 2005).

Legislation relating to gender women empowerment and gender equality discussed in the previous two sections are resourced through respective government departments where the existing legislation relating to gender equality resides. The Promotion of Equality and Prevention of Unfair Discrimination Act is budgeted and resourced for by

the Department of Justice and Constitutional Development; the Employment Equality Act is resourced by the Department of Labour and the Broad-based Black Economic Empowerment Act is resourced and financed through the Department of Trade and Industry. The responsibility and accountability of implementations lies in these respective government departments. The acts are accompanied by regulations and procedures which provide guidance for implementation by their respective custodians. The Gender Equality Bill does not have projected budget for implementation. The bill assumes that budget and resourcing will be obtained from other departments that are responsible for ensuring that women empowerment and gender equality is achieved. The bill can be viewed as an unfunded policy, but this does not mean that financial issues are not involved. Unfunded mandates are normally not without a challenge, it might once again results in inequitable distribution of resources and financial resources. This would then impact on the efficiency and effectiveness of policy implementation.

5.2.6. Interaction among foregoing elements

Policy elements are not singular or isolation, they are always interactive in live situations. There are generally five types of interactions, namely, co-entitlement where one form of benefit entitles a beneficiary in another; disentitlement which results in ineligibility; contrary effects where the operations of one policy feature cancels out the effect or feature of another feature; duplication where the intended or unintended receipt of the same benefit form may arise from more than one source for the same purpose and government level interaction where benefits administered at one department of government affects those at another department (Chambers and Wedel, 2005).

For purpose of this study emphasis was placed on only two of the five aspects, namely, contrary effects and duplication.

5.2.6.1. Contrary Effects

The Gender Equality Bill's intended objectives overlaps with the Promotion of Equality and Prevention of Unfair Discrimination Act, which addresses prevention and general prohibition of unfair discrimination on the basis of gender as indicated in the table in the previous chapter. If the bill is legislated this would then result in the lack of harmonisation of both pieces of legislation as well as other legislation relating to women

empowerment and gender equality. The Act has been legislated and is operational, whereas the bill still needs to become operational. The bill's objectives are not clearly defined and therefore will not have the ability to replace the act. This then implies that the bill would not have the ability to enhance, complement and complete the Act. The other two acts are targeted at designated groups. The bill is aimed at women, which means that certain groups in the population will not benefit from it. This also means that the bill would not have the ability to enhance, complement and complete the Employment Equity Act and the Broad-based Black Economic Empowerment Act.

5.2.6.2. Duplication

The existing legislative framework relating to women empowerment and gender equality aims to remove all forms of discrimination, transform and redress discrimination in the workplace and allowing economic empowerment opportunities to previously disadvantaged groups. Participants' views during the interviews indicated that there is a duplication in what already exists. This implies that the bill would not bring about real change. The existing legislative framework includes women in its intended outcomes. The Gender Equality Bill aims to perform the same functions and its target group is women only. This would result in duplication of functions in the implementation stage.

5.3. Implications of data presented

It could be perceived that the Gender Equality Bill was drafted from a top down approach. Data has revealed that there was a lack of consultation on the process and contents of the Gender Equality Bill. This impacts on acceptability and consensus of implementation methods by all stakeholders.

The enforcement mechanisms outlined in the Gender Equality Bill provides power to the minister and this can be viewed as extending the mandate of the minister and benefitting the minister in terms of power that can be yielded across sectors. This could result in lines of reporting being blurred and accountability on implementation being compromised as well as providing the minister with unprecedented power.

The outcome of the resolution on women at African National Congress Polokwane Conference was to strengthen the National Gender Policy framework. The bill as

presented in the data relates more to duplication of legislation. It could be said that the resolution taken at the conference was misinterpreted because its intention was not to necessarily develop new legislation but to strengthen it. In strengthening the National Gender Policy Framework could include a clear set of guidelines or codes based on a similar principle as that of the Brad-based Black Economic Empowerment codes. This would then have avoided duplication in objectives and intended effects.

In summary, it was found that the objectives of the Gender Equality Bill were not clearly defined which impacts on cost effectiveness, efficiency and equitable distribution of resources. Duplication of the intended effects of the existing legislation relating to gender equality further impacts on the ability of the bill to enhance, complement and complete the existing legislation. Providing for an extended mandate for the minister in the bill could comprise accountability and responsibility.

6. Conclusion

The study aimed to analyse the Gender Equality Bill and examine whether it would enhance, complement and complete the existing legislative framework which relates to women empowerment and gender equality. To meet the purpose of the Gender Equality Bill, a policy analysis framework was employed to conduct the assessment in relation to clarity of objectives, intended benefits, eligibility rules, administrative structure, financing method and interaction amongst the policy element mentioned. Women have been classified as a homogenous group in the bill and therefore the intended benefits would not necessarily reach all categories of women. This coupled with lack of financing, would further impact of the intended outcomes of the bill and would comprise equitable distribution and efficiency in planned implementation. Since the minister has been granted an extended mandate and powers, this could impact on accountability, responsibility and implementation of the bill. Lines of reporting will be indistinct creating confusing among the implementers of the policy. In light of the above the bill will not have the ability to enhance, complement and complete the existing legislative framework relating to women empowerment and gender equality. It would therefore be prudent to audit and refer the existing legislative framework relating to women

empowerment and gender equality, identify the structural weaknesses, enhance and strengthen them and ensure that implementation plans is effectively and resourced appropriately and efficiently. The National Gender Policy Framework should be reviewed, strengthened and resourced adequately to ensure that institutional mechanisms responsible for ensuring the achievement of gender equality functions effectively and efficiency.

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Appendices

Appendix A

Dear Participant

I am a student studying at the University of Witwatersrand for a Masters of Public and Development Management. I have been accepted to conduct research and my topic is “Evaluating women empowerment through an assessment of the Gender Equality Bill”. I request that you allow me to interview you in person as part of my study. The interview will last for approximately an hour. Kindly note, that your responses will be treated with utmost respect and confidentiality. Further note that you will remain anonymous as your name will not be required for the study. Please be assured that the interview questions are for analysis purposes only and will not be used to identify individual participants.

Your participation in this study is highly appreciated.

Thanking you in advance.

Should you have any further queries regarding the interview, or if you are interested in seeing the results, do not hesitate to contact Joan de Klerk telephonically on 0828968446 or via email : joan.deklerk@gmail.com

I , hereby consent to participate in the study.

.....

Signature of participant

.....

Date

Yours faithfully

Joan de Klerk

Masters in Public and Development Management student

Appendix B

Interview Questions

Open- ended semi-structured interview questions

1. Please state your name and the organisation that you work for.
2. What is your role in the organisation, and how are you associated with the gender sector?
3. What improvements in relation to the country's gender equality laws have you seen since 1994?
4. In your opinion are there challenges or barriers that exist in the existing gender equality laws?
5. Do you think there are other pieces of legislation that you know of that can assist in resolving these challenges or barriers?
6. In your opinion what practices can be enacted or adopted to address these barriers? How?
7. What in your understanding necessitated the drafting of the Gender Equality bill?
8. What do you believe was the rationale behind drafting the Gender Equality Bill?
9. In your opinion was sufficient consideration given to the existing legislative framework in drafting the bill? Please elaborate.
10. In your opinion do you think the drafting of the gender equality bill would resolve the challenges and structural gaps that you have spoken about previously? How?
11. In your view, would you say the bill takes the historical, cultural and political context of women's lives and lived experience into context?
12. Do you think the bill has taken the multiple identities of women into consideration? How has the bill taken the multiple oppressions of a woman into consideration?
13. How will the Gender Equality Bill firstly improve, support and complete the existing legislative framework?
14. In your opinion will the bill achieve its purpose? How do you think this will happen?
15. In the event that the bill is legislated, and equal representation in decision making is enforced and gender equality is enforced, what mechanisms do you think should be put in place to ensure that women's voices are heard?